

**VIRGINIA:**

A meeting of the Lancaster County Board of Supervisors was held in the Administrative Building Board/Commission Meeting Room of said county on Thursday, August 30, 2012.

Members Present:     B. Wally Beauchamp, Chair  
                              F.W. Jenkins, Jr., Vice Chair  
                              Ernest W. Palin, Jr., Board Member  
                              Jason D. Bellows, Board Member  
                              William R. Lee, Board Member

Staff Present:         Frank A. Pleva, County Administrator  
                              Don G. Gill, Planning and Land Use Director

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

**PUBLIC INPUT**

Public Access

C.D. Hathaway stated that all tax paying citizens of Lancaster County deserve to have public access. There is one public boat ramp at the upper end of the county at Greenvale Creek, which is not convenient and does not give you access to the Bay. The surrounding counties have a number of public ramps and spread evenly throughout their county. According to an article published in the Rappahannock Record today, the Planning Commission indicated that approximately 97% of waterfront properties are privately owned. He enjoys launching his boat and this has been recommended by the Planning Commission since 2001, he asked the board to actively pursue the issue of public access for all the citizens of Lancaster County.

Mr. Beauchamp stated public access is being worked on, however; it is very difficult.

## **PRESENTATION**

- 1 . Plaque of Appreciation for his Service as the Assistant County Administrator – Jack D. Larson - Mr. Beauchamp presented a plaque in recognition of and appreciation for Mr. Larson’s dedicated and distinguished service to the Lancaster County as the Assistant County Administrator for Financial Management.

Audrey Thomasson, Reporter for the Rappahannock Record said she appreciated the fact the Mr. Larson took the time to explain the budget process and she now has a better understand. She thanked him for his time, patience’s, and dedication not only her, but to the citizens of Lancaster County.

Mr. Pleva read the plaque and thanked Mr. Larson for his service.

- 2 . Plaque of Appreciation for her Service as the Clerk for Juvenile and Domestic Relations Court – Dorothy B. Mathers - Mr. Beauchamp presented a plaque in recognition of and appreciation for Mrs. Mathers dedicated and distinguished service to the Lancaster County as the Clerk for Juvenile and Domestic Relations Court.

Mr. Pleva read the plaque and thanked Mrs. Mathers for her service.

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

### **County Maintenance**

Mr. Harper stated the final mowing should begin September 26, 2012 on primary and secondary roads with litter pick up.

Mr. Harper said they have finished all scheduled paving for this year.

### VSH 604/Merry Point Road and VSH 611/Hoecake Road

Mr. Harper stated the Merry Point Road and Hoecake Road project is set to begin in mid September and a ninety day project. They are currently moving equipment into the area. There is a 90 degree elevated curve at this location and once the project is completed it will be a “T” intersection.

### Route 789/Hadlea Drive and Route 777/Riverview Road Projects

Mr. Harper said VDOT would be sending Mr. Pleva sample Resolution for Rural Rustic Road Project to be approved by the Board in order to start the Route 777/Riverview Road project in October. The Route 789/Hadlea Drive project will start in the Spring 2013. The work for both projects scheduled is to widen the road, adding stone with surface treatment.

### Guardrails Upgraded

Mr. Harper stated VDOT is making a great effort to update the primary guardrails throughout the state. This project begin last year and with more funding this year, all the primary routes in Lancaster (VSH 222, 200, 201, 3 and 354) the guardrails will be brought up to standards. They will also install the corn guardrails to Devils Bottom Bridge which will complete the project.

### **PUBLIC HEARING**

- 1 . Proposed Ordinance Requiring Those Persons Convicted of an Offense for the Manufacture of Methamphetamine to Pay the Expense of Cleanup of Methamphetamine Laboratories – Mr. Pleva stated during its 2012 session, the Virginia General Assembly adopted legislation that would allow localities to adopt local ordinances (code amendments) that would permit these localities to recoup the actual, out-of-pocket expenses associated with the cleanup of

methamphetamine laboratories, including the removal or repair of the affected property and/or the replacement cost of personal protective equipment used during the cleanup. Accordingly, the County Attorney has drafted a proposed ordinance, entitled “An Ordinance Requiring Those Persons Convicted of an Offense for the Manufacture of Methamphetamine to Pay the Expense of Cleanup of Methamphetamine Laboratories”, for the Board of Supervisors’ consideration.

Mr. Pleva said the adoption of the proposed ordinance will not create any financial obligation on the part of the county. Rather the proposed ordinance is intended to provide a mechanism whereby the county may recover the actual expenses (i.e., direct, out-of-pocket costs) associated with the cleanup of methamphetamine laboratories.

Mr. Pleva said in accordance with Section 15.2-1427 of the *Code of Virginia, 1950, as amended*; a public hearing was duly advertised.

Chairman Beauchamp opened the public hearing.

Hearing none Chairman Beauchamp closed the public hearing.

**AN ORDINANCE  
REQUIRING THOSE PERSONS  
CONVICTED OF AN OFFENSE FOR THE  
MANUFACTURE OF METHAMPHETAMINE TO  
PAY THE EXPENSE OF CLEANUP OF METHAMPHETAMINE  
LABORATORIES**

**WHEREAS**, pursuant Section 15.2-1716.2 of the *Code of Virginia, 1950, as amended*, the County of Lancaster may require those persons convicted of an offense for the manufacture of methamphetamine pursuant to Section 18.2-248 or 18.2-248.03 of the *Code of Virginia* to be liable at the time of sentencing or in a separate civil action to the County or to any law enforcement entity for the expense in cleaning up any methamphetamine laboratory located in Lancaster

County related to the conviction; and,

**WHEREAS**, upon public hearing, duly advertised, the Board of Supervisors has determined to impose such clean-up costs as provided by Section 15.2-1716.2 of the *Code of Virginia*.

**NOW THEREFORE BE IT ORDAINED** that any person who is convicted of an offense for manufacture of methamphetamine pursuant to Section [18.2-248](#) or [18.2-248.03](#) of the *Code of Virginia, 1950, as amended*, shall be liable at the time of sentencing or in a separate civil action to Lancaster County or to any law-enforcement entity for the expense in cleaning up any methamphetamine laboratory located in Lancaster County, Virginia, related to the conviction. The amount charged shall not exceed the actual expenses associated with cleanup, removal or repair of the affected property and/or the replacement cost of personal protective equipment used.

**NOW THEREFORE BE IT FURTHER ORDAINED** that copy of this Ordinance shall be distributed to: the Clerk of the Circuit Court of Lancaster County, Virginia; the Clerk of the General District Court of Lancaster County, Virginia; the Sheriff of Lancaster County; the Commonwealth's Attorney for Lancaster County; and the Office of Probation and Parole serving the Courts of Lancaster County.

Mr. Lee made a motion to Adopt the Ordinance Requiring Those Persons Convicted of an Offense for the Manufacture of Methamphetamine to Pay the Expense of Cleanup of Methamphetamine Laboratories.

ROLL CALL \_

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

Jason D. Bellows                      Aye  
William R. Lee                         Aye

**CONSENSUS DOCKET**

Motion was made by Mr. Jenkins to Approve the Consensus Docket and recommendations as follows:

A. Minutes for July 26, 2012 and August 10, 2012

Recommendation: Approve minutes as submitted

B. Observance of September as National Preparedness Month

Recommendation: Approve the Certificate of Recognition as submitted

**CERTIFICATE of RECOGNITION**

*By virtue of the authority vested by the Constitution in the Governor of the Commonwealth of Virginia there is hereby officially recognized:*

**NATIONAL PREPAREDNESS MONTH**

**WHEREAS**, September is National Preparedness Month, a time set aside annually to encourage Americans to take necessary steps to prepare for any and all emergencies in their homes, businesses and communities; and

**WHEREAS**, September has historically been the most active month for hurricanes with 36 of 64 major hurricanes affecting the United States occurring during this month; and

**WHEREAS**, the Commonwealth of Virginia has made it a high priority to continue to build a strong and viable “culture of preparedness” throughout state and local governments, colleges and universities, the private sector and the general public; and

**WHEREAS**, those who are prepared for emergencies recover faster and can help others who also may be affected, demonstrating community spirit in the face of adversity; and

**WHEREAS**, emergency preparedness is a shared responsibility, and every family that is able should prepare to be self-sufficient for the first 72 hours after disaster strikes; and

**WHEREAS**, Virginia families can start their preparedness actions by making an emergency plan and stocking at least three days' of essential supplies including water and food that won't spoil and a hand-crank or battery-powered radio and extra batteries to hear emergency information;

**NOW, THEREFORE BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of Lancaster, do hereby recognize September 2012 as **NATIONAL PREPAREDNESS MONTH** in our **COMMONWEALTH OF VIRGINIA**, a time to remember and a time to prepare, and I encourage all citizens to be ready for emergencies by taking steps to prepare for emergencies at home, at work and in our communities.

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye
	Jason D. Bellows	Aye
	William R. Lee	Aye

**CONSIDERATION DOCKET**

The Board considered the following items on its Consideration Docket:

1. Approval of August 2012 Salaries and Invoice Listings

Motion was made by Mr. Palin to approve the salaries for August 2012 in the amount of \$255,271.51 and Invoice Listings for August 2012 in the amount of \$440,473.13.

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye
	Jason D. Bellows	Aye
	William R. Lee	Aye

2. Greentown – Gaskins Road Community Development Project – Pre-Contract Documents – Mr. Pleva stated the Greentown - Gaskins Road Community Development Project primarily entails the rehabilitation of single-family housing units of approximately 40 low and moderate income households as well as the installation of potable water and sanitary sewer facilities for these houses. Federal grant funding for the project includes up to \$1,400,000 in two installments of Community Development Block Grant (CDBG) funds, \$511,000 of United States Department of Agriculture – Rural Development (USDA – RD) grant funds and a \$170,000 low-interest loan from USDA – RD, which the Board of Supervisors approved during its June 28<sup>th</sup> meeting. The Northern Neck Planning District Commission (NNPDC) will perform the project and grant administration requirements on behalf of the county.

Mr. Pleva said as part of federally-funded projects, such as the Greentown - Gaskins Road Community Development Project, the grantee, which is the County of Lancaster in this case, must approve several documents. Some of documents pertain to legal requirements, such as the Equal Employment Opportunity and Americans with Disabilities Act, which are already applicable to local governments and other public entities under existing federal law, state law or both. Nevertheless they must be approved by the grantee (i.e., the county). These documents are:

- (1.) Non-Discriminatory Policy (Equal Employment Opportunity Policy)
- (2.) Self-Evaluation and Program Accessibility Plan per Section 504 Plan of the Rehabilitation Act of 1973

- (3.) Grievance Procedure per Section 504 of the Rehabilitation Act of 1973
- (4.) Local (Section 3) County Business & Employment Plan (Notice)
- (5.) Residential Anti-Displacement & Relocation Assistance Plan

Mr. Pleva asked the Board of Supervisors to approve the aforementioned project-related documents and authorize the County Administrator to execute and to implement said documents as required.

Mr. Bellows made a motion to Approve the Greentown – Gaskins Road Community Development Project related documents and authorize the County Administrator to execute and to implement said documents as required.

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye
	Jason D. Bellows	Aye
	William R. Lee	Aye

- 3. Addendum to County Personnel Policies – Chief Hubbard stated Lancaster County Emergency Services EMS providers are routinely dispatched to fire department calls and on several occasions conditions have required them to engage in fire suppression activities alongside and even prior to the arrival of adequate staffing from the Volunteer Fire Departments. The majority of LCEMS staff is already adequately trained in fire suppression and are willing to assist the volunteer fire department members when and if needed. However, this places our employees in a dangerous position when they are on scene first and have the training but do not have authority or gear to assist those in need. These employees already need to be outfitted with Personal Protective Equipment and upgrading the “PPE” to fire suppression standards will not require additional cost to the County at this time. The LCES employees need to be reclassified anyway

from the current 40 hour a week classification which is not conducive to the required hours of EMS coverage.

Chief Hubbard said pursuant to the partial overtime exemption of Section 207 (k) of the federal Fair Labor Standards Act (“FLSA”), state and local governments must declare work periods for employees engaged in law enforcement and fire protection and those employees must have the legal authority and responsibility to engage in fire suppression in order to be classified under the 207 (k) partial overtime exemption. Firefighters, paramedics, emergency medical technicians, rescue workers, ambulance personnel and hazardous material workers can all qualify for the FLSA partial exemption from overtime. Adopting Section 207 (k) of FLSA, declaring that the LCEMS employees have the legal authority and responsibility to engage in fire suppression activities when needed and equipping them with turnout gear will save the County an estimated \$20,000 per employee per year and up to an estimated total of \$300,000 a year.

Chief Hubbard asked the Board approve the following addendum to the Lancaster County Personnel Policies: Page 6 under Overtime Compensation should include the following statement: *Station personnel assigned to the Department of Emergency Services who currently work 120 hours during a 15-day work cycle receive overtime compensation for all hours worked in excess of 114. In accordance with the Code of Virginia, Section, 9.1-700 et. seq., all hours that station personnel work or are in a paid leave status during their regularly scheduled work hours shall be counted as hours worked for the purposes of computing entitlement to overtime compensation. Only hours **actually** worked beyond the regular schedule (i.e. 120 hours) count towards overtime eligibility.* Page 9 under Work Hours should include the following statement: *Station personnel assigned to the Department of Emergency Services work 120 hours during a 15-day work cycle. Refer to the Department of Emergency Services Standard Operating Procedures Manual for schedule hours and job responsibilities.*

Mr. Palin made a motion to Approve the proposed addendum to the Lancaster County Personnel Policies.

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye
	Jason D. Bellows	Aye
	William R. Lee	Aye

4 . School Board Supplement Appropriation Request for LPS Music Teacher Position

– Dr. Lukich gave an overview of the schools and provided the board with additional handouts. He stated the School Board met to take a closer look at the school board budget after the additional cut of \$242,225 made by the Board of Supervisors. After careful review, the school board made decisions not to reduce or cut classroom personnel, and not to reduce salaries by way of furlough. The Board was decisive in cuts to administration, operations, transportation and the resignation of one instructional position.

Dr. Lukich said the schools have held registration and open houses and it appears that there will be approximately 1,300 students this school year. He stated the schools have a new logo, “Learning, Communicating, Partnering, and Succeeding.” The teachers have reported back to work and the schools have a number of new programs and initiatives this year.

Dr. Lukich stated the LPS music teacher resigned and he requested that Board of Supervisors appropriate \$59,357 to the school budget in order to hire a new certified music teacher. The schools will return \$145,627 of unexpended funds to the county and he stated the funding should be used to invest in the future of the children. Lancaster County Schools has an outstanding music program and after many comments and concerns from the parents, he believes it would be beneficial to replace the music teacher at LPS.

Mr. Bellows said knowing the importance of music to Lancaster County why would the administration even consider putting this cut on the list? Based on the school board action of a 5 – 0 vote in support of that cut and in your words “careful, courageous, and decisive actions” why are you not supporting the decision of the School Board? He asked Dr. Lukich on what authority does he have to come before the Board of Supervisors to ask for the funding for a LPS music teacher?

Mr. Beauchamp asked Dr. Lukich if the School Board had met on this issue and authorized him to make this request.

Dr. Lukich said no because he was not aware that was the process.

Mr. Beauchamp stated in accordance with State Code, the superintendent may act on behalf of the School Board if the School Board has authorized such action. Therefore, the School Board must meet and authorize such a request.

Dr. Lukich stated the School Board has not taken formal action, however; there has been consensus. He said he was unaware that his request was not in accordance with State Code.

Mr. Beauchamp said another concern was the decision made by the superintendent to purchase two new school buses with the remaining funds for the FY12. The two school buses were not budgeted for and the School Board did not meet and give pre-approval of the purchase. The superintendent can not act alone and had no authority to make such purchases with the approval from the School Board.

Sue Salg, Director of Finance, said this is the way it has been done for many years. The former superintendent would send a memorandum to the county administrator and it would be brought before the Board. She said the Board of Supervisors has never raised the issue of, “lack of authority” or the need of school board approval first.

Mr. Beauchamp said the Board is not claiming bad faith, but stated that the school board must approve an appropriate request before the Board of Supervisors can consider the request.

Mr. Lee stated if the procedures has not been followed in the case or in the past, it is now time to make sure the correct protocols are being taken according with State Code.

Mr. Jenkins stated the voters and taxpayers vote for Board Members to be put in place to vote and make decisions on their behalf. He stated the request for appropriation was made prematurely.

Dr. Lukich stated they would correct the appropriation request process to comply with State Code.

Mr. Palin asked Dr. Lukich to take this supplemental appropriation request for LPS Music Position back to the School Board for approval and bring the request back to the regular September 27, 2012 Board of Supervisors meeting.

## **BOARD REPORTS**

None

## **COUNTY ADMINISTRATOR**

Mr. Pleva stated there should be an update soon from Dominion Virginia Power on the Lively streetlight issue. The lights will be turned off next week.

Mr. Pleva stated Nuttsville solid waste collection and recycling center has been closed until further notice. Apparently, a private motor vehicle caught on fire, which damaged the waste compactor. The power company has discontinued electrical service to

the facility until repairs are completed. Once the Nuttsville site reopens a public service announcement will be put on the local radio station.

Mr. Pleva stated the Board has been invited to “Boots & BBQ” on September 29, 2012 from 3:00 – 6:00 p.m. at the Mary Ball Washington Museum held by the Northern Neck Land Conservancy. He said he has additional information available if the needed.

**CLOSED SESSION**

Motion was made by Mr. Beauchamp to enter into closed meeting to discuss matters exempt from the open meeting requirements of the Virginia Freedom of Information Act. The subject matters to be discussed in the closed meeting is Consultation with legal counsel, § 2.2-3711(A)(7) of the *Code of Virginia, 1950, as amended*. The purpose of the closed meeting is to discuss the legal matters. The subject and purpose falls within the following exemption(s) under § 2.2-3711(A)(7) of the *Code of Virginia, 1950, as amended*, (consultation with legal counsel and briefings by staff members and the provision of legal counsel pertaining specific contractual performance matters that require legal advice).

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye
	Jason D. Bellows	Aye
	William R. Lee	Aye

**RECONVENE**

Motion was made by Mr. Jenkins reconvene open meeting and certification of closed meeting.

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye
	Jason D. Bellows	Aye
	William R. Lee	Aye

**CERTIFICATION**

**WHEREAS**, the Lancaster County Board of Supervisors convened in a closed meeting on August 30, 2012 pursuant to an affirmative recorded vote on the motion to close the meeting to discuss legal matters with legal counsel, § 2.2-3711(A)(7) of the Virginia Freedom of Information Act;

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

**NOW, THEREFORE BE IT RESOLVED** that the Lancaster County Board of Supervisors hereby certifies that, to the best of each member’s knowledge, (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting to which this certification applies.

Motion was made by Mr. Bellows to certify the closed meeting.

Before a vote is taken on this resolution, is there any member who believes that there was a departure from the requirements of number 1 and number 2 above? If so, identify yourself and state the substance of the matter and why in your judgment it was a departure. There was no comment.

Hearing no further comment, Mr. Beauchamp called the question. A roll call vote was taken:

ROLL CALL

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye
	Jason D. Bellows	Aye
	William R. Lee	Aye

This certification resolution is adopted.

No action taken on the closed meeting matter.

**ADJOURNMENT**

Motion was made by Mr. Jenkins to adjourn.

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye
	Jason D. Bellows	Aye
	William R. Lee	Aye