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At a regular meeting of the Cumberland County Board of Supervisors held at 7 p.m. on the 11th day of May, 2010 at the Circuit Courtroom, Cumberland, County, Virginia:

Present: William F. Osl, Jr., District 1
Timothy M. Kennell, Chairman, District 2
Van H. Petty, District 3
Elbert R. Womack, Vice-Chairman, District 4
Robert J. Oertel, District 5
Howard Estes, County Attorney
Judy Ownby, County Administrator
Jill Matthews, Asst. County Administrator
Michael Cooper, Director of Community Development
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 Osl, and the pledge of allegiance was led by the Chairman.

1. **Agenda - Addendum**

On a motion by Supervisor Womack and carried, the Board approved an addendum to the agenda as follows:

7. Assistant Administrator/Finance
 - a) Consent Agenda
 - 6) Supplemental appropriations – Clerk’s Office – \$948.50 and \$139.00 (no local funds)
 - 7) Supplemental appropriation - \$9,240.81 in 4-for-Life funds from the Dept. of Health, to be allocated equally between Cartersville and Cumberland Rescue Squads
 - 8) Supplemental appropriation of \$74,727.04 in federal funds; \$56,946.80 in state funds and \$10,656.80 in local funds to Dept. of Social Services (local funds are

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RESOLUTION OF APPRECIATION

Cumberland County Patriot Day

WHEREAS, April 24th, 2010 marked the seventh annual celebration of Cumberland's "First Call for American Independence" by a governmental body on April 22, 1776; and

WHEREAS, this Festival has been a great success and was initially started by the Historical Society, Cumberland County, and the Cumberland Ruritan Club; and

WHEREAS, the Festival is celebrated annually at the Historic Courthouse Complex and School Complex in the heart of Cumberland County; and

WHEREAS, the event is organized by a number of volunteer citizens, County departments such as Parks & Recreation, Sheriff's Department, School Teachers, and County Administrative staff; and

WHEREAS, the event is free to the citizens and recognizes the family of Carter Henry Harrison and the "First Call for American Independence" made from the balcony of Effingham Tavern; and

WHEREAS, the Virginia Convention decided to follow Cumberland's lead and this resulted in the Virginia Resolutions which were presented to the Continental Congress and embodied in the Declaration of Independence; and

WHEREAS, the volunteers who plan this annual event devote many hours over a period of several months to meeting, contacting vendors and participants, organizing, preparing, and setting up for the event;

NOW, THEREFORE, BE IT RESOLVED, that the Cumberland County Board of Supervisors recognizes the volunteers of the

Cumberland County Patriot Day Committee, and acknowledges that through their efforts, many families and citizens of Cumberland County, as well as many visitors of all ages are able to enjoy an affordable day of fun, games, music, history, and camaraderie; and

BE IT FURTHER RESOLVED that the Cumberland County Board of Supervisors directs that this resolution of appreciation be made a permanent part of the official minutes of the Cumberland County Board of Supervisors.

Adopted the 11th day of May, 2010.

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

3. Public Comments-

One citizen voiced his concern with the close proximity of a proposed Industrial Park to his property. One citizen spoke to the Board about an ongoing grievance over family land, and asked for the Boards help. A member of the NAACP also urged the Board members to investigate this issue.

4. VDOT -

Acting Residency Administrator, Kevin Wright, informed the Board that he will continue as Acting Residency and Maintenance Manager for Cumberland. He also informed the Board that the Rt. 45 N project on Cartersville Road is progressing and the entire project now has asphalt. The Rt. 612 Bridge, Trices Lake Bridge was re-opened to traffic on March 30, 2010. The paving has not yet been completed due to the weather, but is expected in the next few weeks.

5. Public Hearings

N/A

6. Departments/Agencies

a) EHF, Inc. final report

Miles Hoge, Managing partner of EHF, supplied the Board and staff with the Phase 1 Final Financial Report, and a power point presentation. Mr. Hoge reviewed the report to the Board's satisfaction, and reminded the Board that EHF Consulting, Inc. will not receive any compensation until such time that the Board actualizes additional revenue or cost savings as a result of their research.

b) Republic Services

Mr. Tim Loveland from Republic Services addressed the Board and informed them that the final site plan for the landfill is still under review. The approved Wetlands Mitigation Permit from the Army Corps of Engineers is expected within the next few weeks. Mr. Loveland also stated that Republic has felt the effects of the current economy, and in Virginia alone, they have seen a 25% reduction in volume in 2009. There will be no major construction for Republic this fiscal year.

Mr. Loveland stated that he and other representatives participated in the 2010 Patriot Day Festival, and plan to hold a County clean-up day in June. This event will allow residents to dispose of tires and electronics free of charge.

c) Robert Fowler, Manager, Prince Edward Development, LLC-
request for letter of support

Mr. Robert Fowler informed the Board that Prince Edward Development, LLC and Prince Edward County, through a public/private partnership, propose to build the Granite Falls Conference and Hospitality Training Center in Prince Edward County. The Center will have a full service 176 room hotel and conference center in Prince Edward County. As this is considered to be a regional project, Prince Edward County has applied for funds from the Tobacco Indemnification and Community

Revitalization Special Projects Grant in the amount of \$4 million for this project.

On behalf of Prince Edward County, Mr. Fowler respectfully requested a letter of support from Cumberland to accompany Prince Edward County's grant application to the Tobacco Commission for these grant funds.

On a motion by Supervisor Womack and carried, the Board directed the County Administrator to send a letter of support for the proposed Granite Falls Conference and Hospitality Training Center Project:

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

7. Assistant County Administrator/Finance & Human Resources

- a) Consent Agenda-
 - 1) Approval of minutes for April 2010
 - 2) Approval of bills – April 2010 and May 2010
Approved bills for May 11, 2010 total \$86,353.33. Ratified bills for April 2010 of warrants totaling \$ 280,542.31. Direct deposits totaling \$ 150,883.63. Check numbers ranging from 588696 to 58966.
 - 3) Supplemental appropriation to Clerk's Office for \$7,952.70 (no local funds)
 - 4) Supplemental appropriation to Sheriff for \$1,639.35 (grant aid for air card service for deputies)
 - 5) Authorize sale of surplus county property
 - 6) Supplemental appropriations-Clerk's office for \$948.50 and \$139.00 (no local funds)
 - 7) Supplemental appropriation - \$9,240.81 in 4-for-life Funds from the Department of Health, to be allocated equally between Cartersville and Cumberland Rescue Squads
 - 8) Supplemental appropriation of \$74,727.04 in federal funds; \$56,946.80 in state funds; and \$10,656.80 in local funds to the Department of Social Services (local funds are additional

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receipts that were collected by Social Services, and need to be appropriated so they can be spent)

- 9) Supplemental appropriation of \$24,600 for a hot water boiler in the elementary school cafeteria

On a motion by Supervisor Osl and carried, the Board approved the consent agenda in its entirety:

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, supplied the Board with the monthly budget report. The Board members had no questions.

- c) Set public hearings for June – Land Use fees and Building Permit Fees (effective July 1, 2010)

On a motion by Supervisor Osl and carried, the Board set a public hearing for Land Use Fees and Building Permit Fees for the next regular meeting of the Board, scheduled for Tuesday, June 8, 2010:

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

- d) Consider transfer station schedule

Assistant County Administrator, Jill Matthews, provided the Board with two alternative schedules for the transfer stations. Supervisor Womack requested information regarding the difference in volume between each transfer station. It was the consensus of the Board to table this item until the next regular meeting of the Board.

8. Planner/Zoning Administrator

- a) Planning Commission activities

In Mr. Sorrell's absence, Assistant County Administrator for Community Development, Michael Cooper, provided the Board with the report of activities. The Board members had no questions.

- b) CLAC appointment

No appointments were made at this time.

- c) Appointment to Planning Commission

No member appointments were made at this time. Supervisor Oertel expressed his interest in resigning as the Board liaison on the Planning Commission.

On a motion by the Chairman and carried, the Board appointed Supervisor Osl as the Board liaison on the Planning Commission:

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

9. County Administrator

- a) Letter recognizing Woman's Club of Cumberland celebrating 55 years of volunteer service

On a motion by Supervisor Womack and carried, the Board authorized the County Administrator to write a letter recognizing the Woman's Club of Cumberland for 55 years of volunteer service:

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

- b) Wireless Authority – Terms Expire May 2010

On a motion by Supervisor Osl and carried, the Board re-appointed Cliff White, Marty Shute, Elizabeth Jamerson, Van Petty and Quinten Parker to the Wireless Authority for a three year term expiring June 1, 2013:

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

- c) Consider appointment to Piedmont Court Services Board – Sheriff Darrell Hodges

On a motion by Supervisor Osl and carried, the Board appointed Sheriff Darrell Hodges to the Piedmont Court Services Board to replace Leroy Pfeiffer, who resigned:

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

- d) Designation of 2011 sub-recipient to administer IPR program – Southside Outreach Group

On a motion by Supervisor Petty and carried, the Board designated Southside Outreach Group as the administrator for the IPR Program:

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

10. Assistant County Administrator/ Community Development

- a) Update on projects
 - 1) Waterline Extension

Mr. Cooper informed the Board that draft plans have been submitted to the State Health Department for approval. Construction is expected to begin in late spring/early summer 2010.

2) Community Center Property

Mr. Cooper informed the Board that on April 23, 2010 the IDA closed on the Community Center property. Correspondence will be sent to all residents of the property notifying them of the change in ownership, and assuring them that all existing leases will be honored.

b) IDA vacancy

On a motion by Supervisor Osl and carried, the Board appointed Lena Bishop-Chapman to the IDA for an unexpired term ending September 2011:

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

c) Resolution recognizing Business Appreciation Week

On a motion by Supervisor Womack and carried, the Board adopted the Resolution recognizing Business Appreciation Week from May 16-22, 2010:

BUSINESS APPRECIATION WEEK 2010

WHEREAS, Governor Robert F. McDonnell has recognized May 16-22, 2010 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 that jobs and investment follow private businesses that seize opportunities

to expand markets, develop new products, and invest in equipment that improves productivity; and

WHEREAS, the citizens of the County of Cumberland benefit from the jobs and investment that business creation, growth and expansion provide ; and

WHEREAS, the County of Cumberland has joined the Commonwealth in developing a business climate of opportunity to encourage entrepreneurial risk-taking, investment, and job growth; and

WHEREAS, businesses in the County of Cumberland play a significant role in growing the economy of the Commonwealth when they assume market risks to reap the rewards of pursuing opportunity; and

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

NOW, THEREFORE, WE, the Board of Supervisors of Cumberland County, do hereby recognize May 16-22, 2010 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 – aye
Mr. Oertel – aye

- d) Recommendation from WSAC – Set public hearing for proposed Utilities Ordinance

The Water and Sewer Advisory Committee recommended the Board consider the proposed new utilities ordinance as presented by staff, with one additional recommendation. That a section be added providing the Board the ability to enter into a Reimbursement Agreement, as it determines appropriate, with a

property owner that is authorized to extend the utility system beyond its terminus at said time.

After some discussion, it was the consensus of the Board to omit the suggested section regarding the Reimbursement Agreement, as the Board can take that action as it chooses without changing the County Code.

On a motion by Supervisor Osl and carried, the Board set the proposed Utilities Ordinance for public hearing at the next regular meeting of the Board scheduled for June 8, 2010:

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

Mr. Cooper stated that a Community meeting for those affected by the changes in the proposed utilities ordinance on June 1, 2010.

11. County Attorney

- a) Request for transfer of Franchise Agreement to Shentel Cable Company

County Attorney, Howard Estes, informed the Board that Shentel Cable Company is acquiring the current JetBroadband LLC, and is requesting a transfer of Franchise Agreement.

On a motion by Supervisor Womack and carried, the Board adopted the Resolution approving the assignment of the JetBroadband LLC, Franchise Agreement to Shentel Cable Company:

**RESOLUTION OF CUMBERLAND COUNTY, VA
APPROVING THE ASSIGNMENT OF THE
CABLE TELEVISION FRANCHISE**

WHEREAS, JetBroadband VA, LLC (“Franchisee”) owns, operates, and maintains a cable television system (“System”) serving the Cumberland County, VA (the “Franchise Authority”), and Franchisee is the duly authorized holder of the Franchise; and

WHEREAS, on April 16, 2010, JetBroadband VA, LLC entered into an Asset Purchase Agreement (the “Agreement”) with Shentel Cable Company (“Shentel”) in which, among other things, the Franchisee proposes to sell and assign to Shentel certain of the assets, including the Franchise, used by Franchisee in the operation of the System (the “Transaction”); and

WHEREAS, Franchisee and Shentel have requested the consent of the Franchise Authority for the assignment of the Franchise in accordance with the requirements of the Franchise and applicable law and have filed with the Franchise Authority a franchise assignment application on FCC Form 394 that includes relevant information concerning the Transaction and the legal, technical and financial qualifications of Shentel (collectively, the “Application”); and

WHEREAS, the Franchise Authority has reviewed the Application, examined the legal, financial and technical qualifications of Shentel, followed all required procedures to consider and act upon the Application and considered the comments of all interested parties; and

WHEREAS, the Franchise Authority believes that it is in the interest of the community to approve the Application and the assignment of the Franchise and the System to Shentel, as described in the Application.

NOW, THEREFORE BE IT RESOLVED BY THE FRANCHISE AUTHORITY AS FOLLOWS:

SECTION 1:The Franchise Authority hereby approves the Application and consents to the assignment of the Franchise and System to Shentel; all in accordance with the terms of the Franchise and applicable law.

SECTION 2:The Franchise Authority confirms that (a) the Franchise was properly granted or assigned to Franchisee and is in full force and effect, (b) the Franchise represents the entire understanding of the parties and the Franchisee has no obligations to the Franchise Authority other than those specifically stated in the Franchise; and (c) the Franchisee is materially in compliance with the provisions of the Franchise and applicable law, and there exists no fact or circumstance known to the Franchise Authority which constitutes or which, with the passage of time or the giving of notice or both, would constitute a default or breach under the Franchise or would allow the Franchise Authority to cancel or terminate the rights of the Franchisee thereunder.

SECTION 3:The Franchise Authority hereby consents to and approves (a) the pledge of grant of a security interest to, or the exercise of associated remedies by, any lender(s) of Shentel or its affiliates in Shentel's assets, including, but not limited to, the Franchise, or of interests in Shentel, for purpose of securing any indebtedness; and (b) the assignment or transfer of Shentel's assets, including the Franchise, provided that such assignment or transfer is to an entity directly or indirectly controlling, controlled by or under common control with Shentel.

SECTION 4:The Franchise Authority's approval of the Application and its consent to the assignment of the Franchise to Shentel shall be effective immediately, and Shentel shall notify the Franchise Authority upon the Closing Date.

SECTION 5:The Franchise Authority releases the Franchisee, effective upon the Closing Date, from all obligations and liabilities under the Franchise and applicable law that accrue on and after the Closing Date; provided that Shentel shall be responsible for any obligations and liabilities under the Franchise that accrue on and after the Closing Date.

SECTION 6:This Resolution shall have the force of a continuing agreement with the Franchisee and Shentel, and the

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Franchising Authority shall not revoke, amend or otherwise alter this Resolution without the consent of the Franchisee and Shentel.

PASSED, ADOPTED AND APPROVED THIS 11TH DAY OF MAY, 2010.

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

- b) Discuss amending due date for personal property taxes from November 15th to an earlier date

On a motion by Supervisor Osl and carried, the Board set this for public hearing at the regular July Board meeting scheduled for July 13, 2010:

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

- c) Review and increase to state maximum, delinquent and administrative fees

On a motion by Supervisor Osl and carried, the Board set this for public hearing at the regular July Board meeting scheduled for July 13, 2010:

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

12. Board Members

All Board members thanked the Patriot Day Committee for a job well done, and commended the decision to move the festival to the new Middle/High School Complex.

Supervisor Osl acknowledged the citizen's concerns regarding development close to his home, and stated that trying to locate business in a rural area is a difficult balancing act.

Supervisor Petty and Supervisor Oertel stated that they had previously looked into the issue regarding a citizen's property grievance, and that this is a difficult and frustrating situation.

The Chairman reminded the Board that Bear Creek Lake State Park is celebrating a new trail opening on Saturday, May 15, 2010, and invited the Board members to attend.

13. Additional Information

N/A

15. 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, June 8, 2010 at 7 p.m. in the Circuit Courtroom.

Chairman

County Administrator