

At a meeting of the Cumberland County Board of Supervisors held at 6:00 p.m. on the 14th day of July 2020, at the Cumberland County Circuit Courtroom:

Present: Brian Stanley, District 1, Chairman
Ron Tavernier, District 2
Eurika Tyree, District 3, Vice-Chairman
Gene Brooks, District 4
Robert Saunders, Jr., District 5
Don Unmussig, County Administrator
Jennifer Crews, Finance Director
Chelsey White, Zoning Administrator
Brian Butler, County Attorney
Stephany Johnson, Deputy Clerk

Absent: None

1. Call to Order

The Chairman called the meeting to order at 6:00 p.m.

2. Roll Call

Deputy Clerk, Stephany Johnson called the roll.

3. Adjourn into Closed Meeting

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

- Pursuant to VA Code § 2.2-3711.A.7: Consultation with legal counsel pertaining to actual or probable litigation, where such consultation or briefing in open session would adversely affect the negotiating or litigating posture of the public body; and
- Pursuant to VA Code § 2.2-3711.A.8: Consultation with legal counsel employed or retained by a public body regarding

specific legal matters requiring the provision of legal advice by such counsel.

Subject: Pending litigation

4. Reconvene in Open Meeting

The Board returned to regular meeting on a motion by the Chairman at 7:00 p.m.:

A motion was made by Supervisor Tyree, seconded by Supervisor Saunders, and adopted by the following vote:

Mr. Stanley -	aye
Mr. Tavernier -	aye
Mrs. Tyree -	aye
Mr. Brooks -	aye
Mr. Saunders -	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 session on this date pursuant to an affirmation 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 session to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed or considered by the Board of Supervisors of Cumberland County; and (iii) no action was taken in closed session.

5. Recess until 7:15 p.m.

On a motion by Supervisor Tavernier, seconded by Supervisor Brooks, and carried unanimously, the Board recessed the meeting until 7:15 p.m.:

Vote: Mr. Stanley – aye Mr. Tavernier – aye
Mrs. Tyree – aye Mr. Brooks – aye
Mr. Saunders – aye

6. Reconvene

On a motion by Supervisor Brooks, seconded by Supervisor Saunders, and carried unanimously, the Board reconvened the meeting at 7:15 p.m.:

Vote: Mr. Stanley – aye Mr. Tavernier – aye
Mrs. Tyree – aye Mr. Brooks – aye
Mr. Saunders – aye

7. Welcome and Pledge of Allegiance

The Welcome and Pledge of Allegiance was led by the Chairman.

8. Approval of Agenda

On a motion by Supervisor Saunders, seconded by Supervisor Tavernier, and carried unanimously, the Board approved the agenda as amended:

Vote: Mr. Stanley – aye Mr. Tavernier – aye
Mrs. Tyree – aye Mr. Brooks – aye
Mr. Saunders – aye

9. State and Local Departments/Agencies/Community Service Providers

a. Dr. Chip Jones, Superintendent - Cumberland County Public Schools

Dr. Jones gave the following update to the Board:

- School staff celebrated Dr. Amy Griffin and her retirement with a drive through celebration
- The Elementary school floor replacement is ongoing
- Of the new staff hired for the FYE21 school year, 6-7 new teachers are CUCPS alumni
- Food service distribution continues at Cartersville Volunteer Rescue Squad, the front of the Middle School, and at Randolph Volunteer Fire Department
- The school continues to provide internet hotspots throughout the county for students
- The School system is finalizing the plans for school openings, though the future of school sports is still uncertain
- Due to COVID-19, and schools being closed, the School System has seen some decrease in expenditures, and has received \$385,000 in CARES Act funding.

b. VDOT

There was no VDOT representative present.

c. Mrs. Lisa Davis, Director – Cumberland County Public Library

Mrs. Lisa Davis, Director of the Cumberland County Public Library provided the Board with the following update:

- The Library is now open by appointment only, and provides drive-up service
- The Library offers free wireless access to the public and they now have a blue-tooth capable printer that will allow residents to print documents from a phone or tablet.
- New operating hours for the Library are Mondays from 9am to 7pm, Tuesdays through Fridays from 9am to 6pm, and Saturdays from 10am to 2pm.

- The Library Board of Directors met and have authorized the temporary forgiveness of fines on overdue books.

10. Public Hearing Notices/Set Public Hearings

N/A

11. Public Hearings

a. CUP 20-01 Catherine Fleischman – Food Truck and Cut Flowers

Mrs. Chelsey White, Zoning Administrator, informed the Board that the applicant, Mrs. Catherine Fleischman, proposes to have a food truck and cut flower operation on her property at 879 Cartersville Road. The property is currently zoned A-2 with a conditional use permit. The property previously operated as a grocery store in the 1990's. The applicant has been working with Mr. Andrew Howell, a Cumberland resident and long-time restaurant owner and commercial cook, to operate a food truck on the property.

The Planning Commission recommends approval of the Conditional Use Permit with conditions. The Chairman opened the public hearing. Mrs. Fleischman stated that she is available for questions from the Board. Board members asked what type of food the food truck would serve, and if the operation would provide catering. Mr. Howell stated that he has a mobile smoker and would consider catering if the opportunity presents itself. With no other questions, or citizens signed up to speak, the Chairman then closed the public hearing.

On a motion by Supervisor Brooks, seconded by Supervisor Tyree, and carried unanimously, the Board approved CUP 20-01 Fleischman Food Truck and cut flower operation with the following conditions as recommended by the Planning Commission:

(a) The following standards shall be used as guidelines by the planning commission and board in acting upon conditional use permit applications:

1. That the establishment, maintenance and operation of the use shall not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - Hours of operation: During the Planning Commission meeting, the applicant and the Commission agreed to revise the operation **from daylight hours only to daylight to 8 p.m.** It was agreed that additional hours would be needed to accommodate dinner time patrons, as the days get shorter throughout the year. At all times, noise and sound levels must not disturb residents of adjacent properties.
2. That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; not diminish and impair property values in the neighborhood.
 - Community safety: If county or state law enforcement is required to respond to restore order to those on the property more than two (2) times in a thirty (30) day period, the conditional use permit may be reviewed by the Board of Supervisors and may be revoked at the Board's discretion.
3. That the establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - Health department permit: The applicant will be required to obtain health department approval prior to operation.
4. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the district as to cause a substantial depreciation in the property values within the neighborhood.
 - The food truck and all associated equipment must be kept clean and orderly at all times.
5. That adequate utilities, access roads, drainage or necessary facilities have been provided.
 - Acknowledged. The property has frontage and is accessed on an existing public road.

6. That ingress and egress to property and structures on the property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access of fire or catastrophe are adequately provided for.
 - Compliance with concept plan/photos required: The applicant must comply with the attached plat in regard to the areas to be used for the food truck, gardens and parking. Under no circumstances the driveways or parking areas block view of oncoming traffic. Additionally, the traffic pattern near the food truck will be one-way only to provide smoother traffic flow.
7. That off-street parking and loading areas where required with particular attention to the items in subsection (a)(1) of this section and the economic noise, glare or odor effects of the special exception on adjoining properties generally in the district are adequately provided for. Lighting: Lighting must not produce glare or spillover onto adjacent properties.
 - Acknowledged.
8. That the refuse and service areas, with particular reference to the items in subsection (a) (1) and (2) of this section are adequately provided for.
 - Refuse disposal: After each event, all trash will be removed from the site within forty-eight (48) hours.
9. That appropriate screening and buffering with reference to type, dimensions and character of the use are adequately provided for.
 - Existing landscaping does not interfere with site distances and/or safe and adequate access to the site.
10. That any signs and exterior lighting are compatible and in harmony with properties in the district with reference to aesthetics, glare, traffic safety and economic effect.
 - A sign permit will be required for any permanent sign. A temporary sign exists on the property, which must be removed within 30 days after opening.
11. That required yards and other open spaces are adequately provided for.
 - The proposed food truck and cut flower operation shall be located behind the front of any existing buildings.

12. That the proposed use is compatible with adjacent properties and other property in the district.
 - The proposed food truck will provide convenient and easy access to locally grown and produced items. The County will also receive increased tax revenue from sales and growth. The flower cut operation is mostly online and by appointment only.
 13. That an adequate supply of light and air to adjacent property is adequately provided for.
 - Acknowledged.
 14. That the uses, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the board of supervisors.
 - Acknowledged.
 15. Regular renewal of the conditional use permit is required in order to demonstrate continued compliance. For each renewal, the operator must provide all requested documentation from each applicable state and local agency regarding the applicant's performance and compliance with the criteria used to approve the use, as well as a review of any code infractions and/or violations. It is recommended that renewals occur on the following schedule:
 - a. 2 years after approval;
 - b. 5 years after approval;
 - c. Every 5 years thereafter; or
 - d. Upon any change of property ownership.
- (b) The board of supervisors shall designate such conditions as will, in its opinion, assure that the use will conform to the requirements of this section and that such use will continue to do so.
- (c) Construction or operation shall be commenced within one year of date of issuance, or the use permit becomes void. If after a use permit has been issued and the use for which the use permit was obtained is discontinued for more than one year, the use permit becomes void.
- (d) No application for a use permit for the same lot shall be considered by the board of supervisors within a period of 360 days from its last consideration. This provision, however, shall not impair the right of the board to propose a use permit on its own motion.

- (e) Written application for a use permit shall be filed with the zoning administrator accompanied by the prescribed fee to be set by the board of supervisors. The application shall be accompanied by such plans or data described by the zoning administrator as being necessary to review comprehensively the proposed project and shall include a written statement and adequate evidence to show that the proposed conditional use will conform to the standards set forth in this section.
- (f) For each application for a conditional use, the planning commission shall report to the board of supervisors its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest.
- (g) Upon receipt of the recommendation of the planning commission, the board of supervisors shall hold at least one public hearing on the proposed conditional use.
- (h) If a conditional use permit is granted, the zoning administrator and the board of supervisors may, from time to time, require such evidence and guarantees as may be necessary to establish that the conditions stipulated in the permit are being complied with.
- (i) Any conditional use permit may be authorized and issued for either a limited or indefinite period of time and shall be revocable by the board of supervisors at any time for failure to adhere to the applicable conditions.

Vote:	Mr. Stanley – aye Mrs. Tyree – aye Mr. Saunders – aye	Mr. Tavernier – aye Mr. Brooks – aye
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12. County Administrator’s Report

- a. Consent Agenda
 - i. Approval of Bills for June 2020 and July 2020. Approved bills for July 14, 2020 total \$265,890.07. Ratified bills for June 10, 2020 through July 13, 2020 of warrants total \$452,470.69, and Direct Deposits total \$163,323.66, all with check numbers ranging from 82478-82709.
 - ii. Approval of Minutes (June 9, 2020)

On a motion by Supervisor Tavernier, seconded by Supervisor Saunders, and carried unanimously, the Board approved the consent agenda:

Vote: Mr. Stanley – aye Mr. Tavernier – aye
Mrs. Tyree – aye Mr. Brooks – aye
Mr. Saunders – aye

- b. One appointment needed to the Central Virginia Workforce Development Board

On a motion by Supervisor Saunders, seconded by Supervisor Tyree, and carried unanimously, the Board tabled action on the Workforce Development Board appointment until the next regular meeting to be held on August 11, 2020:

Vote: Mr. Stanley – aye Mr. Tavernier – aye
Mrs. Tyree – aye Mr. Brooks – aye
Mr. Saunders – aye

- c. Planning Commission – one appointment needed for District 5

On a motion by Supervisor Tyree, seconded by Supervisor Saunders, and carried unanimously, the Board tabled action on the Planning Commission appointment until the next regular meeting to be held on August 11, 2020:

Vote: Mr. Stanley – aye Mr. Tavernier – aye
Mrs. Tyree – aye Mr. Brooks – aye
Mr. Saunders – aye

- d. Virginia’s Growth Alliance (VGA) appointments needed

On a motion by Supervisor Tavernier, seconded by Supervisor Saunders, and carried unanimously, the Board appointed Brian Stanley and Don Unmussig to the Virginia Growth Alliance, and tabled appointing an alternate until the next regular meeting to be held on August 11, 2020:

Vote: Mr. Stanley – aye Mr. Tavernier – aye
Mrs. Tyree – aye Mr. Brooks – aye
Mr. Saunders – aye

- e. Resolution in support of the Route 45N and US 60 Smart Scale Project

On a motion by Supervisor Tavernier, seconded by Supervisor Brooks, and carried unanimously, the Board approved a Resolution of support for the Cumberland County Route 45N and US 60 VDOT Smart Scale Project application:

**Resolution of Support for the
Cumberland County Route 45 and US 60
VDOT Smart Scale Application**

WHEREAS, House Bill 2 was signed into law in 2014 and directs the Commonwealth Transportation Board to develop and use a new scoring process to select transportation projects to receive VDOT funding; and

WHEREAS, the scoring process is based on the following factors: congestion mitigation, economic development, accessibility, safety, environmental quality, land-use and transportation coordination; and

WHEREAS, staff have conferred with VDOT Lynchburg Planning Staff to review potential projects that are eligible for funding through Smart Scale funding; and

WHEREAS, Cumberland County has determined that the following project is eligible and will be submitted in the 2020 Smart Scale Application process:

1. Route 45 and US 60 Intersection Improvements Project

NOW THEREFORE BE IT RESOLVED, the Cumberland County Board of Supervisors supports the Smart Scale Application for funding for the Route 45 and US 60 Intersection Improvements Project.

Vote: Mr. Stanley – aye Mr. Tavernier – aye
Mrs. Tyree – aye Mr. Brooks – aye
Mr. Saunders – aye

13. Finance Director's Report

- a. Monthly Budget Report

There was no discussion regarding this item.

- b. Budget Appropriations – Clerk of Circuit Court - \$14,380.93

On a motion by Supervisor Tyree, seconded by Supervisor Tavernier, and carried unanimously, the Board approved an appropriation request from the Clerk of Circuit Court in the amount of \$14,380.93:

Vote:	Mr. Stanley – aye	Mr. Tavernier – aye
	Mrs. Tyree – aye	Mr. Brooks – aye
	Mr. Saunders – aye	

- c. Budget Appropriations – FYE20 end of year

This item was moved to the August 11, 2020 meeting agenda.

- d. Cumberland County Public Schools request for carry-over of grant funds from FYE20 to FYE21 - \$251,800.90

On a motion by Supervisor Tavernier, seconded by Supervisor Tyree, and carried unanimously, the Board approved a request from Cumberland County Public Schools to carry-over grant funds from FYE20 to FYE21 in the amount of \$251,800.90:

Vote:	Mr. Stanley – aye	Mr. Tavernier – aye
	Mrs. Tyree – aye	Mr. Brooks – aye
	Mr. Saunders – aye	

14. Planning Director's Report

- a. Planning Project Update

There was no discussion regarding this item.

15. County Attorney's Report

N/A

16. Old Business

N/A

17. New Business

Supervisor Brooks discussed an issue with tire piles countywide. He asked the County Administrator to research the Board's options to remedy illegal tire dumps in the county and provide a plan of action at the September Board meeting.

Supervisor Tavernier requested, Supervisor Stanley moved, and Supervisor Saunders seconded, that the Board direct the County Administrator conduct a thorough review and assessment of Fire & EMS services in the county, and report back to the Board at the September Board meeting with his findings and recommendation for the future. He also requested that the Board suspend the current Emergency Services Committee until further notice:

Vote:	Mr. Stanley – aye	Mr. Tavernier – aye
	Mrs. Tyree – aye	Mr. Brooks – aye
	Mr. Saunders – aye	

Supervisor Tyree stated that there are businesses that haul residential trash to the county transfer stations including construction & demolition debris and requested that the Board direct the County Administrator to investigate this and its compliance with county code. County Administrator, Don Unmussig, stated that the current solid waste ordinance is vague, does not address this issue, and therefore, does not prevent it. At the direction of the Board, Mr. Unmussig suggested a review and of the existing code, potential code amendment.

Supervisor Stanley made a motion, seconded by Supervisor Saunders, which passed unanimously, directing the County Administrator to review the County Ordinance as requested by Supervisor Tyree and report to the Board at the September meeting:

Vote: Mr. Stanley – aye Mr. Tavernier – aye
 Mrs. Tyree – aye Mr. Brooks – aye
 Mr. Saunders – aye

18. Public Comments

Mr. Cecil Youngblood stated that Green Ridge has filed a report with DEQ and been turned down twice; they have less than 60 days to respond. Green Ridge, County Waste, GFL, are not following the Host Agreement, and their plan has changed multiple times.

Mrs. Betty Myers stated that Supervisor Stanley was unprofessional when he asked a question using her name at a meeting where she was not present. She also states that a FEMA Flood Plain Study is still needed.

Mr. Chris Rankin stated that this is the second time that Green Ridge has been told to go back and regroup from DEQ. HE also stated that he understands that another Board approved the project, but this Board is required to protect the citizens.

Mr. Fred Shumaker stated that Cumberland has a history of independence and self-reliance. The First Call for American Independence from England came from Cumberland County in 1776, across the street from this courthouse. He also stated that he is excited with the recent progress in economic development in the county, and hoes that the Board continues with revenue generating initiatives.

19. Board Member Comments

Supervisor Tyree thanked the citizens for coming out and being professional. The Board does take all comments and recommendations into consideration.

Supervisor Stanley stated that he received notice from DEQ that they were in receipt of an email from a Powhatan resident regarding the Green Ridge Project. In that email, was a clear and present threat to both current and past Board members. This email was also sent to a member of the Powhatan County Board of Supervisors. An investigation is ongoing into the legal options of Cumberland and its citizens regarding this threat.

Supervisor Stanley also read aloud a statement regarding the rights of Cumberland County citizens to choose economic development opportunities for our county. Economic Development in Cumberland County should not be accepted or denied based on the approval of another locality or its citizens. The County recently attracted new industry for the first time in twelve years. Braven Environmental's decision to come to Cumberland was based partially on the fact that the Green Ridge Project was approved locally. Lastly, he stated that the elected officials of Powhatan County are trying to impose their will on a less affluent adjoining county, and it needs to stop. As a show of solidarity, Supervisor Stanley suggested that all Board members sign the statement in support of Cumberland's right to Economic Independence. Four of the Five Board members signed the document.

20. Additional Information

- a. Treasurer's Report
- b. DMV Report
- c. Monthly Building Inspections Report
- d. Approved Planning Commission meeting minutes – March 9, 2020
- e. Approved Economic Development Authority meeting minutes – N/A
- f. Civil War Trails Update

21. Adjourn

On a motion by Supervisor Brooks, seconded by Supervisor Saunders, and carried unanimously, the Board adjourned the meeting until the next regular meeting of the Board to be held on August 11, 2020 at 6:00 p.m. in the Circuit Courtroom of the Cumberland Courthouse.

Vote: Mr. Stanley – aye
Mrs. Tyree – aye
Mr. Saunders – aye

Mr. Tavernier – aye
Mr. Brooks – aye

Brian Stanley, Chairman

Don Unmussig, County Administrator