

At a meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 12<sup>th</sup> day of December, 2017, at the Cumberland County Circuit Court Room:

Present: Kevin Ingle, District 3, Chairman  
Parker Wheeler, District 5, Vice-Chairman  
William F. Osl, Jr., District 1  
Lloyd Banks, Jr., District 2  
David Meinhard, District 4  
Vivian Giles, County Administrator | Attorney  
Sara Carter, Planning Director  
Nicci Edmondston, Assistant County Administrator

Absent: None

**1. Call to Order**

The Chairman called the meeting to order.

**2. Welcome and Pledge of Allegiance**

The Pledge of Allegiance was led by the Chairman.

**3. Roll Call**

County Administrator, Vivian Giles, called the roll.

**4. Approval of Agenda**

On a motion by Supervisor Wheeler and carried unanimously, the Board approved the Agenda as amended:

Vote: Mr. Osl – aye  
Mr. Ingle – aye  
Mr. Wheeler – aye

Mr. Banks – aye  
Mr. Meinhard – aye

**5. State and Local Department/Agencies**

- a) Dr. Amy Griffin, Superintendent of Cumberland County Public Schools

Dr. Griffin provided the Board and Ms. Giles with a handout from the VDOE regarding the new Virginia graduation requirements. The new requirements maintain high expectations in English, math, science and history, while reducing the number of required SOL tests. These new requirements will begin with the freshman of the 2018/19 school year.

- b) VDOT

Ms. Carrie Shephard informed the Board that VDOT continues to work on the Rural Rustic Roads which include Route 735, Mt. Airy Lane, Route 703, Hunter's Trail, and Route 667, Carter Road. They will continue to add stone over the next month so that surface treatment will be possible in the spring. They also continue brush cutting and responding to citizen complaints for pot holes.

- c) Ms. Robin Sapp, Cumberland Public Library

Ms. Sapp was not in attendance.

Chairman Ingle stated that Mrs. Sara Carter has been with the County for many years, and has accomplished a great deal. She has been very instrumental in the success we've had over the last few years. She has news that she is

moving on to bigger and better things. The Board appreciates all of the effort she has put into Cumberland County. Mrs. Carter stated that she is very thankful for her time here. Cumberland has been a warm and welcoming community, and she will be incredibly privileged if her next community is as kind to her as Cumberland has been.

Chairman Ingle also mentioned that Judge Woodson's Mother passed today, and he asked that the community keep the Woodson family in their thoughts during this difficult time.

## **6. Public Comments**

There were no citizens signed up to speak.

## **7. Public Hearings**

### **a) CA 17-01 Revision of R-1 Density Countywide**

Zoning Administrator Sara Carter informed the Board that through a recent request for a proposed single family home in Kimberly Hills, it was necessary to review the density standard in the R-1 district. During that review, it was discovered that at the time of the adoption of the density standard in 2012, the Code was not drafted to accurately reflect the Planning Commission's intent to differentiate between allowed lot sizes with sewer only and lot sizes with sewer and water. The Code needs to be corrected.

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

On a motion by Supervisor Wheeler and carried unanimously, the Board approved CA 17-01 Revision of R-1 Density Countywide:

Sec. 74-224. - Area and density regulations.

The residential, general (R-1) district shall be composed of a base density and density bonus over the base density depending upon if connections to public utilities shall be made as prescribed in Table 16.

TABLE 16		
	LOT WITH PUBLIC SEWER	LOT WITH PUBLIC WATER
BASE	NO	NO
BONUS 1	YES	NO
BONUS 2	YES	YES

The minimum gross residential density and the minimum lot area shall be as prescribed in Table 17.

TABLE 17 RESIDENTIAL, GENERAL (R-1) DENSITY AND LOT AREA REGULATIONS		
	GROSS RESI- DENTIAL DENSITY	MINIMUM LOT AREA
Base	1 dwelling unit per 1 acre	1 acre
Bonus 1	1 dwelling unit per 20,000 square feet	20,000 square feet
Bonus 2	4 dwelling units per 1 acre	10,890 square feet

(Ord. No. 11-05, § c, 7-12-2011; Ord. No. 13-06, 10-14-2014)

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

b) REZ 17-03 Cumberland Dollar General on Cumberland Road

Zoning Administrator Sara Carter informed the Board that they had before them an application for rezoning from A-2 to B-2. The applicant, Par 5 Development Group, LLC is proposing to rezone 3.5 acres of an 8.75 acre lot on which they intend to construct a Dollar General Store just three parcels south of Holman Mill Road on Cumberland Road. There are proffered conditions with this application, and the Planning Commission recommended denial to the Board unanimously because of the location.

Mr. Zack Ivey with Par 5 Development Group provided the Board with a handout regarding Dollar General, facts, their literacy foundation, and economic advantages. Supervisor Banks asked Mr. Ivey if there was any intention in installing a turning lane. Mr. Ivey responded that at this point there was not an intent to construct a turn lane but they were not far enough along to know whether a turn lane would be required by VDOT. Ms. Carrie Shephard, Assistant Resident Engineer for VDOT, stated that she could not say definitely without further review, but the site may not require a turn lane. Supervisor Osl inquired about the requirement of a commercial entrance. Mr. Ivey informed the Board that a commercial entrance would definitely be required.

The Chairman opened the public hearing. No citizens were signed up to speak, however, an adjacent land owner requested to speak. Mr. Frank Fields, Jr. owner of parcel 72-A-35 on Cumberland Road, voiced his concerns with the proposed site. Mainly he expressed concerns about trash, traffic, loitering on the property after hours and the hazards that large truck traffic will bring. With no other citizens

wishing to speak, the Chairman then closed the public hearing.

The Board and Mr. Ivey discussed the proposed buffer and aesthetics of the building. When questioned by Supervisor Wheeler, Zoning Administrator Sara Carter confirmed that this property is not in a growth area and the proposed rezoning would not be consistent with the Comprehensive Plan.

Supervisor Banks stated that he was shocked that the Board was at this point. For six years, he has heard that Cumberland is open for business. Cumberland needs businesses and revenue. Now we have a credible business and we are being picky. The business is offering a six foot fence with a buffer and trying to be a good neighbor and satisfy all parties. Mr. Banks expressed concern that if this business is turned away, that would send a message to all potential businesses that they are not welcome.

Supervisor Wheeler agreed that this is not a perfect situation, nor is it a good situation. He stated that there are better sites for this business, and this site is not the site to approve for this particular business. Even as pro-business there are some limits that you have to set, and you have to follow the Comprehensive Plan. Supervisor Osl stated that the Planning Commission voted unanimously to deny the application. The Chairman clarified that the Board is not voting for a Dollar General store to come into Cumberland. They are voting to rezone a piece of property to allow for a commercial building to be constructed on this piece of property to be offered to Dollar General for lease. If Dollar General moves out of that building, any business allowed in the B-2 zoning could occupy that building.

Supervisor Osl asked if the applicant could have applied for a conditional use permit instead of rezoning. Mrs. Carter replied that yes, they could have applied for a conditional use permit but decided to apply for rezoning instead so that they could have the greater sign area allowed

in the commercial zoning district as opposed to the agricultural zoning district. Supervisor Banks called for the question.

A motion was made by Supervisor Banks to approve REZ 17-03 Cumberland Dollar General on Cumberland Road, which failed by the following vote:

Vote: Mr. Osl – nay                      Mr. Banks – aye  
Mr. Ingle – nay                      Mr. Meinhard – aye  
Mr. Wheeler – nay

**8. County Attorney/County Administrator Report**

- a) Consent Agenda
  - 1) Approval of Bills for November 2017 and December 2017. Approved bills for December 12, 2017 are \$21,421.49. Ratified bills for November 11, 2017 to December 11, 2017 of warrants total \$441,778.28 with check numbers ranging from 76369-76637. Direct Deposits total \$160,226.29.
  - 2) Approval of Minutes (November 14, 2017)

On a motion by Supervisor Banks and carried unanimously, the Board approved the consent agenda:

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

- b) Set public hearing for CA 17-03 Open burning and Fireworks permit

On a motion by Supervisor Banks and carried unanimously, the Board set CA 17-03 for public hearing on January 9, 2018:

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

c) UAS Integration Pilot Program Memorandum of Agreement

On a motion by Supervisor Meinhard and carried unanimously, the Board approved the UAS Integration Pilot Program Memorandum of Agreement as amended:

**MEMORANDUM OF AGREEMENT**  
**BETWEEN**  
**INNOVATION AND ENTREPRENEURSHIP INVESTMENT AUTHORITY**  
**AND**  
**CUMBERLAND COUNTY BOARD OF SUPERVISORS**

This agreement (hereinafter referred to as the “Agreement”) is made and entered into this 12<sup>TH</sup> day of December, 2017 (“Effective Date”) by and between the Innovation and Entrepreneurship Investment Authority (“IEIA”), a political subdivision of the Commonwealth of Virginia with offices at 2214 Rock Hill Rd, Suite 600 Herndon, VA 20170, and the Cumberland County Board of Supervisors, (“Team Member”) having its offices at 1 Courthouse Circle, Cumberland, VA 23040, both of which shall also hereinafter be referred to as the “Party” or “Parties,” respectively.

WHEREAS, The Federal Aviation Administration hereinafter referred to as (“FAA”) has released Screening Information Request DTFWA-18-R-0001, Unmanned Aircraft Systems Integration Pilot Program, hereinafter referred to as (“Solicitation” or “Program”); and

WHEREAS, it has been determined that IEIA will act as the Lead Applicant and Lead Participant hereinafter referred to as (“Lead”) for the Solicitation and any subsequent selection by the FAA for a pilot program; and

WHEREAS, IEIA and the Team Member desire to set forth the scope of their collaboration by this Memorandum of Agreement hereinafter referred to as (“MOA”).

NOW THEREFORE, the parties agree as follows:

1. PURPOSE. The above identified Parties, because of their diverse capabilities, have determined that they would benefit from entering into a Memorandum of Agreement, between their respective organizations in order to develop the best technical proposal in response to the Solicitation, leading to the selection by the FAA of the Commonwealth of Virginia for a pilot program. In addition to this MOA the Parties may agree to negotiate and enter into subsequent agreements consistent with each Party's specific roles and responsibilities with respect to the requirements of the Solicitation.
2. SCOPE. IEIA will be the responsible party to coordinate, prepare and submit all information required by the Solicitation. Team Member agrees that it will named as a team member to IEIA for the furnishing of information in support of responding to the Solicitation and any subsequent subject pilot program.
3. BURDEN OF COSTS. Each party will be solely and individually responsible and liable for its own expenses and costs, and will bear all risks and liabilities incurred by it, arising out of its obligations and efforts under this MOA. Neither party shall have any right to any reimbursement, payment or compensation of any kind from the other for any work performed or services rendered pursuant to this MOA.
4. PUBLICITY. Any news releases, public announcements, advertisement or publicity released by either party concerning this MOA will be subject to prior written approval of the other. Said approval will not be unreasonably denied by either party.
5. TERMINATION.
  - (a) This MOA shall remain in force from the effective date hereof and shall terminate upon the earliest of the following, unless extended by mutual agreement of the parties
    - (i) Upon notification by the FAA that the Solicitation submitted will not be considered for a subsequent selection by the FAA for a pilot program; or
    - (ii) Upon thirty (30) days written notice by either party; or
    - (iii) Official announcement of notice by the FAA on the cancellation of the Solicitation; or
    - (iv) The receipt of official notice from the FAA that the Team Member will not be approved as a team member under a pilot program; or
    - (v) The expiration of a one (1) year period commencing on the date of the Agreement except as such period may be extended by mutual agreement; or
    - (vi) The insolvency, bankruptcy or reorganization under bankruptcy laws or assignment for the benefit of creditor of either party; or
    - (vii) The suspension or debarment by the U.S. Government of IEIA or the Team Member; or
    - (viii) Upon entering into a subsequent agreement in support of selection by the FAA for a pilot program.

6. ARRANGEMENT. This MOA is not intended by the parties to constitute or create a joint venture, pooling arrangement, partnership, or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth herein.
7. ASSIGNMENT OF MOA. This MOA may not be assigned or otherwise transferred by either party in whole or in part without the express prior written consent of the other party.
8. MODIFICATION OF MOA. This MOA shall not be amended or modified, nor shall any waiver of any right hereunder be effective unless set forth in a document executed by duly authorized representatives of both IEIA and Team Member. The duly authorized waiver of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein.
9. ENTIRE MOA. This MOA contains all of the agreements, representations and understandings of the parties hereto and supersedes and replaces any and all previous understandings, commitments or arrangements, oral or written, not herein incorporated.
10. COUNTERPARTS. This MOA may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original for all purposes, but all such counterparts shall together constitute but one and the same instrument.
11. SECTION AND PARAGRAPH HEADINGS. The section and paragraph headings herein are for convenience only and shall not limit in any way the scope of any provision of this MOA.
12. EFFECTIVE DATE. This MOA shall become effective upon the date of the last signature hereto.

IN WITNESS WHEREOF, the parties set forth their agreement by signing below:

Vote:	Mr. Osl – aye	Mr. Banks – aye
	Mr. Ingle – aye	Mr. Meinhard – aye
	Mr. Wheeler – aye	

d) Holiday Calendar – Full Day on December 22, 2017

On a motion by Supervisor Wheeler and carried unanimously, the Board approved a change to the Holiday calendar to include a full day on December 22, 2017:

Vote:	Mr. Osl – aye	Mr. Banks – aye
	Mr. Ingle – aye	Mr. Meinhard – aye
	Mr. Wheeler – aye	

**9. Finance Director's Report**

- a) Monthly budget Report

There was no discussion regarding the monthly budget report.

- b) Appropriation request - \$4,250 from the Circuit Court Clerk's Office

On a motion by Supervisor Osl and carried unanimously, the Board approved an appropriation of \$4,250 for the Circuit Court Clerk's Office:

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

- c) CUCPS Appropriation request - \$48,772.36 in grant funds

On a motion by Supervisor Osl and carried unanimously, the Board approved an appropriation of \$48,772.36 in grant funds for Cumberland County Public Schools:

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

**10. Planning Director's Report**

- a) Planning Project update

There was no discussion on the Planning Project updates.

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

- b) Reappoint Mr. William Flippen and one other to the Planning Commission

Zoning Administrator, Sara Carter informed the Board that there are two Commissioner’s terms that will expire on December 31, 2017. Mr. William Flippen wishes to continue to serve and Mrs. Irene Wyatt does not. Both are at-large positions.

After some discussion, on a motion by Supervisor Osl, the Board reappointed Mr. William Flippen and appointed Mr. Leo Henderson to the Planning Commission for a three year term from January 1, 2018 to December 31, 2020:

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

- c) Set public hearing for CA 17-05 Peterson Home:

On a motion by Supervisor Meinhard and carried unanimously, the Board set CA 17-05 Peterson Home for public hearing on January 9, 2018:

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

- d) Renewal for CUP 16-10; 4-Wheel drive Specialty Conversion:

The zoning administrator provided the Board with photos that were taken December 12, 2017 of Mr. Mo Duncan's property. The fence around the trailers looks to be in compliance, but no fence had been constructed on the front of the property as required. Instead, hay bales had been stacked along the front property line. Mr. Duncan's site plan specifically discusses a fence, and during discussions, he stated he was looking at a six foot board fence. Staff has met with Mr. Duncan multiple times over the last year, and he has not come into compliance with several of his conditions.

On a motion by Supervisor Osl and carried unanimously, the Board granted an extension on CUP 16-10 until the next meeting of the Board on January 9, 2018:

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

**11. Old Business**

None

**12. New Business**

Supervisor Meinhard inquired as to whether there is any part of Rt. 45 South, Cumberland Road, that is in a growth area.

**13. Public Comments (Part 2)**

There were no citizens signed up to speak.

**14. Board Member Comments**

Supervisor Wheeler stated that we want business but not at all costs. There is a limit to what you need to do. We can't have businesses just anywhere. Merry Christmas to everyone.

**15. Adjourn into Closed Meeting-**

On a motion by Supervisor Osl and carried, the Board entered into closed meeting pursuant to the Virginia Code Sections below to discuss the subjects identified:

Pursuant to Virginia Code § 2.2-3711.A.7: Consultation with Legal Counsel

Subject: Community Host Agreement

Pursuant to Virginia Code § 2.2-3711.A.1: Personnel

Subject: Discussion of performance and salaries as it relates to overtime policies and resignation and discipline of employees

Pursuant to Virginia Code § 2.2-3711.A.5: Discussion regarding prospective business where no previous announcement has been made;

Subject: New business opportunities at the Cumberland Business Park and elsewhere in the county

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                    Mr. Meinhard – aye  
Mr. Wheeler – aye

**16. Reconvene in Open Meeting-**

The Board returned to regular meeting on a motion by Supervisor Osl.

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

Mr. Osl - aye  
Mr. Banks - aye  
Mr. Ingle - aye  
Mr. Meinhard - aye  
Mr. Wheeler - aye

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

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

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

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

At the direction of the Chairman, it was the consensus of the Board to provide heating oil for the Cumberland Food Bank at 1550 Anderson Highway.

On a motion by Supervisor Banks and carried unanimously, the Board requested staff to obtain a study by the state Department of Fire Programs to perform a comprehensive evaluation and make recommendations regarding fire and rescue services in

Cumberland County:

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

The Chairman informed the Board and the public that there is a vacancy on the Social Services Board in District three and has requested that interested persons send a letter to the County.

**17. Additional Information**

- a) Treasurer’s Report
- b) DMV Report
- c) Monthly Building Inspections Report
- d) Approved Planning Commission meeting minutes – September 11, 2017, September 25, 2017, and September 26, 2017
- e) Approved EDA meeting minutes – N/A

**18. Adjourn -**

On a motion by Supervisor Wheeler and carried unanimously, the Board adjourned the meeting until the next regular meeting of the Board to be held on January 9, 2018 at 7:00 p.m. in the Circuit Court Room of the Cumberland Courthouse.

Vote: Mr. Osl – aye                      Mr. Banks – aye  
Mr. Ingle – aye                      Mr. Meinhard – aye  
Mr. Wheeler – aye

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Wm. Kevin Ingle, Chairman

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Vivian Giles, County Administrator/County Attorney