MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
November 18, 2008

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:02 p.m., Tuesday, November 18, 2008, in the Board Room, York Hall, by Chairman Thomas G. Shepperd, Jr.

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

Walter C. Zaremba arrived at 6:06 p.m.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

Invocation. Pastor Paul Phillips, Crooks Memorial United Methodist Church, gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Shepperd led the Pledge of Allegiance

HIGHWAY MATTERS

Mr. Todd Halacy, Residency Administrator, Virginia Department of Transportation (VDOT), appeared to discuss highway matters of interest to the Board. He updated the Board on some concerns addressed at last month's meeting. Specific items included the review of VDOT's traffic calming measures and the ability to determine whether there was any flexibility with these measures. Other items included whether a flashing turn signal could be utilized on the left-turn lane at Dare Road, motorcycles triggering traffic signals at intersections, and the ability to create a turn lane at the intersections of Amory Lane, Route 630, and Route 17. Mr. Halacy stated that these issues were currently being evaluated by VDOT, and he would provide updates at the next Board meeting.

Mr. Wiggins addressed concerns raised by neighbors in the Hornsbyville Road area. He stated that through traffic was utilizing Harris Road and Copeland road as cut through roads. He then asked if there something else we needed to do as a County to prevent through traffic from entering these areas, especially since many children play in the area.

Mr. Halacy stated that the Central Office was evaluating this situation. He advised Mr. Wiggins he would provide updates at the next meeting.

Mr. Wiggins also expressed a concern by a member of the Transportation Safety Commission. Potholes are appearing on Freedom Boulevard that are being created by tree roots. He asked Mr. Halacy to look into this issue and also thanked him for his email updates.

Mr. Halacy stated he would check into the matter.

Mr. Hrichak also thanked Mr. Halacy for the comprehensive reports. He spoke about issues expressed to him regarding the railroad tracks northbound on Route 17. When the road was repaved, it made the railroad tracks rough, causing motorcyclists to be thrown off their motorcycles.

Mr. Halacy said he would review the situation.

Mr. Zaremba also thanked Mr. Halacy for the updates, especially regarding the intersection of Airport Road and Mooretown Road. He inquired as to what type of funding would be available if a study suggests that widening the intersection would be justified.

Mr. Halacy spoke about two different avenues that could be explored. The first avenue would be a corridor study to see what type of improvements should be done. The second would be evaluating the intersection to see if it qualified for hazardous safety improvement money which would be a safety issue and has a benefit cost ratio that may receive federal funds. He said they were looking into both of these options.

Chairman Shepperd made comments also regarding the train tracks on Route 17. Staff was asked to look into whether the railroad crossing falls within VDOT's jurisdiction or the railroad's jurisdiction. He stressed that since VDOT roads come within a close proximity to the tracks, for VDOT to look into improving the roughness of the tracks to prevent hazards to motor vehicles. Mr. Shepperd asked if Running Man Trail could be posted as a "no through traffic" neighborhood due to the upcoming construction of the Moores Creek project. This will make Big Bethel Road a one lane road. He asked Mr. Halacy for any thoughts or comments regarding this.

Mr. Halacy stated that he would meet with traffic engineers and would speak with them regarding options and update the Board at the next meeting.

Chairman Shepperd stressed the importance of reporting back to the Board members before action is taken so they could speak with the Running Man Homeowner's Association. He also expressed concerns about VDOT budget cuts, stating it was recently discussed at a VACo conference by the governor. He inquired as to how it would affect the County and whether the Williamsburg office would continue to have manpower at the Seaford Office.

Mr. Halacy stated he was not aware of the actual impacts on manpower. VDOT was currently in a hiring freeze, so no additional positions could be added. Safety still remains the department's number one priority, and it would continue key safety aspects like snow and ice removal and keeping the roads safe.

Chairman Shepperd asked if most of the operating funds were now going to be used for maintenance as opposed to new construction.

Mr. Halacy stated he was not aware of what impacts it would have on the secondary construction budget or primary and interstate budgets for construction. He stated there would be impacts, but did he not know at what percentage at this point. He indicated he would update the Board on specific numbers next month.

PRESENTATIONS

EMPLOYEE RECOGNITION PROGRAM

Chairman Shepperd congratulated the following employees for their years of service with the County, and presented them each with a service pin and certificate:

Carrie C. Crosby	Department of Community Services	20 years
Bonnie K. Dame	Department of Community Services	20 years

PAINTFEST MURAL

Mr. Bob Tubbs, Williamsburg Rotary, presented the Board with a certificate of appreciation and a PaintFest Mural for contributing to the quality of life in the Historic Triangle District.

TRANSPORTATION SAFETY PLAN

Mr. William J. Cooper, Chairman of the York County Transportation Safety Commission, made comments on the updated transportation safety plan to be presented later in the meeting. He stated the proposed plan includes recommendations in the following areas: education and public awareness, enforcement in emergency services, legislative policy, planning and youth activities. All of the objectives and recommendations in the plan have been vetted with the citizen representatives from each of the York County districts on the Transportation Safety Commission and the appropriate York County departments. He thanked the Board, on behalf of the Commission, for considering the plan and encouraged them to adopt it.

Mrs. Noll thanked the Transportation Safety Commission members for all of their hard work.

CITIZENS COMMENT PERIOD

Mr. William Hicok, 105 Montague Circle, spoke in opposition of the Marquis Library, stating the current economic conditions did not support the new library.

Mr. Robert DuCote, 108 Saxon Road, asked the Board to formally withdraw from the Marquis Library proposal, stating it was uneconomical, unuseful, and undesired by the residents of the upper County. He also asked the Board to continue the relationship with the Williamsburg/James City County Library system which provides the citizens with full privileges that are currently set to expire next July.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett updated the Board on the Legislative Program and gave them upcoming dates related to the General Assembly's 2009 session and bill submissions.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board of the reception for the York County Boards and Commissions Chairmen and appointed representatives on November 25 at 6:00 p.m. in The Gallery at York Hall. He also reminded the Board and the citizens of the Board's next regular meetings to be held on December 2 and December 16. He then wished everyone a Happy Thanksgiving.

MATTERS PRESENTED BY THE BOARD

Mrs. Noll spoke on the annual Virginia Association of Counties conference she and the other Board members attended last weekend. She stated Governor Kaine spoke regarding the upcoming budget and reductions that would need to take place. She stated that reduced state revenue was going to be felt by in field offices, central offices, senior management staff, other staff reductions in the elimination of 1000 vacancies.

Mr. Wiggins echoed Mrs. Noll's comment on the transportation situation. He spoke of budget cuts that would be made in York County government and with the School Board. He spoke of upcoming tough times with the hope that things would improve by next year.

Mr. Zaremba made comments on the different committees occupied by citizens of the County, staff, and representation from the Board of Supervisors. He spoke of his representation on the Youth Commission, stating the Commissioners have a mission to evaluate the programs the County provides to youth, and they periodically come and report to the Board on what they believe should be done to improve that quality of life in the County. Mr. Zaremba spoke about the upcoming ninth annual "Youth Week" and the nationally renowned motivational speaker Bobby Petrocelli, who will speak to the youth regarding the challenges they face daily. Mr. Zaremba also spoke about the Historic Triangle Collaborative, stating its purpose is to stress life after the Jamestown 400th birthday. He stated the committee has representatives from all the heads of the major entities that make up the Historic Triangle. He spoke of the Historic Triangle Collaborative's upcoming budget cuts due to the recent economy.

Meeting Recessed. At 6:59 p.m. Chairman Shepperd declared a short recess.

Meeting Reconvened. At 7:09 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

APPLICATION NO. UP-738-08, LEWIS A. MCMURRAN, III

Mr. Carter made a presentation on Application No. UP-738-08 Resolution R08-88 to approve a use permit authorizing a forestry operation on approximately 153.6 acres of land located at 910 and 920LL Denbigh Boulevard approximately 547 feet north of its intersection with the Newport News City Line. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R08-88.

Mr. Zaremba questioned why a special use permit was required for this particular application.

Mr. Carter stated the zoning ordinance requires a special use permit for forestry operations in any district other than the RC and RR districts. This property is zoned planned development and light industrial. He noted this also gives the Board an opportunity to look at the surroundings to decide if it is appropriate to allow an area to be timbered. He noted he knew the Board had concerns in the past about some of the commercially zoned properties that might have imminent development plans. He explained this property is fairly isolated and appears to have no apparent imminent development plans at any time in the near future.

Mr. Zaremba asked what was unique about the RC and RR zoning categories that do not require a special use permit.

Mr. Carter stated those were wide open areas of the County, less densely developed where forestry does occur, and whether it was by use permit or as a matter of right, it would require the perimeter buffers. He mentioned that there was an element of protection for the surrounding areas built into the performance standards that apply whether or not a use permit was required.

Discussion followed regarding the required buffer for the property in question.

Mr. Hrichak addressed several concerns he had received from citizens and clarified that new trees would be replanted in the place of the removed trees.

Mr. Carter stated there was a requirement for the trees to be replanted within one year.

Mr. Hrichak asked how long the timbering operation would be active.

Mr. Carter said the operation could be started within three to six months, and the property owner had given the timber company up to two years to complete it.

Mr. Hrichak asked who would enforce the re-timbering operation and ensure that it was done properly.

Mr. Carter explained the applicant was required to prepare and submit a forest management plan to the State Department of Forestry which the applicant had completed, and the County zoning standards require the replanting be completed within one year. He added the County's Codes and Compliance staff would be responsible for ensuring that the replanting occurred in that timeframe.

Chairman Shepperd asked if any burning operations would be occurring.

Mr. Carter verified that leaves and other items would be ground and hauled away from the site completely or spread in thin layers on the land after the logs are taken out. No stumps would be taken out which was positive from an environmental standpoint in erosion control and sensitivity toward the surrounding area.

Chairman Shepperd asked which direction the log trucks would be utilizing in the removal from the area. He expressed concerns about debris from the wheels of the trucks and tracking the debris on the road.

Mr. Carter explained that the hauling process would be subject to VDOT's approval. The applicant would have to get permission to enter the highway from VDOT and would have to do a standard commercial entrance plan review with VDOT. VDOT would issue a permit that would control issues like debris on the road, removal of, and possibly the hours of operation, perhaps restricting access during peak travel times.

Mr. Steve Lueke, 5743 Church Road, the applicant's forester, appeared to answer any questions or address any concerns the Board might have regarding the application. He explained that he would oversee any rules issued by the Board.

Discussion followed by the Board regarding the age of the trees and the direction the trucks would follow during the log removal.

Chairman Shepperd called to order a public hearing on Application No. UP-738-08 that was duly advertised as required by law. Proposed Resolution R08-88 is entitled:

> A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE A FORESTRY OPERATION AT 910 AND 920LL DENBIGH BOULEVARD (ROUTE 173)

There being no one present who wished to speak concerning the subject application, Chairman Shepperd closed the public hearing.

Mr. Zaremba asked for clarification of the foresting techniques. He questioned why the County would want to harvest the trees if there was no intent of development. He stated it would take another 20 to 25 years before the area would look forested again.

Mr. Lueke explained the harvesting techniques and the amount of time it would take for the trees to grow back. He stated he understood the concerns of the Board, but assured them this was a normal practice that would be well regulated.

Chairman Shepperd spoke regarding the importance of routinely harvesting the trees. He stated he also felt the buffer around the tree harvesting would be adequate.

Mrs. Noll then moved the adoption of proposed Resolution R08-88 that reads:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE A FORESTRY OPERATION AT 910 AND 920LL DENBIGH BOULEVARD (ROUTE 173)

WHEREAS, Lewis A. McMurran III has submitted Application No. UP-738-08 to request a Special Use Permit, pursuant to Section 24.1-306 (Category 2, Number 10) of the York County Zoning Ordinance, to authorize a forestry operation to be conducted on approximately 112.4 acres of land located at 910 and 920LL Denbigh Boulevard (Route 173) on the south side of Denbigh Boulevard approximately 546 feet north of its intersection with the Newport News city line and further identified as Assessor's Parcel Nos. 28-1A (GPIN P06d-4524-1219), 28-1B (GPIN Q06c-1196-1148), and 29-1F (GPIN Q06c-0696-0258); and

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

WHEREAS, the Planning Commission recommends approval 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 RESOLVED by the York County Board of Supervisors this the 18th day of November, 2008, that Application No. UP-738-08 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-283(b)(1) of the York County Zoning Ordinance, to authorize a forestry operation to be conducted on approximately 112.4 acres of land located at 910 and 920LL Denbigh Boulevard (Route 173) on the south side of Denbigh Boulevard approximately 546 feet north of its intersection with the Newport News city line and further identified as Assessor's Parcel Nos. 28-1A (GPIN P06d-4524-1219), 28-1B (GPIN Q06c-1196-1148), and 29-1F (GPIN Q06c-0696-0258), subject to the following conditions:

1. This Special Use Permit shall authorize a forestry operation to be conducted on approximately 112.4 acres of land located at 910 and 920LL Denbigh Boulevard (Route 173) on the south side of Denbigh Boulevard approximately 546 feet north of its intersection with the Newport News city line and further identified as Assessor's Parcel Nos. 28-1A (GPIN P06d-4524-1219), 28-1B (GPIN Q06c-1196-1148), and 29-1F (GPIN Q06c-0696-0258).

2. All timbering activities shall be incompliance with Sections 24.1-419, *Standards for Forestry Operations,* and 24.1-376, *Watershed Management and Protection Area Overlay District,* of the York County Zoning Ordinance, including the retention of fifty (50') and twenty-five (25') foot buffers as required by the forestry performance standards as depicted on the submitted sketch plan titled "Figure 5, Revised Haul Road Access Exhibit" included in the Forest Management Plan for McMurran Family Limited Partnership, York County, VA; prepared by Lueke Timber & Realty and received by the York County Planning Division on January 24, 2008 and October 22, 2008 (Figure 5).

3. Prior to any forestry/timbering activities being conducted on site, a Natural Resources Inventory prepared in accordance with Chapter 23.2-6, *Chesapeake Bay Preservation Areas,* of the York County Code shall be submitted for County review and transmittal to any appropriate regulatory agencies.

4. Prior to any forestry/timbering activities being conducted on site, a natural heritage inventory/preservation plan shall be prepared and submitted to the Environmental and

Development Services Development and Compliance Division for review and approval in accordance with Zoning Ordinance section 24.1-260.

5. All applicable provisions of Chapter 10 of the York County Code, *Erosion and Sediment Control,* shall be observed prior to commencement of and during any timber harvesting activity on the property.

6. A preliminary development plan showing ingress and egress to and from the site, including delineated sight distances, shall be submitted to the Virginia Department of Transportation (VDOT) for approval prior to any activity on site. Any entrance or roadway improvements identified as necessary by VDOT shall be completed by the applicant before any timbering operation begins. A Land Use Permit shall be secured from VDOT prior to work being performed within the state's right-of-way. Forestry operation traffic accessing the site shall be limited to Denbigh Boulevard and shall take place only during off-peak traffic hours as identified by VDOT.

7. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, 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 approval of any plans or permits.

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

On roll call the vote was:

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

APPLICATION NOS. ZM-120-08 AND SE-20-08, EDWARD E. HALL

Mr. Carter made a presentation on Application No. ZM-120-08 and SE-20-08 to reclassify from High-Density Single-Family Residential to High-Density Single-Family Residential and General Business a parcel of land located at 464 Catesby Lane, subject to voluntarily proffered conditions, and from General Business to Conditional General Business a parcel of land located at 535 Second Street, subject to voluntarily proffered conditions; and proposed Resolution R08-126 to approve a special use permit authorizing the expansion of a nonconforming auto body work and painting use located at the above addresses. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of denial by a tie vote, and staff recommended approval of the application through the adoption of proposed Ordinance No. 08-16 and proposed Resolution R08-126.

Discussion followed regarding drainage issues, regrading of the property, landscaping, fence height, number of parking spaces, and lighting.

Mr. Zaremba asked how the proposed application differed from last year's application.

Mr. Carter explained the differences between the proposed application and the previously submitted application, noting the previous application had included an office addition, a claims bay addition, and a proposed building addition. He noted the previously proposed addition would have expanded over the property line on to the Catesby Lane parcel by approximately two to three feet.

Discussion followed on the distance the parking lot would be from the property line.

Chairman Shepperd asked if the open area would be conveyed as a conservation easement to the County.

Mr. Carter stated the 35-foot wide area would be landscaped as a type 50 buffer and would be protected by a conservation easement granted to the County. He noted the conservation easement basically says you do not cut down trees in that area.

Chairman Shepperd questioned why a business would give the County a type 50 buffer in the middle of their property. He assumed the staff in the Planning Department gave guidance as to the advantages and disadvantages of doing this. He suggested that if the land was conveyed as a conservation easement, it would have reduced taxes, if any taxes at all.

Mr. Carter said that the Type 50 buffer was an option the applicant chose to pursue through their proffer statement. He added the applicant had specified the transitional buffer.

Discussion followed regarding the protection by the conservation easement and transitional buffer.

Mr. Edward Hall, 112 Chisman Point Road, the applicant and owner of Ebby's Auto Painting & Collision, stated he has been a business owner for eighteen years, fourteen years in York County. He assured the Board that his business was in full compliance with all County regulations. He explained he did look into other options before purchasing the property at 464 Catesby Lane. This property was zoned commercial until 1985, and been vacant for 50 years. The piece of property was never part of the covenants and restrictions of Middletowne Farms subdivision. He explained he was not moving the body shop or paint shop onto this piece of property. He said he had received recommendations from the Board last year and revised the plans to include an 80-foot buffer with a 10-foot fence instead of the previous plan of a 35-foot buffer with an 8-foot fence. He stated the buffer would remain empty, and a portion of the area will be dedicated to the County as a conservation easement. He stated he was giving residents approximately 80 feet of landscape buffer area with the fence. He added that since purchasing the property, he had cleaned and removed old debris that appeared to have been there for years and looked like a dumping ground. Mr. Hall said his business employs 17 people, and with the approval of the proposed plan, it will provide more jobs in the County.

Chairman Shepperd asked why the conservation easement was a just a strip of property and not the whole piece.

Mr. Hall explained that part of the property would be dedicated to the County and the other portion would be a buffer.

Chairman Shepperd asked if the applicant would make the whole piece a conservation easement.

Mr. Hall agreed with the suggestion.

Chairman Shepperd then called to order a public hearing on Application Nos. ZM-120-08 and SE-20-08 that were duly advertised as required by law. Proposed Ordinance No. 08-16 and proposed Resolution R08-126 are entitled:

> AN ORDINANCE TO AMEND THE YORK COUNTY ZONING MAP BY RECLASSIFYING APPROXIMATELY 17,405 SQUARE FEET OF LAND ON CATESBY LANE (ROUTE 608) FROM R13 (HIGH-DENSITY SINGLE-FAMILY RESIDENTIAL) TO R13 (HIGH-DENSITY SINGLE-FAMILY RESIDENTIAL) SUBJECT TO VOLUNTARILY PROFFERED CONDITIONS AND TO REZONE APPROXIMATELY 1.56 ACRES ON CATESBY LANE AND SECOND STREET (ROUTE 162) FROM R13 AND GB TO GB SUBJECT TO VOLUNTARILY PROFFERED CONDITIONS

Proposed Resolution R08-126:

A RESOLUTION TO APPROVE A SPECIAL EXCEPTION TO AUTHORIZE EXPANSION OF A NONCONFORMING AUTO BODY WORK AND PAINTING FACILITY LOCATED AT 535 SECOND STREET AND 464 CATESBY LANE

Ms. Susan Zickel, 474 Catesby Lane, spoke in opposition to the application. She stated that if the application was approved, it would set a dangerous precedent and add to the continual erosion of the neighborhood's buffers. She indicated serious concerns were raised over the lack of past compliance with zoning ordinances, and she also spoke of unresolved drainage and environmental concerns.

Mr. Mike Zickel, 474 Catesby Lane, spoke in opposition to the application and bringing the business to within 75 feet of residential property. He commented on lighting, noise, safety issues, and other nuisances to the neighborhood, stating the neighborhood residents frequently smelled paint fumes from Ebby's. He noted the York County Code Compliance Office visited the residents' property this past summer and noticed the fumes. He stated he came unprompted from them, and the compliance officer remarked that it was unacceptable.

Ms. Shannon Turnage, 476 Catesby Lane, addressed the Board regarding her concerns with the proposed expansion of Mr. Hall's nonconforming business into the Middletowne Farms neighborhood. She stated the residential lot has served as a buffer from the surrounding businesses for the life of their community and the residents of Middletowne Farms had no objection to the 1994 special use permit for the auto body shop or the special use permit in 1999 for Mr. Hall's first expansion. She noted as good neighbors they trusted him as a successful businessman and assumed he would follow the plans he submitted to the County, but instead they have had to complain to County Code and Compliance to make certain that what was promised was fulfilled in the most minimal sense possible and even still there is noncompliance. Mrs. Turnage asked the Board to deny the applications.

Mr. William J. Kossler, 496 Burnham Road, spoke in opposition to the application, and gave an overview of the Middletowne Farms community and a brief history regarding community concerns on encroachment into residential property.

Mrs. Karen Berquist, 471 Catesby Lane, stated the property Mr. Hall was asking to be rezoned has a neighborhood address, is viable for a residential lot, and was always intended to serve as a buffer between the businesses and Middletowne Farms. She spoke of the neighborhood's frustration with the current process and suggested the residents meet with the Planning staff so they could get their ideas on the table and not bring the Board such controversial plans.

Mr. Rick Berquist, 471 Catesby Lane, appeared before the Board to speak in opposition to the application and suggested different ways the expansion could be handled.

Mr. Pete Berquist, 488 Burnham Road, spoke in opposition of the proposal, and stated the residents of Middletowne Farms would like to sit down with Mr. Hall and the Planning Division to revise Mr. Hall's plan to minimize the impact on the R13 and adjacent lots and also maximize the environmental protection. He also spoke of his concerns with the expanded parking, retention pond, fence, and easement.

Mr. Giles E. Laney, 490 Burnham Road, stated the applicant had made promises but has not followed through. He reviewed a timeline of events that included the establishment of the business, an approval to authorize an expansion in 1999, and the current request to expand the nonconforming business. Mr. Laney asked that the application be denied to prevent any further noncompliance with the business.

Mr. Michael Westenberger, 494 Catesby Lane, stated he was in agreement with the statements made by his neighbors. He spoke of his concerns with the proffers and noncompliance of the previous proffers. He urged the Board to deny the application.

Mr. Paul Snyder, 488 Catesby Lane, appeared in support of his Middletowne Farms neighbors, and expressed his concerns about the impact the expansion would have on the buffer area which he has always regarded as part of the R13 residential area. He stated if the expansion into the buffer area was approved, the neighborhood would loose character and integrity.

Mr. Don Andrews, 478 Catesby Lane, indicated that when he first moved to Middletowne Farms he was hit by the homeowners' association with an assessment for the legal fees from the George Washington Hotel lawsuit. He stated the George Washington Hotel petition was denied and an 8-year moratorium was imposed. Mr. Andrews then spoke of his concerns regarding paint fumes and increased traffic from the business. He asked the Board to deny the application and issue a moratorium so that he would not have to appear again next year to preserve the integrity of his home.

Ms. Blanche Morris, 475 Catesby Lane, stated she was in agreement with her Middletowne Farms neighbors to oppose the rezoning. She then read a letter of opposition from the property owner of 599 Harrod Lane.

Ms. Rebecca W. Warren, 480 Catesby Lane, appeared before the Board to agree with her neighbors in opposition to the proposed expansion. She then read a letter from David Fahey, property owner at 482 Catesby Lane which noted that the new concessions detailed in the current application were not sufficient to warrant a rezoning and expand a business that belongs in an industrial zoned area. The letter also addressed concerns about the lack of a buffer between his home and the Hudgins-Holiday Cadillac dealership, also on Second Street, that allows for light, paint fumes and noise from that business to carry over onto his property. Mr. Fahey's letter urged the Board to help maintain the quality of life in the neighborhood by denying the applications and noted that the Catesby Lane parcel that Mr. Hall purchased was a residential lot, and the residents of Middletowne Farms should not have to bear the cost of Mr. Hall's unfortunate business decision.

Ms. Kathy Ricci, 482 Burnham Road appeared in support of her neighbors in opposition to the application to rezone 464 Catesby Lane form R13 to GB. She then read a letter from Rick and Marine Willey of 476 Burnham Road, in opposition to the application.

Mr. Thomas Teaman, 477 Burnham Road, stated he was in agreement with his neighbors in opposing the rezoning from R13 to GB. He then paraphrased a letter from Paige Via, property owner at 495 Catesby Lane which noted the property was classified as industrial and should not be in a neighborhood and also addressed the non-compliance of previous proffers. Mr. Teaman asked the Board not to support the expansion of Mr. Hall's business.

Ms. Beth Wells, 496 Catesby Lane, appeared before the Board in agreement with her neighbors, and stated as a long time resident she wanted to make her voice heard concerning the future of the neighborhood and the effect the expansion would have on their investments in their homes. She then spoke regarding the value and quality of their neighborhood and the importance of opposing the intrusion of any type of business growth into their neighborhood or its borders.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Shepperd closed the public hearing.

Chairman Shepperd asked if the erosion buffer was going to meet all regulations.

Mr. Carter explained that it would meet the regulations.

Discussion followed regarding erosion control, the comprehensive plan, lighting system, paint fumes, compliance issues, employee parking, customer pickup of vehicles, fencing, landscaping, and buffer concerns.

Mr. Zaremba spoke of the need of the Middletowne Farms residents and Ebby's to work together to establish a "middle ground" for the application. He made a motion to table the application and said it would allow the citizens of Middletowne Farms and Ebby's Body Shop to meet and create an agreement which would benefit both parties.

Chairman Shepperd acknowledged the motion to table the application from Mr. Zaremba, and asked for other Board members comments.

Mr. Wiggins echoed Mr. Zaremba's comments. He stated that he would the like the residents of the neighborhood and Ebby's to work together to establish an agreement in the application.

Mr. Hrichak spoke in agreement with both Mr. Zaremba and Mr. Wiggins and agreed to table the application.

Mrs. Noll stated she was pleased to see the support from the neighborhood at the Board meeting. She stated that she expects businessmen to be good neighbors in the community. Regarding tabling the application, she encouraged the Board to vote on the application. She noted Mr. Hall had been in contact with the neighborhood regarding the application without any response, and he is trying to improve the appearance of both the neighborhood and business, since the lot is empty and will need to continue to be empty based on power lines. She encouraged the Board to vote on the applications instead of tabling the applications, because it will not change the neighborhood or applicant's responses.

Discussion followed on tabling the application, specifics regarding when the application would be reconsidered, whether the application would need to go back to the Planning Commission, and whether the application would again be presented by a public hearing.

Mr. Wiggins suggested that the residents appoint representatives to work with the applicant to arrange an amicable solution for both parties.

Mr. Barnett suggested to continue the public hearing, avoiding having to readvertise the meeting, and table this matter until February.

Chairman Shepperd verified that the motion before the Board was to table the application until February and that the public hearing would be continued.

Mr. Zaremba then moved to table Application Nos. ZM-120-08 and SE-20-08 to February 17.

On roll call the vote was:

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

Meeting Recessed. At 10:01 p.m. Chairman Shepperd declared a short recess.

Meeting Reconvened. At 10:11 p.m. the meeting was reconvened in open session by order of the Chair.

APPLICATION NO. UP-753-08, ANGELICA NASH

Mr. Carter made a presentation on Application No. UP-753-08 to approve a special use permit authorizing a beauty salon as a home occupation on a parcel of land located at 105 Hemlock

Court. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R08-127.

Mr. Wiggins asked if there was any opposition to the proposed application.

Mr. Carter stated no one had opposed the proposed application at the Planning Commission.

Mrs. Noll asked if the neighbors approved the proposed application.

Mr. Carter stated they had not heard any opposition from the neighbors.

Ms. Angelica Nash, 105 Hemlock Court, appeared to answer any questions or address any concerns the Board might have regarding her application.

Chairman Shepperd called to order a public hearing on Application No. UP-753-08 that was duly advertised as required by law. Proposed Resolution R08-127 is entitled:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE A BEAUTY SHOP AS A HOME OCCUPATION AT 105 HEMLOCK COURT

There being no one present who wished to speak concerning the subject application, Chairman Shepperd closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R08-127 that reads:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE A BEAUTY SHOP AS A HOME OCCUPATION AT 105 HEMLOCK COURT

WHEREAS, Angelica Nash has submitted Application No. UP-753-08 requesting a Special Use Permit, pursuant to Section 24.1-283(b)(1) of the York County Zoning Ordinance, to authorize a beauty shop as a home occupation within a single-family detached dwelling on a 0.30-acre parcel of land located at 105 Hemlock Court (Route 1765) and further identified as Assessor's Parcel No. 37-35-3A2-110 (GPIN #T02c-2465-2475); and

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

WHEREAS, the Planning Commission recommends approval 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 RESOLVED by the York County Board of Supervisors this the 18th day of November, 2008, that Application No. UP-753-08 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-283(b)(1) of the York County Zoning Ordinance, to establish a beauty salon as a home occupation within a single-family detached dwelling on property located at 105 Hemlock Court (Route 1765) and further identified as Assessor's Parcel No. 37-35-3A2-110 (GPIN #T02c-2465-2475), subject to the following conditions:

1. This use permit shall authorize the establishment of a one (1)-chair beauty shop as a home occupation within a single-family detached dwelling on property located at 105

Hemlock Court (Route 1765) and further identified as Assessor's Parcel No. 37-35-3A2-110 (GPIN #T02c-2465-2475).

2. The conduct of such home occupation shall be limited to an area within the existing home consisting of approximately 252 square feet as depicted on the floor plan submitted by the applicant, a copy of which shall remain on file in the office of the Planning Division.

3. The home occupation shall be conducted in accordance with the provisions of Sections 24.1-281 and 24.1-283(b) of the York County Zoning Ordinance, except as modified herein.

4. No person other than individuals residing on the premises shall be engaged on the premises in the home occupation.

5. The days and hours of operation shall be limited to Monday through Saturday from 9:00 AM to 6:00 PM.

6. No more than one (1) customer at any one time shall be served within the applicant's home and customers shall be served by appointment only. The applicant shall schedule appointments at intervals sufficient to minimize the chance of two customers being on site at a time (e.g., one being served, one waiting) and to avoid the possibility of three being on site (e.g., one just finished, one being served and one waiting). The applicant's appointment book shall be made available for inspection by the Zoning and Code Enforcement Officer upon request.

7. Retail sales on the premises shall be limited to incidental sales of beauty products, shampoo, conditioning, and other hair care products.

8. No signs or other forms of on-premises advertisement or business identification visible from outside the home shall be permitted.

9. In accordance with the terms of the Zoning Ordinance, at least two (2) off-street parking spaces shall be provided on the premises to accommodate clients. This space shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.

10. Prior to issuance of a building permit for the home occupation, the applicant shall be responsible for recording with the Clerk of the Circuit Court, a copy of the resolution approving this use permit. A court-certified copy of the document shall be submitted to the County at the time of building permit application.

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

On roll call the vote was:

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

CONSENT CALENDAR

Mr. Hrichak moved that the Consent Calendar be approved as submitted, Item Nos. 4, 5, and 6, respectively.

On roll call the vote was:

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

Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 4. APPROVAL OF MINUTES

The minutes of the following meetings of the York County Board of Supervisors were approved:

October 7, 2008, Regular Meeting
October 21, 2008, Regular Meeting
October 28, 2008, Adjourned Meeting

Item No. 5. York County Emergency Operations Plan: Resolution R08-136

A RESOLUTION ADOPTING THE COUNTY OF YORK EMERGENCY OPERATIONS PLAN

WHEREAS, the York County Board of Supervisors is greatly concerned with the health, safety and welfare of its citizens and desires that the best possible emergency services be available to them; and

WHEREAS, the Commonwealth of Virginia Emergency Services and Disaster Law of 1973 requires that each city and county develop and maintain a current Emergency Operations Plan which addresses its planned response to emergency situations; and

WHEREAS, such a plan has been developed by County staff in coordination with the Virginia Department of Emergency Management and input from responsible local agencies;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 18th day of November, 2008, that the County of York Emergency Operations Plan dated November, 2008, be and it is hereby adopted as the basic plan for implementation by the County for emergency operations during significant events/incidents, disasters and/or large scale emergencies.

BE IT FURTHER RESOLVED that the County Administrator and his designee(s) are authorized to maintain and revise the Emergency Operations Plan on a regular basis and/or as required by the Commonwealth of Virginia and/or the Federal Government and to promulgate the changes as necessary.

BE IT STILL FURTHER RESOLVED that those County officials charged with planning and operational responsibility in the Emergency Operations Plan become knowledgeable of such responsibilities and be prepared to execute their respective responsibilities upon notification of implementation of the plan.

Item No. 6. PURCHASE AUTHORIZATION: Resolution R08-132

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO PURCHASE A CRAWLER/DOZER AND TWO BULK REFUSE TRUCKS (BODY AND CHASSIS SEPARATELY)

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of $30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurements are necessary and desirable, that they involve the expenditure of $30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 18th day of November, 2008, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	AMOUNT
Crawler/Dozer	$ 85,315
Waste Truck Bodies	95,446
Waste Truck Chassis	116,856

NEW BUSINESS

2009 LEGISLATIVE PROGRAM

Mr. McReynolds gave a presentation on the proposed 2009 Legislative Program stating the items for adoption were identical to what came out of the Board's last work session. He added he had been in touch with his counterparts from the other Peninsula jurisdictions who have copies of York's Legislative Program, and he had received several of their programs. He noted it appeared that most of the localities will have requests for full funding of the localities from the State and ask the State to maintain their end of the bargain. He noted several of the packages will more than likely request support for tourism and also request support for federal and military facilities here in the area. Mr. McReynolds noted an effort had been made to coordinate York's program with others, to the extent possible, that have some common elements in those various legislative programs that will be going to the General Assembly for the next session.

Mrs. Noll asked if the coordination with the other jurisdictions could be carried a step further by way of a letter or resolution saying York supports the other localities legislative agenda and ask the other localities to do the same to strengthen the localities positions.

Mr. McReynolds indicated that could be considered, but he noted all the legislative packages are not uniform. If the Board should adopt a blanket resolution supporting the other localities packages they might find themselves supporting things they do not want to support.

Discussion followed regarding supporting the neighboring jurisdictions' legislative programs.

Mr. McReynolds stated he felt from a staff perspective the effort being discussed had been carried about as far as it could be and might be better suited for the Mayors and Chairs Caucus or with the elected representatives.

Mrs. Noll moved the adoption of proposed Resolution R08-113 that reads:

A RESOLUTION APPROVING THE COUNTY'S 2009 LEGISLATIVE PROGRAM

WHEREAS, because of the applicability of Dillon's Rule in Virginia, York County is dependent upon the General Assembly to adopt specific enabling legislation in many instances in order to enable the County to provide efficient effective services and government to its citizens; and

WHEREAS, the County has developed a Legislative Program for the consideration of the 2009 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its legislative program, and believes that it is in the best interests of the citizens of York County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 18th day of November, 2008, that this Board hereby approves the County's 2009 Legislative Program, and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that copies of this Resolution and the County's 2009 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

On roll call the vote was:

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

TRANSPORTATION SAFETY PLAN UPDATE

Chairman Shepperd expressed his appreciation for all the effort and hard work that went into the update.

Mrs. Noll stated she was impressed with all the hard work that went into the update and requested a hard copy of the update after it was approved.

Mrs. Noll moved the adoption of proposed Resolution R08-113 that reads:

A RESOLUTION TO ADOPT AN UPDATED TRANSPORTATION SAFETY PLAN FOR YORK COUNTY

WHEREAS, the York County Transportation Safety Plan developed by the York County Transportation Safety Commission provides direction and guidance to the County with respect to the programs and priorities of transportation safety; and

WHEREAS, the Transportation Safety Plan was last updated in 1992; and

WHEREAS, the Transportation Safety Commission has spent considerable time and effort over the past year updating the goals, objectives, and strategies, as well as other relevant information contained within the Plan; and

WHEREAS, the Transportation Safety Commission has recommended adoption of the plan;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of November, 2008, that the updated Transportation Safety Plan dated September 8, 2008, be, and it is hereby, adopted.

On roll call the vote was:

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

MATTERS PRESENTED BY THE BOARD

Chairman Shepperd addressed concerns with the tax rates and the current direction of the County. He stated based on the localities in the area, York County has a relatively low tax and crime rate and is a wonderful place to live with a high quality of life. He also noted the many

assets of living in York County. He stated that he wanted the citizens to know that the County was on track and headed in the right direction despite the current economy challenges.

CLOSED MEETING. At 10:36 p.m. Mr. Zaremba 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.

On roll call the vote was:

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

Meeting Reconvened. At 10:42 p.m. the meeting was reconvened in open session by order of the Chair.

Mr. Zaremba 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

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 18th day of November, 2008, 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, Zaremba, Noll, Wiggins, Shepperd
Nay: (0)

REAPPOINTMENTS TO THE YORK-POQUOSON SOCIAL SERVICES BOARD

Mrs. Noll moved the adoption of proposed Resolution R08-134 that reads:

A RESOLUTION TO REAPPOINT TWO YORK COUNTY REPRESENTATIVES TO THE YORK-POQUOSON SOCIAL SERVICES BOARD

WHEREAS, the terms of Davene Davis and Belinda Willis as York County representatives to the York-Poquoson Social Services Board expire December 31, 2008; and

WHEREAS, both Ms. Davis and Ms. Willis have indicated their desire to be considered for reappointment;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 18th day of November, 2008, that Davene Davis and Belinda Willis be, and they are hereby, reappointed to the York-Poquoson Social Services Board for terms of four years each, such terms to begin on January 1, 2009, and end December 31, 20

On roll call the vote was:

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

APPOINTMENT TO THE COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD

A RESOLUTION TO APPOINT A YORK COUNTY REPRESENTATIVE TO THE COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD

WHEREAS, the term of Sheriff J. D. (Danny) Diggs as a York County representative to the Colonial Community Criminal Justice Board expires on November 30, 2008; and

WHEREAS, Sheriff Diggs has indicated he does not wish to be reappointed to another term;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 18th day of November, 2008, that Ronald G. Montgomery be, and he is hereby, appointed as a York County representative to the Colonial Community Criminal Justice Board for a term of three years, such term to begin December 1, 2008, and end November 30, 2011.

On roll call the vote was:

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

Meeting Adjourned. At 10:45 p.m. Chairman Shepperd declared the meeting adjourned sine die.

James O. McReynolds, Clerk
York County Board of Supervisors

Thomas G. Shepperd, Jr., Chairman
York County Board of Supervisors

NOTE: In accordance with Section 15.2-1241 of the Code of Virginia, the minutes of this meeting were read at the February 3, 2009, Regular Meeting of the Board of Supervisors, and Chairman Zaremba was directed to sign such.