

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
March 17, 2015

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:03 p.m., Tuesday, March 17, 2015, in the Board Room, York Hall, by Chairman Thomas G. Shepperd.

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

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

Invocation. Ms. Lynne McMullen, Recreation Supervisor, gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Mr. Zarembo led the Pledge of Allegiance.

## **PRESENTATIONS**

### **INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS**

Chairman Shepperd introduced Mr. Leigh Houghland, newest member to the Marquis Community Development Authority, and presented him with a Boards and Commissions Handbook and a York County pin.

### **YORK COUNTY YOUTH COMMISSION**

Ms. Kristyn Gatling, Chairman of the Youth Commission, presented the Commission's third quarterly report to the Board. She reported that she and four members from the Student Relations Committee had attended the February 23 York County School Board meeting and presented an update on the Youth Commission, which included bullying information and data from their December survey. She stated the Commission met with the YMCA in January and had later formally voted to pursue a relationship with the Victory Family YMCA. She noted the Commission was also hopeful of partnering with other groups on the bullying issue and had set tentative goals of planning a community awareness and prevention initiative for next October or early November. She noted the Selection committee met for the Outstanding Youth Awards Program, and the selectees will be officially recognized in May by the Board of Supervisors. On February 13 Commissioners volunteered at the Annual Senior Center of York Valentine's Bingo Party. The second lunchtime mini-survey of the year in the high school cafeterias was being planned for late April or early May. She announced the annual town meetings would be held in each high school in April. Ms. Gatling thanked the Board of Supervisors for the opportunity to report to them this evening.

Chairman Shepperd thanked Ms. Gatling for the very good report.

Mr. Hrichak applauded the Youth Commission's efforts to partner with the YMCA, stating he felt it would be beneficial to both organizations. He asked how many nominations the Commission had received for the Outstanding Youth Awards.

Ms. Gatling stated they received about 35 nominations.

PROPOSED FISCAL YEAR 2016 BUDGET

Mr. Mark Carter, Interim County Administrator, presented the proposed Fiscal Year 2016 Budget to the Board of Supervisors. He stated the proposed budget included the available funding to the various functional areas needed to support the continued implementation and delivery of programs and services important to the Board and County citizens. The proposed budget met all legal requirements and was balanced. He then noted the Fiscal Year 2016 budget did not include a real property tax increase, and other tax rates were proposed at their current levels. He stated the County had maintained one of the lowest tax rates in the region and has one of the fewest number of employees per capita in the region. In terms of operating expenditures, excluding roads and education, York County spent less per capita than any other jurisdiction in the region. The total Fiscal Year 2016 General Fund budget was proposed at \$133.4 million, which represented an increase in expenditures of \$950,000, or 0.7 percent over FY 15. He stated this year’s proposed budget was focused on three major areas: funding for the School Division; Employee Compensation with a 2% increase; and funding programs, services, and capital project needs. Recognizing that one of the Board’s highest priorities was public education, he proposed allocating \$361,000 of the County’s \$950,000 growth in the general fund revenue to funding for School Operations. He stated the net available funding to address this year’s priorities included the \$950,000 of new revenue and \$700,000 in net debt services savings, and he proposed those funds be allocated as follows:

▪ School Operating Transfer	\$361,000
▪ 2% Salary Increase	750,000
▪ Health & Dental Increase	225,000
▪ Departments, CIP, Outside Agencies and Transfers	314,000
▪ Debt Service Savings	(700,000)
Total Increase in General Fund	\$950,000

Mr. Carter then reviewed the General Fund Expenditures by function and the proposed changes in expenditures by functional area. He next turned to the FY2016 General Fund Budget Revenue Summary, stating the primary sources of revenue were general property taxes at \$82.3 million and other local taxes at \$29.8 million, accounting for 84 percent of the \$133.4 million revenue total. Mr. Carter then moved to the Proposed Capital Improvement Program for Fiscal Years 2016-2025 and reviewed the FY2016 Proposed CIP. He noted the recommendation for FY2016 Proposed CIP included three public safety and security related projects that had been requested by the Sheriff’s Office even though they had not been programmed for FY 16 in the currently approved CIP. He noted some of the cost figures in the CIP project listings had been adjusted upwards or downward to account for refinements in the project scope and cost estimates, causing the General Capital Projects to increase by about \$460,000. He next reviewed the FY2016 Proposed CIP for the Schools, noting the Schools FY16 requests totaled \$13.9 million, which is \$5 million more than the current CIP included for FY16. He noted most of the cost of the radio equipment request and the Bethel Manor renovation project would be deferred to FY17 to give priority of maintenance projects. With agreements among School and County staff, the School Superintendent, and himself, the \$23 million proposed for the new elementary school in FY17 would allow the school to be ready to open in September 2019. Mr. Carter then reviewed several important budget dates to include the public hearing scheduled for 7:00 p.m. on Thursday, April 23, and work sessions on March 31, which is a joint work session with the School Board, April 7, 14, 28, and 30, with budget adoption scheduled for a regular Board meeting on May 5. He stated citizens could submit their comments on a special telephone line, 890-3220, and by email. He stated individual budget comments made by citi-

zens who properly identify themselves would be included in the record of the public hearing on April 23rd.

Chairman Shepperd pointed out that the March 31 work session would include a joint work session with the School Board followed by a separate meeting with just the Board of Supervisors members.

Mr. Wiggins thanked Mr. Carter for all the work he had done on the proposed budget, stating he had been pleasantly surprised that there was not a tax increase included and that the schools would be receiving as much funding as the County could allocate to them. He thanked Mr. Carter, Mrs. McGettigan, and members of the staff who had worked so hard on the budget.

Mrs. Noll echoed Mr. Wiggin's remarks, stating she also thought Mr. Carter and Mrs. McGettigan had worked out very well as a team and, although it had been stressful for them, she appreciated all the work they had put into the proposed budget. She stated she was very glad there was not a tax increase and she felt the voters and citizens in York County would appreciate all the work as well.

Mr. Zaremba stated he felt it was important at this time to emphasize that the proposed budget was not the final approved budget and there was room for movement if there was a need. He stated Mr. Carter and his staff had done an incredible job balancing the budget in this proposal. He stated everyone appreciated that there was no need for a tax increase if the proposed budget stands. He stated as this was a proposed budget, it was the citizens' budget and he encouraged them to get involved in the process and get into the website and scrutinize the proposed budget and give the Supervisors' input. He stated that year after year York County staff puts together an incredible budget. He stated the slides of the proposed budget showed how frugal York County was with respect to spending taxpayer dollars and how incredible the quality of life was in the County.

Mr. Hrichak echoed his fellow Supervisors comments. He noted one item of clarification for the increased revenue was the proposed ambulance transfer fee rate, and he wanted the citizens to know they would not be impacted by the increase.

Mr. Carter stated that was correct, noting those fees were paid by insurance companies and the County has a compassionate billing system.

Chairman Shepperd echoed Mr. Zaremba's remark about the proposed budget being the citizen's budget. It had been presented this evening as required under the Code of Virginia to the Board of Supervisors, and now its job was to take and digest the information. He stated he knew the School Board would be very interested in looking at the numbers to see how they compared. He emphasized the Supervisors needed input from the citizens. He noted the figures in the budget were positive in terms of the effect on the County's constituency, looking at the environment and the quality of life. Mr. Shepperd thanked Mr. Carter and the County staff for putting the budget proposal together, and he stressed the importance of the Supervisors giving their input on the proposed budget.

#### **CITIZENS COMMENT PERIOD**

Ms. Karen Ebeling, 118 Brock Street, spoke of the pictures she had previously sent to the Board members, stating she hoped the pictures had shown a more visual idea of the road and drainage problems in the Riverwalk Townes subdivision. She addressed the French drain that had been installed in the back of the neighborhood, stating after the snow had started to melt she had sent an additional picture of that area showing about three inches of water just sitting there. She felt the French drain was an exact example of one of the things that had been altered from the plat of how their neighborhood had been planned. She stated the French drain had been installed because that area had been flooding and was muddy, but the drain had not helped the problem. She spoke of other issues such as crumbling roads, crumbling gutters, and storm drains that had been shown in the pictures. Ms. Ebeling stated she hoped the Board

would take another look at the pictures and take them into account as everything was being decided. She knew there had been some movement with the lights, and she hoped the other issues would continue to move forward so more things could be accomplished.

Mr. Greg Cleckler, 209 Daniels Drive, thanked for the Board increased communications between the parties to keep them informed about what was going on with the Riverwalk Townes subdivision, and stated he felt the communications had really been beneficial. He stated one of his concerns with the communications was that a lot of it had been verbal, and he felt the problem with the verbal communications was there were things on the plat had not been included in the subdivision such as the turn-a-round at the end of Alexia Lane, as it had been determined that turn around was not required. He stated that was okay, but there was no documentation, and it was purely another word of mouth item. Mr. Cleckler stated another of his concerns was that when someone new came into the subdivision, they might feel like the street light which was not installed at the end of Ashton Drive was a safety problem. He stated that was another example of a word of mouth item. He stated the County Code addressed changes made to plans and stated they were to be documented. He asked that the undocumented items be put in writing to show the changes that had been made so they all had something to stand on.

Mr. Timothy Donley, 109 J Farm Lane, addressed the Board and passed out copies of an email he had sent to Mr. Zaremba on December 3rd. He stated he and his wife had moved to the upper County in 2001 to live in a secluded, serene, and quiet place. He stated that had all changed last September when a person living on Fenton Mill Road started discharging a firearm continuously. He stated the gun was very loud, and he felt it was a safety violation. Since last September, he had called the Sheriff's Office 15 times; and when the deputies had responded, they told him that the neighbor had rights. Mr. Donley stated he felt he had rights too, noting he had spoken with Mr. Cook and the Commonwealth Attorney who had told him to get in touch with his Supervisor, which he had done. He stated the email he had given to the Board this evening covered the whole problem. He stated the gun fire has to stop as they could not go out in their backyard. He stated the gun fire had stopped in December when Mr. Zaremba had brought it to the Board's attention, but it had started up again last month. Mr. Donley asked what course of action could be taken from here.

Mrs. Karen Donley, 109 J. Farm Lane, stated they could not go in their backyard without hearing gun fire, and they are concerned because they did not know the state of mind of the individual firing the gun. She asked the Supervisors if they could pass a law to prevent the gunfire or do something to help them out with the problem.

#### **COUNTY ATTORNEY REPORTS AND REQUESTS**

Mr. Barnett provided the Board with a General Assembly update, stating the Governor had until the 29th of March to make his recommendation for changes or vetoes, if any. He stated a veto session was scheduled to begin April 15, and he noted he would keep the Board apprised of any surprises that may come along with Governor's recommendations or the veto session.

#### **COUNTY ADMINISTRATOR REPORTS AND REQUESTS**

Mr. Carter reminded Chairman Shepperd that the meeting tonight would need to be adjourned to the March 31 joint work session with the School Board. He thanked the Board for directing their compliments to the budget staff and Mrs. McGettigan, stating they had done an incredible amount of work and spent countless hours working on the budget document and proposal. Mr. Carter also expressed his appreciation, stating they had done an outstanding job.

Mr. Zaremba stated he had asked Mr. Carter to comment on the interaction between Mr. Donley, his piece of property, the County, and things the County had been trying to do to reconcile this matter so there was a win-win result. He stated Mr. Donley's contention was that the

gentleman was not firing into the piece of property that he was renting, but rather beyond that property.

Mr. Carter stated it was also staff's assumption as well after reading a newspaper article about this issue a couple of months ago. They had started looking at the lay of the land and studying some aerial photos and what property was where and topographic descriptions that were in the article. He stated it seemed to staff there was a strong possibility that the discharge may be extending onto an adjacent property owned by the Pottery. He spoke with the Pottery representatives, and they indicated that if that is occurring, they have not given permission for it to occur, and they would be very concerned if it were occurring. He stated he and Mr. Zaremba coordinated to get a copy of the aerial photo with some of the property boundaries highlighted to Mr. Donley so he could look at the boundaries and possibly get some information back to them so they could convey it to the Pottery if that happened to be the case.

Chairman Shepperd stated the issue was not that citizens could not have or carry a gun; the question was the discharge of the gun. He stated part of the discharge aspect was that if a weapon was discharged, it was going to make noise; but it always seemed to be the assumption that if you discharged the weapon, the bullet that was discharged was going to magically hit the barrier of your property and not go somewhere else. He stated part of that was why the Board restricted the caliber of the firearms. He stated it was very important to understand that this was not a second amendment issue but one which affects the ability of people to enjoy the property they live on. He stated it behooves everyone not to abuse these situations because then you end up forcing the government to react. He stated if residents have property and they want to be able to discharge their weapon on it, they have the right to do so; but you had better be paying attention when you do this. He stated if the discharge of a firearm was being done on a routine basis to the point that it was affecting the lives of the people in that area, and if it continued to be a problem, it might end up forcing the government to take action that would affect a lot of citizens. He asked everyone to be considerate of their neighbors.

Mr. Wiggins stated he had spoken with the Sheriff Diggs at length regarding this matter, and the Sheriff had stated every time he had sent a Deputy up there the man was doing absolutely nothing that was against the law, and there was no reason to issue a summons. Mr. Wiggins stated he thought before taking any action, the Board should meet with Mr. Donley and Sheriff Diggs.

Chairman Shepperd stated if this matter needed to be pursued further, it should be at a work session.

### **CONSENT CALENDAR**

Mr. Hrichak addressed Item No. 6, asking if the funds of the two people who had withdrawn from the mitigation grant would be made available for people that had not made the cut.

Mr. Carter stated staff had secured permission from VDEM and FEMA to reallocate a portion of the original grant funds to increase the amount available for the six remaining projects in the grant. He stated staff was not allowed to add any new properties, but they had been able to reallocate some of the funds so that there were more funds to cover any potential cost increases that were not in the original estimate.

Mr. Hrichak moved that the Consent Calendar be approved as submitted, Item Nos. 2, 3, 4, 5, and 6, respectively.

On roll call the vote was:

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

Thereupon the following minutes were approved and resolutions adopted:

Item No. 2. APPROVAL OF MINUTES

The minutes of the March 2, 2015, Special Meeting, were approved.

Item No. 3. EMERGENCY HOME REPAIR PROGRAM: Resolution R15-13

A RESOLUTION TO AUTHORIZE THE INTERIM COUNTY ADMINISTRATOR TO TAKE ALL ACTIONS NECESSARY TO CONTINUE TO IMPLEMENT THE EMERGENCY HOME REPAIR PROGRAM AND TO ACCEPT ANY GRANT FUNDS AWARDED TO THE COUNTY BY THE VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

WHEREAS, the York County Board of Supervisors has a long standing commitment to assisting the County's low income citizens in meeting essential housing needs; and

WHEREAS, THE County has administered an Emergency Home Repair Program since 1989 and this program represents a valuable resource for the County's citizens; and

WHEREAS, the initial funding of home repairs can be achieved through program and resources currently budgeted or administered by the County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of March, 2015 that the Interim County Administrator be, and he is hereby, authorized to accept funding in the amounts offered the County by the Virginia Department of Housing and Community Development, execute any necessary grant agreements, related contracts, or other documents, subject to approval as to form by the County Attorney, and to do all things necessary to implement the Emergency Home Repair Program.

Item No. 4. HOUSING CHOICE VOUCHER PROGRAM: Resolution R15-14

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO TAKE ALL ACTIONS NECESSARY TO ACCEPT FUNDING AND CONTINUE TO IMPLEMENT THE HOUSING CHOICE VOUCHER PROGRAM FUNDED THROUGH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE VIRGINIA HOUSING DEVELOPMENT AUTHORITY

WHEREAS, the Board of Supervisors has a long standing commitment to assisting the County's low and moderate income citizens in meeting essential housing needs; and

WHEREAS, the Housing Choice Voucher Program funded and administered through the U.S. Department of Housing and Urban Development and the Virginia Housing Development Authority (VHDA) provide annual outside funding that assists eligible County citizens;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of March, 2015, that the County Administrator be, and he is hereby, authorized to accept funding in the amounts offered the County by the Virginia Housing Development Authority, execute any necessary grant agreement, contracts or other documents with VHDA, and to participate fully in the Section 8 Housing Choice Voucher Program for FY2016; provided that all documents shall be approved as to form by the County Attorney.

Item No. 5. ENDORSEMENT OF FAIR HOUSING PRINCIPLES: Resolution R15-15

A RESOLUTION ENDORSING THE PRINCIPLES OF FAIR HOUSING AS SET FORTH IN TITLE 36, CHAPTER 5.1 OF THE CODE OF VIRGINIA (1950) AS AMENDED

WHEREAS, the Commonwealth of Virginia has, through Section 36-96.1 of the Code of Virginia (1950, as amended), established a policy to: “provide for fair housing throughout the Commonwealth, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, or handicap, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity and general welfare of all inhabitants of the Commonwealth may be protected and insured”; and

WHEREAS, Section 36-96.8 et.seq., of the Code of Virginia (1950, as amended) empowers the Virginia Real Estate Board to receive complaints and conduct investigations of alleged violations of the Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of March, 2015 that the Board does hereby reaffirm its endorsement of the principles of the Virginia Fair Housing Law and does hereby state that it is the policy of the York County Board of Supervisors that said principles are, and continue to be, adhered to in this County.

Item No. 6. PURCHASE AUTHORIZATION: Resolution R15-28

A RESOLUTION TO AUTHORIZE THE INTERIM COUNTY ADMINISTRATOR TO DO ALL THINGS NECESSARY TO COMPLETE PROCUREMENT OF ENGINEERING SERVICES RELATED TO THE HAZARD MITIGATION GRANT PROGRAM

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, this expenditure in the aggregate exceeds the \$50,000 ‘limit’; and the County Administrator has determined that the following procurements 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 March, 2015, that the Interim County Administrator be, and hereby is, authorized to execute procurement arrangements with Schnable Engineering in the amount of \$58,380, as follows:.

	<u>AMOUNT</u>
Engineering Services	\$58,380

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

Meeting Reconvened. At 7:03 p.m. the meeting was reconvened in open session by order of the Chair.

**PUBLIC HEARINGS**

APPLICATION NO. UP-853-15, MICHAEL SCARBOROUGH, DBA SCARBOROUGH ELECTRICAL, INC.

Mr. Tim Cross, Principal Planner, gave a presentation on Application No. UP-853-15 to approve a Special Use Permit, pursuant to Section 24.1-283(e) of the York County Zoning Ordinance, to authorize a home office with a non-resident employee on a 1.1-acre parcel located at 106 Lewis Drive. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval 7:0; and staff recommended approval of the application through the adoption of proposed Resolution R15-24.

Mr. Wiggins stated he lived in that area and did not see how anyone could object to the application. He asked if any of the neighbors had objected.

Mr. Cross stated no one had spoken at the Planning Commission public hearing, but early on in the application process there had been a couple of phone calls from neighbors who expressed some concerns. He thought part of that was the fact that previously there had been a bucket truck stored on the property, and that truck had since been relocated.

Mr. Zaremba asked where the business was currently located.

Mr. Cross stated he thought the business was currently being conducted from in the garage. The application had been triggered by a zoning enforcement action, and the applicant had been advised of the requirement to apply for a special use permit. He stated there had been a complaint from a former employee, and that was how this situation had come to light.

Mr. Hrichak asked if the BMP was a result of the application.

Mr. Cross stated the applicant would have to provide the BMP regardless because of the impervious surface of the driveway, deck, and pool behind the home; so it was not a part of the application.

Mr. Hrichak asked what the time period was with the approval of the application.

Mr. Cross stated the use permit for the employee would be the standard two years, at which point the applicant could come back if he could get letters signed by all the adjacent property owners, then it would be something the Board could approve without a public hearing; but if he could not get the letters, then he would have to go through the use permit process again. He stated the applicant had indicated that he has plans to ultimately move to a commercial location, so it could be that he might not need more than two years.

Mr. Hrichak asked what the cost would be for the applicant to reapply in two years.

Mr. Cross stated if the applicant had to go through the use permit process again, the cost would be \$400 for the filing fee.

Mr. Hrichak asked why he would have to pay the fee again.

Mr. Cross stated the zoning ordinance says any home occupation with a non-resident employee has a two-year term unless the Board approves something different, so there was the flexibility for them to extend or reduce the timeframe.

Mr. Hrichak stated this had been discussed in the past; and if there were no complaints received from any of the neighbors, he thought the time should be extended for a number of years as he felt it was unfair to have the applicant pay \$400 every two years just because there was an employee in their home.

Mr. Cross stated the logic behind that provision was that it allows the person to come in and provide the written documentation from all the neighbors; and if the letters are in support of the business, then there is no \$400 fee.

Mr. Hrichak asked why there would be the need to even get the letters if no complaints had been received.

Chairman Shepperd stated there was other property around the back and he did not know when it might be developed, and things could change; but he agreed that the period of time could be extended, if it would not cause a problem, for three or four years.

Mr. Hrichak stated they had extended use permits up to 10 years in the past and he suggested this permit be changed to 10 years.

Mrs. Noll stated the hope was that the business was going to grow out of being a home occupation into a commercial area; and she felt that since this use permit would include a non-resident employee, checking on it every two years was not a bad idea.

Mr. Mike Scarborough, 106 Lewis Drive, addressed the Board to answer their questions, stating if the business grew, he was planning to move it out of his home. He stated the original complaint was from a disgruntled employee who had been embezzling from him. He stated a lot of times he met the employees in the field to get their checks; but if he was out of town or he was not there, the employees could come to his home to pick up their checks. He stated it was very rare for the employees to come to the shop.

Chairman Shepperd asked the applicant how long he had been working out of his home location.

Mr. Scarborough stated he moved into his home in 2009 and had been operating out of his home since then.

Chairman Shepperd asked the applicant if he had received any complaints.

Mr. Scarborough stated he had not received any complaints, and he had done small jobs for some of his neighbors on his own time.

Chairman Shepperd stated the use permit before the Board this evening was for two years, and he asked Mr. Scarborough if the Board pushed it out to four years, would it sound reasonable to him.

Mr. Scarborough stated he had no objection to changing the use permit to four years, noting when this had all come about his neighbor to the left had told him he had not even known he was running a business out of his home.

Chairman Shepperd asked Mr. Cross to define neighbors.

Mr. Cross stated neighbors included all the adjacent property owners.

Chairman Shepperd then called to order a public hearing on Application No. UP-851-14 which was duly advertised as required by law, and proposed Resolution R15-24 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT APPLICATION TO AUTHORIZE THE ESTABLISHMENT OF A HOME OFFICE WITH NON-RESIDENT EMPLOYEES ON PROPERTY LOCATED AT 106 LEWIS DRIVE

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

Mr. Hrichak moved the adoption of proposed Resolution R15-24(R) that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT APPLICATION TO AUTHORIZE THE ESTABLISHMENT OF A HOME OF-

March 17, 2015

FICE WITH NON-RESIDENT EMPLOYEES ON PROPERTY LOCATED AT 106 LEWIS DRIVE

WHEREAS, Michael F. Scarborough, dba Scarborough Electrical, Inc., has submitted Application No. UP-852-14 requesting a Special Use Permit, pursuant to Section 24.1-283(e) of the York County Zoning Ordinance, to authorize the establishment of a home office with non-resident employees in a detached garage accessory to a single-family detached home on a 1.05-acre parcel located at 105 Lewis Drive (Route 628) and further identified as Assessor's Parcel No. 25-45-2 (GPIN T08b-3491-4696); 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 17th day of March, 2015 that Application No. UP-853-15 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-283(e) of the York County Zoning Ordinance for the establishment of a home office with non-resident employees in a detached garage accessory to a single-family detached home on a 1.05-acre parcel located at 105 Lewis Drive (Route 628) and further identified as Assessor's Parcel No. 25-45-2 (GPIN T08b-3491-4696) subject to the following conditions:

1. This use permit shall authorize the establishment of a home office in a detached garage accessory to a single-family detached home on a 1.05-acre parcel located at 106 Lewis Drive (Route 628) and further identified as Assessor's Parcel No. 25-45-2 (GPIN T08b-3491-4696).
2. The home occupation shall be conducted in accordance with the provisions set forth in Sections 24.1-281 and 24.1-283(e) of the York County Zoning Ordinance, except as modified herein.
3. The floor area of the home office shall not exceed one hundred seventy five (175) square feet, and shall be designed as depicted on the floor plans submitted by the applicant and received by the Planning Division on December 30, 2014, a copy of which shall remain on file in the office of the Planning Division.
4. Non-resident employees shall be permitted on site as follows:
  - One office administrator, no more than five (5) business days (Monday - Friday) per week, between the hours of 10:00 AM and 2:00 PM
  - Up to five (5) additional employees, not more than one business day (Monday - Friday) per week, between the hours of 3:30 PM and 4:00 PM. Not more than three (3) commercial vehicles having a carrying capacity of 1-ton or less shall be utilized to transport and be parked by said employees on the property.

No other additional persons, other than individuals residing on the premises, shall be engaged in the home occupation. Pursuant to the terms of Section 24.1-283(e)(3) of the Zoning Ordinance, the non-resident employee authorization shall be for four (4) years.

5. A minimum of four (4) off-street parking spaces, in accordance with all applicable Zoning Ordinance requirements, shall be provided on the premises (i.e., off-street) to ac-

commodate non-resident employees. These spaces shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.

6. In accordance with Section 24.1-271(h), Accessory Uses Permitted in Conjunction with Residential Uses, one commercial vehicle having a carrying capacity of 1-ton or less and used by the applicant for transportation purposes associated with the home business is permitted to be stored on the property. No other commercial vehicles shall be parked or stored on the property except as stipulated in Condition No. 4 above.
7. Prior to commencement of the home occupation use, the portion of the detached garage used for the home office and associated parking areas shall conform to minimum standards of the Virginia Uniform Statewide Building Code, subject to the approval of the Building Code Official.
8. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit 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 issuance of a Certificate of Occupancy for the home office use.

BE IT FURTHER RESOLVED that this Special Use Permit 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) Noll, Wiggins, Hrichak, Zaremba, Shepperd  
Nay: (0)

#### **MATTERS PRESENTED BY THE BOARD**

Mr. Wiggins expressed his appreciation to the many citizens who had called him and asked him to run again for the Board of Supervisors. He then spoke about how nice it was working on the Board all of these years, stating he felt a lot had been accomplished, but he was ready to go at the end of the year.

Mrs. Noll wished Ms. Ruth Manus a Happy Birthday on celebrating her 104th birthday. She noted how pleased she had been this week to deliver remarks at the Naturalization Ceremony, and she thanked the Charles Parish Chapter of the Daughters of the American Revolution. She stated the ceremony was for 80 people from 35 countries who left their countries to become citizens of the United States. Mrs. Noll stated today she had attended the Docent Program sponsored by the Yorktown Woman's Club, in association with the York-Poquoson Bar Association and the York County Schools. The Docent Program brings seniors from the high school government classes to the Peninsula Regional Jail and York-Poquoson Courts as a part of a lesson on the judicial system. She stated the Outstanding Youth Awards Program selection process this year had been very difficult because there had been so many great applications from the York County public schools and also the private schools. She felt the Youth Commissioners that helped make the decisions had some very good insight into the choices. She hoped the students who were not chosen this year and would still be eligible next year would be nominated again. Mrs. Noll stated she felt Kristyn Gatling, who delivered the Youth Commission Report this evening, was a fine example of the youth in York County Schools.

Mr. Zaremba stated he would be making comments tomorrow at the ribbon cutting for the new Holiday Inn Vacation Club in the upper County. He stated the timeshare would be something along the lines of the Great Wolf Lodge, minus the indoor water park, and have three large pools and many other amenities. He felt this new timeshare would be an incredible economic engine for the localities of the Historic Triangle. In reference to the comments made by Mr. Cleckler regarding Riverwalk Townes, Mr. Zaremba stated there had been and will continue to be a lot more interaction between the County, the attorney, the homeowners association, and

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the developer/builder. He asked Mr. Barnett if it had been decided who was responsible for the outstanding issues.

Mr. Barnett stated he had made suggestions, and he could try to outline that more completely for the Board; but there would be some aspects of the complaints at Riverwalk Townes that would make it difficult to say precisely with real exactitude as to who was responsible. He then reviewed some of the outstanding issues, stating it was going to be difficult to determine who was responsible for some of them, and there might never be answers. Mr. Barnett stated staff had been looking at some of the individual items, but not everything had been nailed down.

Mr. Zaremba stated the point to Mr. Barnett's comments was there had been a lot of interaction between the County and other players to try and move forward, but there were so many issues in terms of who was legally responsible for some of the issues.

Mr. Barnett commented that in reference to Mr. Zaremba's comment about keeping the developer in the loop, he was not sure where the developer was now. He stated he had been informed by the developer's former attorneys that they were no longer on retainer. He noted Mr. Carter had sent a letter to the developer's last known address asking him if he still had counsel, but he had not received an answer.

Mr. Hrichak informed the citizens of an upcoming four-day lane closure on Lakeside Drive which would begin at Yorkville Road to the first Lakeside Drive entrance traveling north towards Dare Road. He stated the contractor would be doing a full base Phase 3 rehabilitation on that road and wants to complete the process to prevent any saturation into the base. He stated there would be digital signs on Route 17 north, Route 17 southbound, and also on Dare Road letting citizens know what was going to happen during the four-day lane closure. He thought this would take place around the end of March. He advised citizens to be on the lookout for signage regarding the road closures. Mr. Hrichak stated citizens will still be able to get to their homes.

Chairman Shepperd stated Route 17 had been milled and paved, making it much better. He updated the Board on the Hampton Roads Transportation Accountability Commission, stating when the Commission was established nine months ago, its sole purpose was to build roads; but no roads had been built because of the General Assembly's failure to pass a law to allow funding to pay for the administration. He stated the lack of road construction was costing the region of Hampton Roads \$700,000 a day while waiting to begin the building projects. He stated funding had moved forward for Segment One of the I-64 widening project, Segment Two and Segment Three are on the books, but not one project has been built.

Mr. Zaremba stated there was a scathing article in the Daily Press this morning regarding Interstate 460 and the money that had been paid to contractors who had not done any work. He added there was no accountability for the dollars, and the Secretary of Transportation had no idea where the money had gone.

Chairman Shepperd stated that was \$300 million that went somewhere. He stated one of the problems they were seeing in the HRTAC meetings was that the representatives were coming to the meetings without having done their homework, so they do not understand what the HRTAC was supposed to do and thinking they were going to refight the battle over the projects. He stated it had taken the Chairman nine months to get the representatives under control.

Mr. Wiggins asked Mr. Shepperd to elaborate on the \$700,000 that was being lost each day.

Chairman Shepperd stated the money was not going anywhere, but the problem was that the projects were going to cost more based on inflation. He then updated the Board on his second meeting with the Interim Superintendent of the National Park Service, Elaine Leslie, stating he had invited her to meet with them at a future work session. He stated he had toured the area with Ms. Leslie and an expert on the battlefield, and during the tour, a discussion had taken place regarding the battlefield, the Yorktown monument, the Fourth of July activities, and the attitude regarding those activities had completely flipped. Mr. Shepperd informed Mr. Zaremba

he had also raised a good neighbor question regarding the access restriction from Queens Lake to the Parkway and that restriction was going to be removed to allow pedestrian, bicycle, and emergency access.

Mrs. Noll stated she felt the problem with the Park Service had been more of a personality issue rather than a historical issue.

Chairman Shepperd stated Ms. Leslie hopes to help restore the Fourth of July activities to what it used to be, but she also has to weigh that with the mission to protect the Park Service. He learned during their tour that the big open battlefield was the heart of the battle and that there were actually people buried out there. He updated the Board on a dredging meeting he and staff had with the City of Poquoson, stating there would be more to follow. He then addressed the old street connection issue with the Woods of Tabb neighborhood that butts up against the City of Poquoson. He stated there was a about a five-foot piece of land there that staff was in the process of looking at how to transfer to the homeowners association which would stop any street connection through that neighborhood. He had heard there were about 500 homes proposed to go into the big woods in the City of Poquoson, and he could only imagine the problems that could be caused if there was a cut through the Woods of Tabb to the Poquoson neighborhood. Mr. Shepperd then reminded the Board members when they came out of the Closed Meeting session, the meeting would be adjourned to the March 31 Joint Meeting with the School Board.

Mrs. Noll asked about the meeting that was scheduled for the Board members on March 23 to meet with Mr. Baenziger.

Mr. Barnett stated the protocol was to adjourn to the next meeting that was not a regular meeting so the meeting this evening would be adjourned to March 23 and then it could further be adjourned to the March 31 meeting.

Chairman Shepperd stated there would be a personnel meeting on March 23 that would be opened in open session and then go into closed meeting to look at the applicants for the County Administrator position. He added that meeting would be held in the County Administration Conference Room. He stated that meeting would adjourn to the Joint Meeting on March 31. He noted the meeting dates were posted on the County's website.

**CLOSED MEETING.** At 7:54 p.m. Mr. Hrichak moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(7) of the Code of Virginia, to consult with legal counsel on a specific legal matter requiring the provision of legal advice by counsel.

On roll call the vote was:

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

Meeting Reconvened. At 8:20 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll 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

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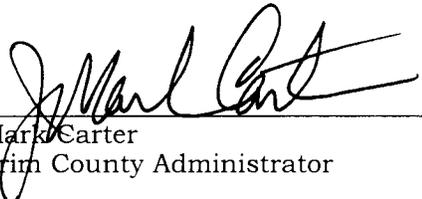
WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

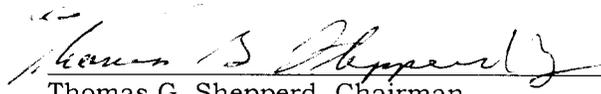
NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of March, 2015, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting 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)

Meeting Adjourned. At 8:22 p.m. Chairman Shepperd declared the meeting adjourned to 6:00 p.m., Monday, March 23, 2015, in the County Administration Conference Room, York County Administrative Office Center, for the purpose of conducting a work session.

  
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J. Mark Carter  
Interim County Administrator

  
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Thomas G. Shepperd, Chairman  
York County Board of Supervisors