

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, October 25, 2012.

Members Present: B. Wally Beauchamp, Chair
 F.W. Jenkins, Jr., Vice Chair
 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.

Mr. Beauchamp stated Mr. Palin was unable to attend the meeting because he had a death in family and had to travel out of town. Please keep him and his family in prayer.

PUBLIC INPUT

None

PRESENTATION

- 1 . Introduction of Willie Howlett as Volunteer for Lancaster County Emergency Services – Chief Hubbard introduced Willie Howlett who has offered to volunteer with the Department of Emergency Services. Mr. Howlett began as a Volunteer Firefighter for Chesterfield Volunteer Fire Department in 1965 and in subsequent years worked his way up to Battalion Chief. He is a Life Member of Bensley Volunteer Fire Department and the first ever Honorary Member of Courtland Volunteer Fire Department in Southampton County. He has served as President of Chester Volunteer Fire Department and Chief of Providence Forge Volunteer

Fire Department.

Chief Hubbard stated Mr. Howlett was selected as Virginia Department of Fire Programs Instructor of the Year in 1990, presenter at past Virginia and Vermont EMS Symposiums, adjunct instructor for the Virginia Community College System and organizer of full scale multi jurisdictional exercises for fire and rescue personnel. Mr. Howlett will be an asset to our community Fire and EMS agencies as well if they were to be interested in training opportunities.

Chief Hubbard said Mr. Howlett, certified at the Haz-Mat Technician level, worked for the Virginia Department of Emergency Management between 1989 and 1992 developing Haz-Mat Training Courses. As the Statewide Haz-Mat Response Chief he ran the largest and longest running Haz-Mat Incident in Virginia history in 1994 as a result of methane gas from a coal mining operations. Mr. Howlett is currently serving as Chair for the Virginia State Haz-Mat Association for which he is also a past President. The County's current Radiological Officer, Reed Johnson has served for many years and has asked me to find a replacement for his position. Mr. Howlett is more than qualified for the position of Radiologic Response Officer.

Chief Hubbard stated Mr. Howlett has served as Deputy Chief of Roanoke County Fire and Rescue and of James City County Fire and Rescue, both of which are large combination Volunteer/Career Fire and EMS agencies. With experience as the Emergency Services Coordinator and then County Administrator for Bland County, Mr. Howlett is well versed in the position of Emergency Coordinator and in the practices and procedures of County government. Therefore, Mr. Howlett will make an excellent Deputy Emergency Coordinator. With Mr. Howlett assuming the position of Volunteer Deputy Emergency Coordinator, Chief Hubbard will be available to assume the responsibilities of Emergency Coordinator which will free the County Administrator of the position. There are no county funds requested or involved in

this matter.

Mr. Bellows made a motion to appoint Willie Howlett to the volunteer positions of Haz-Mat/Radiological Officer and Deputy Emergency Senior Coordinator and appoint Christina Hubbard to the position of Emergency Senior Coordinator.

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

VIRGINIA DEPARTMENT OF TRANSPORTATION

County Maintenance

Mr. Harper stated the mowing on both the primary and secondary roads are complete for this year. They will be working on brush cutting throughout the county.

VSH 604/Merry Point Road and VSH 611/Hoecake Road Alignment Project

Mr. Harper said the intersection of VSH 604/Merry Point Road and VSH 611/Hoecake Road project is on schedule and should be completed by November 14, 2012. New traffic patterns signs will be installed the week of October 29, 2012.

Rural Rustic Road Projects

- 1 . Mr. Harper noted the approval of the Resolutions for Rural Rustic Road Projects for Route 777/Riverview Road project and Route 789/Hadlea Drive at the September 27, 2012 Board of Supervisors meeting. The work for the Route 777/Riverview Road project is to widen the road, adding stone with surface

treatment is set to begin in mid-November to set over the winter and they will than pave the road. The Route 789/Hadlea Drive Project will begin in Spring 2013 and paved during the Summer 2013.

Robert O. Norris Bridge and Merry Point Ferry Service

Mr. Harper stated with Hurricane Sandy approaching they will be monitoring the track of the storm to determine if the Merry Point Ferry Service will be suspended and should the wind excess 50 mph the bridge will be closed. The will notify the public with a public service announcement on the local radio stations.

PUBLIC HEARING

1. Application for Special Exception – Richard E. J. Supchak – Mr. Gill presented an Application for Special Exception by Richard E. J. Supchak to place a data antenna/pole under 100 feet tall for wireless Internet access on a 2.001-acre parcel described as Tax Map #14-71A. This property is zoned C-1, Commercial within the RV-1, Rural Village Overlay District and is located at 5459 Mary Ball Road (VSH 3) in Lively in District 1.

Mr. Gill said Article 21-1-74 of the Lancaster County Land Development Code allows the placement of data antennas with a special exception. This is a continuation of requests for special exception consideration to locate data antenna at various locations within the county to provide wireless broadband Internet access in areas lacking that capability.

Mr. Gill said this is actually a relocation of an existing pole that is currently located on an adjacent Tax Map #14A-2-3. Northern Neck Wireless needs to move the pole off of the existing parcel. Since the applicant is adjacent, the pole will only have to be moved 20 to 30 feet across property lines. There are no zoning issues with the location of this antenna/pole. It has the potential to

serve many homes in the Lively area.

Mr. Gill stated this request has been advertised and adjoining property owners notified as required by law. To date, there has been one call from the public in support of this request.

Chairman Beauchamp opened the public hearing.

Hearing none, Chairman Beauchamp closed the public hearing.

Mr. Jenkins made a motion to Approve the Application for Special Exception by Richard E. J. Supchak to place a data antenna/pole under 100 feet tall for wireless Internet access on a 2.001-acre parcel described as Tax Map #14-71A located at 5459 Mary Ball Road (VSH 3) in Lively.

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

2. Update to the Comprehensive Plan – Chapter Four – Mr. Gill presented the update to Chapter Four of the Comprehensive Plan as required by the Code of Virginia.

Mr. Gill said the current Comprehensive Plan was adopted by the Board of Supervisors on September 27, 2007. The Code of Virginia Section 15.-2230 requires that the Planning Commission review the Comprehensive Plan at least once every five years. As in previous reviews, chapters will be tweaked and sent to public hearing individually prior to being forwarded to the Board of Supervisors for approval.

Mr. Gill stated the Planning Commission reviewed Chapter Four of the

Comprehensive Plan at its July and August meeting and held a public hearing at its September meeting. All of the changes requested at the prior Planning Commission meetings have been to Chapter Four of the Comprehensive Plan and provided to the Board for their review.

Mr. Gill stated advertising has been conducted as required by law. To date, other than the discussion at prior Planning Commission meetings, there has been no response from the public.

Chairman Beauchamp opened the public hearing.

Hearing none, Chairman Beauchamp closed the public hearing.

Mr. Beauchamp stated he had a number of concerns on the Shoreline Protection Study and asked if they would take a closer look at the next review.

Mr. Gill stated that Chapter Four of the Comprehensive Plan will get a major overall in 2017.

Mr. Jenkins stated Brian Barnes, Lancaster County Environmental Codes Compliance Officer, has some great information available and maybe develop a handout or brochure.

Mr. Jenkins made a motion to Approve the Update to Chapter Four of the Comprehensive Plan as presented.

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

CONSENSUS DOCKET

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

A. Minutes for September 27, 2012

Recommendation: Approve minutes as submitted

B. Rappahannock Westminster-Canterbury, Inc. – Issuance of Industrial Revenue Bonds By Middlesex Industrial Development Authority

Recommendation: Approve the Resolution

RESOLUTION OF THE BOARD OF SUPERVISORS OF LANCASTER COUNTY, VIRGINIA, APPROVING THE ISSUANCE OF BONDS BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF MIDDLESEX COUNTY FOR RAPPAHANNOCK WESTMINSTER-CANTERBURY, INC.

WHEREAS, Rappahannock Westminster-Canterbury, Inc., a not-for-profit Virginia nonstock corporation (the “Corporation”), owns and operates a residential and health care facility for the elderly (the “Facility”) in Lancaster County, Virginia; and

WHEREAS, the Industrial Development Authority of Middlesex County (the “Middlesex Authority”) has considered the application of the Corporation requesting the issuance by the Authority of its revenue bonds, in one or more series, in an amount currently estimated not to exceed \$19,500,000 (the “2012 Bonds”), to (1) refund the Residential Care Facility Mortgage Revenue Bonds (Rappahannock Westminster-Canterbury), Series 2002 (the “2002 Bond”), issued by the Industrial Development Authority of Lancaster County, Virginia (the “Lancaster Authority”) to finance or refinance certain improvements to the residential health care facility and to refund all or a portion of the Authority’s outstanding Residential Care Facility Mortgage Revenue Bonds, (Rappahannock Westminster-Canterbury), Series 1996 (“the 1996 Bonds”), and (2) to pay the

costs of issuing the Bonds; and

WHEREAS, the Lancaster Authority cannot issue the 2012 Bonds because of bonds previously issued by the Lancaster Authority; and

WHEREAS, the Corporation has requested the Board of Supervisors (the “Board”) of Lancaster County, Virginia (the “County”), to approve the issuance of the Bonds to comply with the final paragraph Section 15.2-4905 of the Industrial Development and Revenue Bond Act, as amended (the “Act”); and

WHEREAS, a copy of the Middlesex Authority's resolution approving the issuance of the Bonds subject to terms to be agreed upon (the “Middlesex Resolution”) with respect to the issuance of the Bonds has been filed with the Board;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF LANCASTER COUNTY, VIRGINIA:

1. The Board hereby approves the issuance of the Bonds by the Middlesex Authority for the benefit of the Corporation, as set forth in Section 15.2-4905 of the Act, and concurs with the Middlesex Resolution.
2. Approval of the issuance of the Bonds given hereby does not constitute an endorsement of the 2012 Bonds or the creditworthiness of the Corporation.
3. This Resolution shall take effect immediately upon its adoption.

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins, 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 October 2012 Salaries and Invoice Listings

Motion was made by Mr. Lee to approve the salaries for October 2012 in the amount of \$234,134.96 and Invoice Listings for October 2012 in the amount of \$426,212.48.

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

2 . Local Emergency Planning Grant Supplemental Appropriation – Chief Hubbard stated the Local Emergency Planning Grant (“LEMPG”) funds were awarded to Lancaster County Department of Emergency Services in June of 2011 in the amount of \$5,000.00 and were not used.

Chief Hubbard asked the Board of Supervisors to approve a supplemental Appropriation for FY13 to the Local Emergency Services line (32403-6014) in the amount of \$5,000.00 so that these funds can be used in accordance with the LEMPG grant conditions. She stated no additional County funds are requested or involved.

Mr. Bellows made a motion to Approve a Supplemental Appropriation for FY13 to the Local Emergency Services line (32403-6014) in the amount of \$5,000.00 so that these funds can be used in accordance with the LEMPG grant conditions.

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

Jason D. Bellows	Aye
William R. Lee	Aye

3. VACORP Line of Duty Trust Membership – Mr. Pleva stated as part of the 2012 Appropriations Act, the Virginia General Assembly adopted budget language authorizing the creation of trust funds to finance the cost of Line of Duty Act (LODA) claims. In light of this, the Lancaster County Board of Supervisors should take action to create the VACORP LODA Trust.

Mr. Pleva said LODA covers volunteer and paid hazardous duty personnel and their survivors. This includes continued health insurance for disabled uniformed officers and their families, as well as death benefits and continued health insurance for families of officers killed in the line of duty.

Mr. Pleva stated VACORP LODA Trust was created to address the following issues related to funding of these claims:

1. Record the liabilities for known, pre-existing LODA claims that occurred prior to July 1, 2011; and
2. Record the liabilities for unknown, pre-existing LODA claims that occurred but were not reported prior to July 1, 2011.

Mr. Pleva said members pay the annual cost of these existing claims. The establishment of the VACORP LODA Trust allows the Pool to direct annual contributions for the above described claims to the LODA Trust. This enables the Trust to book the liabilities associated with these claims. Absent Trust membership, the liability for these claims must be carried on the public entity's financial statements. With the LODA Trust, the financial liability exposure for the Pool and its member is diminished.

VACORP LODA TRUST

The undersigned Counties, Cities, Towns, and Regional Jails of the Commonwealth of Virginia (“Grantors”) being authorized and directed to so, do make this trust agreement dated June 29, 2012 with VACORP, a local government risk sharing pool, which is an instrument of the government of the Commonwealth of Virginia, as Trustee (“the Trustee”). The Trustee and any successor Trustees are all referred to herein as “the Trustee.”

The name of this trust agreement is the “VACORP LODA TRUST dated June 29, 2012” (“Trust”) and is effective July 1, 2012.

ARTICLE 1 TRUST PROVISIONS

A. Transfer of Assets and Liabilities. Contemporaneously with the execution of this trust, Grantors (hereinafter “Members”) do transfer to the Trustee of the Trust all liabilities appertaining to any claim which they may have prior to June 30, 2012 under the Line of Duty Act pursuant to §9.1-400 et seq. of the 1950 Code of Virginia, as amended (“Act”) and do promise to timely pay for said liabilities.

B. Line of Duty Act Trust Fund. By entering into this Trust, each Member Acknowledges that they have opted out of the Commonwealth of Virginia Line of Duty Act Trust Fund.

C. Eligibility of Members. Each member shall purchase liability insurance from Trustee covering claims under the Act. Likewise each member shall timely pay to the Trustee all premiums for said insurance and monies for claims prior to June 30, 2012. In the event a Member purchases insurance from other than the Trustee, the Trustee and this Trust shall have no liability or obligation to such Member.

D. Administration of Claims. During the existence of this Trust, the Trustee shall administer all pre-June 30, 2012 claims of its members under this

Trust, shall provide the administration of all claims and shall provide insurance to insure against claims under the Act to all Members after July 1, 2012.

E. Insurance & Payments by Members. Each Member is obligated to purchase liability insurance for claims under the Act from the Trustee and pay the Trustee those payments for insurance and claims as provided for under the Act, which payments must be timely made. If a payment is overdue by thirty (30) days, or if an insurance premium payment is not made within thirty (30) days of the invoice date, then the Trustee shall not provide claims administration, insurance or payment to claimants, until payments are brought current and all insurance coverage is purchased from the Trustee.

ARTICLE II TRUSTEE PROVISIONS

A. Trustee's Management Powers. The Trustee shall have the powers granted by law and the powers in Sections 64.1-57, 55-548.15 and 55-548.16 of the 1950 Code of Virginia, as amended, as in effect on the date of this agreement. These sections are incorporated in this agreement by this reference.

B. Trustee's Compensation. The Trustee, or any successor Trustee, shall receive compensation for services rendered. The corporate Trustee, or any successor corporate Trustee, shall receive compensation for services rendered according to their list of fees published from time to time.

C. Resignation of Trustee. The Trustee may resign as Trustee by notice to the Members. The resignation shall take effect upon the effective appointment of a successor Trustee.

D. Successor Trustee. The Trustee shall have the right to designate a successor Trustee who shall be any natural person or corporation having trust powers, which shall be effective upon the resignation or termination of corporate existence of the Trustee. Such designation shall be made while such Trustee is serving as Trustee by an instrument executed by the Trustee during and by the successor Trustee. In the event that the Trustee does not appoint a successor

Trustee or a successor Trustee does not appoint its successor Trustee, which it shall have the privilege to do hereunder, the Members shall have the right to appoint a Trustee.

E. Actions of Prior Trustee. No Trustee serving under this agreement shall be responsible for or required to inquire into any acts or omissions of a prior Trustee.

ARTICLE III RIGHTS RESERVED BY MEMBERS

A. Revocation and Amendment. Members reserve the right to opt out of this Trust by a writing signed by the Member and delivered to the Trustee. All obligations of Member to the Trust shall be paid by Member prior to opting out. Any amendment that changes the duties or compensation of the Trustee shall require the consent of the Trustee.

B. New Members. Members agree that new members as defined by the Act may become Members if the Trustee accepts them.

ARTICLE IV MISCELLANEOUS PROVISIONS

A. Protection from Claims. To the extent permitted by law, the principal and income of any trust shall not be liable for the debts of any beneficiary or subject to alienation or anticipation by a beneficiary, except as otherwise provided.

B. Governing Law. This agreement shall be governed by the laws of Virginia.

C. Signatures. This trust may be executed in counterparts and electronically.

WITNESS the following signatures and seals:

The Trustee accepts the terms of the VACORP LODA TRUST dated June 29, 2012.

Mr. Lee made a motion to Approve and Adopt the Line of Duty Act (LODA) Trust membership document for Lancaster County to participate.

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

- 4 . Compensation for the Position of Assistant Commonwealth's Attorney – Mr. Cunningham, Lancaster County Commonwealth's Attorney stated he wanted to present a serious concern and address a solution that will be beneficial to the function of his office, the law enforcement community and citizens of the county. He said the Assistant Commonwealth Attorney has resigned, making a lateral move to another locality which pays considerably more for the same position.

Mr. Cunningham stated in order to attract and retain a qualified attorney so we do not face this situation repeatedly; the county needs to be competitive with other Commonwealth's Attorney offices as to salary. After polling three surrounding localities he request that the Board of Supervisors consider increasing the county contribution by \$10,000 which will be utilized based on the applicant's qualification.

Mr. Beauchamp made a motion to Approve the increase to the Commonwealth's Attorney budget in the amount of \$10,000 to hire a new Assistant Commonwealth Attorney.

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

Jason D. Bellows	Aye
William R. Lee	Aye

- 5 . Seaway, Inc. – Request for Personal Property Tax Exemption – Mr. Pleva stated Seaway, Inc. is petitioning the Board of Supervisors to grant tax exempt status for its personal property, which is utilized by the Sea Scouts program of the Boy Scouts of America. He provided the Board with a letter from Thomas B. Dale, President of Seaway, Inc. stating title to the personal property is in the name of Seaway, Inc., and not the Sea Scouts or Boy Scouts. Seaway is an Internal Revenue Service approved Section 501C (3) not-for-profit corporation.

Mr. Pleva said according to Mr. Thomas, Lancaster County Commissioner of the Revenue the current amount of annual tax exemption would be \$425.60 for the 1979 Irwin, the Zodiac tender and a trailer. This figure does not include tax exemption for additional and/or personal property acquired by Seaway, Inc.

Mr. Pleva stated if the Board would like to consider this request, it need to legally advertised for public hearing for next regular Board of Supervisors meeting which would held on Thursday, November 29, 2012.

Mr. Pleva said the State Code provides eight classifications of property that the Commission of the Revenue can grant tax exempt status. This request apparently does not fall within any of the eight classifications, therefore the governing body needs to approve the request made Seaway, Inc. He stated Hanover County recently said the governing body implemented a new policy because of the potential number of request, that if they receive a request which does not fall within the eight classifications it would be denied.

Mr. Bellows asked how many request for personal property tax exemption have been in the past.

Mr. Jenkins said over the years there have been a number of requests made and certainly they are worthwhile organizations and he applauds what they do in the community. They still require fire and police protection which is a cost of doing business.

Mr. Pleva recommended to the Board that he and Mr. Thomas could draft a new policy stated a request for personal property tax exemption need to fall under the eight classification.

By consensus of the Board, they will deny this request and have a new policy drafted.

BOARD REPORTS

Board of Equalization

Mr. Beauchamp said the board makes a nomination to the local Circuit Court Judge to make the appointment.

Mr. Pleva stated that was correct. Once the each board member makes a nomination, he will submit the list to the Circuit Court Judge to make the appointments.

Building Permit Fee Refund Request

Mr. Pleva stated Mr. Adams paid to obtain building permits for a contract that awarded to him by the Town of Kilmarnock and Bay Aging. Due to a delay through no fault of his own, the contract was then awarded to the second lowest bidder.

Mr. Lee made a motion to Approve the refund of building permit fees request made by Wayde Adams in the amount of \$267.16.

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

COUNTY ADMINISTRATOR

None

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 are Real Property, § 2.2-3711.A.3 and Personnel Matters, § 2.2-3711.A.1 of the Code of Virginia, 1950, as amended. The purposes of the closed meeting are to discuss the real property and personnel matters. The subject and purpose falls within the following exemption(s) under §2.2-3711.A.3 (acquisition of real property for public purpose OR the disposition of government owned property where public discussion would jeopardize the County’s of Town’s bargaining or negotiating position) and §2.2-3711.A.1 (candidates for employment OR the assignment, appointment, promotion, performance, demotion, discipline, salaries, compensation, resignation of employees).

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

RECONVENE

Motion was made by Mr. Jenkins to reconvene in open meeting.

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

CERTIFICATION

WHEREAS, the Lancaster County Board of Supervisors convened in a closed meeting on October 25, 2012 pursuant to an affirmative recorded vote on the motion to close the meeting to discuss Real Property, § 2.2-3711.A.3 and Personnel Matters, § 2.2-3711.A.1 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. Jenkins 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
	Jason D. Bellows	Aye
	William R. Lee	Aye

This certification resolution is adopted.

No action taken on the closed meeting matters.

ADJOURNMENT

Motion was made by Mr. Bellows to adjourn.

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