

At a regular meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 12th day of May 2009, 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
Robert Oertel, District 5
Howard Estes, County Attorney
Judy Ownby, County Administrator
Jill Matthews, Assistant County Administrator
Mike Cooper, Assistant County Administrator
Stephany Johnson, Deputy Clerk
Andrew Sorrell, Zoning Administrator

Absent: Elbert Womack, District 4

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

The invocation and the Pledge of Allegiance were led by the Chairman.

1) Approval of Agenda-

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

6:00 p.m. – Closed Session – 2.2-3711

(A-1) Personnel; and (A-6) Investment of Public Funds re: Purchase of Development Rights Program; and (A-6) Investment of Public funds re: Water Reservoir Project.

7:00 p.m. – Regular meeting

4) Public Hearings

a) Joint PH w/ VDoT

- Citizen email regarding Rt. 624, Jenkins Church Rd.
- Resolution for Board adoption

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

2) Military Appreciation Month

On a motion by the Chairman and carried, the Board adopted the Resolution in appreciation of Military Appreciation Month:

RESOLUTION

"Military Appreciation Month"

WHEREAS, Governor Timothy M. Kaine has declared May as "Military Appreciation Month" in Virginia, and is encouraging all citizens of the Commonwealth to join in recognizing the contributions and sacrifices made by Virginia-based military personnel and their families; and

WHEREAS, Cumberland citizens have a long and distinguished record of service to our Country; and

WHEREAS, this service has been marked with honor and distinction from our founding to the present day;

NOW THEREFORE BE IT RESOLVED, that the Cumberland County Board of Supervisors wishes to express its gratitude for our citizens' service to our Country; and

BE IT FURTHER RESOLVED, that the Board acknowledges with deep appreciation, the ability to serve citizens today due to the freedom these men and women have provided for us.

Adopted the 12th day of May 2009 by the Cumberland County Board of Supervisors

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

3) VDoT - Alan Leatherwood, Resident Engineer-

Supervisor Kennell informed the Board and Assistant Resident Engineer, Mark McKissick, that he had received numerous complaints of larger vehicles using Rt. 601 (Clinton Rd.), Rt. 606 (Blenheim Rd.), and Rt. 654 (Frenchs Store Rd.) as throughways to Rt. 45N (Cartersville Rd.), and Rt. 60 (Anderson Hwy.). Mr. Kennel's concern is that these larger vehicles propose hazards to other vehicles on the roads, and asked whether restrictions could be put in place limiting these larger vehicles on secondary roads. Mr. McKissick informed the Board that VDoT can only restrict vehicles by weight if they are causing damage to the roads, otherwise a full study would have to be conducted. The study would be very costly and time consuming.

By unanimous consent, the Board directed the County Administrator to obtain the details needed and transmit them to the VDoT Office on behalf of the Board.

4) Public Hearings -

a) Joint Public Hearing with VDoT on six-year plan

Assistant Resident Engineer, Mark McKissick, provided the Board with a copy of the proposed Six-Year Plan and the priority list for un-funded projects, and reviewed both documents.

The Chairman opened the public hearing. With no citizens signed up to speak, the Chairman closed the public hearing.

On a motion by Supervisor Petty and carried, the Board approved the Secondary Six-Year Plan and Priority list:

RESOLUTION

**SIX-YEAR ROAD PLAN
AND CONSTRUCTION PRIORITY LIST**

At a regular meeting of the Board of Supervisors of the County of Cumberland, held at the Cumberland County Courthouse, on May 12, 2009, at 7:00 p.m.:

Members Present were: W. F. Osl, Jr., Chairman, District 1
Timothy Kennell, District 2
Van H. Petty, District 3
Robert J. Oertel, District 5

Members Absent were: Elbert Womack, District 4

On motion by Supervisor Petty, and carried:

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan,

WHEREAS, this Board had previously agreed to assist in the preparation of this Plan, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Plan (2009/10 through 2014/15) as well as the Construction Priority List (2009/10) on May 12, 2009 after duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List,

WHEREAS, Mark C. McKissick, Assistant Residency Administrator, Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan for Secondary Roads (2009/10 through 2014/15) and the Construction Priority List (2009/10) for Cumberland County,

NOW, THEREFORE, BE IT RESOLVED, that since said Plan appears to be in the best interests of the Secondary Road System in Cumberland County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (2009/10 through 2014/15) and Construction Priority List (2009/10) are hereby approved as presented at the public hearing.

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

b) REZ-09-01 S&M Properties

Zoning Administrator, Andrew Sorrell informed the Board that this was a request by S&M Properties to amend the zoning conditions for this parcel. After a year of operation, the applicant feels that this zoning does not adequately serve the use of the site, and has submitted proposed revisions to the conditions adopted in 2003 when the property was re-zoned to M-2 Industrial.

The proposed revisions have been reviewed by VDoT, DEQ, local bio-solids monitor staff and Planning Commission representatives. Mr. Sorrell then reviewed the proposed changes in conditions. The Board members discussed the proposed changes and voluntary proffers.

The Chairman opened the public hearing. Although there were no citizens signed up to speak, the Applicant, Roger Hatcher asked to address the Board. Mr. Hatcher stated that the company is going to try to make the facility as invisible to the public as possible. If there are complaints, Mr. Roger asked that he be notified promptly so that issues can be corrected in a timely manner. Supervisor Petty inquired as to the average daily traffic count. Mr. Hatcher informed the Board that when the facility is receiving materials, there are between thirty and thirty-five trucks that transport materials to the facility daily. With no other citizens designated to speak, the Chairman closed the public hearing. County Attorney, Howard Estes, informed the Board that the draft Resolution approving the rezoning request did include the proposed changes Mr. Sorrell reviewed earlier.

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

**APPROVING AND ADOPTING
REZONING APPLICATION #09-01
FOR TAX MAP PARCEL 71-A-8
REQUESTED BY S & M PROPERTIES, LLC
May 12, 2009**

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 May 12, 2009, the following action was taken following a duly held public hearing during which time County staff provided a review of the rezoning proposal and members of the public offered comment:

On a motion made by Supervisor Petty, it was moved that the Board of Supervisors of Cumberland County approve and adopt, in accordance with the following Resolution, the request to amend the zoning conditions approved and adopted by the County for the Property described in said Resolution when such property was zoned M-2, industrial on February 5, 2003;

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

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

Dated: May 12, 2009

WHEREAS, S & M Properties, LLC (collectively, the “Applicant”) filed a rezoning application and supporting materials (the “Rezoning Application”) seeking to amend the zoning conditions approved and adopted by the County for the Property when such property was zoned M-2, industrial on February 5, 2003 in accordance with Chapter 74 of the Cumberland County Code of Ordinances (the “Zoning Ordinance”); and

WHEREAS, the subject property is located on the south side of Rt. 634 (Salem Church Road) approximately 2.75 miles west of the Rt. 45 (Cumberland Road) and Rt. 634 intersection and approximately one half (1/2) a mile east of the Buckingham County line on Route 634 and more particularly described as Tax Map Parcel 71-A-8 (the “Property”), containing 38.86 acres as shown on the Plat attached to the Rezoning Application; and

WHEREAS, the Board of Supervisors duly referred the Rezoning Application to the County Planning Commission for its recommendation on February 10, 2009; and

WHEREAS, after a workshop on February 23, 2009 the Planning Commission directed staff to make the Rezoning Application available for public review on March 23, 2009; and

WHEREAS, the Planning Commission duly advertised and held a public hearing on April 20, 2009; and

WHEREAS, the Planning Commission carefully considered the testimony and evidence presented at the public hearing in support or opposition to the proposed Rezoning Application; and

WHEREAS, in its review of the Rezoning Application, the Planning Commission gave reasonable consideration to numerous factors, including but not limited to the following: the existing use and character of the Property, the County’s Comprehensive Plan, the suitability of the Property for various uses, the trends of growth or change, and the current and future requirements of the County as to land use; and

WHEREAS, after discussion, staff presentation and due deliberation with respect to such information, including information and materials presented at the public hearing, the Planning Commission desires to affirm its findings and make its recommendations to the Board of Supervisors with respect to the Rezoning Application; and

WHEREAS, after such public hearing the Planning Commission adopted a resolution recommending to the Board of Supervisors that it approve and adopt the proposed Rezoning Application; and

WHEREAS, the Board of Supervisors duly advertised and held a public hearing on May 12, 2009; and

WHEREAS, the Board of Supervisors carefully considered the testimony and evidence presented at the public hearing in support or opposition to the proposed Rezoning Application including the information and recommendation from the Planning Commission; and

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, the Board of Supervisors considers it appropriate to rezone the Property in accordance with the Rezoning Application.

c. The Board of Supervisors further finds that the request made in the Rezoning Application in substantial accordance with the County's Comprehensive Plan.

d. 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;

e. Upon consideration of the proposed Rezoning Application, testimony, staff remarks, and public comment, and after consideration of the foregoing, the Board of Supervisors approves the Rezoning Application #09-01 to amend the zoning conditions adopted when such property was zoned M-2, industrial on February 5, 2003.

BE IT FURTHER RESOLVED that said recommendation shall be subject to the voluntarily proffered conditions set forth in the Applicant's proffer statement titled "Statement of Proffer for Tax Map Parcel 71-A-8" and provided prior to the meeting of the Board of Supervisors and presented at this meeting; and provided, further, that a copy of said proffer statement shall be recorded in the Office of the Clerk of the Circuit Court for Cumberland County and that such filing shall take place prior to sixty (60) days after rezoning is granted or such rezoning shall be deemed null and void and the Property will revert to its prior status.

This Resolution is effective immediately.

c) Floodplain ordinance amendments

Zoning Administrator, Andrew Sorrell, informed the Board that the purpose of the revisions to the County Code was to ensure that the ordinance continues to conform to federal flood insurance regulations. If the County does not adopt the revisions to the code by June 16th, 2009, the County will lose the ability to provide federal flood insurance to county land owners.

After much discussion, the Chairman opened the public hearing. With no citizens signed up to speak, the Chairman then closed the public hearing.

**BOARD OF SUPERVISORS
OF
COUNTY OF CUMBERLAND, VIRGINIA
RESOLUTION
ADOPTING AMENDMENTS TO THE**

CODE OF CUMBERLAND COUNTY:

CODE AMENDMENT 09-03:

“AN ORDINANCE AMENDING CHAPTER 74 (“ZONING”) OF THE CUMBERLAND COUNTY CODE OF ORDINANCES, ARTICLE XXI (“FLOODPLAIN ZONING”) AND ARTICLE I (“DEFINITIONS”), TO REVISE THE FLOODPLAIN DISTRICT EFFECTIVE DATES, DESIGNATED AGENCIES AND ASSOCIATED REVISIONS CONSISTENT WITH NEW FEDERAL REGULATIONS, AND TO ADD DEFINITIONS OF ASSOCIATED TERMS, RENUMBERING ACCORDINGLY”

May 12, 2009

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 May 12, 2009, 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 Petty, 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 by amending and reenacting provisions for floodplain zoning in the County’s zoning ordinance;

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

<u>Present:</u>	<u>Vote:</u>
William F. Osl, Jr., Chairman	Aye
Timothy Kennell	Aye

Van H. Petty Aye

Robert J. Oertel Aye

Absent: Elbert R. Womack

Dated: May 12, 2009

WHEREAS, the Federal Emergency Management Agency recently updated Cumberland County's flood hazard data for floodplain management and floodplain insurance purposes; and

WHEREAS, the updated data will result in changes to the Flood Insurance Rate Maps and therefore to the Floodplain Districts; and

WHEREAS, the proposed amendment will result in revised floodplain map effective dates and associated revisions set forth by the Commonwealth of Virginia Department of Conservation and Recreation; and

WHEREAS, Virginia Code Sections 15.2-1427 and 15.2-1433 enable a local governing body to adopt, amend and codify ordinances or portions thereof; and

WHEREAS, Virginia Code Sections 15.2-2280, 15.2-2285, and 15.2-2286 enable a local governing body to adopt and amend zoning ordinances; and

WHEREAS, this amendment of the Cumberland County Zoning Ordinance is required to serve the public necessity, convenience, general welfare, and good zoning practice pursuant to Virginia Code Section 15.2-2286(A)(7); and

WHEREAS, the Board referred Code Amendment 09-03 to the Planning Commission for its consideration and the Planning Commission directed staff to prepare the Code Amendment and to make such drafts available for public review and

WHEREAS, the Planning Commission duly advertised and held a public hearing on April 20, 2009; and

WHEREAS, after such public hearing the Planning Commission adopted a resolution recommending to the Board of Supervisors that it adopt the Code Amendment; and

WHEREAS, the Board of Supervisors duly advertised and held a public hearing on May 12, 2009; and

WHEREAS, the Board of Supervisors carefully considered the testimony and evidence presented at the public hearing in support or opposition to the proposed Code Amendment including the information and recommendation from the Planning Commission; and

WHEREAS, in its review of the Code Amendment, the Board of Supervisors gave reasonable consideration to furthering the goals of the County's Comprehensive Plan, as expressed in the zoning ordinance by providing additional clarity on floodplain structures and uses; and

WHEREAS, after conducting a public hearing and considering the comments of County staff, landowners, residents, and the general public, the Board of Supervisors found that the Code Amendment furthers the goals of the Comprehensive Plan; and

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

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

- a. The foregoing recitals are hereby incorporated by this reference.

- b. The Board of Supervisors further finds that the Code Amendment is in substantial accordance with the County's Comprehensive Plan and subdivision ordinance.
- c. Upon consideration of the proposed Code Amendment, testimony, staff remarks, comments and recommendation by the Planning Commission, public comment, and after consideration of the foregoing, the Board of Supervisors adopts and approves the Code Amendment 09-03, as the specific text and provisions of such ordinance as set forth as follows:
 - 1. Chapter 74, Article XXI, Sections 74-901 through 74-919 of the Cumberland County Zoning Ordinance titled Floodplain Zoning are repealed and reenacted as attached hereto.
 - 2. Chapter 74, Article I, Section 74-2 of the Cumberland County Zoning Ordinance titled "Definitions" is hereby amended as follows:

Floodplain means those areas subject to periodic flooding and delineated on Federal Emergency Management Agency Federal Insurance Rate Maps for Cumberland County, dated June 16, 2009. The floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the flood insurance study for Cumberland County prepared by the Federal Emergency Management Agency dated June 16, 2009.
- d. This Resolution is effective immediately.
- e. Except as amended herein, all chapters, articles, sections, appendices, paragraphs and provisions of the Cumberland County Code are readopted in their entirety as if set forth herein.

AN ORDINANCE AMENDING AND REENACTING CHAPTER 74, THE ZONING ORDINANCE OF CUMBERLAND COUNTY, VIRGINIA, BY ESTABLISHING FLOODPLAIN DISTRICTS, BY REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, AND BY PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCES.

BE IT ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF CUMBERLAND COUNTY, VIRGINIA, as follows:

Article XXI. Floodplain Zoning

Subdivision I. GENERAL PROVISIONS

Sec. 74-901. Purpose.

Sec. 74-902. Applicability.

Sec. 74-903. Compliance and liability.

Sec. 74-904. Abrogation and greater restrictions.

Sec. 74-905. Severability.

Subdivision II. DEFINITIONS

Sec. 74-906. Definitions.

Subdivision III. ESTABLISHMENT OF ZONING DISTRICTS

Sec. 74-907. Description of districts.

Sec. 74-908. Official zoning map.

Sec. 74-909. District boundary changes.

Sec. 74-910. Interpretation of district boundaries.

Subdivision IV. DISTRICT PROVISIONS

Sec. 74-911. Permit and application requirements.

Sec. 74-912. General standards.

Sec. 74-913. Specific standards.

Sec. 74-914. Standards for approximate floodplain district.

Sec. 74-915. Standards for the special floodplain district.

Sec. 74-916. Standards for the floodway.

Sec. 74-917. Standards for subdivision proposals.

Subdivision V. VARIANCES AND VIOLATIONS

Sec. 74-918. Variances.

Sec. 74-919. Violations.

ARTICLE XXI.

FLOODPLAIN ZONING*

* **Cross References:** Subdivisions, ch. 54.

Subdivision I. GENERAL PROVISIONS

Sec. 74-901. Purpose.

The purpose of this article is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- (1) Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies;
- (2) Restricting or prohibiting certain uses, activities and development from locating within districts subject to flooding;
- (3) Requiring all those uses, activities and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- (4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood

hazards.

Sec. 74-902. Applicability.

This article shall apply to all unincorporated lands within the jurisdiction of Cumberland County, Virginia and identified as being in the 100-year floodplain by the Federal Insurance Administration and any of its successors in interest.

Sec. 74-903. Compliance and liability.

- (a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this article.
- (b) The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas or districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.
- (c) Records of actions associated with administering this article shall be kept on file and maintained by the Zoning Administrator.
- (d) This article shall not create liability on the part of Cumberland County or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

Sec. 74-904. Abrogation and greater restrictions.

This article supersedes any ordinance currently in effect in flood-

prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this article.

Section 74-905. Severability.

If any subdivision, section, subsection, paragraph, sentence, clause, or phrase of this article shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this article. The remaining portions shall remain in full force and effect; and for this purpose, the provisions in this article are hereby declared to be severable.

Subdivision II. DEFINITIONS

Sec. 74-906. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Base flood means a flood having one percent chance of being equaled or exceeded in any given year.

Base flood elevation means the Federal Emergency Management Agency designated one-hundred (100)-year water surface elevation.

Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment means the advance or infringement of uses, plant

growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Flood or flooding means:

- (1) A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow or inland or tidal waters; or,
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
- (3) Mudflows which are proximately caused by flooding as defined in paragraph 1 of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood

and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

Historic structure means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. by an approved state program as determined by the Secretary of the Interior or,
 - b. directly by the Secretary of the Interior in states without approved programs.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal regulations at 44 C.F.R. §60.3.

New construction means for the purposes of determining insurance rates, structures for which the "start of construction"

commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational vehicle means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and,
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Special flood hazard area means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Sec. 74-908 of this article.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Cross References: Definitions generally, § 1-2.

Subdivision III. ESTABLISHMENT OF ZONING DISTRICTS

Sec. 74-907. Description of districts.

- (a) *Basis of districts.* The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps for the unincorporated areas of Cumberland County dated as of June 16, 2009 and prepared by the Federal Insurance

Administration.

- (1) The Floodway District is delineated, for purposes of this article, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map.
 - (2) The Special Floodplain District shall be those areas identified as either an AE Zone or A Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided but for which no floodway has been delineated.
 - (3) The Approximated Floodplain District shall be those areas identified as an A Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated.
 - (4) The Shallow Flooding District shall be those areas identified as Zone AO or AH on the maps accompanying the Flood Insurance Study.
- (b) *Overlay concept.*
- (1) The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the Floodplain Districts shall serve as a supplement to the underlying district provisions.

- (2) If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
- (3) If the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Section 74-908. Official flood hazard area and floodplain map.

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Boundary and Floodway Maps and/or Flood Insurance Rate Maps (FIRMs) which is declared to be a part of this article and which shall be kept on file in the office of the Zoning Administrator.

Section 74-909. District boundary changes.

The delineation of any of the Floodplain Districts may be revised by the Cumberland County Board of Supervisors where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

Section 74-910. Interpretation of district boundaries.

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Subdivision IV. DISTRICT PROVISIONS

Section 74-911. Permit and application requirements.

- (a) *Permit Required.* All uses, activities and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article, the Virginia Uniform Statewide Building Code, and all other applicable codes and ordinances, as amended, and Chapter 54, Subdivision Ordinance, of the Cumberland County Code of Ordinances, as amended. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws.

- (b) *Site plans and permit applications.* All applications for development in any floodplain district and all building permits issued for the floodplain shall incorporate the following information:
 - (1) The elevation of the Base Flood for the site.
 - (2) The elevation of the lowest floor (including basement).
 - (3) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

Sec. 74-912. General standards.

In all special flood hazard areas the following provisions shall apply:

- (a) New construction and substantial improvements shall be done according to the Virginia Statewide Uniform Building Code and anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to

and consistent with applicable state requirements for resisting wind forces.

- (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (e) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (i) Any alternation, repair, reconstruction or improvements to a building that is in compliance with the provisions of this article, shall meet the requirements of "new construction" as contained in this article.
- (j) Any alternation, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this article, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- (k) In rivine situations, adjacent communities and the Department of Conservation and Recreation (Department of Floodplain Management) shall be notified prior to any alternation or relocation of a watercourse, and copies of such notifications shall be submitted to the Federal Emergency Management Agency.
- (l) The Flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Sec. 74-913. Specific standards.

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according Sec. 74-914(a), the following provisions shall apply:

- (a) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation.
- (b) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than three (3) foot above the base flood elevation. Buildings located in all A, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the base flood elevation plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that all standards of this subsection are satisfied.
- (c) *Elevated buildings.* Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 - (1) Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or

elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;

- (2) Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- (3) Include, in Zones A, AO and AE, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - (a) Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.
 - (b) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - (c) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - (d) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - (e) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - (f) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(d) *Standards for manufactured homes and recreational vehicles.*

- (1) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions

to existing mobile home parks or subdivisions, in a new mobile home park or subdivision or in an existing mobile home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Sec. 74-912.(a) and (b), and Sec. 74-913.(a).

- (2) All manufactured homes placed or substantially improved in an existing mobile home park or subdivision must be:
 - (a) Elevated so that the lowest floor of the manufactured home is elevated no lower than three (3) foot above the base flood elevation;
 - (b) Securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement;
- (3) All recreation vehicles placed on sites must either:
 - (a) Be on the site for fewer than 180 consecutive days;
 - (b) be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
 - (c) meet all the requirements for manufactured homes in Sec. 74-913.(d).
- (e) *Pre-existing Structures or Uses.* The modification, alteration, repair, reconstruction or improvement of any kind to a structure or use that is located in a floodplain area and to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this article and shall require the entire structure to conform to the Uniform Statewide Building Code.

Sec. 74-914. Standards for approximate floodplain district.

The following provisions shall apply with the Approximate Floodplain District:

- (a) The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the County. When such base flood elevation data is utilized, the Zoning Administrator shall obtain:
 - (1) the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and,
 - (2) if the structure has been flood-proofed in accordance with the requirements of Sec. 74-913.(b) of this article, the elevation in relation to the mean sea level to which the structure has been flood-proofed.

Sec. 74-915. Standards for the special floodplain district.

The following provisions shall apply within the Special Floodplain District:

- (a) Until a regulatory floodway is designated, no new construction, substantial improvements or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A and AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point within Cumberland County.
- (b) Development activities in Zones A, AE, and AH, on Cumberland County's Flood Insurance Rate Maps which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that:
 - (i) the applicant first applies with Cumberland County's endorsement for a conditional Flood Insurance Rate Map revision and
 - (ii) receives the written approval of the Federal Emergency Management Agency.

Sec. 74-916. Standards for the floodway.

The following provisions shall apply within the Floodway when it has been identified as in Sec. 74-914(a):

- (a) Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.
- (b) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with Cumberland County's endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

- (c) If the provisions of subsection (a) above are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Subdivision IV of this article.
- (d) *Permitted uses.* In the Floodway, the following uses and activities are permitted provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by any other ordinance and provided that they are not prohibited by subsection (a) above:
 - (1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - (2) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet shooting ranges, and hunting and fishing areas.
 - (3) Accessory residential uses, such as yard areas, gardens, play areas and pervious loading areas.
 - (4) Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

Sec. 74-917. Standards for subdivision proposals.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

Subdivision V. VARIANCES AND VIOLATIONS

Sec. 74-918. Variances.

- (a) In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the Zoning Ordinance and consider the following additional factors:
- (1) The showing of good and sufficient cause.
 - (2) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
 - (3) The danger that materials may be swept on to other lands or downstream to the injury of others.
 - (4) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - (5) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - (6) The importance of the services provided by the proposed facility to the community.
 - (7) The requirements of the facility for a waterfront location.
 - (8) The availability of alternative locations not subject to flooding for the proposed use.
 - (9) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (10) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - (11) The safety of access by ordinary and emergency vehicles to the property in time of flood.
 - (12) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
 - (13) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the

variance is the minimum necessary to preserve the historical character and design of the structure.

(14) Such other factors which are relevant to the purposes of this article.

(b) The Board of Zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

(c) Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in:

- (1) unacceptable or prohibited increases in flood heights;
- (2) additional threats to public safety;
- (3) extraordinary public expense; and
- (4) will not create nuisances;
- (5) cause fraud or victimization of the public; or
- (6) conflict with local laws or ordinances.

(d) Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum relief to exceptional hardship.

(e) The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation:

- (1) increases the risks to life and property and
- (2) will result in increased premium rates for flood insurance.

(f) A record shall be maintained of the notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted

in the annual or biennial report submitted to the Administrator of the Federal Insurance Administration.

Sec. 74-919. Violations.

In addition to the penalties in section 74-13, all other actions are reserved, including an action in equity for the proper enforcement of this article. The imposition of fine or penalty for any violation of or non-compliance with this article shall not excuse the violation or noncompliance nor permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this article may be declared by the Cumberland County Board of Supervisors to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

5) Departments and Agencies -

- a) Dr. Jim Thornton – Superintendent of Schools

Although there were no representatives present, Dr. Thornton provided the Chairman with a letter regarding the New Beginnings program. The letter stated that Cumberland County High School's New Beginnings Program had received a Magna Award, in which the recipient receives national recognition for their program. The New Beginnings program was selected for addressing the national high school drop-out epidemic.

6) Assistant County Administrator/Finance Report -

- a) Consent Agenda-
- 1) Approval of Minutes – April 2009
 - 2) Approval of Bills- April 2009 and May 2009
Approved bills for May 2009 total \$102,368.97. Ratified bills for April 2009 of warrants total \$ 288,650.85 with check numbers ranging from 56064 to 56347. Direct deposits for April 2009 total \$ 153,073.50.
 - 3) Ratify bill for February 2009 (manual check issued to H&M in the amount of \$400,000 (generator grant))

- 4) Supplemental Appropriation of \$10,018.32 in Four-for-Life funds (equally between Cartersville and Cumberland Rescue Squads)
- 5) Supplemental Appropriation to the Department of Social Services in the amount of \$1,610.22 (no local funds required).
- 6) Supplemental Appropriation to the Department of Social Services for pass through funds in the amount of \$220,643.37 (no local funds required).

On a motion by Supervisor Kennell and carried, the Board approved the consent agenda as amended:

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

b) Monthly Budget Report

Assistant County Administrator, Jill Matthews, informed the Board that the budget is on target and that there is a significant amount of rollover anticipated for FY 2009-2010. The County departments continue to follow the policy of obtaining approval prior to expending county funds over the amount of \$50.00. Some department budgets show as much as 30 or 40% of unexpended funds.

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

a) Monthly report of Planning Commission activity/actions

Zoning Administrator, Andrew Sorrell, informed the Board that he would provide a monthly report of Planning Commission activities and actions.

Mr. Sorrell also informed the Board that staff has received a scholarship to attend the 3rd Annual statewide land preservation and conservation conference to be held from June 10th through 12th, 2009 in Wintergreen, Virginia.

8) **County Administrator's Report -**

- a) Department of Planning and Budget-reduction in state aid to localities

County Administrator, Judy Ownby, stated that the County is required by June 1, 2009, to inform the Department of Planning and Budget how local funds will be returned to the State. If the County does not respond by the deadline, they will begin withholding funds as of July 1, 2009 from the local recordation taxes. The Chairman stated that the Board could respond with their decision, not respond at all, or send one check for the full amount of the reduction.

On a motion by Supervisor Oertel and carried, the Board agreed to make a reimbursement payment directly to the Commonwealth for the locality's share of the reductions:

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

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

- a) Update on projects
1) Museum Project

Assistant County Administrator, Michael Cooper, informed the Board that staff had received verbal notification authorizing staff to proceed with the bidding process for Phase I of the project. Staff is still awaiting final approval of the plans, and anticipates approval as early as this week.

Funding for Phase I is comprised of 80% grant funds, and 20% local match. The 20% local match can be comprised of local funds or in-kind contributions made. Staff is working with the Engineer to identify locations

within the project description where county staff can be of assistance.

On a motion by Supervisor Oertel and carried, the Board authorized Mr. Cooper to proceed with the issuance of a Request for proposals:

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

2) Proposed waterline extension

Mr. Cooper reminded the Board that the County has been approved for funding assistance through the USDA Rural Development program for the waterline project in the amount of one million dollars in grant funds, and \$939 thousand dollars in loan funds. At this point the plans have not been finalized, reviewed or approved, and the process is still ongoing. Mr. Cooper will inform the Board at such time when the project can go to bid.

3) Cumberland County Community Center

Mr. Cooper informed the Board that staff is preparing and obtaining necessary resources pursuant to the Industrial Development Authority's interest in managing and operating the Community Center.

b) Resolution in support of business appreciation week

Mr. Cooper stated that adopting this resolution would be a good opportunity for the Board to thank all of the local businesses in the community.

On a motion by the Chairman and carried, the Board adopted the Resolution in support of Business Appreciation week:

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

BUSINESS APPRECIATION WEEK 2009

WHEREAS, Governor Timothy M. Kaine has recognized May 10-16, 2009 as **BUSINESS APPRECIATION WEEK** in the **COMMONWEALTH OF VIRGINIA**, and called this observance to the attention of all citizens; and,

WHEREAS, Virginia and its localities recognize the many charitable, civic, and philanthropic contributions made by businesses and support their involvement in sustaining communities; and

WHEREAS, the citizens of the County of Cumberland benefit from the positive outcomes that voluntary financial, in-kind and service donations by Virginia businesses bring to worthy causes; and

WHEREAS, the County of Cumberland has joined the Commonwealth in developing a supportive business climate to encourage investment, job growth and community involvement; and

WHEREAS, businesses in the County of Cumberland play a significant role in growing the economy of the Commonwealth and in nurturing charitable and civic organizations; and

WHEREAS, Business Appreciation Week increases public awareness of the valuable contributions that businesses make in our community.

NOW, THEREFORE, WE, the Cumberland County Board of Supervisors, do hereby recognize May 10-16, 2009 as **BUSINESS APPRECIATION WEEK** in the County of Cumberland, and call this observance to the attention of all our citizens.

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

c) IDA Vacancy

Mr. Cooper informed the Board that Mr. Loretha Thomas had declined her appointment to the IDA due to a potential conflict of interest. Mr. Cooper asked that the Board offer suggestions as to possible appointments.

10) County Attorney's Report -

County Attorney, Howard Estes, reminded the Board that the financing for the waterline extension was approved at the last regular meeting of the Board. A component of financing was a security interest, whether it be a moral obligation supported by the county, or an availability agreement that the IDA would make up any shortfall in the revenues. There has been discussion based on analysis by staff that the project would actually be self-sufficient, and would not necessitate any supplemental security. Mr. Estes suggested taking a 60 day hiatus on the waterline extension financing, and keep moving forward with the bidding process.

11) Board Member Comments-

The Chairman stated that discussion was held with DEQ regarding the landfill permit, and the permitting process is continuing to move forward. A draft Part B permit is expected to be issued this month. President Danny Fore, of the Commonwealth Regional Council has accepted the Council's request for resignation. The resignation request relates directly to the lack of economic development activity and program funding. Mary Hickman will serve as acting president of the council, and Pat McKenzie will continue the marketing and promotional program. The

Council also decided to eliminate the lobbying efforts for this year. This will reduce the cost to the counties.

The Chairman also reminded the Board members that the Relay for Life event will be held Friday, May 15th, 2009 at 7 p.m. at the School Complex. The Chairman also informed the Board that he was in attendance of the 100th Anniversary Banquet for the NAACP and presented the Resolution honoring the anniversary of the Association.

Supervisor Kennell spoke to the Board about the organizational meeting of the Friends of Bear Creek Lake State Park. Mr. Kennell also stated that the Emergency Services Committee will be forming a subcommittee to look into an outside billing service to assist with a revenue recovery program to raise funds for the Rescue Squads. The subcommittee will meet on May 28th, 2009 at 7 p.m. at the Community Center. Mr. Kennell also informed the Board that the next District II Town Hall meeting will be held on May 20th, 2009 at 7 p.m. in the cafeteria of the elementary school.

Supervisor Petty informed the Board that the Wireless Authority has issued a Request for Qualifications for the Wireless Broadband Project. There are grant opportunities available with stimulus funds ranging from \$50,000 to one million dollars.

Supervisor Womack was not present.

Supervisor Oertel informed the Board that High Bridge State Park will be opening another 14 miles of trails to the public. The Museum Board has received two donated glass display cases, and the Board can now begin receiving items for display in the museum.

12) Public Comments

Barbara Gamage reminded the Board that the Relay for Life event will take place this Friday May 15, 2009 at 7 p.m. and encouraged all Board members to attend.

A Citizen spoke to the Board regarding a dispute over his land. He was advised that staff would look into the matter and respond to him accordingly.

13) Additional Information-

14) Closed Session-

On a motion by Mr. Osl and carried, the Board entered into closed meeting under VA Code Section 2.2-3711 A(6) investment of public funds regarding the landfill project.

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

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

Mr. Osl – aye
Mr. Kennell – aye
Mr. Petty – aye
Mr. Womack – absent
Mr. Oertel – aye

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

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

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

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

No action was taken on the items discussed.

15) Adjourn-

With no additional business to come before the Board, the Chairman adjourned the meeting until May 21, 2009 at 2 p.m. for a site visit to an existing business park in Appomattox County.

Chairman

County Administrator