

At a regular meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 8th day of September 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
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 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:

- 5) Assistant County Administrator/Finance
 - d) Balance of funds-Cartersville Recreation Association
- 8) Assistant County Administrator/Community Development
 - b) Commonwealth Regional Council (CRC) Annual Report
- 9) County Attorney
 - d) Information regarding Revenue Anticipation Note-CORRECTION
 - e) Set public hearing for Ordinance regarding the Board of Equalization

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

2) VDoT - Alan Leatherwood, Resident Engineer-

Assistant Resident Engineer, Mark McKissick, informed the Board that there will be brush cutting at various locations throughout the County. The Chairman stated that there was a passing zone removed on Rt. 45, Cartersville Road at the current project location. Mr. McKissick stated that the standards have changed for passing distances since the road was originally marked, and it may not meet the current requirements.

3) Public Hearings -

- a) CA 09-05, Amending County Code, Chapter 74, Zoning Terms and Definitions

Zoning Administrator, Andrew Sorrell, reviewed the proposed amendments to the county code, and stated that this code amendment is running concurrently with REZ 09-03 and CUP 09-03 for Tamworth Properties, LLC (a.k.a. the Northfield Foundation). The foundation desires to initiate a transitional home for young females with eating disorders.

The Chairman opened the public hearing, and with no citizens signed up to speak, the Chairman then closed the public hearing.

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

**CODE OF CUMBERLAND COUNTY:
CODE AMENDMENT 09-05:
“AN ORDINANCE AMENDING CHAPTER 74 OF
THE
CUMBERLAND COUNTY CODE”**

September 8, 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 September 8, 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 Osl, 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
Elbert R. Womack	Aye
Robert J. Oertel	Aye

Absent:

None

WHEREAS, at a regular monthly meeting held on September 8, 2009, staff provided the Board of Supervisors with an overview of the proposed amendments to the Code of Cumberland County, which said amendment (collectively the "Code Amendment") address "AN ORDINANCE AMENDING CHAPTER 74 OF THE CUMBERLAND COUNTY CODE" (as shown in the attached ordinance); and

WHEREAS, the Board of Supervisors referred the Code Amendment to the Planning Commission for its consideration and the Planning Commission directed staff to prepare the Code Amendment for public review on July 20, 2009; and

WHEREAS, the Planning Commission duly advertised and held a public hearing on August 17, 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 September 8, 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. Upon consideration of the foregoing, the Board of Supervisors considers it appropriate to amend the Code of Cumberland County in accordance with the specific text and provisions of the Code Amendment as attached hereto and incorporated herein by this reference.

c. The Board of Supervisors further finds that the Code Amendment is in substantial accordance with the County's Comprehensive Plan and zoning ordinance.

d. Upon consideration of the foregoing, the Board of Supervisors adopts and approved the Code Amendment be referred and recommended to the Cumberland County Board of Supervisors for adoption.

e. 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 09-05.

f. This Resolution is effective immediately.

b) REZ 09-03, Tamworth Properties, LLC

Zoning Administrator, Andrew Sorrell, reviewed the rezoning request with the Board members. The Chairman opened the public hearing, and with no citizens signed up to speak, the Chairman then closed the public hearing.

**BOARD OF SUPERVISORS
OF THE
COUNTY OF CUMBERLAND, VIRGINIA
RESOLUTION
APPROVING AND ADOPTING
REZONING APPLICATION #09-03
FOR A PORTION OF TAX MAP PARCEL 58-A-1A
REQUESTED BY TAMWORTH PROPERTIES, LLC
September 8, 2009**

At a meeting of the Board of Supervisors of Cumberland County, Virginia, in the Cumberland County Circuit Courtroom, Cumberland, Virginia commencing at 7:00 p.m., September 8, 2009, the following action was taken following a duly held public hearing during which time County staff provided a review of the rezoning request, the applicant’s representative and agents provided a review of the proposal and members of the public offered comment:

On a motion made by Supervisor Womack, it was moved that the Board of Supervisors of Cumberland County approve and adopt, in accordance with the following Resolution, the request to

rezone from A-2, Agricultural to R-2, Rural Residential the property described in said Resolution;

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
Elbert R. Womack	Aye
Robert J. Oertel	Aye
<u>Absent:</u>	None

WHEREAS, Tamworth Properties, LLC (the “Applicant”) filed a rezoning application and supporting materials (the “Rezoning Application”) seeking to rezone the property described below from A-2, Agricultural to R-2, Rural Residential in accordance with Chapter 74 of the Cumberland County Code of Ordinances (the “Zoning Ordinance”); specifically, the Applicant has requested the rezoning in order to allow for a rural residential use of the Property; and

WHEREAS, the subject property is located on the south side of Route 60 (Anderson Highway), north side of Route 13 (Old Buckingham Road) and west side of Route 682 (Northfield Road), approximately 1.05 miles southeast of the intersections of Route 60 and Route 13 and more particularly described as Tax Map Parcel 58-A-1A (the “Property”), with respect to approximately

49.463 acres less and except the portion of the parcel currently within the R-2 zoning district which extends into the parcel 1,000 feet from the centerline of U.S. Route 60 (Anderson Highway). The approximate area of the portion of the parcel requested to be rezoned to R-2 is 14 acres, more or less, as shown on the Site Plan 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 June 9, 2009; and

WHEREAS, the Planning Commission directed staff to make the Rezoning Application available for public review on July 20, 2009; and

WHEREAS, the Planning Commission duly advertised and held a public hearing on August 17, 2009; and

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

WHEREAS, the Board of Supervisors duly advertised and held a public hearing on September 8, 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;

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

g. The foregoing recitals are hereby incorporated by this reference;

h. 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;

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

j. The Board of Supervisors has also determined that the request made in the Rezoning Application furthers the general purpose and objectives of the Subdivision and Zoning Ordinances;

k. 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 #09-03 to rezone the Property from A-2, Agricultural to R-2, Rural Residential for low density rural residential development.

This Resolution is effective immediately.

c) CUP 09-03-Tamworth Properties, LLC

Zoning Administrator, Andrew Sorrell, reviewed the Conditional Use Permit with the Board. The Chairman opened the public hearing, and with no citizens signed up to speak, the Chairman then closed the public hearing.

**BOARD OF SUPERVISORS
OF THE
COUNTY OF CUMBERLAND, VIRGINIA
RESOLUTION APPROVING
CONDITIONAL USE PERMIT
APPLICATION #09-03
FOR TAX MAP PARCEL 58-A-1A**

REQUESTED BY TAMWORTH PROPERTIES, LLC

September 8, 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., September 8, 2009, the following action was taken following a duly held public hearing during which time County staff provided a review of the conditional use permit request, the applicant's representative and agents provided a review of the 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 grant, in accordance with the following Resolution, the request for the conditional use permit described in said Resolution;

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
Elbert R. Womack	Aye
Robert J. Oertel	Aye
<u>Absent:</u>	None

WHEREAS, Tamworth Properties, LLC (the “Applicant”) filed a conditional use permit application and supporting materials (the “CUP Application, CUP #09-03”) seeking a conditional use permit for the property described below in accordance with Chapter 74 of the Cumberland County Code of Ordinances (the “Zoning Ordinance”); specifically, the Applicant has requested a conditional use permit to initiate a “transitional home” residential use; and

WHEREAS, the subject property is located on the south side of Route 60 (Anderson Highway), north side of Route 13 (Old Buckingham Road) and west side of Route 682 (Northfield Road), approximately 1.05 miles southeast of the intersection of Route 60 and Route 13 and more particularly described as Tax Map Parcel 58-A-1A (the “Property”), with respect to approximately 49.463 acres, as shown on the Site Plan attached to the CUP Application; and

WHEREAS, the Board of Supervisors duly referred the CUP Application to the County Planning Commission for its recommendation on June 9, 2009; and

WHEREAS, the Planning Commission directed staff to make the CUP Application available for public review on July 20, 2009; and

WHEREAS, the Planning Commission duly advertised and held a public hearing on August 17, 2009; and

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

WHEREAS, after the Planning Commission duly considered the testimony and evidence presented at the public hearing in support or opposition to the proposed CUP Application and 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 the proposed use, the trends of growth or change, and the current and future requirements of the County as to land for various purposes, and the conditional use permit standards more fully described in Sections 74-263, 74-701 and 74-702 of the Zoning Ordinance; and

WHEREAS, the Planning Commission, by resolution adopted at its August 17, 2009 meeting after a duly held public hearing, recommends conditional approval of this CUP Application with fourteen (14) conditions; and

WHEREAS, the Board of Supervisors duly advertised and held a public hearing on September 8, 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 CUP Application including the information and recommendation from the Planning Commission;

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 set forth on the Zoning Ordinance, including Sections 74-263, 74-701 and 74-702, the Board of Supervisors finds it appropriate to grant Conditional Use Permit #09-03 in accordance with the CUP Application.

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

d. The Board of Supervisors has also determined that the request made in the CUP Application furthers the general

purpose and objectives of the Zoning Ordinance and would be beneficial and appropriate taking into consideration public health, safety, necessity, convenience, general welfare and good zoning practice.

e. The Board of Supervisors hereby grants the CUP Application to Tamworth Properties, LLC., to allow the for the use of a “transitional home” (as shown in the CUP Application), on the Property subject the following terms and conditions:

1) Facility Management: The Facility shall be administered by a full time administrator or manager that shall be responsible for adherence to all applicable requirements for its operation including the requirements listed below.

2) Contact Information: The Facility shall provide all relevant public safety agencies within Cumberland County a listing of Facility contact names, titles and phone numbers. Such listing will be updated at the beginning of every year and when personnel changes necessitate it.

3) Staffing: At a minimum shall be provided as follows:
a. At least one staff person shall be on the Facility premises who is awake, available and responsive to residents’ needs 24 hours a day; and
b. All staff shall be trained in standard safety procedures, first aid, CPR and have a valid Virginia driver’s license.

4) Residents: Only non-violent female persons shall be permitted as residents in the Facility.

5) Residential capacity: shall be determined by the Virginia Uniform Statewide Building Code, but not to exceed twenty (20) individuals residing in the facility at any one time, inclusive of resident staff.

6) Insurance: The Facility and all vehicles used to transport staff and residents shall be insured for general liability and property damage.

7) Facility operations & compliance with laws: The Facility shall receive a certificate of licensure from the Commonwealth of Virginia indicating the Facility's provider status and the Facility's compliance with intergovernmental standards pertaining to the Facility's administration, residential environment, programs and services, disaster or emergency planning and special programs. Such intergovernmental standards are specifically described in the Virginia Administrative Code. *See* 22 VAC § 42-11.

In addition to the above, the Facility shall comply with all other applicable federal, state and local codes and laws, including, but not limited to, health, sanitation, building, fire and zoning codes. Prior to initiating the use, the Owner shall provide the Zoning Administrator with an operations plan and evidence indicating that all necessary federal, state and/or local permits required for operation have been secured.

8) Renewal of conditional use permit – Regular renewal of the conditional use permit shall be required to demonstrate continued compliance. Such renewals shall be subject to providing documentation from each referring federal/state/local agency as to the program's performance and compliance with licensing criteria as well as a review of any code infraction and /or violations. Regular renewals shall be based upon the following schedule:

- a. 1 year after approval;
- b. 2 years after approval;
- c. 5 years after approval;
- d. Every 5 years thereafter; and
- e. Renewal shall also be required upon any change in property ownership, program provider, licensing type and/or management. For the purpose of this condition, "program provider" shall be defined as the entity, group and/or organization that the conditional use permit is initially granted.

The program provider shall notify the zoning administrator upon any of the above changes and the new program provider, owner, and/or management group shall apply for a renewal of the CUP within sixty (60) days of such change.

9) Festivals, fundraisers and other large-scale outdoor events: – Cumberland County requires a festival permit for any gathering of groups or individuals totaling 150 or more people, for the purpose of watching, listening to or participating in entertainment or fundraising conducted in open spaces not within an enclosed structure. The Owner or program provider shall submit the necessary festival permit application for review and approval by the Board of Supervisors a minimum of two (2) months before the event is planned.

10) Additional uses and changes: Any substantial changes (as determined by the zoning administrator) in the use of the Property by the Owner over what has been permitted by this Conditional Use Permit shall require a new conditional use permit. Substantial changes can include, but are not limited to, any increase in the number of residents or residential dwelling units/structures, the addition of uses on the property that would substantially increase the amount of traffic, parking, outdoor lighting, noise or other similar impacts.

11) Site planning: A final site plan meeting the requirements of Sec. 74-1101 through 1104 of the Code of Cumberland County shall be submitted and approved by the zoning administrator prior to initiating the use. Such site plan shall state all adopted conditions clearly on the plan.

12) Outdoor light control: Lighting shall not constitute a nuisance and shall not produce glare or otherwise spillover onto adjacent properties. All outdoor lighting shall be full-shielded cut-off fixtures that direct light towards the ground and not upwards.

a. Any spillover light shall not exceed one-half (1/2) a foot-candle at any property line adjacent to property zoned agricultural or residential;

b. The maximum mounting height for any lighting fixture not adhered to a building (such as pole-mounted lighting) shall be twenty (20) feet; and

c. All outdoor lighting fixtures shall be turned off after 10:00p.m., unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.

13) Parking: All parking and loading areas shall be located to the side or rear of buildings.

14) Screening/Buffering: Dumpsters or other refuse containment and all outdoor storage areas will be fully enclosed, gated and screened from view on all sides by a solid board fence, which shall, at a minimum, be six (6) feet tall.

f. This Resolution is effective immediately.

4) **Departments and Agencies -**

a) Dr. Jim Thornton, Superintendent of Schools

Although Dr. Thornton was unable to attend the meeting, he submitted information for distribution among the Board members. Dr. Thornton's written report stated that Cumberland was one of the 71% of school divisions in the state to meet AYP standards under the No Child Left Behind requirements. Cumberland students were able to view the live presidential address, and Dr. Thornton felt that the speech reiterated the message the schools are sending out to the students.

b) Gary Heiser, State Forest Manager

Mr. Heiser informed the Board that there is a new map and brochure for the Cumberland State Forest. He presented the Board with a check in the amount of \$ 52,411.22 which is a payment in lieu of taxes. An equal amount in timber sales will be used for the enhancement of recreation in the State Forest.

5) Assistant County Administrator/Finance

- a) Consent Agenda-
 - 1) Approval of minutes for August 2009
 - 2) Approval of Bills- August 2009 and September 2009
Approved bills for September 2009 total \$112,283.25.
Ratified bills for July 2009 of warrants total \$ 463,516.05
with check numbers ranging from 56992 to 57204. Direct
deposits for August 2009 total \$ 156,199.63.

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) Transfer Station Improvements RFP

Assistant County Administrator, Jill Matthews, informed the Board that many of the proposed improvements at the transfer stations could be completed by county staff, thus creating a cost savings for the project. The items that county staff could not complete would go out to bid.

On a motion by Supervisor Womack and carried, the Board authorized county staff to issue a Request for Proposal for concrete pads and tar and chip entrances for the County Transfer Stations:

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

- c) Monthly Budget Report

Assistant County Administrator, Jill Matthews, reviewed the budget report; the Board members had no questions.

d) Balance of Funds-Cartersville Recreation Association

Assistant County Administrator, Jill Matthews, informed the Board that correspondence, and a check in the amount of \$1,328.42 was received from Mr. John Flippen, the former president of the Cartersville Recreation Association. The association had been inactive for many years, and it was just recently that these funds were discovered. Mr. Flippen returned the funds back to the county, and respectfully requests that these funds be used for current Recreation activities, but understands that the County will use the funds as it sees fit.

It was the consensus of the Board to deposit the receipts in the general fund.

6) **Planner/Zoning Administrator-**

a) Monthly report of Planning Commission activity/actions

Zoning Administrator, Andrew Sorrell, reviewed the Planning Commission's activities for the month of August. There is a public hearing scheduled for September 21st for National Communication Towers, LLC, and for the proposed Concrete Plant, and on September 28th, 2009 for the Patriot Ridge Shopping Center.

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

a) Update on Incinerator

County Administrator, Judy Ownby, informed the Board that Animal Control Officer, John Sullivan, had completed some improvements to the existing incinerator, and would continue to use it until it completely fails. In light of this, and in addition to the fact that the county is in a tough budget year, Ms. Ownby requested that the Board reject all bids for the Animal Incinerator System.

On a motion by the Chairman and carried, the Board rejected all bids received for the Animal Incinerator System:

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) Proposed waterline extension

Mr. Cooper stated that work is on-going in regards to the draft plans for the waterline extension. Staff expects to have the final comments received by the end of September, and to have them submitted to the various state agencies for review and approval shortly thereafter.

Mr. Cooper also reminded the Board that some revisions or updates to the County Code will be forthcoming.

b) Commonwealth Regional Council (CRC) Annual Report-

Assistant County Administrator, Michael Cooper, reviewed the Annual Report; the Board members had no questions.

9) County Attorney's Report -

a) Schedule PH for closing of Commercial Paper program

County Attorney, Howard Estes, informed the Board that the County's current Commercial Paper Program must be closed out by December 31, 2009, thus requiring a public hearing to issue bonds for permanent financing.

On a motion by the Chairman and carried, the Board set a public hearing for October 13, 2009 regarding the closing of the Commercial Paper Program and issuance of \$5 million dollars in Public Facility Lease Revenue Bonds:

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

b) Revenue Recovery

County Attorney, Howard Estes, informed the Board that in order to move forward with the Revenue Recovery Program an ordinance must be adopted, and a public hearing scheduled.

On a motion by the Chairman and carried, the Board scheduled a public hearing for October 13, 2009 regarding the court-based Revenue Recovery Program:

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

c) Central Absentee Precinct

County Attorney, Howard Estes, informed the Board that approval from the Department of Justice needs to be obtained by September 15, 2009 in order for the Board of Elections to allow the use of this precinct in the upcoming November elections.

d) Resolution authorizing the issuance and sale of the County's General Obligation Revenue Anticipation Note, Series 2009

County Attorney, Howard Estes, informed the Board that there were two bids received for the County's revenue anticipation note. Suntrust Bank offered a 3.22% APR with \$6,500 in closing costs. VML/VACo offered a 1.69% APR with \$10,500 in closing costs. The difference between the two, based on the \$1.5 million borrowed, would be a \$19,000 savings through VML/VACo.

On a motion by the Chairman and carried, the Board adopted a resolution authorizing the issuance and sale of the County's General Obligation Revenue Anticipation Note, Series 2009, to VML/VACo through the Commonwealth Loan Program:

**BOARD OF SUPERVISORS
OF
COUNTY OF CUMBERLAND, VIRGINIA
RESOLUTION
AUTHORIZING THE ISSUANCE AND SALE OF
THE COUNTY'S GENERAL OBLIGATION
REVENUE ANTICIPATION NOTE, SERIES 2009**

September 8, 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 September 8, 2009, the following Resolution, authorizing the issuance and sale of the County's General Obligation Revenue Anticipation Note, Series 2009, was adopted and approved according to the votes stated below:

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

The undersigned Clerk of the Board of Supervisors of Cumberland County, Virginia, certifies that such meeting was a regularly scheduled meeting and that, during the consideration of

the following Resolution, a quorum was present and that the attendance and voting members in attendance on the following Resolution were as set forth above and hereby further certifies that the following constitutes a true, complete and correct copy of the Resolution adopted at a meeting of the Board of Supervisors of Cumberland County, Virginia, held on September 8, 2009.

WHEREAS, the Board of Supervisors of the County of Cumberland, Virginia (the "County") has determined that it is necessary and advisable to borrow money and issue its general obligation revenue anticipation note in anticipation of the collection of the taxes and revenues of the County for the current year pursuant to Section 15.2-2629 of the Code of Virginia of 1950, as amended;

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 obtain financing to pay certain operating costs and expenses to be incurred by the County prior to the anticipated collection of the taxes and revenues of the County for the current year, together with related costs and expenses (the "Financing"), through the Virginia Municipal League/Virginia Association of Counties Commercial Paper finance Program, and the Authority has indicated its willingness to assist with the Financing using 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;

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

1. Authorization, Issuance and Sale of the 2009 Note.
Pursuant to the Constitution and statutes of the Commonwealth

of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended, (the "Act") the County is authorized to issue its general obligation revenue anticipation note. The Board of Supervisors authorizes the issuance and sale of its general obligation revenue anticipation note (the "Note") in the maximum principal amount of \$1,500,000 to the Authority to provide funds for the payment of certain operating costs and expenses to be incurred by the County in anticipation of the collection of taxes and revenues for the fiscal year ending June 30, 2010 and to pay related costs, including costs incurred in issuing the Note.

2. Authorization of Line of Credit; Note. The Board of Supervisors accepts the proposal of the Authority to purchase the County's General Obligation Revenue Anticipation Note, Series 2009 (the "Note") on the terms set forth in the proposal dated September 4, 2009 (the "Proposal"). The Chairman of the Board of Supervisors and the County Administrator, or either of them, are authorized to arrange for the issuance of the Note in anticipation of the collection of taxes and revenues of the County for the current fiscal year. The Note shall be in effect until not later than June 30, 2010. The Note shall be issued on the terms set forth in the Proposal and on such additional terms, not inconsistent with the Proposal, as the Chairman of the Board of Supervisors or the County Administrator may approve, such approval to be evidenced conclusively by the execution and delivery of the Note. The principal amount of the Note shall not exceed \$1,500,000. The Note shall bear interest at an initial rate not to exceed 2.00%.

3. Authorization of Loan Agreement. The forms of the Loan Agreement and the Note (collectively, the "Loan Documents"), each of which has been submitted to this meeting, are hereby approved. The County Administrator and the Chairman of the Board are each authorized to execute the Loan Documents in substantially such forms, 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.

4. Note Details. The Note shall be issued as a single, registered note, shall be designated "General Obligation Revenue Anticipation 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 to exceed \$1,500,000, (b) shall mature no later than 364 days from its date of issuance, and (c) shall bear interest on the outstanding principal balance thereof at an initial rate of interest approved by the County Administrator or the Chairman of the Board, with such initial rate to be adjusted periodically in accordance with the terms and conditions of the Loan Agreement and the documents prepared in connection with the issuance of the Authority's bonds, 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 (1) determine the final principal amount of the Note and (2) to establish the maturity date and principal amortization schedule (including the principal installment dates and amounts, if any) 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 so long as such provisions are within the limits prescribed in this Resolution. 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.

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. Preparation of Printed Note; Mutilated or Destroyed 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 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. 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.

7. Pledge of Full Faith and Credit. The Note shall be payable from the collection of the taxes and revenues of the County for the current fiscal year. In addition, the Note shall be a general obligation of the County for which the full faith and credit of the County is irrevocably pledged for the payment of principal of and interest on the Note. Unless other funds are lawfully available and appropriated for timely payment of the Note, the County Board of Supervisors shall levy and collect an ad valorem tax, over and above all other taxes authorized or limited by law, on all locally taxable property in the County sufficient to pay when due the principal of and interest on the Note and all other payment obligations under the Loan Agreement.

8. Appointment of Note Registrar and Paying Agent; Transfer. The Treasurer is appointed as Note Registrar and Paying Agent for the Note. The County Administrator may appoint a subsequent registrar and/or one or more paying agents for the Note by giving written notice to the owner of the Note specifying the name and location of the principal office of any such registrar or paying agent. This Note may be transferred only by an assignment duly executed by the registered owner hereof or such owner's attorney or legal representative in a form satisfactory to the Note Registrar. Such transfer shall be made in the registration books kept by the Note Registrar upon presentation and surrender hereof and the County shall execute, and the Note Registrar shall authenticate, if necessary, and deliver in exchange, a new Note having an equal aggregate principal amount, of the same form and maturity, bearing interest at the same rate, and registered in such name as requested by the then registered owner hereof or such owner's attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Note Registrar may charge the person requesting such exchange

the amount of any tax or other governmental charge required to be paid with respect thereto.

The County Administrator may designate a successor Note Registrar and/or Paying Agent, provided that written notice specifying the name and location of the principal office of any such successor shall be given to the registered owner of this Note. Upon registration of transfer of this Note, the Note Registrar shall furnish written notice to the transferee of the name and location of the principal office of the Note Registrar and/or the Paying Agent.

9. Execution of the Note. The Chairman of the Board of Supervisors and the County Administrator as Clerk of the Board are authorized and directed to execute and to affix the seal of the County thereto and to deliver the Note to the Authority upon to take all proper steps to have the Note prepared and payment of the purchase price. The manner of execution and affixation of the seal may be by facsimile, provided, however, that if the signatures of the Chairman of the Board of Supervisors and the County Administrator as Clerk are both by facsimile, the Note shall not be valid until signed at the foot thereof by the manual signature of the Note Registrar.

10. Tax Provisions. 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.

11. 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.

12. 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.

13. Effective Date; Applicable Law. This Resolution shall take effect immediately. The Board of Supervisors elects to issue the Note pursuant to the provisions of the Public Finance Act of 1991, in accordance with Section 15.2-2601 of such Act.

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

e) Schedule PH for ordinance regarding the Equalization Board

County Attorney, Howard Estes, stated that once a county goes through a reassessment, the Equalization Board hears cases that request appeals. The Equalization Board is recommended to the Circuit Court Judge for appointed by the Board of Supervisors, and is considered to meet for one year. The State Code allows counties to have the option to limit that time period. Once the Equalization Board meets, and all appeals are exhausted, the Board is considered dissolved. Mr. Estes stated that the Board

must adopt an ordinance to establish a deadline date for the Equalization Board's term.

On a motion by Supervisor Oertel, and carried, the Board set a public hearing for October 13, 2009, for a proposed ordinance establishing a deadline for the County's Board of Equalization to dispose of applications for equalization of real estate assessments:

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

10) Board Member Comments-

The Chairman had no comments.

Supervisor Kennell spoke about the town meeting with Congressman Tom Perriello.

Supervisor Petty stated that the Board would need to set a meeting to discuss the Housing Program in the County.

Supervisor Womack stated that a DSL switch was installed on Ligontown Rd., as per the Boards request, and thanked the Board for their support. He also stated that he wants to see businesses come into our communities and feels that the requirements are too strict.

Supervisor Oertel stated that Carol Allen has applied for rezoning on her property in order to re-open an automobile repair shop. The business has not been in operation for more than two years and by Code, cannot re-open without rezoning. He requested reconsideration of these requirements.

11) Public Comments

There were no citizens signed up to speak.

12) Additional Information-

N/A

13) Adjourn-

With no additional business to come before the Board, the Chairman adjourned the meeting until the next regular meeting of the Board scheduled for Tuesday, October 13th, 2009 at 7:00 p.m. in the Circuit Courtroom of the Cumberland Courthouse.

Chairman

County Administrator