

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
September 17, 2013

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:01 p.m., Tuesday, September 17, 2013, in the Board Room, York Hall, by Chairman Walter C. Zaremba.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zaremba, Sheila S. Noll, Donald E. Wiggins, George S. Hrichak, and Thomas G. Shepperd, Jr.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; Vivian A. Calkins-McGettigan, Deputy County Administrator; and James E. Barnett, County Attorney.

Invocation. Pastor Michael Howard, Seaford Baptist Church, gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Mrs. Noll led the Pledge of Allegiance

PRESENTATIONS

INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS

Chairman Zaremba introduced Mr. Robert L. Norman, newest member to the York County Historical Committee, and presented him with a Boards and Commissions Handbook and a York County pin.

REGIONAL TRANSPORTATION UPDATE

Mr. Dwight Farmer, Executive Director of the Hampton Roads Planning District Commission, updated the Board concerning the regional transportation issues and transportation projects prioritization. He provided a summary of the regional funding in House Bill 2313 that was passed by the General Assembly during the 2013 session, noting there were two important components of that legislation. One component was that the funds generated from House Bill 2313 were to be used solely for new construction projects on new existing roadways, bridges, and tunnels that would provide the greatest impact in reducing congestion. He noted there was no transit component in this revenue package. There were significant new transit funds, but they were not in the package specifically for the Hampton Roads region alone. He then briefed the Board on how the Hampton Roads Transportation Planning Organization (HRTPO) Board would be prioritizing the projects with a project scoring system that had approved by the TPO Board roughly three years ago. Mr. Farmer then explained the two revenue sources from HB2313, stating when the two were put together, they were starting out at roughly \$200 million dollars and quickly growing to \$230 million dollars per year, dedicated just for the Hampton Roads region. He noted there was a statewide component from HB2313 which stated that as of July 1, in addition to the two previous tax levies, there would also be another .3 percent for sales tax. He then reviewed the cumulative amounts of money for the next 20 years, stating the two revenue streams were projected to generate roughly \$5.5 billion dollars of transportation revenue for the entire region. He stated he had made presentations before the Commonwealth Transportation Board reminding them that this region was generating another \$150 million out of the statewide component tax increases, and that an equitable distribution of the monies generated in the statewide component should come back to Hampton Roads over a long

period of time. Mr. Farmer noted that in HB2313 there was an unprecedented provision where the General Assembly had given VDOT \$500 million off of the top of the new fund to fix problems that had been deferred over the last two decades, and this might go on for three to five years. He noted that once the problems had been addressed, money should start to come back to jurisdictions and to this district through the formula that had been dry for the last five years. Mr. Farmer then stated the TPO Board would be taking up a resolution in two days to confirm the intent of the HRTPO Board regarding the use of Transportation Fund revenues for 2013 on regionally significant projects. He stated if the resolution was passed successfully on Thursday, by October or November the plan was to run a list of specific projects that meet the definition of regionally significant through the technical advisory committee. He stated the TPO Board was ready to make some critical decisions as a collective body, and they were not going to be able to touch every locality right from the start. Mr. Farmer stated July 1 was a historic moment, and it was going to change the way the localities did business in the world of transportation. He stated he was confident the Board would be pleased that the TPO would be making the right decisions on behalf of York County and everybody in the region.

Mr. Shepperd explained that Mr. Farmer was the head of the TPO with a staff of 45 very highly trained technical people that work through the complexities of the transportation projects and help educate the local officials of the 16 municipalities of the Hampton Roads Region. He stated Mr. Farmer and his organization had been a tremendous asset to the local governments and the state. Mr. Shepperd asked Mr. Farmer to address how this money was going to affect the widening of I-64 and also talk about one mega project and how that money would be limited.

Mr. Farmer stated I-64 was a notorious road block, particularly at Ft. Eustis Boulevard, and tourism, business, and the military were all severely impacted by the backups both at Ft. Eustis Boulevard and the Hampton Road Bridge Tunnel. According to a VDOT programming document, the cost estimate for an 8-lane facility for 8½ miles was \$490 million. He noted that he and his staff looked to see if they could figure out a reasonable way to make the four lanes on I-64 west of Jefferson Avenue to six lanes. He stated their plan had been taken to the new VDOT leadership asking them to reconsider this interim solution until they could find the billions of dollars to take the 8-lane expansion all the way to Richmond. VDOT was very amenable to the suggestion and has taken the plan and discussed it with their consultants. A resolution was brought to the TPO Board, and the Board unanimously agreed that its next highest priority project would be widening I-64 on the Peninsula. Mr. Farmer then provided a hypothetical scenario of a mega project using a third crossing called Patriot Crossing as an example of what a mega project would be like.

Mrs. Noll stated Mr. Farmer might be an engineer at heart but that he was really a planner with a vision and she hoped his vision would come to fruition. She then thanked him for all he had done for the Hampton Roads area throughout the years.

Mr. Wiggins stated he thought one of biggest concerns of the Peninsula citizens was not being able to get across the Hampton Roads Bridge Tunnel in a timely manner, and he could not understand all the opposition to having tolls.

Discussion followed on the opposition regarding tolls.

Chairman Zaremba thanked Mr. Farmer for the very informative update.

CITIZENS COMMENT PERIOD

Ms. Andrea Turner, 103 Matoaka Turn, stated she was not a bee keeper, but she understood the vital role that bees and the other pollinators play in the health of the ecosystem. She stated it was her responsibility to ensure her family's safety and to exhibit healthy stewardship practices for the ecosystem. She stated the Board had chosen to have the Air Force spray the citizens of York County with a known dangerous neurotoxin that had been banned in Europe, Canada, and many states in the United States because of its short- and long-term dangerous effects, and that was infringing on the citizens' civil rights. She stated citizens were not being

fully informed of the detrimental effects to their bodies and the ecosystem. The aerial spraying kills vital pollinators and natural mosquito-eating predators, and the toxin remains in the body's cell indefinitely. Ms. Turner stated she felt it was time for individuals to take personal responsibility for mosquitos and use a mosquito deterring spray or natural oil, and the exaggerated fear about mosquitos was totally out of proportion with the overall risk of aerial spraying.

Ms. Meagan Turner, 103 Matoaka Turn, appeared before the Board stating the use of Naled was dangerous for aerial spraying and caused more serious problems than it was worth. She asked the Board to stop the aerial spraying and consider the horrible long-term impact the toxin would have on the children that breathe it.

Mr. Joe Thornton, 600 Old Lakeside Drive, asked the Board to stop aerial mosquito spraying. He stated while he was in Vietnam, soldiers were sprayed with Agent Orange, and the soldiers were told it was harmless to humans. Forty years later it was known that was not true as untold diseases and birth defects were now directly attributable to Agent Orange. He asked what was known about the long term effects of the poison that has been used for aerial spraying to kill the mosquitos, and was there any absolute certainty that there were no long term effects to the public from the aerial spraying. Mr. Thornton stated he felt his civil rights to choose whether or not he wanted to be sprayed were being violated, and he asked the Board to spend some time with him and let him educate them on why aerial spraying was not a practical solution to the mosquitos.

Mr. Gwyn P. Williams, 219 Olde Pond Lane, addressed the Board regarding the devastating effects the aerial spraying had on his bees. He stated he also lost all of his good foraging bees after the spraying. He stated there was a lot of new evidence about the bad effects of Naled, and he asked the Board to reevaluate the County's mosquito control program.

Ms. Carol Bartram, 102 Pageland Drive, appeared before the Board in opposition to the Naled mosquito spraying and asked that this practice be stopped. She stated she realized the County was trying to act in the best interest of the citizens, but she thought it was time to take a fresh look at a 30-year old program. She stated the EPA was continuously finding that chemicals previously declared safe were no longer safe, and she felt Naled was not safe for people, wildlife, or pets at any concentration. Ms. Bartram stated she felt the possible health threats of this neurotoxin outweighed those from mosquito-borne illness, and she asked the Board not to force the chemicals on everyone.

Mr. Scott Bartram, 102 Pageland Drive, asked the Board to consider discontinuing the aerial spraying of insecticides to kill mosquitos. He stated he tried the recommended methods to protect his bees from the aerial spraying, but still a substantial number of his bees died after the last spraying. He stated the chemical used for spraying was a neurotoxin; and in a 2009 issue of Pediatrics, there was a published study of children in the United States which found a significant amount of metabolites in the children's urine, which meant there were neurotoxins showing up in our children's urine. Mr. Bartram stated he would prefer not to have any chemical spraying.

Meeting Recessed. At 6:54 p.m. Chairman Zaremba declared a short recess.

Meeting Reconvened. At 7:01 p.m. the meeting was reconvened in open session as ordered by the Chair.

PUBLIC HEARINGS

APPLICATION NO. ZM-144-13, MRP ENTERPRISES, LLC.

Mr. Carter gave a presentation on Application No. ZM-144-13 to amend the York County Zoning Map by reclassifying an approximately 8.6-acre parcel of land located at 131 White's Road from

R20-Medium-density single-family residential to conditional Limited Industrial subject to voluntarily proffered conditions. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of denial 3:1. Staff recommended approval of the application through the adoption of proposed Ordinance No. 13-13.

Mr. Shepperd asked if the Chesapeake Bay Clean Water Act would allow a new house on this property.

Mr. Carter stated that under the current provisions, the property was subject to the Watershed Protection Management Overlay District as opposed to the Chesapeake Bay Act; but both had the same purpose to protect the water quality. He stated the most important restriction was that there could be no development with a septic system, which virtually meant that any new residential development would have to occur in the unrestricted area, and a site would have to be found for a septic system in that 24,000 square foot area which might or might not be possible. The County program sewer was not slated to be extended to this property until 2022/2023. If sewer were available to this property under the residential zoning, staff thought there could be about 15 lots as it stands now. Mr. Carter stated that, theoretically, if the property could be carved up into lots that could be served by septic systems, assuming you could get a variance for a septic system in that area, then maybe 5 lots at most could be realized; but the ability to develop for residential purposes really hinged on public sewer.

Mr. Shepperd stated his understanding was that the property owner was willing to sell the property to Mr. Moore for the expansion because the family had attempted to sell the property in the past but had been unable to sell facing these restrictions. He noted the County currently had storage facilities in existence in various locations, and he asked if any complaints had been received from homes located close to those facilities or reports of degradation of property values because of the presence of a storage facility close to homes.

Mr. Carter stated staff was not aware of any complaints from any homeowners close to those facilities, and there was no record of any degradation of property values.

Discussion followed regarding objections by residents to the subject site development, including stormwater and the existing Stor Moore development.

Mr. Shepperd stated that essentially any action taken by Board this evening would have no impact on previously approved sites.

Mr. Carter stated the relationship between the sites was that access would be through the existing site to get to this proposed site.

Mr. Hrichak asked when construction would start on the project if the application were approved tonight.

Mr. Carter stated he thought it would depend on how fast the applicant intended to move with the project. From the County's processing standpoint, the site plan would be required which would take approximately 3-4 months to get through all the reviews and approvals, and then a building permit review. He stated the earliest construction could start probably would be 4-6 months from approval.

Mr. Hrichak asked what the time frame would be for the applicant to get the site plan and everything else in order for construction if he did not want to move as fast as possible.

Mr. Carter stated it would remain a permitted use and would not be subject to any type of a use permit term that would say it has to be established within a certain time frame. He stated it would be one of those three permitted uses that are listed in the proffers, and only those uses would be allowed on this property until the Board took some other zoning.

Discussion followed regarding stormwater runoff and the sewage capability of the applicant's existing facility.

Chairman Zaremba asked what the difference would be in revenue in terms of taxes associated with that piece of property.

Mr. Carter stated he could not answer pertaining to the difference between residential versus industrial development, but his recollection was that it was about \$4 million worth of construction according to the applicant's submissions to the County.

Mr. Dale Moore, 700 Cheadle Loop Road, the applicant, thanked the County and the staff for the thorough job they had done looking at the different issues pertaining to this application. He stated he had been trying to purchase this piece of property for nine years, and it had just recently come back on the market because several developers had looked at the land but had determined it was not feasible for the development of houses. The property owners recently came to him to see if some type of contract could be developed to make this project happen. He noted the land has limited value due to the sewer issues and had caused a real disadvantage for the existing property owners in terms of paying taxes. Mr. Moore felt strongly that it would be a good use for the property that would allow him to expand his business and allow the owners to be able to sell their property. He felt this project could be built with no visibility whatsoever from Route 17, and it would provide a large tax increase to the County and there would be little or no impact on County services. He stated all of the customers would come through the existing commercial entrance on Route 17 which was adequate, and the traffic generation for this business was so low it did not warrant a traffic study. These types of businesses did not make any noise and had very few people in and out on a day-to-day basis. Mr. Moore noted he had talked with most of neighbors individually trying to address their concerns and issues, and he felt the fear of the unknown was the biggest concern of the residents. He stated he had talked with the tax assessor to see if there was any tangible evidence that would show that this type of business created a loss of value for adjacent residences, and they could not come up with anything that would show that. Mr. Moore stated he had proffered out just about everything but storage and had moved the fence to be on the inside of the buffer zone. He stated he had a study done by the Sheriff showing there had been no complaints at any of his locations in the 20 twenty years they had been in business. Mr. Moore felt this project would be a good fit, and he would be very sensitive to the neighbors' concerns.

Mr. Wiggins stated a search for complaints by the Sheriff's Office revealed only one call for service from any resident in that area that could have been related to or caused by Mr. Moore's business, and that was a barking dog complaint with no action necessary by the responding deputy. Mr. Wiggins stated there had also been a complaint regarding Mr. Moore's helicopter flight on December 8. He asked Mr. Moore if his flights were normally early in the morning at a time that would wake up the residents close to the property.

Mr. Moore stated the helicopter is within a 5-mile restricted airspace of Patrick Henry Airport, and the helipad was on Patrick Henry's radar screen. He stated the number of flights that occurred between December and the day that he had made this application had been a total of eight flights. Mr. Moore explained the flight path he takes when he goes out.

Mr. Wiggins noted the neighbors had also complained about the equipment at the construction company. He stated Mr. Moore had previously told him he had shut down the construction company when the bad economy hit. He read a letter from Mr. Moore's attorney confirming that CTN Enterprises had not been engaged in any work since February 2013; and the machinery had not been in operation for the past six months, so any noise complaints were without merit and untrue.

Mr. Hrichak asked Mr. Moore if it was correct that he had capacity on his existing property for additional storage buildings.

Mr. Moore stated that was correct.

Mr. Hrichak asked Mr. Moore what his timeline or plan would be to develop this property if the application were approved this evening.

Mr. Moore stated he would like to get the site plans in and have them approved if possible by June 1. He reiterated that Mr. Carter's time estimate of 4 to 6 months to get everything approved if all went well with financing issues, etc. He stated at that point, he would look at where he was in terms of capacity with the units and start with building the outside buildings first to block the noise from construction.

Chairman Zarembo then called to order a public hearing on Application No. ZM-144-13 which was duly advertised as required by law. Proposed Ordinance No. 13-13 is entitled:

AN ORDINANCE TO APPROVE AN APPLICATION TO REZONE APPROXIMATELY 8.6 ACRES AT 131 WHITES ROAD FROM R20 (MEDIUM-DENSITY SINGLE FAMILY RESIDENTIAL TO IL (LIMITED INDUSTRIAL))

Ms. Cassandra Dillard, 203 Second Street, stated she had built her dream home on Second Street; and when they had purchased their property, they thought the land behind it would remain residential. She noted her property backed up to the proposed project, and she stated that during the winter it would be seen through the foliage and trees. She stressed to the Board how important it was to her and her family that the area be kept residential, and she asked the Board to follow the Planning Commission's original recommendation to deny the application.

Colonel Randall Murray, 112 Whites Road, stated he had been renting his home from Mr. Dale Moore for the past five years. After watching the Planning Commission meeting last month, he decided he just wanted to clear up some things because the storage facility and contractor facility were behind his home. He stated he has been in the Army now for about 23 years, and this was the fifth time his family had lived off post. He stated Mr. Moore had been one of the best landlords he had had over the years living off post, and he spoke of Mr. Moore's quick responsiveness to any problems or any maintenance issues. Colonel Murray stated Mr. Moore has kept the facilities clean and very quiet at all times since his family had been living on Whites Road. He noted Mr. Moore had always been very professional and considerate.

Mr. David Holmes, 200 Holmes Boulevard, spoke in support of the rezoning application and the expansion of the storage facilities. He stated they have two of Mr. Moore's storage facilities in their immediate neighborhood, one on Route 17 and another one on Wolf Trap Road. He stated they sold Mr. Moore the land for the Route 17 facility and have never had any reason to regret that sale. Shortly after the sale to Mr. Moore, they sold land to the developers of the Willow Lakes subdivision which was immediately adjacent to the storage facility; and to his knowledge, there had never been any problems or complaints from the residents of Willow Lakes. He stated Mr. Moore's businesses were extremely well kept and traffic was almost nonexistent. He added there was no noise from the facility, and he felt this type of business would be a good fit in any neighborhood or community. He strongly recommended and encouraged the Board to approve the application.

Ms. Betty Rollins, 313 Dorothy Drive, stated she knew very little about the property that was being discussed this evening, but she felt that whatever Mr. Moore put on the property would not be noisy or give anyone any problems. She stated when she first heard about the application she had to walk to the back end of her property to find what was stored there as she had never heard any noise from that area. Ms. Rollins stated she hoped the Board would allow Mr. Moore's project, as she felt it would be a good thing for the County.

Mr. Dennis Rollins, 315 Dorothy Drive, stated he lived next door to his mother, the previous speaker, whose property backs up to the Stor Moore in Grafton. He stated when he and his mother had first heard Stor Moore was going to be beside them, they went through the same fears they had heard this evening; but none of those fears were true. He stated Stor Moore had been an excellent neighbor, and he felt the County should approve the application.

Mr. Mario Buffa, 112 Pelican Place, stated he met Mr. Moore when he and his family had purchased the Grafton Shopping Center and Mr. Moore purchased the property adjacent to them to build the storage units. In 2002 they purchased two residential units behind the shopping

center which were now adjacent to the storage units. Mr. Buffa stated he had never heard any distractions or noise issues from their tenants. He stated in 2008 he purchased property from Mr. Moore where he built Victory Trace on Route 17 which was in front of the storage units. He stated Mr. Moore was a great neighbor who had always done what he said he was going to do. There had never been any noise issues to affect his neighboring businesses, and he felt this use of the property would benefit the County at this time for the tax benefit and place less demands on the Fire and Life Safety Department and the burdens on the schools. He urged the Board to approve the application.

Mr. Daniel Rudisill, 105 Karley Place, appeared before the Board in support of Mr. Moore's rezoning request, stating he also lived in the Willow Lakes subdivision. He stated he moved into the subdivision when it was brand new and paid \$165,000 for his house which was now valued at \$255,000, so he could not see any reason why people would say the tax values would go down. He stated the storage unit was quiet, and they shut the gates at 9:00 p.m. and did not open until 6:00 a.m. the next day. He stated Mr. Moore's storage facilities were well maintained, and he asked the Board to approve the application.

Ms. Sherry Rougeau, 114 Kristin Court, stated her home backed up to Stor Moore on Route 17. She stated she moved to York County in 2005 and chose to purchase a townhouse in Willow Lakes after careful review of property and the real estate values surrounding the area. She stated that last month after seeing information in the Daily Press regarding this issue, she decided to look into it in detail. She concluded that living close to the presence of a storage facility had not affected the peace and quiet or the aesthetics of the area, and there was little or no proof that home values were affected by this type of low impact business. Ms. Rougeau stated the economic impact that the tax revenue would generate could only be positive for York County, and she voiced her approval for the rezoning request, stating she hoped the Board saw the value of what was being said this evening.

Mr. Billy Benson, 904 Canteberry Lane, Smithfield, appeared before the Board in support of the application, stating he had a business on Green Drive that had three lots that backed up to Mr. Moore's storage facility. He stated his business was open 22 hours a day, and he had never had any problems with the storage facility, and he only noticed the helicopter taking off if he were outside of his business. He stated that Mr. Moore building the storage facility provided him with some security because it eliminated the woods that were behind him. He stated before the facility was there, guns were going off, people were trespassing, and there were times when items went missing from his property. Mr. Benson stated he felt it would be a good idea for the County to get the tax money and do something with this land.

Mr. Mark Irwin, 110 Sleepy Hollow Lane, stated he and his family were new residents to the County and relocated here for the school system, the safety, and the quality of life. He stated one of biggest parts of that was having the money to have top notch schools, police, firefighters, and first responders, so he thought it was important to allow new businesses to come in and raise revenue for the County. He asked the Board to approve this application because the County needed the money, and it was an opportunity to have a business that would have very little impact on the community.

Mr. Rob Heavner, 910 Marlbank Drive, stated as a commercial real estate broker in York County and a former planning commissioner, he knew one of the hardest tasks of the Planning Commission, as well as the Board of Supervisors, was rezoning applications. He stated the reason people were typically in opposition was they did not know what the proposed development would do to their property. He stated he received a lot of calls from outside developers, and one of the projects they were usually looking for was this type of product. Mr. Heavner stated developers did their homework to see where there was demand, and the applicant could attest to that demand as he was willing to spend \$4 million in York County for that reason. He stated with this application the Board has an opportunity to expand and use the one entrance to expand this proposed business, and expand the tax revenue with a low impact commercial use. Mr. Heavner stated the applicant had been a good resident in the community, and his projects were always clean and well maintained, and he expressed his support for the approval of this application.

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Mr. Scot Butz, 211 Rollins Way, addressed the Board in support of the application, stating he lived directly behind the facility on Route 17 facility, and Mr. Moore had been one of the best neighbors in the world. He stated there were no barking dogs and no foot traffic, and it was nice and quiet. He stated his property values had gone up \$80,000 in the past eight years, so he did not think property values were at risk.

There being no one else present to speak regarding the subject application, Chairman Zaremba closed the public hearing.

Mr. Shepperd stated just because property was zoned residential did not guarantee peace and quiet. He noted that many of the noise complaints he had received in his district had come from residents about other residents, and he had hardly ever received a noise complaint regarding a business. Mr. Shepperd stated he thought this proposed development would be a good use of the property.

Mr. Hrichak stated at one time the County received about 54 percent of its tax revenue from business, but over the last few years that had been dwindling down to about 50/50 now or a little bit less. He thought this would be a good use of the property to help put some relief on the residential homeowners and get some business back in the County again. He noted the developer had offered proffers that could not be reneged upon and had personally offered to help shield the development from the neighbors. Mr. Hrichak thought the proposed development would be a good use of the land, and he also thought Mr. Moore would be a good neighbor to that neighborhood.

Mrs. Noll stated she had watched the Planning Commission meeting and she could understand where the homeowners were coming from and the fear of the unknown. She noted one of her concerns had to do with the amount of impervious surface that the business will have; and with the regulations that are coming forward, the County has to be very careful about runoff. Staff would be looking at the runoff, and the BMP would be designed in such a way to take care of all the water requirements that the Chesapeake Bay Act required. She stated it would be a quiet business similar to the storage facility near Foxwood on Darby Road.

Mr. Wiggins stated one thing he had not realized until Mr. Moore had made this application was his facilities were the only storage facilities on the Peninsula that close at 9:00 p.m. at night. He stated the property was currently bringing in \$1,980 a year in real estate taxes; but if the project was approved and if the units were taxed at the same rate as the rest of the units and based on the amount of square footage the business, it would bring in about \$50,000 a year in revenue to the County. He stated Mr. Moore had always been true to his word, and he chose to install a 75-foot buffer in the proffers. Mr. Wiggins stated he could not see a better use for this property.

Mr. Shepperd moved the adoption of proposed Ordinance No. 13-13 that reads:

AN ORDINANCE TO APPROVE AN APPLICATION TO REZONE APPROXIMATELY 8.6 ACRES AT 131 WHITES ROAD FROM R20 (MEDIUM-DENSITY SINGLE FAMILY RESIDENTIAL TO IL (LIMITED INDUSTRIAL)

WHEREAS, MRP Enterprises, LLC, has submitted Application No. ZM-144-13 requesting to amend the York County Zoning Map by reclassifying an 8.6-acre parcel of land located at 131 White's Road (Route 1216) and further identified as Assessor's Parcel No. 24-134 (GPIN Q07b-4690-4793) from R20 (Medium-density single-family residential) to conditional IL (Limited Industrial) subject to voluntarily proffered conditions; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends denial of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 17th day of September, 2013 that Application No. ZM-144-13 be, and it is hereby, approved to amend the York County Zoning May by reclassifying an 8.6-acre parcel of land located at 131 White's Road (Route 1216) and further identified as Assessor's Parcel No. 24-134 (GPIN Q07b-4690-4793) from R20 (Medium-density single-family residential) to conditional IL (Limited Industrial) subject to voluntarily proffered conditions set forth in the proffer statement titled "Conditions voluntarily proffered for the reclassification of property identified as York County Assessor's Parcel 24 134, GPIN Q07b-4690-4793, commonly referred to as 131 Whites Road, located in the County of York, Virginia" dated August 30, 2013 and signed by Kenneth Dale Moore, Jo Ann Edelin, Kay Williams, Stacy Yales, and Willette Akua.

BE IT FURTHER ORDAINED that in accordance with Section 24.1-114(e)(1) of the York County Zoning Ordinance, a certified copy of this ordinance, together a duly signed copy of the proffer statement, shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Hrichak, Shepperd, Zaremba
Nay: (0)

Meeting Recessed. At 8:27 p.m. Chairman Zaremba declared a short recess.

Meeting Reconvened. At 8:35 p.m. the meeting was reconvened in open session as ordered by the Chair.

APPLICATION NO. SE-22-13, LAFAYETTE GUN CLUB OF VIRGINIA, INC.

Mr. Carter gave a presentation on Application No. SE-22-13 to approve a Special Exception to authorize the construction of various ancillary facilities on the site of its nonconforming indoor/outdoor firing range on a 25.6-acre parcel of land located at 331 Dare Road, thus constituting an expansion under the terms of the Zoning Ordinance. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval 4:0, and staff recommended approval of the application through the adoption of proposed Resolution R13-91.

Mr. Shepperd stated he was a member of the Lafayette Gun Club; and, as a member, he had been concerned over the issue of being able to participate in these proceedings. He stated he had consulted with the Commonwealth's Attorney on the issue of participation, and his findings were that Mr. Shepperd would be allowed to participate because he was not a member of the Board of Directors of the Lafayette Gun Club, and he had no personal interest as defined by the Code of Virginia.

Mr. Hrichak stated he was also a member of the Lafayette Gun Club, and he declared that he could participate fairly and objectively in the public's interest.

Mr. Shepperd stated for clarification he wanted to make very clear what Mr. Carter had just said. Nothing the Board was considering this evening mitigated any issues of the rights of the Lafayette Gun Club that were briefed in reference to the court action. He stated the Lafayette

Gun Club was not going away, and nothing the Board was going to do tonight would address any noise issue because nothing on the application would actually create more noise.

Mr. Carter also noted the County's noise ordinance did not cover the Lafayette Gun Club, as there was an exemption for firing ranges; and the County cannot be more restrictive than the regulations that were in effect at the time the firing range was created, and there were no regulations at that point in time. He stated there were no noise regulations that applied specifically to the gun club under the terms of the County's ordinance, and there was no proposal to increase the noise.

Mr. Shepperd stated he had a proposal to make regarding the application that he had earlier discussed with the Board members individually, Mr. Carter, and Mr. Streater, President of the Lafayette Gun Club. He proposed that the new training/meeting building be moved to the other side of the indoor range where the old building used to be. This would allow the trees to remain and continue mitigating some of the noise from the range. He stated this would place the new building closer to the driveway, not allowing for the 100-foot required setback. He then proposed that the Board would sponsor an amendment to the zoning ordinance to change the required setback to 50 feet. Mr. Shepperd stated if the Board of Supervisors accepted the proposal it would mean that the new building could be moved closer to the boundary of the property, but not closer than 50 feet, and there would be no indoor firing in the new building. He then reiterated that the Board of Supervisors was not addressing the Club's actual ability to use and fire weapons on its ranges, but the new building placement would help mitigate some of the noise generated by the firing range. Mr. Shepperd asked Mr. Streater if the proposal would be acceptable to the Lafayette Gun Club.

Mr. Streater stated that as long as it was couched as an option, it would be acceptable to the Gun Club because it was their original idea to put the new building where the yellow square on the display map was located. He stated they would certainly want to look at the proposal with Mr. Don Davis to assess the feasibility of moving the placement of the building.

Mr. Shepperd stated the option tonight would be if the application was approved by the Board without any other modifications, it would be approved under the current zoning ordinance which would require a 100-foot setback. If later the Board decided and accepted the issue of sponsoring a reduction in setback of the non-weapons building to 50 feet, then the club might have a little more room, and that would be another public hearing on that particular issue.

Mr. Streater expressed his understanding of the proposal and expressed the Lafayette Gun Club's appreciation to the Board. He also expressed appreciation to the Planning Commission for its help through this process. He noted the Lafayette Gun Club was asking for three ancillary projects. The building would be a meeting and classroom space to serve their members and non-members for taking certifying courses. It would also be offered to the law enforcement organizations for classroom space. Mr. Streater stated the second project would be to repair the road for access, and the third project would be the picnic pavilion which would be covered like those at County parks. He noted the club had invited neighbors to walk the property and discuss the projects with them, and most of the issues that had come up during the Planning Commission meeting were generally unrelated to these specific projects. He stated Mr. Wayne Moore and Mr. Donald Davis were in attendance and available to go into any technical depth on any of the specifics of the project. He then asked everyone in the audience in support of the projects to stand up.

Mr. Wiggins stated when he had toured gun club he was very impressed with the work that had been done inside the indoor range, including soundproofing of the doors. He noted he was amazed at the difference compared to 20 years ago when he was a member of the Club. He thanked the club for the amount of work they had done to reduce the sound of the gunfire.

Mr. Streater stated they did get some good sound attenuation with the cork that had been put on the metal doors, and the new backstop replacing the old steel backstop had made it quieter and cleaner.

Mr. Hrichak stated that before the Planning Commission's meeting, there had been a meeting with some of the neighbors in the area, and several concerns were brought up at that time. One of the concerns had been the boat ramp and the road to the back of the property. He stated it was his understanding that it had been pulled from this application, and the club was no longer going with the road to the boat ramp.

Mr. Streater stated the boat ramp was more of a rumor that grew, and the only thing they had wanted was a wraparound road, which they readily agreed to cut off. He stated that they are more about range use and much less about a boat ramp.

Mr. Hrichak stated an issue had also surfaced during that meeting about fallout from the shotgun range over the lake, and he asked what the gun club did about that.

Mr. Streater stated as of now they were assessing every trap and have restricted shotgun operations until they are able to go through and assess every trap. He stated they were also looking at purchasing shot curtains and were waiting for a reply from a vendor at this time regarding putting up shot curtains up on the berms beside the shotgun range.

Mr. Hrichak stated it was his understanding that over the past years there had been some complaints from the neighborhood that had fallen on deaf ears with the Lafayette Gun Club, but he understood subsequent to that meeting Mr. Streater and the President of the Brandywine Lake Owners Association were going to meet on a regular basis.

Mr. Streater stated he had met with Mr. Frank Causey, and they are talking to each other. He had discussed with him how they might interface better with the Lake Owners Association, and they intend to continue that interface.

Chairman Zaremba then called to order a public hearing on Application No. SE-22-13 which was duly advertised as required by law. Proposed Resolution R13-91 is entitled:

A RESOLUTION TO APPROVE A SPECIAL EXCEPTION TO AUTHORIZE THE CONSTRUCTION OF VARIOUS FACILITIES ON THE PROPERTY OF A NONCONFORMING INDOOR/OUTDOOR FIRING RANGE AT 331 DARE ROAD

Ms. Martha Dodd-Slippy, P.O. Box 247, Emporia, Virginia, stated she had submitted her report to the Board this evening because the full report could not be read in three minutes, and she thought the Board might need the data. She stated that looking at the building it seemed to her where the trees would be removed, a building would be greater sound barrier than the trees.

Mr. Sherman F. Hayden, 114 Baldrick Place, spoke of the Lafayette Gun Club's youth program, stating the training and experience his grandson received through the shooting program has been invaluable in building his self-confidence and gaining a much greater awareness of weapon safety. He stated his grandson was also a member of a local Boy Scout Troop 226 that used the club's facilities for camping while they were provided the training for the merit badges for both shotgun and rifle merit badge. Mr. Hayden stated he had read and understood the Lafayette Gun Club's application, reviewed the site plans, and physically viewed the area, and he was confident that the gun club had thoroughly evaluated each part of the proposal and had offered the best solution for the club members while maintaining good stewardship within the community. He recommended the approval of the application, stating it would not be detrimental to local community.

Mr. Rick Pierce, 102 Chisman Landing, urged the Board to consider the improvements requested by Lafayette Gun Club stating the club was good for the community, and the club supports local law enforcement, the Boy Scouts, and trained citizens in safe and proper firearm handling.

Mr. Phillip Van Cleave, 5509 West Bay Court, stated that he was the President of the Virginia Citizens Defense League and was in attendance this evening to support the Lafayette Gun Club in its application. He stated they held meetings at the current facility and taught some classes there, and he felt the expansion was really needed and would benefit everybody to be able to get safety training to more people in a nice environment. He asked the Board to support the application.

Mr. Geo Passaro, 111 Chisman Landing, addressed the Board in support of the application for many of the reasons already stated this evening. He stated he was not a noise abatement specialist, but it was hard for him to envision any better noise abatement than a building as opposed to trees which have areas in between. He asked that the Board take that into consideration, and support the Lafayette Gun Club.

Mr. Juan Navarrete, 202 Jacobs Run, spoke of the great youth programs that the Club has provided the community, stating his children had participated in those programs prior to his family becoming members of the club. He stated participation in the programs was one of the best experiences his children had ever experienced. Mr. Navarrete expressed his strong support for the application, noting no firing activities would be impacted by the proposed plan.

Mr. James Prince, 311 Patriot Way, urged the Board to vote in favor of the application. He stated he was a member of the gun club, and he had trained both of his daughters on rifle and pistol safety at the club. He stated he attended the Planning Commission meeting and was surprised by the number of people who complained about noise. Since being a member Mr. Prince had seen the club spend money on improving safety and sound measures; and he was looking forward to the new training facilities.

Ms. Anika Corsi, 492 Queens Creek Road, stated she was a senior at Bruton High School and was a small bore and air rifle competitor in the junior competition at Lafayette Gun Club. She spoke of how she started shooting at age 13 in the junior marksmanship program and how all participants were taught the importance of firearms safety, the fundamentals of marksmanship, and a variety of other skills in the sport of shooting. She stated parents were encouraged to interact with and help their children as well as getting to know and interacting with other families. Ms. Corsi stated shooting was not a male-dominated sport, and the multi-purpose building would be crucial in meeting the club's current needs.

Mr. Wes Thomas, 111 Bethany Terrace, congratulated the Board on the option of having the building in the location proposed this evening, stating that maintaining the trees would double the sound efficiency. He asked the Board for its support of the application.

Ms. Bonita Causey, 120 Brandywine Drive, stated she was against some of the proposed changes at the Lafayette Gun Club. She stated the gun club needed a minimum of a 6-foot perimeter fence around its facility. She stated there had been cases of individuals walking onto the range. York County officials did not have any jurisdiction over the noise issues of facility. Ms. Causey stated the proposed pavilion would have loud music and bright lights late at night, and the Board needed to look at the safety and the noise issues related to what they were approving.

Ms. Kristi Buckman, 125 Two Turkey Run, spoke in support of the Lafayette Gun Club and urged the Board to approve the application.

Mr. Bryan Nicely, 105 Madeira Drive, stated he had been a member of Lafayette Gun Club for about 20 years, and he felt it was great asset to the community. He asked the Board to support the club's proposal.

Mr. Lionel W. Maynard, Jr. 415 Dunham Massie Drive, Hampton, addressed the Board as the Lafayette Gun Club Scout Coordinator. He stated that in his volunteer status with Lafayette Gun Club, he routinely scheduled up to two scout troops per month to use the facility to receive the training in firearms safety, etc. He stated with the combination of classes and getting their skills to the right level, the scouts were able to earn their merit badges in the shooting sports or rifle and shotgun. He stated that Lafayette Gun Club had been an ardent supporter

of the scout program, and a new training facility would benefit the scouting program tremendously.

Mr. Barry Yachem, 108 Edgewood Court, appeared before the Board in support of the application, stating his home was directly on the opposite end of the long range so every Saturday morning he wakes up to the wonderful sound of gun fire. He noted he was a relatively new member of the Lafayette Gun Club, and he and his family were really looking forward to the expanded training facility.

Mr. Bradford Powell, 201 Gaines Way, stated he is a resident of Brandywine, a member of the lake association, and also a member of gun club. He spoke regarding the club's great youth programs, stating the expansion of the multi-use facility would improve those training programs. He asked the Board to approve this positive and beneficial application for the club.

Mr. Will Crain, 305 Hollingsworth Court, stated these were difficult times and people had to make difficult decisions, and one of those decisions was to own and keep firearms. He stated with that ownership came the responsibility of being trained and competent with those firearms. He noted the Lafayette Gun Club provided that safety training, and the enhancements to the Club would benefit the membership and the community. He asked the Board to support the application.

Mr. Stephen Roane, 307 Fielding Lewis Drive, stated he lived in the Brandywine subdivision and was also a member of the Lafayette Gun Club. He stated all of the arguments he had tonight in support of the application had already been shared, but he emphasized that the two buildings the club wanted to construct would not only be a benefit to club members but also to other groups within the community. He encouraged the Board to approve the application.

Mr. Randy Milligan, 308 Highpoint Road, Williamsburg, stated he was not a member of the Lafayette Gun Club but was a volunteer with a youth group out of Williamsburg that participated in Mr. Maynard's programs at the club. He thanked the membership of the club for letting them participate in those programs, stating they had been a great benefit to their boys. He stated the character and mentorship from the gun club had been very positive for the boys who had been able to earn their merit badges. He asked the Board to support the application.

Mr. Edward Hopson, 1188 Richwine Drive, stated the Lafayette Gun Club had offered him the opportunity to learn how to safely use a rifle in a safe, controlled environment. He stated without the training he had received, he would not have felt comfortable picking up a rifle, let alone firing one. He stated the instruction he received was very thorough making certain that he understood not only how to properly fire and engage targets, but also the components that make up the rifle and their purpose. He asked the Board to approve the expansion of the gun club to allow more boys the opportunity to learn about gun safety.

Mr. Ronald Colby, III, 27 Dwight Road, Newport News, stated he was an avid shooter with Boy Scout Troop 158, and his first camping trip after joining the scouts was at the Lafayette Gun Club. He spoke of how he learned to shoot skeet his first time at the club. He stated Lafayette Gun Club had always been a safe and comfortable environment for all ages and had helped him learn the fundamentals of marksmanship and made him a more confident individual.

Mr. Brian Byrd, 1461 Tarleton Road, Gloucester Point, appeared before the Board representing Boy Scout Troop 133, stating they had their first experience this past year with Lafayette Gun Club. He noted there was a lot of safety training and experience the boys receive at the club. Mr. Byrd stated that Troop 133 supported the enhancements of the Lafayette Gun Club.

Mr. Al Motley, 8 Woodcreek Court, Hampton, addressed the Board in support of Lafayette Gun Club, stating he had been a member of the club for many years. He spoke of his passion about the club that involved what it could do for the youth in the community. He stated when he was in charge of the Boy Scout program from 2008 to 2012, they had 493 scouts successfully pass their rifle shotgun merit badge program. He urged the Board to approve the application to expand the opportunities for the club.

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Mr. Mike Harbin, 7 Harrop Parrish Court, Williamsburg, stated it had been a wonderful opportunity when he joined the Lafayette Gun Club because it was hard to find safe place to shoot. He stated the club had a very large and active membership that tried very hard to be a community asset. He urged the Board to support the application.

Mr. Kevin Cusce, 108 Bayview Drive, addressed the Board regarding the benefits of expanding the club facilities. He spoke of how Lafayette Gun Club provides the juvenile courts a place to refer kids to learn gun safety. He stated the expansion would allow for classrooms where lessons could be taught to make youth safer with firearms. He encouraged the Board to support the expansion request.

Mr. Doug Peterson, 5 Quail Place, Newport News, stated he served on the Board of Directors for the Lafayette Gun Club in addition to being a member of the club. He thanked the Board for offering the option of relocating the new building. He wanted to clear up a couple of misconceptions, one being that firing ranges were exempt by law from noise. He stated the exempted noise only applies to the gun fire. He stated if the picnic pavilion was built and there was a loud party, citizens could call the Sheriff. He also stated people could not wander onto the gun club property unknowingly, and people who were not members in good standing or guests of members were trespassers who did not belong on the property.

There being no one else present to speak regarding the subject application, Chairman Zaremba closed the public hearing.

Mr. Shepperd stated as he commented before, there would be modifications to the proposal that would allow the flexibility of the placement either on the left or right side in the original position or up closer to the road with an understanding that the club would then take a look and determine if it was adequate to meet their needs. He also proposed that the Board sponsor the change of the ordinance regarding the setbacks.

Mr. Barnett stated he had looked at that, and Mr. Carter had prepared an amended resolution indicating that the proposed building A would be shown as on a sketch plan which had already been prepared observing the 100 foot setback. He stated it might be possible to add language there indicating that as shown there or as may be, observing whatever setbacks requirements that may exist at the time of construction.

Mr. Carter stated they had referenced the performance standards that were set out in the ordinance, one of which was the 100 feet; so if the Board was to amend the ordinance at some future time, it would still be referencing that same section of the ordinance if it changed from 100 to 50 feet.

Mr. Barnett stated the new language said it was generally as shown on the right side, so he thought that might give flexibility to accommodate a narrower setback if one were adopted at a later time.

After further discussion on the amended resolution, the Board agreed to a further amendment suggested by Mr. Barnett to add to the new language to paragraph 2 of Condition 2 to read: Proposed Building "A" shall be located either as shown on the above referenced sketch plan or on the west side of the existing indoor firing range building, . . ."

Mr. Hrichak then moved the adoption of proposed Resolution R13-91(R-1) that reads:

A RESOLUTION TO APPROVE A SPECIAL EXCEPTION TO AUTHORIZE THE CONSTRUCTION OF VARIOUS FACILITIES ON THE PROPERTY OF A NONCONFORMING INDOOR/OUTDOOR FIRING RANGE AT 331 DARE ROAD

WHEREAS, the Lafayette Gun Club of Virginia, Inc. has submitted Application No. SE-22-13 requesting a Special Exception, pursuant to section 24.1-801(a)(2) of the York County Zoning Ordinance, to authorize the construction of various ancillary facilities on the site of its

nonconforming indoor/outdoor firing range located on a 25.6-acre parcel of land located at 331 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-19 (GPIN S06b-4802-3797), thus constituting an expansion under the terms of the Zoning Ordinance; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission in accordance recommends approval of the application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of September, 2013, that Application No. SE-22-13 be, and it is hereby, approved to authorize the construction of various ancillary facilities on the site of the existing nonconforming indoor/outdoor firing range located on a 25.6-acre parcel of land located at 331 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-19 (GPIN S06b-4802-3797) subject to the following conditions:

1. This Special Exception shall authorize the construction of various ancillary facilities, thus constituting an expansion under the terms of the Zoning Ordinance, on the site of an existing nonconforming indoor/outdoor firing range located on a 25.6-acre parcel of land located at 331 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-19 (GPIN S06b-4802-3797).
2. A site plan prepared in accordance with the provisions of Article V of the Zoning Ordinance shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of any land clearing or development activities on the site related to the expansion. Said site plan shall be in substantial conformance with the sketch plan titled "Site Development Plan, Site Entrance Improvement Plan Building 'A' & Building 'B' of Lafayette Gun Club of Virginia, Inc." prepared by Davis & Associates, P.C., dated May 27, 2008 and revised May 1, 2013, except as modified herein.

Proposed Building "A" shall be located either as shown on the above referenced sketch plan or on the west side of the existing indoor firing range building, as generally depicted on the Lafayette Gun Club plan titled "Alternate Building Location", dated September 17, 2013, and made a part of this approval resolution by reference.

3. The proposed gravel drive along the western side of the property shall extend no further than fifty feet (50') beyond the location of the proposed 84-inch corrugated pipe and access walkway through the firing range berm as depicted on the referenced plan.
4. Any demand for overflow parking shall be accommodated in the open area between the existing indoor range building and the paved entrance drive and no closer than seventy-five feet (75') to the boundary of any residential property on Holden Lane.
5. Nothing in this approval action shall be deemed to constitute authorization for additional indoor or outdoor firing ranges.
6. A certified copy of this resolution shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval.

BE IT FURTHER RESOLVED that this Special Exception is not severable and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

On roll call the vote was:

Yea: (5) Wiggins, Hrichak, Shepperd, Noll, Zaremba
Nay: (0)

Meeting Recessed. At 9:56 p.m. Chairman Zaremba declared a short recess.

Meeting Reconvened. At 10:01 p.m. the meeting was reconvened in open session as ordered by the Chair.

YORK COUNTY SANITARY DISTRICT NO. 1 AND DISTRICT NO. 2

Mr. Barnett gave a presentation on proposed Resolutions R13-84 and R13-85 to authorize York County Sanitary Districts No. 1 and No. 2 to extend for 20 years agreements between the County of York, Sanitary District No. 1, and Sanitary District No. 2 to lease to the County all of the Districts' real estate, sewer facilities, easements, rights of way and licenses, and all other property, and to continue to operate a unified sewerage system; and proposed Resolution R13-86 to execute an extension to the agreement between the County of York, York County Sanitary District No. 1, and York County Sanitary District No. 2 leasing all of the property real and personal, of the Sanitary Districts to continue the operation of a unified sewerage system.

Chairman Zaremba then called to order a public hearing on proposed Resolution R13-84 which was duly advertised as required by law and is entitled:

A RESOLUTION AUTHORIZING THE EXECUTION OF AN EXTENSION TO AN AGREEMENT DATED JANUARY 1, 1992, BY AND AMONG THE COUNTY OF YORK, YORK COUNTY SANITARY DISTRICT NO. 1, AND YORK COUNTY SANITARY DISTRICT NO. 2, LEASING ALL OF THE PROPERTY, REAL AND PERSONAL, OF SANITARY DISTRICT NO. 1 TO THE COUNTY, AND CONTINUING THE OPERATION OF A UNIFIED SEWERAGE SYSTEM FOR THE COUNTY

There being no one present to speak regarding the subject resolution, Chairman Zaremba closed the public hearing.

Mr. Shepperd moved the adoption of proposed Resolution R13-84 that reads:

A RESOLUTION AUTHORIZING THE EXECUTION OF AN EXTENSION TO AN AGREEMENT DATED JANUARY 1, 1992, BY AND AMONG THE COUNTY OF YORK, YORK COUNTY SANITARY DISTRICT NO. 1, AND YORK COUNTY SANITARY DISTRICT NO. 2, LEASING ALL OF THE PROPERTY, REAL AND PERSONAL, OF SANITARY DISTRICT NO. 1 TO THE COUNTY, AND CONTINUING THE OPERATION OF A UNIFIED SEWERAGE SYSTEM FOR THE COUNTY

BE IT RESOLVED by the York County Board of Supervisors this 17th day of September, 2013, as the governing body of Sanitary District No. 1, that the Chairman of the Board of Supervisors, for and on behalf of Sanitary District No. 1, is hereby authorized and directed to execute an extension for an additional period of 20 years of an agreement dated January 1, 1992 by and among the County of York, York County Sanitary District No. 1, and York County Sanitary District No. 2, providing for the lease of all of the District's sewer systems and associated property, real and personal, to the County, in order that the County can continue to operate a unified sewerage system, such agreement to be approved as form by the County Attorney.

On roll call the vote was:

Yea: (5) Shepperd, Noll, Wiggins, Hrichak, Zaremba
Nay: (0)

Chairman Zaremba then called to order a public hearing on proposed Resolution R13-85 which was duly advertised as required by law and is entitled:

A RESOLUTION AUTHORIZING THE EXECUTION OF AN EXTENSION TO AN AGREEMENT DATED JANUARY 1, 1992, BY AND AMONG THE COUNTY OF YORK, YORK COUNTY SANITARY DISTRICT NO. 1, AND YORK COUNTY SANITARY DISTRICT NO. 2, LEASING ALL OF THE PROPERTY, REAL AND PERSONAL, OF SANITARY DISTRICT NO. 2 TO THE COUNTY, AND CONTINUING THE OPERATION OF A UNIFIED SEWERAGE SYSTEM FOR THE COUNTY

There being no one present to speak regarding the subject resolution, Chairman Zaremba closed the public hearing.

Mr. Hrichak moved the adoption of proposed Resolution R13-85 that reads:

A RESOLUTION AUTHORIZING THE EXECUTION OF AN EXTENSION TO AN AGREEMENT DATED JANUARY 1, 1992, BY AND AMONG THE COUNTY OF YORK, YORK COUNTY SANITARY DISTRICT NO. 1, AND YORK COUNTY SANITARY DISTRICT NO. 2, LEASING ALL OF THE PROPERTY, REAL AND PERSONAL, OF SANITARY DISTRICT NO. 2 TO THE COUNTY, AND CONTINUING THE OPERATION OF A UNIFIED SEWERAGE SYSTEM FOR THE COUNTY

BE IT RESOLVED by the York County Board of Supervisors this 17th day of September, 2013, as the governing body of Sanitary District No. 2, that the Chairman of the Board of Supervisors for and on behalf of Sanitary District No. 2, is hereby authorized and directed to execute an extension for an additional period of 20 years of an agreement dated January 1, 1992 by and among the County of York, York County Sanitary District No. 1, and York County Sanitary District No. 2, providing for the lease of all of the District's sewer systems and associated property, real and personal, to the County, in order that the County can continue to operate a unified sewerage system, such agreement to be approved as form by the County Attorney.

On roll call, the vote was:

Yea: (5) Noll, Wiggins, Hrichak, Shepperd, Zaremba
Nay: (0)

Mrs. Noll moved the adoption of proposed Resolution R13-86 that reads:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE AN EXTENSION TO AN AGREEMENT DATED JANUARY 1, 1992, MADE BY AND BETWEEN THE COUNTY OF YORK, VIRGINIA, YORK COUNTY SANITARY DISTRICT NO. 1 AND YORK COUNTY SANITARY DISTRICT NO. 2, LEASING ALL OF THE PROPERTY, REAL AND PERSONAL, OF SANITARY DISTRICT NO. 1 AND SANITARY DISTRICT NO. 2, AND CONTINUING THE OPERATION OF A UNIFIED SEWERAGE SYSTEM

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this

17th day of September, 2013, that the County Administrator be, and he is hereby, authorized to execute an extension for an additional period of 20 years of an Agreement dated January 1, 1992, by and between the County of York, York County Sanitary District No. 1, and York County Sanitary District No. 2, providing for the lease of all of the Districts' sewer systems and associated property, real and personal, to the County, in order that the County can continue to operate a unified sewage system, such extension agreement to be approved as form by the County Attorney.

On roll call the vote was:

Yea: (5) Wiggins, Hrichak, Shepperd, Noll, Zaremba
Nay: (0)

DARE ELEMENTARY SCHOOL DRAINAGE IMPROVEMENT PROJECT

Mr. Barnett gave a presentation on proposed Resolution R13-96 to enter and take certain permanent drainage and temporary construction easements in connection with the Dare Elementary School Drainage Improvement Project.

Chairman Zaremba then called to order a public hearing on proposed Resolution R13-96 which was duly advertised as required by law and is entitled:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON
AND TAKE CERTAIN PERMANENT DRAINAGE AND TEMPORARY
CONSTRUCTION EASEMENTS IN CONNECTION WITH THE DARE
ELEMENTARY SCHOOL DRAINAGE IMPROVEMENT PROJECT

There being no one present to speak regarding the subject resolution, Chairman Zaremba closed the public hearing.

Mr. Hrichak moved the adoption of proposed Resolution R13-96 that reads:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON
AND TAKE CERTAIN PERMANENT DRAINAGE AND TEMPORARY
CONSTRUCTION EASEMENTS IN CONNECTION WITH THE DARE
ELEMENTARY SCHOOL DRAINAGE IMPROVEMENT PROJECT

WHEREAS, it is necessary to obtain certain easements in connection with the Dare Elementary School drainage improvement project; and

WHEREAS, for various reasons, the County is not able to obtain from the owners of such property clear title to the interests in real estate necessary, or no agreement has been reached as to the consideration to be paid for the said interest; and

WHEREAS, plats of the interests in real property to be acquired have been prepared by AES Consulting Engineers and valuations of such interests have been prepared by County staff or independent appraisers; and

WHEREAS, § 15.2-1905 (C), Code of Virginia, authorizes the Board to adopt a resolution following a public hearing on the matter declaring its intent to enter and take specified properties, rights-of-way or easements for such purposes as constructing, installing, expanding, maintaining, or repairing water and sewer facilities.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of September, 2013, that the Board finds that it is necessary for the protection and preservation of the public health, safety and welfare, and for the timely completion of the Dare Elementary School drainage improvement project, for the County, its officers, employees and agents to enter upon and take the interests in real property described below prior to the initiation of condemnation proceedings.

BE IT FURTHER RESOLVED that the interests to be taken, and the compensation and damages, if any, offered by the County are the following, which interests are more particularly described on the plats attached to the memorandum of the County Administrator dated August 28, 2013, and incorporated herein by this reference:

GPIN: S07d-2868-0630

A permanent drainage easement as shown on a plat entitled "PLAT OF EASEMENT CONVEYANCE FROM: WOLFTRAP PROPERTIES, LTD. TO: THE COUNTY OF YORK, VIRGINIA, PROJECT: DARE ELEMENTARY SCHOOL," dated March 4, 2013, made by AES Consulting Engineers and designated as "Permanent Drainage Easement Area = 26,373 S.F./0.605 Ac." Estimated Total Value: \$2,611.00.

GPIN: S06a-2079-4341

Two temporary construction easements and a permanent drainage easement as shown on a plat entitled "PLAT OF EASEMENT CONVEYANCE FROM: MEDICAL FACILITIES OF AMERICA TO: THE COUNTY OF YORK, VIRGINIA, PROJECT: DARE ELEMENTARY SCHOOL," dated March 1, 2013, made by AES Consulting Engineers and designated as "Temporary Construction Easement, Area = 5,283 S.F./0.121 Ac." and "Permanent Drainage Easement, Area = 15,383 S.F./0.353 Ac." Estimated Total Value: \$51,000.00.

GPIN: S06a-2391-4163

A permanent drainage easement as shown on a plat entitled "PLAT OF EASEMENT CONVEYANCE FROM: WON H. YI, TO: THE COUNTY OF YORK, VIRGINIA, PROJECT: DARE ELEMENTARY SCHOOL," dated February 19, 2013, made by AES Consulting Engineers and designated as "Permanent Drainage Easement, Area = 16,945 S.F./0.389 Ac." Estimated Total Value: \$26,000.00.

GPIN: S06a-2313-4138

A permanent drainage easement as shown on a plat entitled "PLAT OF EASEMENT CONVEYANCE FROM: YOUNG B. YOO, TO: THE COUNTY OF YORK, VIRGINIA, PROJECT: DARE ELEMENTARY SCHOOL," made by AES Consulting Engineers and designated as "Permanent Drainage Easement, Area = 14,855 S.F./0.341 Ac." Estimated Total Value: \$23,000.00.

BE IT FURTHER RESOLVED that the Chairman of the Board of Supervisors and the County Treasurer are hereby authorized and directed, for and on behalf of the County, to execute certificates of deposit to be recorded in the Office of the Clerk of the Circuit Court for York County, certifying the amounts set forth above as the estimated fair value, and damages if any, of the interests to be taken, will be paid the owners in accordance with the provisions of State law and upon order of the Court.

BE IT FURTHER RESOLVED that the County Attorney be, and he is hereby, authorized, if necessary and appropriate, at any time following the date of this Resolution, to institute condemnation proceedings in the name of the County of York to acquire title to the interests in the property described above, including, if necessary, any other easements or restrictions that may affect the easements sought to be acquired, and to do all things necessary as a prerequisite thereto.

On roll call the vote was:

Yea: (5) Hrichak, Shepperd, Noll, Wiggins, Zaremba
Nay: (0)

CONSENT CALENDAR

Mr. Hrichak moved that the Consent Calendar be approved as submitted, Item Nos. 7 and 8, respectively.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Hrichak, Shepperd, Zaremba
Nay: (0)

Thereupon, the following minutes were approved and resolution adopted:

Item No. 7. APPROVAL OF MINUTES

The minutes of the August 20, 2013, Regular Meeting, of the York County Board of Supervisors were approved.

Item No. 8. PURCHASE AUTHORIZATION: Resolution R13-101

A RESOLUTION TO AUTHORIZE THE EXECUTION OF A CONTRACT FOR THE COVENTRY LAKE B OUTFALL IMPROVEMENTS PROJECT

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$50,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement are necessary and desirable, they involve the expenditure of \$50,000 or more, and comply with all applicable laws, ordinances, and regulations;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of September, 2013, that the County Administrator be, and hereby is, authorized to contract for the construction of the Coventry Lake B Outfall Improvements Project from J. Sanders Construction Company, as follows:

	<u>AMOUNT</u>
Coventry Lake B Outfall Improvements Project	\$ 199,345

UNFINISHED BUSINESS

LIBRARY SERVICES CONTRACT—WILLIAMSBURG REGIONAL LIBRARY

Chairman Zaremba stated the Library Service Contract with the Williamsburg Regional Library had been tabled two weeks ago at the September 3 meeting primarily because Mrs. Noll had wanted more information. He asked Mrs. Noll if she had had the opportunity to get the information she required.

Mrs. Noll stated she had received that information, and there were a few facts that she wanted to present this evening. She stated she was sure all the Supervisors had read the contract; but the contract was in perpetuity, so conceivably it would be renewed without even being discussed by a future Board. She stated if a Board decided to cancel the contract, it had to give a two-year notice. She stated the last time the Board had agreed to the contract, it included a funding increase of about 6 percent per year; but this contract says it would increase up to 5 percent per year without being voted on again. She stated she wanted people to understand that this contract covers all York County residents and not just the residents in the upper

County. It is based on usage, not per capita. Mrs. Noll noted some residents felt that if the Board were to approve this contract, they would be given same privileges as the library patrons from James City County and Williamsburg, but that was not so. She stated York County residents would only receive 80 percent of privileges given to Williamsburg and James City residents. She stated there were 91 public libraries in Virginia, and not one has done to the extreme what the Williamsburg Regional Library has done in order to allow library usage by another jurisdiction. She stated that a few public libraries do charge for non-resident library cards, but the Williamsburg Regional Library refused to do so. The argument that she had heard was that the Williamsburg Regional Library did not want to charge for services, hence no card for non-residents. Mrs. Noll stated she was not sure how they classify their arrangement with York County, but the bottom-line was that it was still a charge. She stated over 30 years ago York County Supervisors voluntarily decided to contribute to the Williamsburg Regional Library in recognition for the services they provided to the citizens in the upper part of the County. That voluntary contribution was based on the amount per capita that York spent for its own library, but unfortunately that was not the case now, and she rued the day at what began as a voluntary gesture changed to the type of contract that was facing the County today. Mrs. Noll stated that freely shared library privileges lift the educational and cultural opportunities for all citizens, and she did not want her statement to be misconstrued as her being against library service for the upper County. She stated she was for equitable library service for all citizens, regardless of where they live. Mrs. Noll stated the proposed contract went against the grain of what she believed a public library should stand for, so she stated she could not support this contract.

Mr. Wiggins stated he had always been an advocate of using the Williamsburg/James City County libraries. No one could expect any locality to take one-fifth of another locality's library patrons and give them free library privileges. He stated the citizens living in the upper County should not have to drive 21 miles to the library when they can go to the Williamsburg or James City County libraries. He stated those residents would rather use those libraries than have York County build a new library, and it would cost \$8 to \$8.5 million to build a library similar to the Tabb Library, with the operating cost to be \$905,000 to \$1 million a year. Mr. Wiggins stated having an agreement with the Williamsburg Regional Library was the best thing York County could do for its taxpayers.

Mr. Hrichak stated it would cost the County an additional \$300,000 a month if it were to build its own library in the upper County. He was not in agreement with having to pay to use a public library in a different municipality, as he has cards for Hampton, Newport News, and William and Mary libraries that did not cost him a thing. He agreed with what Mr. Wiggins said about the cost per capita of \$40 for the Williamsburg Regional Library and \$45 per capita for the York County libraries. He stated that although he did not agree with paying for library services, it was a less expensive alternative to the County building a library in the upper County.

Mr. Shepperd stated if the County was going to have libraries in York County, then it needed to provide equitable service throughout the entire County. He spoke of the strange layout of the County, stating it should not be expected that the citizens in the southern end of the County would drive up to Williamsburg to use the Williamsburg Regional Library and the people in the northern end drive down here to use the libraries in this end of the County. He stated previous Boards had put libraries in place because they provided a value to the community, and to him it was very straight forward to at least have equitable service for all citizens of the County. Mr. Shepperd stated it was less expensive to use the Williamsburg Regional Library than to build a new library in the upper end of the County; and the way he interpreted the contract, the increase was actually less than if the County had been stuck with the old contract that had a fixed percentage increase instead of an increase based on usage. He noted that Mr. Hrichak had stated he had library cards for other localities at no charge, and the reason that was done was because it was an equitable exchange for those localities. Mr. Shepperd stated there were libraries to exchange library services with in the southern end of the County, but he did not feel there was an equitable exchange capability in the upper end of the County; so by participating with Williamsburg Regional Library, the County and the government were providing that exchange.

Chairman Zaremba stated he appreciated Mrs. Noll's comments, but the County had tax paying citizens from one end of the County to the other; and as tax paying citizens, he thought this Board agreed its mission was to make sure that equitable services and programs were provided for all citizens of the County. He indicated the major argument against this contract was that the new contract was based on user fees, but when the contract cost was converted to the County per capita costs compared to what was spent in the lower County with the Route 17 and Tabb Library per capita costs for those two libraries, the cost was \$45.21 per citizen versus this contract which is almost five dollars less at \$40.65 per capita. Mr. Zaremba stated he wanted the citizens of the County to know that the County got a better deal up in the north end with this contract, and it would run for as long as the Board wanted it to run as long as it was a better deal. Mr. Zaremba stated he failed to see where anyone could disagree with respect to the benefit to the County of this contract.

Mrs. Noll moved the adoption of proposed Resolution R13-97 that reads:

A RESOLUTION TO AUTHORIZE THE EXECUTION OF A CONTRACT WITH THE WILLIAMSBURG REGIONAL LIBRARY SYSTEM FOR THE PROVISION OF LIBRARY SERVICES

WHEREAS, it is the desire of the York County Board of Supervisors to provide residents of York County with access to services from the Williamsburg Regional Library; and

WHEREAS, a Contract to provide such services through June 30, 2018, been successfully negotiated;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of September, 2013, that it does hereby authorize the County Administrator to execute a contract between the City of Williamsburg, the Counties of James City and York, and the Williamsburg Regional Library for the provision of library services to the residents of York County, with terms and conditions as included with the County Administrator's memorandum to the Board of Supervisors dated August 29, 2013, and as approved to form by the County Attorney.

On roll call the vote was:

Yea: (4) Shepperd, Wiggins, Hrichak, Zaremba
Nay: (1) Noll

MATTERS PRESENTED BY THE BOARD

Mrs. Noll spoke of the horrible incident at the Navy yard yesterday that had taken the lives of 12 citizens as well as the gentleman who caused the shooting. The news talked about the fact that the gentlemen had some mental issues, and she felt it was deplorable when somebody who was troubled was not provided adequate care. She then spoke of the need for this country to do something soon about mental health and help citizens who need that type of help. Mrs. Noll noted the orange ribbon she was wearing stating she and Barbara Haywood were given them when they represented York County at the Food Bank last week packing food for distribution to those who need help with their groceries. She stated September was Hunger in Our Community Awareness Month, and she talked of food insecurity rates in York County. Mrs. Noll stated she had the opportunity to go out on the Chesapeake Bay Foundation's 50-foot ship into the James River to be shown the problems with the Chesapeake Bay and to hopefully convince officials to pay more attention to the water quality.

Mr. Shepperd stated he had read in the newspaper recently about the percentage of people in the United States who are uncertain of their meals. He thought when thinking of people who did not have enough food, it was people in third world countries, but there were families and children in this country that go to bed hungry. He challenged the government, citizens, churches, and other groups to focus more on the inside and start taking care of their own. He

noted Mrs. Noll had also brought up the lack of services tied to Social Services that had gone away and that as a result of those cuts, people who now have mental issues and belong in a hospital are often put in jail because there was no place else to put them. There was also a lack of services for troubled youths and their families. He stated the country, the state, and this region needed to step up and start taking care of these issues. If problems with troubled youth are not addressed and the youth are not given the attention they need, they could end up in prison at a greater cost to society than if the problem had been taken care of in the first place. Mr. Shepperd then stated that he and three other Board members attended the event for the expansion of the Lackey Free Clinic, and he congratulated them on the expansion and spoke of the amazing dedication and commitment of the doctors, staff, and volunteers.

Mr. Wiggins stated he had the opportunity to attend the annual election of officers for the York County Volunteer Association. He stated the Association volunteers operate the Bargain Box as its sole means of income. He noted their members are aging, and he encouraged citizens to consider becoming a volunteer as they need new members. Mr. Wiggins explained how the money it raises goes back into the York County community in scholarships, education assistance, child care, housing, insurance, medical costs, transportation, utilities, and grants; and he encouraged citizens to consider making donations to the Bargain Box.

Chairman Zaremba added to Mr. Shepperd's comments regarding the Lackey Free Clinic, stating he was amazed at the free services the 40 doctors and dentists provide along with the volunteers. The Lackey Free Clinic was an incredible asset for the County that was funded through foundations and contributions, and Mr. Zaremba noted that the Clinic's counterpart in Williamsburg was the Olde Town Medical Center. He then commented that the Board of Directors for the Williamsburg Chamber of Commerce and Tourism Alliance would meet on Thursday, and its agenda would include the nominated slate of new officers to be voted on, to include the Executive Committee of the Alliance Board. He stated that when looking at that slate there were a lot of familiar faces, but there was an initiative on the part of Williamsburg, James City County, and York County making a push for new members as well as having a member from each of the three municipalities on that committee. He stated this was first attempt ever to try and put members of the municipalities on the executive committee.

CLOSED MEETING. At 10:47 p.m. Mr. Wiggins moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions and the hiring of a specific public employee.

On roll call the vote was:

Yea: (5) Wiggins, Hrichak, Shepperd, Noll, Shepperd
Nay: (0)

Meeting Reconvened. At 10:57 p.m. the meeting was reconvened in open session by order of the Chair.

Mr. Hrichak moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REGARDING MEETING IN CLOSED MEETING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

September 17, 2013

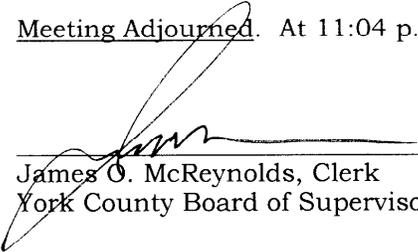
WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

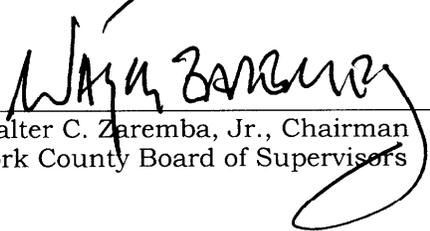
NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of September, 2013, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Hrichak, Shepperd, Noll, Wiggins, Zaremba
Nay: (0)

Meeting Adjourned. At 11:04 p.m. Chairman Zaremba declared the meeting adjourned sine die.


James O. McReynolds, Clerk
York County Board of Supervisors


Walter C. Zaremba, Jr., Chairman
York County Board of Supervisors