

At a special called meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 5<sup>th</sup> day of August 2010 at the Cartersville Rescue Squad building, Cartersville, Virginia:

Present: William F. Osl, Jr., District 1  
Timothy Kennell, Chairman, District 2  
Van H. Petty, District 3  
Elbert R. Womack, Vice-Chairman, District 4  
Robert J. Oertel, District 5  
Judy Ownby, County Administrator  
Michael Cooper, Assistant County Administrator

**1. Call to order**

Chairman Kennell called the meeting to order and the County Administrator, Judy Ownby, called the roll.

**2. Approval of Agenda**

On a motion by Supervisor Oertel and carried, the Board adopted the agenda as presented:

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

**3. Memorandum of Understanding (MOU), Cobbs Creek Reservoir discussion**

The Chairman explained that the Board adopted a Memorandum of Understanding (MOU) with Henrico on a 3-2 vote on August 4, 2010. He gave background information on the project and stated that much discussion and work had taken place prior to getting to the point of working out an MOU. He said that an authority had been considered, Cumberland ownership had been considered, and finally with the latest agreement, Henrico will own and operate the reservoir. The MOU protects Henrico a

great deal, and Henrico assures Cumberland that we are protected also.

Supervisor Osl stated that he voted against the MOU due to the fact that the Board is going against the principles adopted by the Board the week prior. He mentioned many of the risks to Cumberland such as costs associated with public safety, third party legal claims, environmental issues, eminent domain issues, damage to roads, and many other issues not addressed in the MOU. He cautioned that the County Attorney and staff concerns were ignored.

Chairman Kennell stated that many of the issues brought up by Supervisor Osl were addressed at the August 4<sup>th</sup> meeting and he sees the project differently.

#### **4. Public Comments**

Chairman Kennell opened the public comment portion of the meeting.

Ms. Rita Barker asked the size of the buffer around the Reservoir and she was informed that this is unknown at this time, until the site plan is developed.

Mr. Randy Bryant asked if the agreement was written in stone or whether it could be amended. He said he did not believe that any other county should own land in Cumberland. If the reservoir is going to be in our County, then water from it should be free to us. He said he was concerned that we may not have the benefit of recreational use because of mud flats, and a pier might be 50 ft. from the water in the summer. He said Henrico County is looking out for Henrico and we have to look out for ourselves.

Chairman Kennell said he understood the concept of free water but since we do not own the reservoir, we would pay the going rate for water. The State requires a water plan and this will help with developing the plan. He said that his decision last night was not based on the expectation of recreation or development because he does not know if that will happen. Henrico has stated that Cumberland will have full control of the buffer area other

than the no trespassing areas (such as the dam and around equipment). Henrico will pay the cost of construction and operations and Cumberland will not have any debt service associated with the reservoir.

Supervisor Oertel stated that the project has been discussed for quite some time and the three supervisors who voted to approve the MOU were not a part of the original negotiating team. He believes that after much discussion and re-negotiation that the contract we have now is fair.

Supervisor Womack stated that this is a joint project between Cumberland and Henrico Counties. He said a lot of money could come to Cumberland County in this agreement and he would like to see the project go through to see that Cumberland is reimbursed for out-of-pocket costs.

Another citizen stated that water is precious and would be more so in 10-15 years. She asked what they will charge us then; the million dollars per year contractual payment will seem like peanuts in 50 years.

A citizen who owns land at the reservoir site stated that adjoining counties below Cumberland need a water source. He is in favor of the project but against Henrico being able to take any property.

Supervisor Osl stated that Cumberland County must condemn the property, if Henrico's negotiations to purchase are not successful.

Chairman Kennell read from the MOU that Henrico will not seek eminent domain other than what is required in the permit and necessary for the reservoir.

Supervisor Osl said that there is nothing to stop Henrico from trying to get more land after the site plan is approved.

Another citizen said he agrees that water is precious and he has serious reservations about giving it away.

Chairman Kennell stated that he believes our current water system will serve our needs for the next 20-30 years.

Wilson Shores stated that we should not be giving away any part of our County and asked why the Board allowed that to happen. He said everything should be in writing, not just a handshake.

Judith Duncan asked how many Board members had taken time to visit the site of the reservoir, and two Board members said that they have.

Stephanie Osl was concerned that the Board Chairman did not sound confident about what Cumberland would get. Last week a vote was taken to protect the County and now the Board was going against their own decision.

The Chairman stated that he feels he is representing Cumberland County and not Henrico. He said that it is a business deal to support urban counties and urban counties to support rural counties.

Supervisor Petty said that he was not on the Board of Supervisors when the reservoir project was initially brought up, and many sites were evaluated. We have to look at how to best protect the citizens of Cumberland County. Twice, the Board walked away from the project because of concerns and last week the Board adopted a resolution listing those same concerns. He said he has always been in favor of the reservoir but he wants the best deal we can get for Cumberland County. He did not vote for the MOU with Henrico, but he was not in the majority. Henrico agrees with the principles listed in the Board's resolution, but they did not put that in writing. When Henrico officials are no longer around, who will remember?

Supervisor Oertel said that initially we were to have 15% ownership of the reservoir and receive a PiLT payment to cover debt service. Henrico had offered to pay that amount plus an extra amount. Discussions broke down over how much extra.

Cumberland's allocation of 7mgd would be enough to serve 18-20,000 people; why would we get into a risk situation for water we are not going to use? The reservoir is not water you can draw and treat because of the cost and he does not see the chance of selling it. In his opinion there is no need to hold out for part-ownership in the reservoir for water we won't use.

Supervisor Osl read from correspondence dated May 2009 from County staff giving information on the reservoir project to the Board. He said that raw water can be used for agricultural operations, recreation, etc.

Chairman Kennell stated that he was unsure of whether Henrico would take action on the MOU at their August 10<sup>th</sup> meeting, however, the change requested by the Board to Item #16 of the MOU has been accepted. Upon Henrico's acceptance of the MOU, the County will receive reimbursement of \$2.1 million within 30 days. The first PiLT payment is due October 1, 2010, and every year thereafter on July 1, beginning in 2011 for 49 years.

Mr. Tucker Harrison asked if the County could put a pipeline to the James River for water withdrawal and the answer was yes.

Chairman Kennell adjourned the meeting until August 9<sup>th</sup> at 4pm for a work session with the Planning Commission at the Community Center, Pod C.

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Chairman

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County Administrator