

At a regular meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 17th day of November, 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
Stephany Johnson, Deputy Clerk

Absent: Andrew Sorrell, Zoning Administrator

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

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

1) Approval of Agenda-

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

Add After approval of agenda:

2. Award 10 year anniversary pin to Supervisor Womack
3. Honoring Cumberland County Veterans whose names are engraved on the Shrine of Memory at the Virginia War Memorial

Add'l info 4) VDoT-Road Closure

Add'l Info 7) Asst. County Administrator/Finance

c) Ratify contract for recycling centers

d) Request for appropriation for STEPS

Add'l Info 9) County Administrator

c) Letter from DEQ regarding corrective action at Madison Landfill

Add'l Info 14) Additional Information

g) Swine Flu vaccine available

h) High Bridge Trail State Park

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

2) **10 Year Anniversary Pin**

The Chairman informed the Board that Supervisor Womack was recently recognized by the VA Association of Counties as serving his 10th year on the Board of Supervisors, representing the citizens of the fourth district. Mr. Womack was presented with a ten-year anniversary pin.

3) **Honoring Cumberland County Veterans**

The Chairman addressed the Board, and stated that a letter was received from the Virginia War Memorial Education Foundation. The memorial was inscribed as follows:

‘IN THIS SHRINE OF MEMORY ARE INSCRIBED THE NAMES OF VIRGINIANIANS WHO GAVE THEIR LIVES IN WORLD WAR II, KOREA, VIETNAM AND THE PERSIAN GULF THAT LIBERTY MIGHT LIVE.’

Cumberland County

World War II

George Acevedo
Henry E. Fulcher
Victor L. Keith, Jr.
Daniel Nelson
William O. Parker
Cecil C. Robertson

Meade H. Baker
Robert O. Garrett, Jr.
Harry D. Mack
Samuel L. Parker
Charlie Blair Rhodes
Walter H. Oertel

Vietnam

Irvin Sylvester Banks
Jimmy Clifford Stinnett

Larry Edward Gilliam
Casey Owen Waller

Supervisor Oertel noted one discrepancy. Mr. Walter H. Oertel, of Cumberland was not listed. The Chairman directed the County Administrator to notify the Virginia War Memorial Education Foundation of the error.

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

VDoT Resident Engineer, Alan Leatherwood, provided the Board with photos that show the deterioration of the Trice’s Lake (Rt. 612) bridge. Mr. Leatherwood noted the necessity to complete the bridge rehabilitation. The closure will begin on November 30, 2009, and will continue for a period of four months. Supervisor Womack stated that this rehabilitation must be done.

Supervisor Oertel suggested lowering the speed limit on Rt. 45 South, Cumberland Road, heading north just past New Life Assembly of God. Currently, the speed limit changes from 45 mph to 55 mph, and when school is letting out, it changes again to 35 mph. Mr. Leatherwood stated that he would look into this matter. Sheriff Darrell Hodges will submit a request for the change as well.

Supervisor Kennell also informed Mr. Leatherwood that the construction on Rt. 45 North, Cartersville Rd., has severely impacted the condition of the road.

5) **Public Hearings -**

- a) Ordinance establishing deadline for County's Board of Equalization to dispose of applications for equalization of real estate assessments

County Attorney, Howard Estes, informed the Board that the deadline for the Board of Equalization to dispose of all timely applications for equalization of real estate assessments needed to be revised. The Chairman opened the public hearing, and with no citizens signed up to speak, the Chairman then closed the public hearing.

On a motion by Supervisor Womack and carried, the Board adopted an Ordinance establishing March 31, 2010 as the deadline date by which the Board of Equalization shall finally dispose of all timely applications for equalization of real estate assessments:

BOARD OF SUPERVISORS
OF THE
COUNTY OF CUMBERLAND, VIRGINIA
RESOLUTION
ADOPTION OF
COUNTY ORDINANCE
**AN ORDINANCE ESTABLISHING A DEADLINE FOR
THE BOARD OF EQUALIZATION TO COMPLETE
ITS DELIBERATIONS ON APPLICATIONS FOR
EQUALIZATION
OF REAL ESTATE ASSESSMENTS**

November 17, 2009

At a meeting of the Board of Supervisors of Cumberland County, Virginia, in the Circuit Court Courtroom of the Cumberland County Courthouse at Cumberland, Virginia commencing at 7:00 p.m., November 17, 2009, the following action was taken following a duly held public hearing during which staff provided a review of the proposed County ordinance and members of the public offered comment:

Following a reading of the recitals and the resolutions for adoption of the proposed ordinance and on duly recognized

motion, 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 M. Kennell	Aye
Robert J. Oertel	Aye
Van H. Petty	Aye
Elbert R. Womack	Aye
<u>Absent:</u>	None

WHEREAS, the County of Cumberland, Virginia is currently undergoing a general reassessment of real property within the County to be effective January 1, 2010; and

WHEREAS, Section 58.1-3370 of the Code of Virginia requires the establishment of a Board of Equalization to receive applications from landowners seeking equalization of their real estate assessments; and

WHEREAS, Section 58.1-3378 of the Code of Virginia also provides that the Board of Supervisors may establish a deadline for the Board of Equalization to finally dispose of all applications for equalization of real estate assessments.

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

1. March 31, 2010 be and the same hereby is established as the deadline date by which the Board of Equalization shall finally dispose of all timely applications for equalization of real estate assessments.

BE IT FURTHER RESOLVED by the Board of Supervisors that the ordinance reflected above is hereby effective immediately.

- b) REZ 09-04 requested by Ms. Carol Allen

As Mr. Andrew Sorrell, Zoning Administrator, was not present, Mr. Michael Cooper, Assistant County Administrator, reviewed the rezoning request. The applicant, Mrs. Carol Allen, is requesting rezoning of her property in order to re-open an auto repair shop. Mrs. Allen has submitted voluntary proffers to

ensure the requested rezoning is compatible with existing zoning and uses in the area.

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

On a motion by the Chairman and carried, the Board approved the Rezoning request REZ 09-04:

**BOARD OF SUPERVISORS
OF THE
COUNTY OF CUMBERLAND, VIRGINIA
RESOLUTION
APPROVING AND ADOPTING
FOR REZONING APPLICATION #09-04
FOR TAX MAP PARCELS 104A-A-21 AND 22
AND FOR A PORTION OF TAX MAP PARCEL 104A-A-18
REQUESTED BY CAROL ALLEN
November 17, 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., November 17, 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 Osl, 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 B-1, Business 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

WHEREAS, Carol Allen (the “Applicant”) filed a rezoning application and supporting materials (the “Rezoning Application”) seeking to rezone the property described below from A-2, Agricultural to B-1, Business 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 commercial uses of the Property; and

WHEREAS, the subject property is located on the west side of Route 45 (Cumberland Road) approximately 400 feet north of the Route 45 and Route 657 (Jamestown Road) intersection and adjacent to the intersection of Route 45 and Lake Drive (a private road) also on the west side of Route 45 and more particularly described as Tax Map 104A-A-18 with respect to 1.49 acres less and except approximately 0.52 of an acre, for a residual acreage of 0.97 of an acre, Tax Map 104A-A-21 with respect to approximately 0.31 of an acre (tax records represent one acre) and Tax Map 104A-A-22 with respect to approximately 0.22 of an acre (tax records represent 0.1 of an acre) for a combined acreage of approximately 1.50 acres (the “Property”) as shown on the sketch 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 August 11, 2009; and

WHEREAS, the Planning Commission directed staff to make the Rezoning Application available for public review on September 28, 2009; and

WHEREAS, the Planning Commission duly advertised and held a public hearing on October 19, 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 November 17, 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:

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 is 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 Subdivision and Zoning Ordinances;

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 #09-04 to rezone the Property from A-2, Agricultural to B-1, Business for commercial use of the Property.

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 Case No. REZ 09-04" 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; that the covenants and restrictions in such proffers shall be placed on the deed or deeds of the Property; that the right-of-way easements shall be duly recorded on the deed or deeds of the Property; and that such filings shall take place prior to ninety (90) days after rezoning is granted or such rezoning shall be deemed null and void and the Property will revert to its prior status.

f. This Resolution is effective immediately.

6) Departments and Agencies -

a) Mr. Mark Mabey, Principal of Cumberland Middle School

Mr. Mabey addressed the Board, and informed them that the Middle school has made adequate yearly progress. This is a State measurement to make sure that all students' needs are being met. Mr. Mabey also informed the Board that the Middle School is

working on rigor throughout the school. Rigor is the process of helping the students become more critical with the information they receive and to be able to communicate that information, both orally and in writing, in a more effective way.

7) Assistant County Administrator/Finance

- a) Consent Agenda-
 - 1) Approval of minutes for October 2009
 - 2) Approval of Bills- October 2009 and November 2009
Ratified bills for October 2009 of warrants total \$324,682.08; Ratified bills for November 2009 of warrants total \$75,908.52 with check numbers ranging from 57429-57602. Direct deposits for October 2009 total \$159,862.96; direct deposits for November 2009 total \$79,999.14.
 - 3) Appropriation of \$5,125 in grant funds (Litter Prevention & Recycling Program)
 - 4) Appropriation of \$420.78 to the Building Official’s Budget for refund of revenue
 - 5) Transfer \$5,681.16 from School Construction Fund to Debt Service Fund
 - 6) Ratify Austin Brockenbrough contract for Preliminary engineering services (proposed industrial park-no local funds)

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

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

b) Monthly Budget Report

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

c) Ratify Contract for recycling centers

On a motion by Supervisor Kennell and carried, the Board awarded the bid to, and ratified the contract for, Pearson Construction in the amount of \$79,100.00, which was the lowest conforming bid:

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

- d) Request for appropriation for STEPS in the amount of \$ 3,700.00

Assistant County Administrator for Finance, Jill Matthews, informed the Board that a request for early appropriation was received from STEPS in the amount of \$3,700.00. Ms. Sharon Harrup stated in her request that they anticipate a revenue shortfall by the end December 2009, and are asking for this appropriation prior to that time.

On a motion by Supervisor Oertel and carried, the Board approved the release of the budgeted appropriation to STEPS in the amount of \$3,700.00:

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

- 8) **Planner/Zoning Administrator-** In Mr. Sorrell's absence, Assistant County Administrator, Michael Cooper, reviewed Mr. Sorrell's agenda items for the Board.

- a) Monthly report of Planning Commission activity/actions

Mr. Cooper reviewed the Planning Commission's activities for the month of November 2009.

- b) Citizen's Landfill Advisory Committee

Mr. Cooper informed the Board that the terms for all Citizens' Landfill Advisory Committee members expire on December 31, 2009. Loren Glover, Jack Ingle, John Skelly, and Alan Blakely wish to be re-appointed. Supervisor Womack recommended Roger Hatcher for appointment.

On a motion by Supervisor Womack and carried, the Board appointed Mr. Roger Hatcher to the Citizen's Landfill Advisory Committee for a term expiring December 31, 2012:

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

Other appointments will be made at the December Board meeting.

- c) Board of Zoning Appeals appointments

Mr. Cooper informed the Board that the terms for Mr. Don Gantt, Ms. Vacelo Moore, and Mr. Sherman Langhorne expire on January 31, 2010. Both Mr. Gantt and Mr. Langhorne wish to be reappointed. Ms. Moore does not wish to be reappointed.

No action was taken on this item as it was tabled until the next regular meeting of the Board.

d) Request for Special Temporary Use Permit

The Board granted a special temporary use permit (STUP 07-01) to Greater Works Ministries on November 19, 2009 to temporarily locate a mobile office trailer on tax map 23-A-64, 1510 Cartersville Road. STUP 07-01 had the ability to be renewed once, which the applicant requested. The Board renewed the permit on November 12, 2008. Since County Code does not allow for more than one renewal, the applicant is requesting a new permit be granted.

On a motion by the Chairman, and carried, the Board granted Special Temporary Use Permit 09-01 for Grater Works Ministries:

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

e) Discussion of UDA grants

Mr. Cooper informed the Board that grant funds have been made available through VDoT for counties designating Urban Development Areas. The grant application is for an amount up to \$50,000 and there is no local match required. Staff has made application for those funds.

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

a) Recommendations for appointment to Board of Equalization

County Administrator, Judy Ownby, informed the Board that recommendations for appointment to the Board of Equalization were needed from the Board members. Robert Rigsby, John Godsey, and Andy Blanton were recommended for appointment.

No action was taken on this item as it was deferred until the next regular meeting of the Board.

b) Extension Service Request for Resolution

County Administrator, Judy Ownby, informed the Board that David Smith, Extension Agent, is requesting the Board approve a Resolution of Authorization for a grant from the Tobacco Commission for feed storage bins for Agricultural Producers.

On a motion by the Chairman, and carried, the Board approved the Resolution of Authorization for the Agricultural Fund Grant Application of the Central Virginia Livestock Feed Storage Incentive Project:

**RESOLUTION OF AUTHORIZATION
AGRICULTURAL FUND GRANT APPLICATION
CENTRAL VIRGINIA LIVESTOCK
FEED STORAGE INCENTIVE PROJECT**

WHEREAS, Cumberland County recognizes the importance of livestock agriculture to the economy of Cumberland County and the stresses upon our agriculture industry; and

WHEREAS, Cumberland County recognizes that stored feed represents the number one cost of production in a livestock operation; and

WHEREAS, proper storage and bulk purchasing can result in significant improvements in efficiency and cost savings; and

WHEREAS, Cumberland County desires to participate with other Southside Virginia Tobacco Communities in the Central Virginia Livestock Feed Storage Incentive Project;

NOW, THEREFORE, BE IT RESOLVED, the Cumberland County Board of Supervisors does authorize the submission of an application by Campbell County to the Virginia Tobacco Indemnification and Community Revitalization Commission for the purposes of obtaining grant funding to provide for a livestock feed storage incentive to assist livestock producers.

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

c) Letter from DEQ regarding corrective action at Madison Landfill

County Administrator, Judy Ownby, informed the Board that a letter was received from DEQ regarding corrective action at the Madison Landfill. DEQ is requesting that the County install additional ground water monitoring wells. Draper Aden has not yet submitted an estimated cost for these wells.

10) Assistant County Administrator/Community Development

- a) Update on projects and IDA activities
 - 1) Proposed waterline extension

Mr. Cooper stated that work is on-going in regards to the draft plans for the waterline extension. Staff is waiting on review comments from the State Health Department.

2) IDA

Mr. Cooper informed the Board that the IDA is initiating a local business association. Surveys were mailed to local business owners to inquire as to their interest in creating this committee.

b) Re-adoption of updated Emergency Operations Plan

Mr. Cooper informed the Board that staff had recently updated the County's Emergency Operations Plan, and requested the Board's approval.

On a motion by Supervisor Kennell, and carried, the Board re-adopted the revised Emergency Operations Plan:

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

c) ODRC&D-Director's Report

Mr. Cooper provided the Board with the Old Dominion Resource Conservation and Development Council Executive Director's Report; the Board members had no questions.

d) Update on Water and Sewer Ordinance Amendments

Mr. Cooper informed the Board that staff is currently revising the ordinance. Mr. Cooper suggested scheduling a workshop between the Board and the Water and Sewer Advisory Committee to review the proposed revisions.

It was the consensus of the Board to schedule a joint meeting with the Water and Sewer Advisory Committee.

e) Continuation of Contracts for General A/E Services with Burgess & Niple, Dewberry and Austin Brockenbrough

In 2008, the Board approved three new contracts for General A/E Services with Burgess & Niple, Dewberry and Austin Brockenbrough. Those contracts provide the opportunity for the contracts to be extended twice for a one year period. All three existing firms request that they be considered for continuation of that contract.

On a motion by Supervisor Petty and carried, the Board approved the continuation of the contract for General A/E Services with Burgess & Niple, Dewberry, and Austin Brockenbrough and Associates:

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

11) County Attorney's Report -

a) Road naming Ordinance

Mr. Estes informed the Board that the concerns brought up at the workshop have been addressed and are reflected in the revised ordinance. Mr. Estes suggested that a public hearing be scheduled for adoption of this ordinance.

It was the consensus of the Board to schedule a public hearing for the proposed Road Naming Ordinance for the December 8, 2009 meeting.

12) Board Member Comments-

The Chairman informed the Board that he was in attendance at the Annual VACo Conference, and reviewed the topics discussed. The Chairman also voiced his support for Jackie Easter's appointment as the Secretary of Agriculture.

Supervisor Kennell stated that the many opportunities that are awarded for those who attend the Annual VACo Conference are invaluable.

Supervisor Petty reviewed some of the topics discussed at the VACo Conference. The Wireless Authority has submitted two grant applications; one of which was denied. Notification of the award for the second grant application will begin in December.

Supervisor Womack commended the Piedmont Regional Jail staff for the way they are operating the jail. Supervisor Womack also voiced his support for Jackie Easter's appointment as the Secretary of Agriculture.

Supervisor Oertel had no comments.

13) Public Comments

There were no citizens signed up to speak.

14) Additional Information-

- a) Building Inspections Department Monthly Report
- b) Monthly Recycling Report
- c) Department of Health H1N1 Report
- d) Piedmont Regional Jail (excerpts from Comp Board report and FY 2009 audit)
- e) Office of the Governor news release on Recovery Act spending
- f) 2010-2012 Composite Index of Local Ability to Pay
- g) Swine Flu Vaccine Information
- h) High Bridge Trail State Park

15) Closed Session-

On a motion by Mr. Osl and carried, the Board entered into closed meeting under VA Code Section 2.2-3711 (A-7) consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel; (A-1) personnel matters; (A-3) discussion of the acquisition of real property for a public purpose where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; (A-5) discussion concerning a prospective business where no previous announcement has been made of the business' interest in locating its facilities in the community; (A-6) investment of public funds pertaining to the water reservoir project where bargaining is involved, where, if made public the financial interest of the County would be adversely affected.

The Board returned to open session on a motion by the Chairman.

A motion was made by the Chairman and adopted by the following vote:

Mr. Osl – aye
Mr. Kennell –aye
Mr. Petty – aye
Mr. Womack – aye
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 2.2-3711 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.

16) 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, December 8, 2009 at 7:00 p.m. in the Circuit Courtroom.

Chairman

County Administrator