

At a meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 9th day of April 2019, at the Cumberland County Circuit Court Room:

Present: David Meinhard, District 4, Chairman
Parker Wheeler, District 5, Vice-Chairman
William F. Osl, Jr., District 1
Kevin Ingle, District 3
Vivian Giles, County Administrator | Attorney
Nicci Edmondston, Assistant County Administrator
JP Duncan, Zoning Administrator

Absent: Lloyd Banks, Jr., District 2

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 Osl and carried unanimously, the Board approved the amended Agenda as presented:

| | | |
|-------|-------------------|--------------------|
| Vote: | Mr. Osl – aye | Mr. Banks – absent |
| | Mr. Ingle – aye | Mr. Meinhard – aye |
| | Mr. Wheeler – aye | |

5. State and Local Department/Agencies

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

Dr. Griffin gave the following report to the Board:

- The Cumberland HOSA program will host a blood drive on April 23, 2019
- Kindergarten registration will take place on April 18, 2019
- 5th grade orientation is April 17, 2019
- April is Military Child appreciation month
- CHS seniors are hosting an art show on April 11, 2019
- Prom is April 13, 2019
- Ward Burton with the Wildlife Foundation visited schools April 9, 2019

- b) VDOT

There were no VDOT representatives present.

6. Public Hearing Notices/Set Public Hearings

N/A

7. Public Hearings

- a. CA 19-01 Noise Ordinance

County Administrator and County Attorney Vivian Giles, informed the Board that the need for a revised ordinance came from the outcry of the citizens, as the previous ordinance was considered unenforceable. The draft ordinance provided to the

Board was made in collaboration with the Sheriff's Office and Commonwealth Attorney's Office.

The Chairman opened the public hearing. Ms. Carol Miller stated that loud vehicles are a problem. Mrs. Patty Pedrick raised a concern that the proposed ordinance doesn't refer to residential property. Ms. Barbara Speas asked how the proposed ordinance is more enforceable than the previous ordinance. Mr. Tom Leatherwood stated he was glad the Board was addressing this issue. Mr. Ron Tavernier stated that jake brakes from the landfill trucks will be loud and should be considered a prohibited noise. Ms. Nicole Patterson stated that her neighbor runs a generator 24 hours a day and the noise needs to stop.

On a motion by Supervisor Wheeler, and carried by the following vote, the Board approved CA 19-01 Noise Ordinance with 2 suggested edits:

| | | |
|-------|-------------------|--------------------|
| Vote: | Mr. Osl – aye | Mr. Banks – absent |
| | Mr. Ingle – aye | Mr. Meinhard – aye |
| | Mr. Wheeler – aye | |

Chapter 34 ENVIRONMENT

ARTICLE I. - IN GENERAL

ARTICLE II. - EROSION AND SEDIMENT CONTROL

ARTICLE III. - LAND APPLICATION OF BIOSOLIDS

ARTICLE I. IN GENERAL

Sec. 34-1. Noise

Sec. 34-2. Disposition of liquid pollutants

Sec. 34-3 – 34-30. Reserved.

Sec. 34-1. Short title.

This article shall be known as the "Noise Ordinance" of Cumberland County.

Sec. 34-2. Policy.

At certain levels, noise can be detrimental to the health, welfare, safety, peace, and quality of life of the citizens of Cumberland County, and in the public interest, noise should be controlled. Therefore, it is hereby declared to be in the public policy of the county to promote an environment for its citizens free from noise that jeopardizes their health or welfare or degrades the quality of life.

Sec. 34-3. Definitions.

The following words and phrases, when used in this Article I, shall have the meaning assigned to them in this section.

Dwelling unit means one (1) or more rooms arranged, designed, or intended to be occupied as separate living quarters by one (1) or more persons and including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Emergency work means work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from immediate exposure to danger, including work performed by public service companies when emergency inspection, repair, or facilities or restoration of services is required for the immediate health, safety, or welfare of the community.

Motor vehicle means the following self-propelled vehicles: passenger cars, trucks, truck-trailers, semitrailers, campers, motor boats, racing vehicles, and any motorcycles (including, but not limited to, motor scooters, mini-bikes, all-terrain vehicles, and three-wheelers) as defined in the Code of Virginia § 46.2-100.

Noise or noise disturbance means any sound which (a) endangers or injures the safety or health of any person; (b) causes or tends to cause an adverse psychological or physiological effect on any person; or (c) negatively impacts the value of personal or real property.

Owner means the person owning, controlling, or possessing land, premises, or personalty.

Person means any individual, corporation, cooperative partnership, firm, association, trust, estate, private institution, group, agency, or any legal successor, representative, agent, or agency thereof.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties.

Public property means any real property owned or controlled by Cumberland County or any other governmental entity.

Sound means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at finite speed. The description of sound may include any characteristic of such sound including duration, intensity, and frequency.

Sound-amplifying equipment means any machine, device, or equipment for the amplification of the human voice, music, or other sound as defined herein. This term shall not include warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic-safety purposes.

Sec. 34-4. Prohibited Sounds.

- (1) No person shall make, continue, or cause to be made, continued, or permitted any noise disturbance wherein the sound is plainly audible at a distance of fifty (50) feet or more from the property boundary line of the lot containing the source of the sound, or, where dwelling units adjoin, wherein the sound is plainly audible through partitions common to two (2) dwelling units within a building unless such noise is permitted in section 34-7 below.
- (2) No person shall play, or permit the playing of, any device to play music or amplify sound within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of fifty (50) feet or more from the vehicle.

Sec. 34-5. Exceptions from article.

The provisions of this Article I do not apply to the following:

- (1) Sound generated for the purpose of alerting persons to the existence of an emergency, the emission of sound in the performance of emergency work, and the emission of sound necessary for the protection or preservation of property or the health, safety, life, or limb of any person, including, but not limited to, sirens, loud

- speakers, emergency communications equipment, radios in public safety vehicles, motor vehicle alarms, and other security devices.
- (2) Sound generated from any bona fide agricultural activity, including, but not limited to, sounds generated by animals which constitute a part of the agricultural activity.
 - (3) Sound generated during any lawful and bona fide hunting or shooting activity so long as the sound is not injurious to any lawful and bona fide business or agricultural activity.
 - (4) Sound generated by an animal when the sound is due to the harassment of, or injury to, the animal or due to the trespass upon the premises where the animal is located.
 - (5) Sound generated from government-sponsored or school-sponsored athletic, academic, or recreational events.
 - (6) Sound generated by activities which are an official or approved part of the Patriot Day Festival.
 - (7) Sound generated by land uses which have been granted a permit by the Cumberland County Board of Supervisors, including, but not limited to, conditional use zoning permits and festival permits.
 - (8) Sound generated in commercial and industrial use districts which is necessary and incidental to the uses permitted therein.
 - (9) Sound or noise which is necessary for the maintenance or construction of roads, highways, and buildings between the hours of 7:00 a.m. and 9:00 p.m.
 - (10) Sound or noise which is necessary for emergency work on roads, highways, and buildings.
 - (11) Sound or noise generated in the repairing, rebuilding, or modifying of any motor vehicle or other mechanical device between the hours of 7:00 a.m. and 9:00 p.m.
 - (12) Sound or noise generated for the collection of trash or refuse between the hours of 6:00 a.m. and 9:00 p.m.
 - (13) Sound or noise generated in connection with lawn care, leaf removal, gardening, tree maintenance or removal, or other landscaping, lawn, or timbering activities between the hours of 6:00 a.m. and 9:00 p.m.
 - (14) Sounds generated by airplanes and trains.
 - (15) Sounds generated by motor vehicles with factory installed mufflers or the equivalent.
 - (16) Sound or noise generated as a part of religious or political services, observations, or gatherings, or as a part of other activities protected by the First Amendment to the United States Constitution.
 - (17) Sound or noise generated as a part of any military activities of the Commonwealth of Virginia or of the United States of America.
 - (18) Sound generated where the regulation of noise has been preempted by federal law.

Sec. 34-6. Undue hardship variances.

- (1) Any person responsible for noise may apply to the Board of Supervisors for a variance or partial variance from the provisions in this article. The Board of Supervisors may grant such variance or partial variance if they find that:
 - (a) The noise does not endanger the public health, safety, or welfare; or
 - (b) Compliance with the provisions of this article from which variance is sought would produce serious hardship without producing equal or greater benefit to the public.
- (2) In determining whether to grant such variance, the Board of Supervisors shall consider the time of day the noise will occur, the duration of the noise, whether the noise is intermittent or continuous, the extensiveness of the noise, the technical and economic feasibility of bringing the noise into conformance with this article, and such other matters as are reasonably related to the impact of the noise on the health, safety, and welfare of the community and the degree of hardship which may result from the enforcement of the provisions of this Article I.
- (3) No variance or partial variance issued pursuant to this Article I shall be granted for a period to exceed one (1) year, but any such variance or partial variance may be renewed for like periods if the Board of Supervisors shall find such renewal is justified after again applying the standards set forth in this Article I. No renewal shall be granted except upon application thereof.

Sec. 34-7. Penalties.

A violation of any provision of this article constitutes a misdemeanor on the following schedule:

- (1) First violation: class 4 misdemeanor.
- (2) Second violation within twelve (12) months of the first violation (“twelve month period”): class 3 misdemeanor.
- (3) Third violation within the twelve-month period: class 2 misdemeanor.
- (4) Fourth and subsequent violations within the twelve-month period: class 1 misdemeanor.

Each separate act on the part of the person violating this article shall be deemed a separate offense, and each day a violation is permitted to continue unabated constitutes a separate offense. Criminal enforcement against a person violating this article shall not be a bar against, or a prerequisite for, taking any other action permitted by this Code or the Code of Virginia to abate the violation.

8. County Attorney/County Administrator Report

a) Consent Agenda

- 1) Approval of Bills for March 2019 and April 2019. Ratified bills for March 13, 2019 to April 8, 2019 of warrants total \$757,331.42 with check numbers ranging from 79360-79514. Ratified bills consist of \$536,825.19 Accounts Payable and \$220,506.23 Payroll.
- 2) Approval of Minutes – March 12, 2019

On a motion by Supervisor Osl and carried unanimously, the Board approved the consent agenda as presented:

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

b) Adopt calendar year 2019 tax rates

A motion was made by Supervisor Wheeler to approve the tax rates as presented. Supervisor Meinhard then made a substitute motion to reduce the real estate and personal property tax rates by \$0.05. This motion failed by the following vote:

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

The original motion by Supervisor Wheeler to approve the tax rates as presented, passed by the following vote:

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

Mr. Wheeler – aye

| <u>Levy</u> | <u>2019 Adopted Levy</u> |
|--|--------------------------|
| Real Estate & Manufactured Homes | \$.78 |
| Personal Property | \$ 4.50 |
| Personal Property – Emergency Services | \$ 4.50 |
| Personal Property – Disabled Veterans | \$.01 |
| Airplanes | \$.50 |
| Machinery & Tools | \$ 3.75 |
| Heavy Construction Machinery | \$ 3.75 |
| Public Service Corporations | \$.78 |

c) Adopt FY 2019-20 Budget

On a motion by Supervisor Wheeler, and carried by the following vote, the Board adopted the FYE20 Budget as presented including an additional 2% raise for Sheriff's Deputies for a total of 5%:

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

d) Adopt CIP FY 2019-20 thru 2023-24

On a motion by Supervisor Ingle and carried by the following vote, the Board approved the Capital Improvement Program for FY 2019-20 thru 2023-24:

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

e) DSS Board Appointment

10. Planning Director's Report

- a) Planning Project Update

There was no discussion regarding this item.

- b) Set public hearing for CA 18-04 Setbacks and road frontage

On a motion by Supervisor Meinhard and carried unanimously, the Board set CA 18-04 Setbacks and road frontage for public hearing on May 14, 2019:

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

- c) Set public hearing for CUP 19-02 Rt. 606 Truck & Auto

On a motion by Supervisor Meinhard, and carried unanimously, the Board set a public hearing for CUP 19-02 Rt. 606 Truck & Auto for May 14, 2019:

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

- d) Set public hearing for CUP 19-03 Timber Creek Event Barn

On a motion by Supervisor Meinhard, and carried unanimously, the Board set a public hearing for CUP 19-03 Timber Creek Event Barn for May 14, 2019:

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

e) Set public hearing for CUP 19-04 Northfield Plantation

On a motion by Supervisor Meinhard, and carried unanimously, the Board set a public hearing for CUP 19-04 Northfield Plantation for May 14, 2019:

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

f) Set public hearing for REZ 19-01 Hamilton Dance Studio

On a motion by Supervisor Meinhard and carried unanimously, the Board set a public hearing for REZ 19-01 Hamilton Dance Studio for May 19, 2019:

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

g) Set public hearing for REZ 19-02 Price Right Mini Storage

On a motion by Supervisor Meinhard and carried unanimously, the Board set a public hearing for REZ 19-02 Price Right Mini Storage for May 14, 2019:

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

11. Old Business

Supervisor Ingle stated his concern with increasing building height restrictions due to fire safety concerns.

12. New Business

None

13. Public Comments

Mr. Chris Rankin discussed a 2016 article regarding the Waverly landfill leakage contaminating water at a rate of 9 million gallons of leachate per month. He also stated that the county will experience problems when Green Ridge opens.

Mrs. Patty Pedrick informed those in attendance that April is child abuse awareness month. Pinwheels were placed in various areas around the county by the Woman's club and Commonwealth's Attorney. The County needs a code enforcement officer. The Land Use Program needs to be repealed. The county loses \$600,000-\$700,000 each year under this program.

Mr. Ron Tavernier asked the Board how can we be poor and still give a three percent raise to employees? The Waverly landfill must now haul 3.5 million gallons of leachate per week, that's 466 trucks per day. Green Ridge will store the leachate in tanks and it will leak. Leachate will go to a treatment facility but it will still contain contaminants.

Mrs. Betty Myers stated that the rezoning of parcels of the Mill Race Subdivision was wrong. She also stated that many citizens who signed the property protection plan under the Host Agreement felt threatened. Those who signed are here in spirit. Supervisor Ingle suggested a study to be done on Route 60 near Southworth. Has this study been done?

Mr. William Knoll stated that he is shocked that the county still thinks the dump is a good idea. Also, he asked if we have no money, how can we give \$50,000 to another county?

Mr. Bernard Pond stated that there is trash on Rt. 600. He states that he and his daughter will pick up the trash themselves and bring it to the Board at their next meeting.

14. Supplemental Information

N/A

15. Board Member Comments

Supervisor Osl clarified that the Board has not approved \$50,000 to another county.

Supervisor Ingle explained that the state mandated a three percent increase for employees that are partially funded by state and federal money. The three percent increase across the board created a level playing field for employees and ensures that none are treated differently. He also stated that he is still looking into reducing the speed limit near the intersection of Route 60 and Route 13. Prince Edward Rescue Squad covers 1/3 of Cumberland County, and requested additional funding in the amount of \$50,000. Supervisor Ingle stated that he is moving forward with cleaning up the county. He also stated that if residents pick up the roadside litter, the county will pick up the bags.

Chairman Meinhard thanked those in attendance for coming and speaking. He also stated that he will not seek re-election. During his tenure, he has voted his conscience and what was in the best interest of Cumberland County. **He has been**

16. Adjourn into Closed Session

On a motion by Supervisor Osl and carried, the Board entered into closed meeting pursuant to the Virginia Code Section set for the below to discuss the subject identified:

- Virginia Code § 2.2-3711.A.1: Personnel;
Subject: Assignment and reassignment of administrative duties
- Virginia Code § 2.2-3711.A.7: Consultation with Legal Counsel
Subject: Pending litigation
- Virginia Code § 2.2-3711.A.5: Discussion of prospective business where no previous announcement has been made;
Subject: Development and occupancy of the Cumberland Business Park

17. Reconvene in Open Meeting

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

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

Mr. Osl - aye
Mr. Banks - absent
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, (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, and (iii) no action was taken in closed meeting.

18. Additional Information

- a) Treasurer's Report
- b) DMV Report
- c) Monthly Building Inspections Report
- d) Approved Planning Commission meeting minutes – February 25, 2019, and March 11, 2019
- e) Approved EDA meeting minutes – January 22, 2019

19. Adjourn -

On a motion by Supervisor Osl and carried unanimously, the Board adjourned the meeting until the next regular meeting of the Board scheduled for Tuesday, May 14, 2019, to be held at 7:00 p.m. in the Court Room A of the Cumberland Courthouse:

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

David Meinhard, Chairman

Vivian Giles, County Administrator/County Attorney