

**VIRGINIA:**

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, August 25, 2005.

Present: F.W. Jenkins, Jr., Chair  
Peter N. Geilich, Vice Chair  
B. Wally Beauchamp, Board Member  
Lloyd N. Hill, Board Member  
Ernest W. Palin, Jr., Board Member  
William H. Pennell, Jr., County Administrator

Others

Present: Allyn Gemerek, Bay Aging; Ken Pollock, Bay Transit; David and Jeffery Abernathy, Abernathy Construction Corporation; Samuel Nuckols, Robert Bragg, and Warren Brown, Western Branch Preserve, LLC; Charles Pruett, Charles R. Pruett & Associates; Stuart Bunting, Rappahannock Westminster Canterbury; Charles Costello, Friends of Lancaster County; Jack Larson, Planning/Land Use; Carter White, Robert Harper, and Cliff Balderson, Virginia Department of Transportation; Robb Hoff, Rappahannock Record

Mr. Jenkins called the meeting to order at 7:00 p.m.

**PUBLIC INPUT**

Mr. Madsen, an Oak Hill Road resident asked about the Public Service Authority and asked if any information was available for the public to review.

**PRESENTATION**

1. Bay Aging/Virginia Department of Rail and Public Transportation – Mr. Gemerek, Bay Aging President stated that Bay Transit has experienced a shortfall of expected revenues based on a reduction of support from the Virginia

Department of Rail and Public Transportation. He said Bay Transit submitted an FY06 operating budget to Lancaster County based on the expectation that the State match for FY05 would be approximately 25%. They recently learned that the State will only contribute 15% in FY06 and possibly FY07 as well. This 10% non-federal funding deficit is too much for Bay Transit to cover alone and therefore, he asks Lancaster County to add \$16,729 for two buses in their FY06 budget.

Mr. Hill asked about the number of riders Bay Transit serves in Lancaster County.

Mr. Gemerek stated Lancaster Bay Transit has provided rides to 1597 different people in Lancaster County since 2001. The riders depend on this service to get work, medical appointments, shopping, senior centers, social services, etc.

Mr. Geilich stated that participating local counties approved their budget and then the state cut funding. He asked if the counties were the last resort for funding and how are other counties voted.

Mr. Gemerek said unfortunately they have to ask counties for additional funding and thus far, each county has approved their request for additional funding.

Mr. Hill made a motion to approve the additional \$16,729 to fund the public transportation program at its current level through FY06.

VOTE:	F.W. Jenkins, Jr.	Aye
	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	Lloyd N. Hill	Aye
	Ernest W. Palin, Jr.	Aye

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

### New Assistant Resident Engineer

Mr. White introduced Clifton Balderson as the new Assistant Resident Engineer and he has worked for VDOT for 25 years.

### Taylor's Creek Project (VSH 630)

Mr. White stated the Taylors Creek Project is moving along and the road repairs will be made once the first box culvert is in place.

### Ferry Update

Mr. White said there is possible funding in the amount of \$1 million within the next two or three years to replace both ferries and also federal funds may be available for this purpose.

### Maintenance Update

Mr. Harper stated the second mowing should be completed on August 26, 2005 and the third mowing by the third week in September.

### Speed Study

Mr. Geilich asked if a speed study can be done on VSH 695 Windmill Point Road near VSH 661 Antirap Drive. The speed limit is currently 55 mph and that speed limit is being exceeded because there is not a lot of traffic due to the fact that Windmill Point Resort is closed.

Mr. Hill asked about the criteria for lowering the speed limit.

Mr. White stated there are a number of factors such as the number of homes, condition of the road and a radar system is placed at the location to register the speed of the vehicles traveling.

#### Taylor's Creek Project (VSH 630)

Mr. Beauchamp stated it has been reported that VDOT will be receiving additional funding and asked if any of those funds could be utilized for the Taylors Creek Project.

Mr. White said the funding is set by General Assembly and he does not believe the funding can be used for the Taylor's Creek Project.

#### **PUBLIC HEARINGS**

1. Repeal of County Automobile License (County Tag) – Mr. Pennell stated the Board of Supervisors directed the him and the county attorney, in cooperation with the Commissioner of the Revenue, Treasurer and Sheriff, to prepare an ordinance amendment which will repeal the requirement for a citizen to purchase and display a county motor vehicle license (county tag) each year.

Mr. Pennell said the effect of this amendment is to eliminate the requirement to purchase and display a county motor vehicle license (county tag) on vehicles garaged in Lancaster County. There will continue to be imposed a license tax of \$20 which will be invoiced on the personal property tax bills each fall. Payment of this tax will be concurrent with property tax and enforcement of the motor vehicle license tax will be accomplished through a “stop” being placed with the Virginia Department of Motor Vehicles which will prevent a person in arrears of his/her personal property/motor vehicle license tax from obtaining/renewing his/her state license plates. Enforcement will no longer be undertaken by the county sheriff or state police.

Mr. Fazzi asked if the repeal of County Automobile License (County Tag) will save the county money.

Mr. Pennell stated the saving would be that of a part-time employee in the Treasurer's office.

Mr. Hill asked if any of the surrounding counties have repealed the County Automobile License (County Tag).

Mr. Pennell stated the Cities of Norfolk and Virginia Beach have been successful, however; none of the surrounding counties has done this yet.

Mr. Palin made a motion to Adopt the following Ordinance to Repeal the County Automobile License (County Tag). **Be it ordained by the Lancaster County Board of Supervisors:**

**ARTICLE III  
MOTOR VEHICLES**

**Sec. 62-61. License plate, tag or decal prerequisite to driving motor vehicle on highways in County.**

No motor vehicle subject to a license tax under this article shall be driven on any of the highways of the County unless the requisite license plate, tag or decal has first been obtained.

**Sec. 62-62. Levy of license tax.**

There is hereby imposed, subject to the limitations provided in Code of Virginia, Sec. 46.2-752 and 46.2-755 an annual license tax on each motor vehicle, including but not limited to automobiles, trucks, and motorcycles, within this County, outside the incorporated towns, owned by a resident of the County,

regularly housed or stored in the County and used or intended to be regularly operated upon the public streets or highways in the County as herein otherwise specifically provided. The provisions of this article shall apply to those persons required to pay a state license tax under the provisions of the Virginia State Motor Vehicle Code and shall not apply to persons exempt under provisions of statutes of the state from payment of license tax upon motor vehicles, and also shall not apply to any person who does not actually reside in the County in the conduct of his business, occupation or profession, or who is exempt from the payment of such license tax under the provisions of Code of Virginia, Sec. 46.2-755, but shall apply to owners of vehicles which are regularly parked, garaged, and used in the conduct of the business, occupation or profession in the County though the owner thereof resides or is domiciled outside the County. The word “reside”, as used in this section, shall be construed to mean having a place of abode in the County, irrespective of the intention of any person to return to some residence outside of the County at some future time.

**Sec. 62-63. Persons deemed residents of County.**

For the purpose of this article, the term “resident of the County” includes any person who works in the County and spends as many as three nights in the County out of each week.

**Sec. 62-64. Amount of License Tax.**

(a) Each motor vehicle, trailer, and semitrailer shall be classified and shall be assessed as follows:

(1) Each and every automobile, bus or truck (combination tractor truck, trailer or semitrailer shall be considered as a single unit), a license of \$20.00 per annum.

(2) Each and every motorcycle, motor scooter or vehicle of like design, a license of \$12.00 per annum.

(b) Certain licenses issued free of charge:

(1) County licenses shall be issued free of charge for all of the following:

- a. Vehicles owned by volunteer rescue squads.
- b. Vehicles owned by volunteer fire departments.
- c. One vehicle owned by active members of volunteer rescue squads.
- d. One vehicle owned by active members of volunteer fire departments.

(2) In the case of active members of volunteer rescue squads and volunteer fire departments, application for such licenses shall be accompanied by written statement of the owner's active membership. The chief administrative officer of each volunteer fire department and volunteer rescue squad shall send to the Treasurer a verified list of active members one month before vehicle licenses go on sale in order for a member to qualify. No member shall be issued more than one such license free of charge.

**Sec. 62-65. License tax year.**

The license tax year shall begin on April 1 and end on March 31 of each year.

**Sec. 62-66. Application for license; issuance, attachment, etc. of plates, tags or decals; selling, etc. plates, tags or decals.**

Every person whose duty it is to comply with the provisions of this article shall make application for license upon forms prescribed by the Treasurer and at such places as he may designate and, upon payment of required tax, shall be issued as evidence license plates, tags or decals which shall be attached to the front of the vehicle so licensed so as to be readable in a manner similar to the state license tags. Failure to display plates, tags or decals shall be considered a violation even though the license tax has been paid. It shall be unlawful for any person to whom a license plate, tag or decal is issued, upon the payment of any license tax prescribed in this article, to give, loan, rent, sell, assign or transfer such license plate, tag or decal to another or otherwise to permit another to use in any manner such license plate, tag or decal, during the license tax year for which the same is issued.

**Sec. 62-67. Payment of personal property taxes prerequisite to issuance to license.**

No motor vehicle shall be locally licensed until the applicant for such license has produced evidence satisfactory to the Treasurer of the County that all personal property taxes of the County upon the motor vehicle to be licensed and any other delinquent motor vehicle personal property taxes properly assessed or assessable against the applicant by the County have been paid.

**Sec. 62-68. Treasurer to purchase plates, tags or decals; design thereof.**

(a) The County Treasurer is charged with the responsibility of purchasing all license plates, tags or decals.

(b) The words "Lancaster County" together with the numerals indicating the year of the issue shall appear on all license plates, tags or decals issued to the residents of the County, as distinguished from residents of any incorporated town within the County which imposes like license s or taxes.

(c) All regular members of voluntary fire departments in the County shall be issued an appropriate firefighter license plate, tag, and/or decal.

**Sec. 62-69. Procedure when license plate, tag or decal is lost; proration of license tax.**

(a) A duplicate plate shall be issued upon affidavit of the applicant that the original plate, tag or decal has been lost, mutilated or destroyed, at a cost as set from time to time by resolution of the Board of Supervisors.

(b) Only one-half of the license tax prescribed by this article shall be assessed and collected whenever such license tax first becomes assessable during the period beginning on September 30 in any year and ending on December 31 in the same license tax year and only one-third of such license tax shall be assessed and collected whenever such license tax first becomes assessable after December 31 in the same license tax year. Each license so issued during a license tax year shall expire at the end of the license tax year, namely on March 31.

(c) Every person holding a current motor vehicle license plate, tag or decal and disposing of the vehicle for which it was issued, and not purchasing another vehicle of the same class, subject to a license tax, shall be entitled to a refund of the unused portion of the license tax paid by him, upon surrender, on or before September 30 of the then current license tax year, of the County license plate, tag or decal and the production of a certificate from the state motor vehicle commissioner or other proper state officer, that the state license and registration certificate have been surrendered. Such refund shall be one-half of the license tax paid. If the surrender of the County license plate, tag or decal and the state plates and certificate is made on or after September 30, and on or before December 31 of the then current license tax year, there shall be a similar refund of one-third of the license tax paid. Such a refund shall be made by the Treasurer of the County from the general funds of the County.

**Sec. 62-70. Transfer of license plates, tags or decals from vehicle to vehicle.**

Any owner who sells or transfers a motor vehicle license under the provisions of this article may have the license plate, tag or decal thereon assigned to another vehicle of like design and titled in such owner's name upon application to the Treasurer of the County on forms providing for the name and address of the applicant and description of the motor vehicle for which such license has been issued, as well as a description of the motor vehicle to which such license is to be transferred. Such application shall be accompanied by a fee as set from time to time by resolution of the Board of Supervisors and made within five days of such transfer.

**Sec. 62-71. Tax paid into general fund; Treasurer to furnish Commissioner of Revenue list of licenses sold.**

All motor vehicle taxes and taxes collected under the provisions of this article shall be paid to the Treasurer of the County and shall be credited to the general fund and deposited by the Treasurer in the same manner as that prescribed for other County vehicles. The Commissioner of the Revenue shall be supplied by the Treasurer with a record of all motor vehicle licenses issued.

**Sec. 62-72. Penalty.**

Every person who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-10.

**Sec. 62-73. Issuance of windshield decals, license plates.**

Each person coming under the provisions of this article upon payment of the required tax shall be issued a windshield decal to be attached on the inside of the

windshield at the top and in the center of the windshield, and so placed as not to obstruct the vision of the motor vehicle operator, such decal to be readable in a manner similar to inspection stickers required by the state. The owner of every motorcycle, motor scooter, and vehicle of like design shall be issued a license plate to be attached to the rear of the vehicle. The words “license plate” as used in section 62-61, et seq. shall be deemed to mean windshield decal and/or license plate.

**Sec. 62-74. Enforcement by Virginia State Police; disposition of revenues.**

Virginia State Police Officers may enforce the provisions of section 60.2-61, et seq. [62-61, et seq.] of the Code of Ordinances of Lancaster County, which require obtaining and displaying of motor vehicle licenses in Lancaster County. Fifty percent of the revenue collected from such enforcement by the Virginia State Police shall be remitted by the Treasurer of Lancaster County to the Department of State Police and disposed of by that department as provided by law.

ROLL CALL

VOTE:	F.W. Jenkins, Jr.	Aye
	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	Lloyd N. Hill	Aye
	Ernest W. Palin, Jr.	Aye

2. Application for Change of Zoning District Classification – Abernathy Construction Corporation – Mr. Larson stated a request by Abernathy Construction Corporation to rezone property described as Tax Map #28-123/123B/130A from R-1, Residential, General to A-2, Agricultural, General. This property is off VSH 3 near Kilmarnock, VA in Voting District 4.

Mr. Larson said he has provided the board with the draft minutes from the July 21, 2005 Planning Commission meeting, along with letters received expressing opposition to the request or concerns related to this issue. A letter from Mr. William R. Lee dated August 6, 2005 expressed concerns that he would like to see addressed was also submitted.

Mr. Larson stated this issue has been advertised and adjacent property owners notified for this public hearing as required by law. Input to date from adjoining property owners and/or interested members of the public relative to this issue has been submitted.

Mr. Costello stated he believed that spot zoning would not be appropriate for the area. He said there is already a hazard as the trucks enter onto VSH 3 where vehicles pick up speed and rezoning would mean more trucks and greater potential for hazard. Abernathy is currently using the material from the R-1 property for the Taylors Creek Project for VDOT, however; if the property is rezoned A-2 they can do anything. He asked the Board of Supervisors to deny the request to rezone the property.

Mr. Jenkins asked what the current zoning on parcel 138.

Mr. Larson stated parcel 138 is zoned R-1.

Mr. Charles Cox said he represented the Charles Towles Estate and has property adjacent to the property for rezoning. He presented the board with a petition signed by neighbors in a two to three mile radius of the Abernathy property in opposition of the rezoning. He stated there is a partial blind curve which is a hazard and if rezoned there will be 50 trucks per day for ten or more years, which would be a greater hazard for traffic. He opposes the request to rezone because he believes the value of the property would decrease and asked the Board of Supervisors to deny the request to rezone.

Dr. James Norris stated he opposed the rezoning of the property from R-1 to A-2. He said he acquired six parcels of property on this beautiful plateau. There were three and a half acres donated to Calvary Baptist Church for a cemetery and he is presently working with the Architecture Department of Hampton University to beautify. He stated he sold a little over five acres of property to Mr. Barrack, who assured him that the property would be used to build residential homes. A deeded easement from three people had to be obtained for access to the property with the assumption that Mr. Barrack would enhance the community. Mr. Barrack then turned around and sold the property to Abernathy for a sand pit. He stated he had a number of concerns: 1) this would be considered spot zoning, 2) the problem still exists with traffic issues, and 3) there is a stream on the back of one of parcel emptying into Dymer Creek. He asked the Board of Supervisors to deny this request for rezoning.

Mr. Jenkins asked Mr. White with VDOT, about the removal of materials from property zoned R-1. Did VDOT give the Abernathy Construction Corporation permission for removal the materials?

Mr. White stated VDOT awarded the contract to the lowest bidder, which was Abernathy Construction Corporation for the Taylor's Creek Project. It is the contractor's responsibility for finding the necessary materials for the project.

Mr. Lee, Calvary Baptist Church Trustee, said one of his major concerns was ceasing operations during a funeral and who or how would that be enforced.

Mr. David Abernathy stated after being awarded the contract with VDOT, they went out to find property and Virginia Department of Mines, Minerals and Energy (DMME) stated it was okay to supply VDOT with materials for the Taylor's Creek Project.

Mr. Jenkins said that Abernathy Construction Corporation did not follow the Lancaster County Zoning Ordinance by mining materials from the R-1 parcel and this was an issue that needed to be resolved.

Mr. David Abernathy said they were upfront with what they are doing and in good faith, trying to do everything the right way. By law his company can use the materials from the pit as long as they are contracted by VDOT. He said one of the biggest concerns was the law prohibits selling to contractors.

Mr. David Abernathy said they have extended the entrance to that required for commercial purposes, signs are posted, and there is good sight distance. The petition that was submitted to the board by Mr. Cox, are for residents from two to three mile radius and DMME requirements are to send out certified notices to residents within 1000' radius of the property. He said Abernathy purchased property from Mr. Barrack and Smith and he contacted Dr. Norris, Trustees of Calvary Baptist Church, and adjacent property owners and stated their intentions. The cease operation order for Calvary Baptist Church funeral services will be in the contract to other contractors. The proffers for rezoning are as follows:

1. Excavated slopes not to exceed 3:1.
2. Slopes will not be located with 25' of shared property lines of other property owners.
3. Vegetative cover will be maintained on non-active mining areas.
4. Mining operations will be postponed during internment ceremonies at the Calvary Baptist Church Cemetery upon 24-hour notice from Calvary Baptist Church Board of Trustees.
5. Abernathy will give Calvary Baptist Church a thirty-day period to act on a first right of refusal on parcel 130A (Smith).
6. Existing tree line on shared property lines will be in the place to act as a screen.

7. A-2 zoning will revert back to the original R-1 zoning after all excavation has been exhausted or after a period of 10 years.

Mr. David Abernathy said the benefits to the county are that five people from Lancaster work there and three or four of those are staying the local hotel and spending their money here in the county. All the materials are in great need in the county and there will be more competitive prices.

Mr. Geilich asked what happens to the hole they are mining for VDOT materials and the time frame for mining all parcels.

Mr. David Abernathy stated there would be a gentle slope and seeded when inactive, in order for the property to be attractive and marketable. The purpose, if rezoned to A-2, would be to sell dirt as fast as possible.

Mr. Beauchamp asked Mr. White his opinion on the traffic concerns.

Mr. Harper stated VDOT removed the brush from the curves which will give better sight distance at the entrance.

Dr. Jackson, Executor of the Estate of Alma N. Jackson stated if the property is rezoned, Abernathy would not be restricted to anything they would like to do with the property. There is a real concern about the traffic as the dual highway begins. If Abernathy has employees in the local hotel, they are not county residents as Mr. Abernathy indicated. The area is currently zoned R-1, how could the county allow A-2 in the center of residential properties. What are they going to do with the property after it is cleared?

Mr. Scott stated he was not an adjacent property owner, however; he lives on the hill and his daughter rides the school bus, which is his concern for the safety of our children in the county.

Mr. Geilich asked Mr. White about trucks crossing lanes as traffic start 55 mph.

Mr. White stated a traffic study can be done and it is deemed no “U” turns at that location.

Mr. Beauchamp said he has concerns about the safety of children and school bus stopping in that immediate location. The area primarily consists of R-1 zoning, therefore he stated can not support this request. However, Abernathy has done a great job on the Taylor’s Creek Project.

Mr. Hill stated that first the county must address the other issue concerning Abernathy mining materials on the currently R-1 parcel.

Mr. Hill made a motion to deny the Application for Change of Zoning District Classification for Abernathy Construction Corporation.

VOTE:	F.W. Jenkins, Jr.	Aye
	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	Lloyd N. Hill	Aye
	Ernest W. Palin, Jr.	Aye

3. Application for a Special Exception – Larry E. Brewer – Mr. Larson stated an application for a Special Exception by Larry E. Brewer to have a professional office on property described as Tax Map #6-9. This property is off VSH 354, River Road, at its intersection with VSH 622, Morattico Road, near Litwalton, VA in Voting District 2.

Mr. Larson said the intent is to use one room of a private residence as a real estate office. This use does, in his judgment, fit within the definition for a

professional office, and the request is therefore allowable. Additionally, the subject property does fall within an area that would be proposed for a Litwalton Rural Village Overlay making it a “by right” permitted use if such an overlay were in effect. However, the creation of such an overlay has been done only with the support of affected property owners. This request will, to some degree, define the desires of affected property owners.

Mr. Larson stated the public hearing of this issue has been advertised and adjacent property owners notified as required by law. To date, there has been no input from adjoining property owners or other interested members of the public.

Mr. Palin made a motion to Approve the Application for a Special Exception by Larry E. Brewer.

VOTE:	F.W. Jenkins, Jr.	Aye
	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	Lloyd N. Hill	Aye
	Ernest W. Palin, Jr.	Aye

### **CONSENSUS DOCKET**

Motion was made by Mr. Beauchamp to approve the Consensus Docket and recommendations as follows:

A. Minutes for July 28, 2005, August 3, 2005, and August 11, 2005

Recommendation: Approve the minutes as submitted

B. Community Services Board – FY06 Performance Contract

Recommendation: Approve the FY06 Performance Contract for MP-  
NN Community Service Board

C. Proclamation of “Helen Doggett Day”

Recommendation: Adopt the following Resolution:

**HONORING HELEN LOUISE (HOWARD) DOGGETT**

**WHEREAS**, on September 15, 2005, Mrs. Helen Louise (Howard) Doggett will reach the 90<sup>th</sup> anniversary of her birth; and

**WHEREAS**, Mrs. Helen Doggett has been a lifelong citizen of Lancaster County, Virginia; and

**WHEREAS**, Mrs. Helen Doggett is a faithful member of Queen Esther Baptist Church in Mollusk, Lancaster County, Virginia; and

**WHEREAS**, Mrs. Helen Doggett is a beloved mother, grandmother and friend to many Lancaster County citizens; and

**WHEREAS**, the family and friends of Mrs. Helen Doggett are honoring her 90<sup>th</sup> birthday with a celebration of her life and contributions to her loved ones and to the community.

**NOW THEREFORE BE IT RESOLVED**, that the Lancaster County Board of Supervisors hereby proclaims that September 15, 2005 as **Helen Doggett Day in Lancaster County, Virginia**; and

**BE IT FURTHER RESOLVED**, that the Lancaster County Board of Supervisors wishes Mrs. Helen Doggett a very Happy Birthday and fondly hopes she celebrates many more.

D. A. T. Wright School - Proclamation

Recommendation: Adopt the following Resolution:

**A. T. WRIGHT SCHOOL**

**WHEREAS**, the Alumni of the A. T. Wright School of Lancaster County, Virginia are planning a reunion for Saturday, September 3, 2005; and

**WHEREAS**, Alumni of the A. T. Wright School have spread throughout the world to live out their lives as role models for those generations that succeed them; and

**WHEREAS**, the A. T. Wright School was an excellent example of an institution being able to overcome challenges it faced during difficult times;

**WHEREAS**, the citizens of Lancaster County are proud of the Alumni of the A. T. Wright School.

**NOW THEREFORE BE IT RESOLVED**, that the Lancaster County Board of Supervisors proclaims September 3, 2005 as the A. T. Wright School Day in Lancaster County, Virginia; and

**BE IT FURTHER RESOLVED**, that the Lancaster County Board of Supervisors hopes the A. T. Wright School reunion allows the rekindling of old friendships and the making of new.

VOTE:	F.W. Jenkins, Jr.	Aye
	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	Lloyd N. Hill	Aye
	Ernest W. Palin, Jr.	Aye

**CONSIDERATION DOCKET**

The Board considered the following items on its Consideration Docket:

1. Approval of August 2005 Salaries and Invoice Listings

Motion was made by Mr. Geilich to approve the Salaries for August 2005 in the amount of \$163,123.79 and Invoice Listings for August 2005 in the amount of \$372,074.63.

VOTE:	F.W. Jenkins, Jr.	Aye
	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	Lloyd N. Hill	Aye
	Ernest W. Palin, Jr.	Aye

2. Regional Burn Building Funding Application – Mr. Pennell stated in 1999 the fire department of this region received grant from the Virginia General Assembly in the amount of \$100,000 to construct a burn building that would be used to train Virginia fire departments. Which the backbone of the structure has been constructed, there is insufficient funding available to complete the work, thus the training building remains unused.

Mr. Pennell said the county administrators of the Northern Neck have been working with fire department representatives for many months in an effort to move the completion of the burn building along. It is our belief that only with the official endorsement of the Northern Neck governing bodies, will the Department of Fire Programs consider additional funding for this project.

Mr. Jenkins made a motion to adopt the following resolution to Authorize and Support the Filing of a Burn Building Grant Application to the Virginia Fire Programs Board:

**Resolution to Authorize and Support the Filing of a  
Regional Burn Building Grant Application  
to the Virginia Fire Programs Board**

**WHEREAS**, the Northern Neck counties rely on the services of local volunteer fire companies for essential fire suppression and protection services, and

**WHEREAS**, it is necessary that these fire company volunteers receive the necessary training to provide these essential services, and

**WHEREAS**, there are not adequate training facilities and opportunities within close proximity to the Northern Neck region, and

**WHEREAS**, the Rappahannock Regional Fire Training Center, Inc. received an appropriation in the amount of \$100,000 from the Virginia General Assembly in 1999 to begin construction of a burn building facility in Wicomico Church, Northumberland County, and

**WHEREAS**, it would be in the best interests of the Northern Neck counties, its volunteer company organizations, the county citizens and the Commonwealth of Virginia, to see this burn building facility completed,

**NOW THEREFORE BE IT RESOLVED**, that the Lancaster County Board of Supervisors, authorizes and supports the filing of a regional Burn Building Grant application in the amount of \$200,000 to the Virginia Fire Programs Board to complete construction of the facility located on land to be leased from Wood Preservers, Inc. for a term of 20 years, and

**BE IT FURTHER RESOLVED**, that the Northern Neck counties will own, maintain and operate the burn building training facility in accordance with the rules and guidelines of the Commonwealth's Burn Building Program and in cooperation with the Rappahannock Regional Fire Training Center, Inc.

VOTE:	F.W. Jenkins, Jr.	Aye
	Peter N. Geilich	Aye

B. Wally Beauchamp	Aye
Lloyd N. Hill	Aye
Ernest W. Palin, Jr.	Aye

3. Request for Clarification/Modification of Master Plan – Western Branch Preserve, LLC – Mr. Larson stated the Board of Supervisors approved a request for rezoning of Tax Map #15-118 from A-2, Agricultural, General to R-2, Residential, Apartment on April 29, 2004. A master plan was approved at the same time. Applicant, Western Branch Preserve, LLC, in the attached letter dated August 8, 2005 is requesting Board of Supervisors’ approval of various items that they believe were part of the master plan.

Mr. Larson said the subject rezoning and associated master plan was approved with no opposition. The amount of open space set a side in a conservation easement, the attractiveness of the master plan, mass drainfields set well back from tidal waters, and the low amount of impervious cover resulting from development were all factors in gaining support for the proposed rezoning. In return, applicants were permitted to place twenty residences on the waterfront where they would have been able to do half that number by right under the existing zoning.

Mr. Larson stated requests are now being made for building and zoning permits to develop the property. Staff disagrees with the principals regarding the master plan and is unable to issue proper zoning permits. Statements of intent and clarifications of same aside, what is occurring does not reflect the master plan. Western Branch Preserve, LLC has made assumptions that he does not believe are merited. Approval of that subdivision plat in no way superceded the master plan, and any provisions within the covenants submitted with that plat do not take precedence over that which was approved by the Board in the master plan. Further, Western Branch Preserve, LLC does not have the authority to make their own determinations as to whether or not an individual plan for a given lot is in

conformance with the master plan for the whole development. That is, in effect, what they are proposing to do. They have marketed lots without any plan of development set forth on those lots and are permitting lot owners to come forth at some later, undetermined point in time with a plan of development. They have an architectural committee that reviews the proposed plan for conformance with their architectural guidelines instead of a revised master plan or an approved plan of development for the whole project as required by Article 16-3.

Mr. Larson stated he does not believe what Western Branch Preserve, LLC is proposing can be discussed without an understanding of the overall impact. Mr. Larson said he cannot meet his responsibilities as the Zoning Administrator until this is resolved. Both require a plan of development in accordance with Article 16-3 as follows:

- (k) Location of proposed landscaping, access and internal roads and buffering improvements including type of surface for the parking areas and roads, located in relationship to the boundaries of the property;
  - (1) The location, dimension, size and height of the following whether existing or proposed, and located in relationship to the boundaries of the property:
    - (1) The sidewalks, streets, alleys, easements, and utilities.
    - (2) Buildings and structures, including number of floors, distance between buildings, floor area, height and location of each building, and proposed general use for each building. If single-family attached or multifamily, the number, size, and type of dwelling units shall be shown.

- (3) All off street parking and parking bays, loading spaces and walkways indicating type of surfacing, size.

Mr. Nuckols, Architect who prepared the master plan, stated declaration of covenants, conditions and restrictions for Western Branch Preserve were submitted, which included the Master Plan Approval check list. The covenants cover the size, height and setbacks. He said there are no major changes to the master plan and purchasers of property may have plans to bring to the planning office. The master plan clearly states the intent.

Mr. Pennell stated if they submit plans, which will show setback, size (square footage), distance between the home and Mr. Larson will then be able to make minor changes.

Mr. Geilich asked what needed to be done in order to resolve this issue.

Mr. Hill stated it appears that they have all the information, but not on the proper documentation.

Mr. Bragg stated putting boxes on the plat would serve no purpose.

By consensus of the board, send this request back to Western Branch Preserve, LLC in order for them to submit a plan of development as required by Article 16-3 of the Zoning Ordinance and work with county staff.

4. Change to Master Plan – Rappahannock Westminster Canterbury (RW-C) – Mr. Larson stated the principals of Rappahannock Westminster Canterbury are petitioning the Board of Supervisors to allow a change to their master plan that would allow the addition of six independent living units and an apartment building that would contain an additional thirty apartments.

Mr. Larson said all the supporting documentation was submitted to the Board of Supervisors and this request represents the second requested modification of the master plan. The modification was approved on January 23, 1997. Mr. Larson said a letter signed by the County Administrator, approval was granted with the understanding that the 40 cluster detached units requested was “in lieu of the previously approved 80 units.” Should the Board decide to approve the request as submitted, that consideration is given to setting the approval at a maximum of 30 apartment units.

Mr. Geilich asked if they had enough support services.

Mr. Beauchamp said this was another change to the master plan from 1997.

Mr. Bunting stated they have adequate support services in place and this was another change to the master plan from 1997 and he could not said this would be the last change, because Rappahannock Westminster Canterbury purchased an additional 52 acres. The plan is to expand to meet the growing demand of the public.

Mr. Beauchamp asked how many residents would be at RW-C.

Mr. Bunting stated a total of 154 residents.

Mr. Bunting said he was not employed with Rappahannock Westminster Canterbury in 1997 when the first change to the master plan was approved, however; he believe that the change was brought about by the needs and demand of the public. In 1997 the people who wanted single family like structures and now the need is going back to an apartment environment. He said RW-C is non-profit and a great asset to the community.

Mr. Beauchamp made a motion to Approve the Change to Rappahannock Westminster Canterbury's (RW-C) Master Plan.

VOTE:	F.W. Jenkins, Jr.	Aye
	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	Lloyd N. Hill	Aye
	Ernest W. Palin, Jr.	Aye

5. Setback Verification – John and Joan Schaub – Mr. Larson stated the plat submitted to the Board of Supervisors which was done for purpose of setback verification, shows that the home being constructed for the Schaub's intrudes 2' into the 50' seaward component of the 100' buffer, an issue for the Board of Supervisors.

Mr. Larson said this is an “after-the-fact” request. The footing has been dug, inspected on August 12, 2005, and the setback verification done by Mr. Pruett showing the footing intruding 2' into the 50' seaward component of the 100' protective buffer. Location of the footer should have been reestablished prior to digging the footer given the erosion of the bank. Providing relief as a consideration item as requested is inappropriate for three reasons: 1) This would constitute a formal exception which is a matter for public hearing; 2) This would set a bad precedent (we currently have one other case where we have stopped construction of a swimming pool because of the same exact circumstances of erosion subsequent to a Bay Act plan being done); and 3) The approved site plan does not agree with the current site plan (i.e. an amended plan should have been submitted prior to beginning construction).

Mr. Pruett stated he had no idea the shoreline had changed from 2003 after one year and a half. The footers were dug and steel in place and found it was in the 50' buffer at the time of inspection.

Mr. Pruett stated he would like to withdraw the request made for John and Jane Schaub setback verification.

6. 2005 Tax Anticipation Note – Mr. Pennell stated at the August 11, 2005 meeting of the Board of Supervisors, the members agreed to permit him to solicit bids to provide a \$2 million line of credit to be used in the event county expenditures exceed the fund balance plus income until tax receipts are received later this calendar year.

Mr. Pennell said requests for bids were sent to the four banks doing business in Lancaster County, to two banks doing business in other Virginia localities as recommended by the county attorney and placed on the county's web site. The results of the bidding are as follows:

- 1) Bank of Lancaster – fixed 2.625% (Variable @ Prime less 4.25%, currently 2.25%, with a floor of 2.25 and a ceiling of 3.25%) - \$100 fee
- 2) Chesapeake Bank – fixed 2.75%
- 3) SunTrust Bank – fixed 3.05% (Variable @ 68% of 1 month LIBOR plus.33, currently 2.78%)
- 4) Northern Neck State Bank – fixed 3.74%
- 5) Bank of Northumberland – fixed 3.90%
- 6) Wachovia Bank – fixed 4.10% (Variable @ 67% of LIBOR Market Index Rate plus 1.34%) also Yield maintenance provision required

Mr. Hill made a motion to Accept the bid from the Bank of Lancaster to provide a \$2 million line of credit for a fixed interest rate of 2.625%, authorize the county administrator and county attorney to proceed to close on this loan and Adopt the Resolution authorizing the issuance of up to \$2 million in a revenue anticipation note.

VOTE:	F.W. Jenkins, Jr.	Aye
	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	Lloyd N. Hill	Aye
	Ernest W. Palin, Jr.	Aye

## **BOARD REPORTS**

None

## **COUNTY ADMINISTRATOR**

### Chamber of Commerce Invite

Mr. Pennell informed the board of Lancaster County Chamber of Commerce Business After Hours on Thursday, September 8, 2005 from 5:00 – 7:00 p.m. at Christ Church.

### Coleman Bridge Toll

Mr. Pennell stated he received a letter from Gloucester County asking this board for support to remove the toll from the Coleman Bridge. However, the rates for those with Smart Tag have just been increased to \$.85.

No action taken.

### Comprehensive Plan RFP Update

Mr. Larson stated a Request For Proposal for the provision of support services to review and amend, as appropriate, the Lancaster County Comprehensive Plan. Planning Commission members Donald McCann, Steve Sorensen, and he will be reviewing and giving recommendations to the county administrator of the seven proposals received.

By consensus of the board, continue with the process.

**ADJOURNMENT**

Motion was made by Mr. Beauchamp to adjourn.

VOTE:	F.W. Jenkins, Jr.	Aye
	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	Lloyd N. Hill	Aye
	Ernest W. Palin, Jr.	Aye