

**MINUTES
KING WILLIAM COUNTY
BOARD OF SUPERVISORS
MEETING OF SEPTEMBER 24, 2012**

At a regularly scheduled meeting of the Board of Supervisors of King William County, Virginia, held on the 24th day of September, 2012, beginning at 7:00 p.m. in the Conference Room of the County Administration Building, order was called with the following present:

C. T. Redd III, Chairman
T. J. Moskalski, Vice-Chairman
S. K. Greenwood
T. S. Stone
O. O. Williams

T. L. Funkhouser, County Administrator
D. M. Stuck, County Attorney

RE: REVIEW OF MEETING AGENDA

Chairman, C. T. Redd III called the meeting to order at 7:00 p.m. and agenda changes were discussed. The following changes were discussed: adding a closed meeting to the agenda to occur at the beginning of the business meeting. Under item 9, Presentations to the Board, move item 9c Update to Emergency Operations Plan, and item 9d Consideration of Action of Update to Emergency Operations Plan to become items 8g and 8h under the Consent Agenda. Under item 12, Administrative Matters, move item 12a Radio System Type Selection to become item 10a under Old Business; item 10a, tabled item from August 27, 2012 business meeting, now becomes item 10b under Old Business.

RE: CLOSED MEETING – PERSONNEL, IN ACCORDANCE WITH § 2.2-3711(A)(1) OF THE CODE OF VIRGINIA, TO CONSIDER A PERSONNEL MATTER INVOLVING THE DISCIPLINE OF A SPECIFIC PUBLIC EMPLOYEE AND LEGAL MATTERS, IN ACCORDANCE WITH § 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 motion by T. S. Stone, seconded by T. J. Moskalski, and carried unanimously, the Board entered Closed Meeting pursuant to §2.2-3711(A)(1), Code of Virginia, to consider a personnel matter involving the discipline of a specific employee

and pursuant to § 2.2-3711(A)(7), Code of Virginia, to consult with legal counsel on a specific legal matter requiring the provision of legal advice by counsel.

Having completed the Closed Meeting, the Board reconvened in open meeting, on motion by O. O. Williams, seconded by S. K. Greenwood and carried unanimously.

In accordance with Section 2.2-3717(D) of the Code of Virginia, 1950, as amended, T. J. Moskalski moved that the King William County Board of Supervisors adopt the following resolution certifying that this closed meeting's procedures comply with the requirements of the Virginia Freedom of Information Act. This motion was seconded by S. K. Greenwood and carried with a unanimous roll call vote.

RESOLUTION

WHEREAS, the King William 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 of the Code of Virginia requires a certification by the King William County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED, that the King William County Board of Supervisors on this 24th day of September, 2012, hereby certifies that, to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were heard, discussed, or considered in the closed meeting to which this certification resolution applies, by the King William County Board of Supervisors.
2. Only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the King William County Board of Supervisors.

Those members voting:

| | |
|-----------------|-----|
| T. S. Stone | Aye |
| O. O. Williams | Aye |
| T. J. Moskalski | Aye |
| S. K. Greenwood | Aye |
| C. T. Redd III | Aye |

RE: APPROVAL OF MEETING AGENDA

On motion by S. K. Greenwood, seconded by T. J. Moskalski, with the following roll call vote, the Board adopted the agenda for this meeting as presented by the County Administrator with the following changes: A closed meeting was added to the

agenda to discuss a personnel matter in accordance with §2.2-3711(A)(1) of the code of Virginia, to consider a personnel matter involving the discipline of a specific public employee and to discuss a legal matter in accordance with §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. Under item 9, Presentations to the Board, item 9c Update to Emergency Operations Plan, and item 9d Consideration of Action of Update to Emergency Operations Plan now become items 8g and 8h under the Consent Agenda. Under item 12, Administrative Matters, item 12a Radio System Type Selection now becomes item 10a under Old Business; item 10a, tabled item from August 27, 2012 business meeting, now becomes item 10b under Old Business.

Those members voting:

| | |
|-----------------|-----|
| S. K. Greenwood | Aye |
| T. S. Stone | Aye |
| O. O. Williams | Aye |
| T. J. Moskalski | Aye |
| C. T. Redd III | Aye |

RE: PUBLIC COMMENT PERIOD – SPEAKERS: ONE OPPORTUNITY OF 3 MINUTES PER INDIVIDUAL OR 5 MINUTES PER GROUP ON NON-PUBLIC HEARING MATTERS

The Chairman opened the First Public Comment Period.

There being no persons to appear before the Board the Chairman closed the First Public Comment Period.

RE: CONSENT AGENDA

On motion by T. J. Moskalski, seconded by O. O. Williams, with the following roll call vote, the Board approved the following items on its Consent Agenda:

- a. Minutes of the Regular Meeting of August 27, 2012.
- b. Claims against the County for the month of September, 2012, in the amount of \$777,045.16 as follows:

(1) General Fund Warrants #76850-76936 in the amount of \$160,440.97; ACH Direct Payments for #2698-2794 in the amount of \$279,002.71; Direct Deposits #17109-17209 in the amount of \$178,006.42; and Electronic Tax Payment in the amount of \$66,048.86 for September, 2012.

(2) For informational purposes, Social Services expenditures for the month of August, 2012, Warrants #309371-309404 in the amount of \$26,860.01; ACH Direct Payments #692-712 in the amount of \$11,737.75; Direct Deposits #2846-2865 in the amount of \$30,101.46; and Electronic Tax Payment in the amount of \$10,838.70.

(3) For informational purposes, Comprehensive Services Act Fund expenditures for the month of August, 2012, Warrants #76782-76789 in the amount of \$9,000.38; and ACH Direct Payments #2696-2697 in the amount of \$5,083.26.

(4) Tax Refunds for the month of September, 2012, in the amount of \$324.64.

c. Approved the following Resolution #12-61 – A resolution requesting full reimbursement to localities for the cost of Party Primaries:

RESOLUTION #12-61
A RESOLUTION REQUESTING FULL REIMBURSEMENT
TO LOCALITIES FOR THE COST OF PARTY PRIMARIES

WHEREAS, the Code of Virginia § 24.2-509-A permits political parties to choose their candidates by either convention or primary, and requires localities to pay for the cost of primaries § 24.2-518; and

WHEREAS, the Primary Election held in King William County on June 12, 2012 resulted in a total of 707 votes being cast, at a cost to the County of \$8,474.52, an average of \$11.98 per vote; and

WHEREAS, this cost was borne by the taxpayers of King William County without compensation from the political parties or the Treasury of the Commonwealth; and

WHEREAS, the King William County Electoral Board adopted a resolution at its meeting of September 4th, 2012 requesting the Board of Supervisors to address this matter with the General Assembly,

NOW THEREFORE, BE IT RESOLVED, that the King William County Board of Supervisors believes this lack of reimbursement by the political parties or the Commonwealth to be an unfunded mandate, and respectfully request our Delegates, the Honorable Christopher K. Peace and the Honorable M. Keith Hodges, and Senator Thomas K. Norment in the General Assembly to seek legislation requiring full compensation for the cost of political party primary elections conducted by localities at the direction of the Commonwealth.

d. Approved the following Resolution #12-62 – A resolution requesting full reimbursement to localities for the cost of Presidential Primaries:

RESOLUTION #12-62
A RESOLUTION REQUESTING FULL REIMBURSEMENT TO
LOCALITIES FOR THE COST OF PRESIDENTIAL PRIMARIES

WHEREAS, the Code of Virginia § 24.2-545-A permits state political parties to choose their national candidates by either convention or primary, and requires the Commonwealth to pay for the cost of presidential primaries § 24.2-545-F; and

WHEREAS, the Presidential Primary Election held in King William County on March 6, 2012 resulted in a total of 599 votes being cast, at a cost to the County of \$10,965.00, an average of \$18.31 per vote; and

WHEREAS, the reimbursement to localities under “the provisions of the appropriation act” amounted to only \$6,399.62 for King William County, 58% of the County’s expenses for the presidential primary; and

WHEREAS, the King William County Electoral Board adopted a resolution at its meeting of September 4th, 2012 requesting the Board of Supervisors to address this matter with the General Assembly,

NOW THEREFORE, BE IT RESOLVED, that the King William County Board of Supervisors believes this lack of reimbursement to be an unfunded mandate, and respectfully request our Delegates, the Honorable Christopher K. Peace and the Honorable M. Keith Hodges, and Senator Thomas K. Norment in the General Assembly to seek legislation requiring full compensation for the cost of political party presidential primary elections conducted by localities at the direction of the Commonwealth.

e. Approved the following Resolution #12-63 – A resolution requesting full reimbursement to localities for the compensation and expenses of the General Registrar and Electoral Board:

RESOLUTION #12-63
A RESOLUTION REQUESTING FULL REIMBURSEMENT TO LOCALITIES FOR
THE COMPENSATION AND EXPENSES OF
THE GENERAL REGISTRAR AND ELECTORAL BOARD

WHEREAS, the Code of Virginia, § 24.2-108 and § 24.2-111, requires the General Assembly to set forth a compensation and expense plan for electoral boards and general registrars, and requires localities to pay those expenses with annual reimbursement; and

WHEREAS, the Appropriations Act adopted by the General Assembly effective July 1, 2012 includes the language (Item 88-2.):

“Notwithstanding § 24.2-108, Code of Virginia, counties and cities shall not be reimbursed for mileage paid to members of electoral boards.”

and,

WHEREAS, the Appropriations Act has repeatedly reduced the funds available to localities for Financial Assistance for General Registrar Compensation (78001) and for Local Electoral Board Compensation and Expenses (78002), resulting in only 62% reimbursement for Fiscal Year 2013; and

WHEREAS, the King William County Electoral Board adopted a resolution at its meeting of September 4th, 2012 requesting the Board of Supervisors to address this matter with the General Assembly,

NOW, THEREFORE, BE IT RESOLVED, that the King William County Board of Supervisors believes this lack of reimbursement to be an unfunded mandate, and respectfully request our Delegates, the Honorable Christopher K. Peace and the Honorable M. Keith Hodges, and Senator Thomas K. Norment in the General

Assembly to seek legislation requiring full compensation to localities for the cost of elections conducted by localities at the direction of the Commonwealth.

f. Approved the following Resolution #12-66 – A resolution designating a King William County Representative to vote at the 2012 VACo Annual Business meeting; appointing Otto O. Williams:

RESOLUTION #12-66
A RESOLUTION DESIGNATING A
KING WILLIAM COUNTY REPRESENTATIVE
TO VOTE AT THE
2012 VACo ANNUAL BUSINESS MEETING

WHEREAS, Board of Supervisors members O. O. Williams and T. S. Stone are scheduled to attend the 2012 VACo Annual Business Meeting on November 13, 2012 at The Homestead in Bath County; and

WHEREAS, the VACo Bylaws allow counties to designate a non-elected official of the county or a representative from its Board of Supervisors to vote at the Annual Business Meeting,

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of King William County, Virginia, that Otto O. Williams, is hereby appointed to vote on behalf of King William County during the 2012 VACo Annual Business Meeting.

g. Approved the following Resolution #12-60 – A resolution adopting the “Emergency Operations Plan, County of King William, Virginia, September 2012”, and directing the County Administrator, as County’s Director of Emergency Management, to take actions necessary to implement said plan:

RESOLUTION #12-60
A RESOLUTION ADOPTING THE “EMERGENCY OPERATIONS PLAN,
COUNTY OF KING WILLIAM, VIRGINIA, SEPTEMBER 2012,”
AND DIRECTING THE COUNTY ADMINISTRATOR,
AS COUNTY’S DIRECTOR OF EMERGENCY MANAGEMENT,
TO TAKE ACTIONS NECESSARY TO IMPLEMENT SAID PLAN

WHEREAS, the Virginia Emergency Services and Disaster Law of 2000, as amended, specifically Section 44-146.19 of the Code of Virginia, requires each locality in the state to prepare and keep current an emergency operations plan which includes at minimum: 1) the responsibilities of all local agencies; 2) an established chain of command; 3) a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01, as well as current contact information for both; and

WHEREAS, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, specifically 42 U.S.C. § 5133, 42 U.S.C. § 5165, and 42 U.S.C. § 5170c, a locality must adopt an emergency mitigation plan which describes actions to mitigate hazards, risks, and vulnerabilities identified under the plan and establishes a strategy to implement those actions in order to retain the locality’s eligibility to receive a full share of federal grants earmarked for emergency preparedness and mitigation of hazards; and

WHEREAS, an emergency operations plan (“the Plan”) for the County of King William and its citizens has been developed, consistent with the Commonwealth of

Virginia Emergency Services and Disaster Law of 2000, as amended, and the Stafford Disaster Relief and Emergency Assistance Act and federal regulations adopted pursuant thereto, as amended, to be implemented in the event of an emergency or disaster; and

WHEREAS, the Plan is embodied in that certain document, with its appendices, entitled: "Emergency Operations Plan, County of King William, Virginia, September 2012," a copy of which is on file with the Clerk of the Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of King William, Virginia:

1. That it hereby adopts the Plan entitled "Emergency Operations Plan, County of King William, Virginia, September 2012."
2. That the County Administrator, as the County's Director of Emergency Management, is hereby authorized and directed to develop and implement the organization and perform assigned tasks as set out in said Plan.
3. That the County Administrator, as the County's Director of Emergency Management, is hereby responsible to continually monitor the provisions of the Plan, and is empowered to coordinate with appropriate officers and departments of the County of King William, Virginia, and other agencies and organizations to develop recommendations to the Board for amendments to the Plan.
4. That this resolution shall be in effect on and after the date of its adoption, September 24th, 2012.

Ms. Stone noted that King William County Public Schools should be listed under the list of represented organizations in the All Hazards Emergency Operations Plan.

Those members voting:

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| T. S. Stone | Aye |
| O. O. Williams | Aye |
| T. J. Moskalski | Aye |
| S. K. Greenwood | Aye |
| C. T. Redd III | Aye |

RE: PRESENTATIONS TO THE BOARD

a. Public Hearing – Ordinance #12-07 – An Ordinance to Amend Chapter 86 – Zoning of the King William County Code to Change the Process for Review and Approval of Special Exceptions, to Eliminate the Availability of Special Exceptions for Certain Uses, to make Certain Special Exception Uses Permitted Uses, and to Update Provisions Related to Conditional Zoning – The County Administrator briefly explained the proposed amendments to Chapter 86 – Zoning of the King William County Code. He said the proposed ordinance is a result of several conversations with the Board of Supervisors directing Staff to forward to the Planning Commission some zoning ordinance amendments that would accomplish two objectives. The first would modify the authority of the Board of Zoning Appeals such that they consider variances and

appeals of administrative decisions, which is traditionally that role. Formerly, the Board of Zoning Appeals considered special exceptions, while that is permitted by State Code the Board of Supervisors wishes to consolidate land use decision authority with the Board of Supervisors. The second primary component of the proposed ordinance amendments is housekeeping, updating the conditional rezoning text to ensure consistency with State Code. These items were forwarded to both the BZA and the Planning Commission. The Planning Commission held a public hearing on the proposed ordinance amendments and unanimously recommended that the Board of Supervisors approve the amendments presented tonight.

Chairman Redd opened the public hearing.

There being no persons to speak for or against this matter the Chairman closed the public hearing.

b. Consideration of Action – Ordinance #12-07 – An Ordinance to Amend Chapter 86 – Zoning of the King William County Code to Change the Process for Review and Approval of Special Exceptions, to Eliminate the Availability of Special Exceptions for Certain Uses, to make Certain Special Exception Uses Permitted Uses, and to Update Provisions Related to Conditional Zoning – On motion by T. J. Moskalski, seconded by T. S. Stone, with the following roll call vote, the Board adopted the following Ordinance #12-07:

Ordinance #12-07
An Ordinance to Amend Chapter 86 – Zoning
of the King William County Code
to Change the Process for Review and Approval of Special Exceptions,
to Eliminate the Availability of Special Exceptions for Certain Uses,
to make Certain Special Exception Uses Permitted Uses,
and to Update Provisions Related to Conditional Zoning

WHEREAS, the Board of Supervisors of King William County, Virginia has received a recommendation from the Planning Commission, adopted after a duly held public hearing, to amend certain sections of Chapter 86 (Zoning Ordinance) of the King William County Code; and

WHEREAS, after a duly advertised and held public hearing, the Board believes it appropriate to amend the King William County Code Chapter 86 as recommended by the Planning Commission;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, that the Board of Supervisors of King William County, Virginia, does this 24th day of September, 2012, amend and reenact the following sections of Chapter 86, of the King William County Code to read as follows:

Sec. 86-171. - Permitted use table established.

The purpose of this article is to establish the uses that are permitted in each principal zoning district. To accomplish this purpose, the Table of Permitted Uses in Zoning Districts, referred to in this article as the "permitted use table," is hereby created as a part of this article, and likewise as part of this chapter. The permitted use table establishes the uses of land, buildings or structures that are permitted under this chapter, and stipulates the zoning districts in which each use is permitted.

TABLE OF PERMITTED USES IN ZONING DISTRICT

| Description of Uses | A-C | R-R | R-1 | B-1 | B-2 | M | R-C |
|--|-----|-----|-----|-----|-----|---|-----|
| AGRICULTURAL GROUP | | | | | | | |
| Auction market for livestock | C | | | | | | |
| Agriculture, including horticultural, chemical or general farming, truck gardening, cultivation of field crops, orchards, groves or plant nurseries and in general all uses commonly classified as agricultural. | R | | | | | R | |
| Animal keeping and/or raising for large animals such as pigs, cows, horses, sheep or goats on a farm of at least ten acres, provided that no business office or store is maintained on the premises. A larger lot may be required if the operation causes objectionable odor, dust, noise or other factors to surrounding residences. | R | C | | | | R | |
| Animal keeping and/or raising for small animals such as rabbits, poultry, birds, bees, or fish on a lot of at least two acres, provided that no business office or store is maintained on the premises. A larger lot may be required if the operation causes objectionable odor, dust, noise or other factors to surrounding residences. | R | C | | | | R | |
| Dairy farming | R | | | | | R | |
| Farm dwelling, first unit | R | | | | | R | |
| Forestry, lumbering, tree farming, wildlife preserves and conservation areas including accessory offices and equipment sheds. | R | R | | | | R | |
| Grain, pea, bean or other agricultural products drying or storage, but only when they are more than 400 feet from any residence not located on the same property; more than 200 feet from any lot in any residential zone; and more than 100 feet from any public road. | R | | | | | | |
| Hog or cattle raising operations or feed lots, commercial, but only when they are more than 800 feet from any residence not located on the same property; more than 400 feet from any lot in any residential zone; and more than 200 feet from any public road. | R | | | | | | |
| Machinery keeping and operation, such as that customarily used in agriculture, including cultivating machinery, spray planes, or irrigating machinery. | R | | | | | R | |
| Poultry raising operations and structures, commercial, but only when they are more than 400 feet from any residence not located on the same property; more than 200 feet from any lot in | R | | | | | | |

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| any residential zone; and more than 100 feet from any public road. | | | | | | | |
| Nursery for growing and selling plants, trees and shrubs | R | | | R | R | R | |
| Stable, commercial, for keeping of horses, ponies, or other livestock as a business. Any building used for keeping animals shall be located at least 200 feet from any side or rear lot line. | R | | | | | | |
| Stable, private, for keeping of horses, ponies, or livestock for personal enjoyment and not as a business. Any building used for keeping animals shall be located at least 100 feet from any side or rear lot line. | R | R | R | | | | |
| Sawmill, temporary, for cutting timber not grown on the premises. | C | | | | | C | |
| Sawmill, temporary, for cutting trees grown on the premises but at least: 400 feet from any residence located on other properties; 400 feet from any lot in a residential zone; 200 feet from any boundary of the tract; and 100 feet from any public road. | R | | | | | R | |
| Temporary stands, or outdoor areas for sale of Christmas trees, and the like. | C | | | R | R | R | |
| Temporary stands for sale of fireworks not to exceed ten days per calendar year. | | | | R | R | | |
| Temporary open-air stands for seasonal sales of products raised on the premises. | R | | | R | R | R | |
| COMMERCIAL, BUSINESS & SERVICE | | | | | | | |
| Auction houses, provided that all merchandise is stored in an enclosed area. | | | | R | R | | |
| Automobile auction houses with outdoor storage of operable automobiles and trucks | | | | | R | R | |
| Appliance repairs | | | | R | R | R | |
| Automobile equipment sales and installation: tires, mufflers, brakes and the like. | | | | | R | | |
| Auto paint and body shop | | | | | R | R | |
| Automobile, truck or motorcycle sales, new or used, but not the storage or sale of junk or used parts. | | | | | R | | |
| Automobile or truck parts sales, wholesale or retail, within an enclosed building but not the sale of used parts removed from junk vehicles on the premises. | | | | | R | | |
| Automobile, truck, trailer or bus sales, service and repair, including body repair and painting within enclosed building. No auto salvage or junk included. | | | | | R | R | |
| Bakeries, wholesale or retail | | | | | R | R | |
| Carwash, automatic or otherwise | | | | R | R | | |
| Dog kennels, located at least 200 feet from any lot line | R | | | | | R | |
| Exterminating establishment | | | | | R | R | |
| Farm supply and service establishment, | | | | | R | | |

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| implement sales, rentals and service, feed and seed store, custom milling, milk depots and creameries, fertilizer storage in bags or bulk storage of liquid or dry fertilizer in tanks or in a completely enclosed building. | | | | | | | |
| Florist shop | R | | | R | R | | |
| Funeral home or undertaking establishment | | | | R | R | | |
| Garages, repair | | | | | R | R | |
| Garages, parking or storage | | | | | R | R | |
| Indoor flea markets | | | | R | R | | |
| Laundry and dry cleaning pickup station | | | | R | R | | |
| Laundromats or self-service dry cleaning establishments | | | | R | R | | |
| Material storage or sales yard as an accessory use to an otherwise permitted use provided all materials stored or used are enclosed by a wall, fence or hedge not less than six feet in height. | | | | R | R | R | |
| Manufactured home sales, displays and storage, including travel trailers, motor homes and other recreational vehicles. | | | | | R | R | |
| Ministorage warehouse buildings. | | | | | R | R | |
| Monument sales establishment with incidental processing to order but not including shaping of headstones | | | | | R | R | |
| Pet shop or dog beauty parlor, provided that work rooms, cages, pens or kennels are within a completely enclosed, soundproof building and the operation produces no objectionable noise or odors outside its walls. | | | | R | R | | |
| Plumbing, electrical and heating shop | | | | | R | R | |
| Printing, photo processing, copy service or blueprinting | | | | R | R | R | |
| Recording studio | | | | R | R | R | |
| Radio or television tower, with or without station and studio. | C | | | | | C | |
| Rental of motor vehicles, luggage trailers, campers and travel trailers | | | | | R | | |
| Rifle or pistol range, trap or skeet shooting, archery | C | | | | | C | |
| Shoe repairing | | | | R | R | | |
| Shops for the sale or service of home appliances | | | | R | R | | |
| Small equipment sales, service and rental | | | | | R | R | |
| Taxidermist | C | | | | R | R | |
| Tire rebuilding or recapping | | | | | | R | |
| Trade or business school | | | | | R | R | |
| Turkey shoot | C | | | | | C | |
| Upholstering shop/no furniture manufacturing | | | | | R | R | |
| Wholesale merchandising or storage warehouse or distribution center, but not a truck or freight terminal | | | | | | R | |
| COMMERCIAL, RETAIL/FINANCE/PERSONAL SERVICE | | | | | | | |

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| Animal hospital or clinic, for large or small animals, provided that buildings, structures, pens, or kennels shall be at least 200 feet from any lot line. | C | | | R | R | R | |
| Automobile service station, provided that storage of inflammable liquids is underground, and the site is not used for storage of wrecked or inoperable motor vehicles, parked rental trailers or motor vehicles | | | | R | R | | |
| Banks or savings and loan establishments | | | | R | R | | |
| Barbershop or beauty shop | | | | R | R | | |
| Bakeries, provided that products produced on the premises are sold on the same premises. | | | | R | R | R | |
| Billiard or pool hall electronic game center, and similar | | | | R | R | | |
| Bicycle sales and repair shops | | | | R | R | | |
| Boat and boat trailer sales and storage. | | | | | R | R | |
| Catering or delicatessen business | | | | R | R | | |
| Clinics, medical or dental for treatment of humans. | | | | R | R | | |
| Dry-cleaning or laundry pickup stations or plant which occupies no more than 2,500 square feet of floor area and uses no petroleum-based cleaning fluids. | | | | R | R | | |
| Employment service or agency | | | | R | R | R | |
| Flower shops and greenhouses incidental thereto | | | | R | R | | |
| Fortuneteller, palmist, astrologist, numerologist, clairvoyant, and other similar activities | | | | | R | | |
| Funeral home or undertaking establishment | | | | R | R | | |
| Office and business supplies | | | | R | R | R | |
| Offices, general business, professional or administrative | | | | R | R | R | |
| Retail and service establishments | | | | R | R | | |
| Retail and service establishments/banks/office buildings | | | | R | R | | |
| Restaurant or cafeteria, with all inside seating | | | | R | R | | |
| Restaurant or cafeteria, with outside seating | | | | R | R | | |
| Stores for conducting retail including appliances, antiques art supplies, food, beverages, clothing, drugs, fabrics, sporting goods, office supplies, jewelry and the like. | | | | R | R | | |
| Studios for art, photography, writing or teaching of crafts, sculpture or music | | | | R | R | | |
| Tire sales, service and installation | | | | R | R | R | |
| MANUFACTURING | | | | | | | |
| Medical and dental equipment | | | | | | R | |
| Musical instruments | | | | | | R | |
| Boats | | | | | | R | |
| Bottling of beverages, but not distilling | | | | | | R | |
| Bakery products | | | | | | R | |

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| Candy and dairy products manufacture | | | | | | R | |
| Canning and processing of fruits, vegetables, meats and poultry products but not slaughtering of animals or poultry. | | | | | | R | |
| Communications equipment and instruments | | | | | | R | |
| Component parts for automobile, aircraft or spacecraft. | | | | | | R | |
| Clocks and watches | | | | | | R | |
| Cotton ginning | | | | | | R | |
| Electronic instruments and metering equipment | | | | | | R | |
| Drafting equipment | | | | | | R | |
| Electrical appliances | | | | | | R | |
| Hardware products, such as bolts, screws and rivets | | | | | | R | |
| Firearms | | | | | | R | |
| Photographic equipment | | | | | | R | |
| Sheet-metal products | | | | | | R | |
| Tools, dies and machinery | | | | | | R | |
| Toys and games | | | | | | R | |
| Heating, ventilating and air conditioning equipment | | | | | | R | |
| Vitreous enameled products | | | | | | R | |
| Light mfg. uses not producing adverse environmental effects | | | | | | R | |
| Building materials manufacture, such as cement, lime, sand and gravel | | | | | | R | |
| Manufacture of agricultural or farm implements | | | | | | R | |
| Manufacture of aircraft and aircraft parts | | | | | | R | |
| Manufacture of aluminum extrusion, rolling, fabrication | | | | | | C | |
| Manufacture of automobile, motorcycle bus or truck | | | | | | C | |
| Manufacture of bags | | | | | | C | |
| Manufacture of barrel or boxes | | | | | | C | |
| Manufacture of brick or tile products | | | | | | C | |
| Manufacture of excelsior or wood fiber | | | | | | C | |
| Manufacture of glass and glass products | | | | | | R | |
| Manufacture of plumbing supplies | | | | | | R | |
| Manufacture of structural iron | | | | | | R | |
| Manufacture of tobacco products | | | | | | C | |
| Manufacture of wall board and plaster, building insulation, etc. | | | | | | C | |
| Manufacture of monuments and architectural stone | | | | | | R | |
| Manufacture of oils; shortenings and edible fats | | | | | | C | |
| Manufacture of paper and paper board | | | | | | C | |
| Household fabrics manufacture such as carpets, mattresses, pillows, quilts and the like | | | | | | C | |

| | | | | | | | |
|---|--|--|--|---|---|---|--|
| Apparel manufacture including clothing, hosiery, fabrics, shoes, and leather products | | | | | | C | |
| Wood products manufacture including boxes, furniture, cabinets, baskets and the like | | | | | | C | |
| Compounding of cosmetics, toiletries, drugs and pharmaceuticals | | | | | | C | |
| Ceramic products manufacture from previously pulverized clay fired in kilns using only smokeless furnaces | | | | | | C | |
| Sign fabricating and painting shop | | | | | | R | |
| Tire rebuilding and recapping | | | | | | R | |
| Acetylene generation and storage | | | | | | R | |
| Manufacture of asphalt or products, or mixing | | | | | | C | |
| Auto wrecking yard (special standards apply) | | | | | | C | |
| Manufacture of fertilizer from natural products | | | | | | C | |
| Milling of flour, food or grain | | | | | | R | |
| Forge plant, pneumatic drop and forging hammering | | | | | | C | |
| Foundry | | | | | | C | |
| Grain and feed milling | | | | | | R | |
| Incinerator, industrial or public | | | | | | C | |
| Manufacture of insecticides, fungicides, disinfectants, etc. | | | | | | C | |
| Junkyards, open or enclosed, storage of junk (special regulations apply) | | | | | | C | |
| Preparation of meat or fish products/slaughtering/packing/etc. | | | | | | C | |
| Manufacture of paper or pulp mill | | | | | | C | |
| Storage of petroleum or inflammables above ground, greater than 80,000 gallons. | | | | | | C | |
| Processing of plastic material and synthetic resins | | | | | | C | |
| Processing of clay for cat litter and related uses | | | | | | R | |
| Power generator plant, nuclear or other and radioactive waste handling | | | | | | C | |
| Railroad switching yards/repair and cleaning shop | | | | | | C | |
| Stockyard | | | | | | C | |
| Aboveground storage of petroleum and inflammables up to 30,000 gallons | | | | | C | | |
| NONMANUFACTURING INDUSTRIAL USES | | | | | | | |
| Aboveground storage and inflammables up to 80,000 gallons | | | | | | R | |
| Dyeing and cleaning works | | | | | | R | |
| Furniture refinishing | | | | | | R | |
| Shop for painting, plumbing, electrical heating and air conditioning business. | | | | | | R | |
| Upholstery shop, furniture or auto. | | | | | | R | |
| Shoe repair shop | | | | R | R | R | |
| Bottling works | | | | | | R | |

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|---|---|---|---|---|---|---|--|
| Concrete products or mixing plant | | | | | | R | |
| Contractor's equipment storage yard | | | | | | R | |
| Elevator, coal or grain | | | | | | R | |
| Excavation or filling, borrow pits, extraction, processing and removal of sand, or gravel and stripping of topsoil and other major excavations. | C | | | | | C | |
| Fertilizer storage/bags or bulk/liquid or dry/in tanks or buildings | | | | | | R | |
| Flour storage, blending and packaging/not milling | | | | | | R | |
| Lumberyard | | | | | | R | |
| Grain or other agricultural products drying and storage operations | | | | | | R | |
| Lumber and building materials store, but not a lumberyard | | | | | | R | |
| Poultry packing and slaughtering | | | | | | C | |
| Sand and gravel processing | | | | | | R | |
| Sawmill | | | | | | R | |
| Tire sales and service | | | | | R | R | |
| Repair establishment for appliances | | | | | | R | |
| Welding and soldering shop | | | | | | R | |
| Truck terminal/freight terminal | | | | | | R | |
| Wood preserving treatment/no creosote | | | | | | C | |
| PUBLIC SERVICE AND INSTITUTIONAL | | | | | | | |
| Churches, temples, synagogues including Sunday schools, rectories, parish houses, convents and monasteries. | R | R | R | R | R | | |
| Convalescent homes, nursing homes or related facilities for long term medical care. | C | C | | R | R | | |
| Correctional institution; private or publicly owned and operated jails, prisons, or other similar facilities | | | | | | C | |
| Electric generating plant | | | | | | C | |
| Electric transformer substation | C | | | C | C | C | |
| Hospital or clinic for human use | C | C | | R | R | | |
| Museums, libraries, art galleries. | R | R | C | R | R | R | |
| Nursery schools, kindergartens, child care centers, day nursery or day care centers | C | C | C | R | R | | |
| Private schools, private or public colleges or universities. | C | | | R | R | C | |
| Public schools or other governmental buildings and uses, including fire stations, parks, playgrounds, public boat landings, office buildings. | R | R | R | R | R | R | |
| Public service facilities (distribution) | R | R | R | R | R | R | |
| Public solid waste transfer site | R | R | R | R | R | R | |
| Sewage treatment system—Private individual alternative system | R | R | R | R | R | R | |
| School bus passenger shelter without advertising | R | R | R | | | | |
| Sewage treatment plant—Privately owned and operated | C | C | C | C | C | C | |

| | | | | | | | |
|--|---|---|---|---|---|---|--|
| Sewage treatment plant—Publicly owned and operated | C | C | C | C | C | C | |
| Telephone stations or booths, including drive-in or talk-from-car stations. | | | | R | R | R | |
| Public utility poles, wires, transformers and the like for public power and communication services. | R | R | R | R | R | R | |
| Pumping station for water or sewer | R | R | R | R | R | R | |
| Water treatment plant | R | R | R | R | R | R | |
| Water storage tank | R | R | R | R | R | R | |
| Water system (private) using wells, serving one or more subdivisions. | R | R | R | R | R | R | |
| RECREATIONAL, PUBLIC OR COMMERCIAL | | | | | | | |
| Amusement park, fair, carnival or circus | | | | C | C | R | |
| Boathouses | C | C | C | C | C | C | |
| Campgrounds or camping areas for ten, travel trailer or RV campers for transient camping. | C | | | | | | |
| Camps, day or boarding, church camp, scout camp or similar camp involving permanent commercial or noncommercial facilities | R | | | | | | |
| Camping areas | R | | | | | | |
| Hunting, commercial or private, or hunt club, provided that pens or open kennels are located at least 200 feet from any property line | R | C | | | | | |
| Lakes for fishing or boating | R | R | R | R | R | R | |
| Marina | C | | | C | C | | |
| Piers, boat docks (private) | R | R | R | R | R | R | |
| Picnic areas | R | R | R | R | R | R | |
| Private club, lodge, meeting hall or fraternal organization | C | | | R | R | R | |
| Recreational facility, commercial, indoor or outdoor, including theaters, bowling alleys, dancehalls subject to applicable county regulations, skating rinks (ice skating or roller skating), swimming pools, miniature golf, billiard or pool parlors, game centers, indoor or outdoor tennis, indoor model racing tracks, and similar activities | | | | R | R | R | |
| Recreational uses or facilities such as golf courses, games courts, swimming pools, archery ranges, fishing and boating lakes, picnic grounds. Includes accessory sale of food, beverages, bait incidentals and supplies and equipment. | R | R | R | R | R | R | |
| Stable, private or keeping of horses, ponies or other livestock for personal enjoyment but not as a business. Buildings housing animals shall be located at least 100 feet from any side or rear lot line. | R | R | R | | | | |
| Turkey shoot/shooting matches | C | | | C | C | C | |
| RESIDENTIAL | | | | | | | |
| Accessory apartment on the same site as a business when occupied by owner | | | | R | R | R | |
| Accessory apartment on the same site as a | | | | R | R | R | |

| | | | | | | | |
|--|---|---|---|---|---|---|---|
| business when not occupied by owner. | | | | | | | |
| Bed and breakfast facility in a private home | R | R | | | | | |
| Dwelling, second or accessory dwelling/apartment, whether attached or detached, on a parcel of land over 50 acres in area. | R | | | | | | |
| Dwelling, second or accessory dwelling/apartment, whether attached or detached, on a parcel of land under 50 acres in area. | C | C | C | | | | |
| Dwelling, single-family attached, including duplex and townhouse. | C | C | C | | | | |
| Dwelling, single-family, detached on a permanent foundation | R | R | R | | | | |
| Dwelling, multiple-family | | C | C | | | | |
| Dwellings for resident watchmen and caretakers employed on premises | | | | R | R | R | |
| Group homes for eight or fewer persons pursuant to Code of Virginia, section 15.2-2291 | R | R | R | | | | |
| Home occupations | R | R | R | | | | |
| Hotel, motel or motor lodge | | | | R | R | | |
| Manufactured home park | C | C | C | | | | |
| Manufactured home, consisting of only one section on an individual lot. | R | | | | | | |
| Manufactured home, doublewide or modular, on an individual lot | R | R | R | | | | |
| Residential accessory buildings and uses such as garages, swimming pools and off-street parking. | R | R | R | R | R | R | R |
| Subdivision, major | | R | R | R | R | R | R |
| Subdivision, minor, with one to four lots | R | R | R | R | R | R | |
| Subdivision, single lot | R | R | R | R | R | R | |
| SIGNS | | | | | | | |
| Advertising sign up to 32 square feet | R | | | | | | |
| Church bulletin board or similar sign of no more than 32 square feet. Temporarily identifying permitted public or semipublic uses, wildlife reservations, recreational uses or clubs. | R | R | | R | R | R | |
| Detached sign, if there are no projecting signs, limited to 32 square feet and 20 feet high; one for each business on the premises. A group of three or more contiguous business shall combine permitted detached sign area to provide a single detached sign advertising the group and the combined sign area shall not exceed 110 square feet in size and 25 feet in height. | | | | R | R | R | |
| Directional signs limited in area to two square feet, giving directions to motorists regarding the location of parking areas and access drives, shall be permitted as accessory signs and not included in any computation of sign area. | R | | | R | R | R | |
| Flat sign with total aggregate sign area no more than ten percent of the area of walls fronting on a | | | | R | R | R | |

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|--|---|---|---|---|---|---|--|
| street with a sign area of no more than 60 square feet. Illuminated signs inside of show windows and within five feet of such windows shall be included in the computation of sign area, and in addition, shall be limited to ten percent of the total glass areas of the windows in which they are placed. | | | | | | | |
| Marquee signs, if there are no projecting signs, two for each business on the premises, with sign area for each sign limited to three square feet. | | | | R | R | R | |
| Nameplate or directional sign, limited to two square feet in area to identify the owner or occupant of a dwelling or building or a permitted home occupation. | R | R | R | | | | |
| No Trespassing or No Hunting sign, without limitations on number or placement, limited to two square feet in area. | R | R | R | R | R | R | |
| Projected signs, if there are no marquee or detached signs, one each business on the premises, with sign area limited to 12 square feet. | | | | R | R | R | |
| A shopping center, business park, or office park consisting of a minimum of three acres in size, shall be permitted one detached sign per public road frontage for a maximum of two detached signs not to exceed 110 square feet in size and a maximum height of 25 feet. No tenant name on any detached sign shall be larger than the shopping center name on that detached sign. | | | | R | R | R | |
| Sign of no more than 12 square feet advertising products raised or made on the premises. | R | R | | | | | |
| Sign of no more than 12 square feet for identification of a farm or estate or a subdivision or its occupants. | R | R | R | | | | |
| Temporary sign, nonilluminated, of no more than four square feet directing the way to premises which are for sale or rent. | R | R | R | R | R | R | |
| Temporary sign, nonilluminated, of no more than 32 square feet advertising real estate and which is erected in connection with new construction work and displayed on the premises only during such time as the actual construction work is in progress. | R | R | R | R | R | R | |
| Temporary sign, nonilluminated, of no more than 32 square feet advertising real estate for sale or lease or announcing contemplated improvements of real estate. | R | R | R | R | R | R | |
| Temporary nonilluminated paper signs for garage/yard sales not exceeding two square feet. | R | R | R | R | R | R | |
| Temporary, nonilluminated paper signs in show windows, limited to 20 percent of the total glass area of the window in which they are placed. | | | | R | R | R | |
| UNCLASSIFIED | | | | | | | |
| Accessory buildings or uses located on the same property which are customarily incidental to and subordinate to a lawfully permitted principal use of the property. | R | R | R | R | R | R | |

| | | | | | | | |
|--|---|---|---|---|---|---|--|
| Airport and landing field | C | | | | | C | |
| Cemeteries | R | R | | R | R | | |
| Excavations or filling, including borrow pits, processing removal of sand, gravel or stone, stripping topsoil (except farm pond construction or field leveling) and other major extractions. Construction covered by special approvals excluded. | C | | | | | C | |
| Landfill for nonhazardous solid waste materials. | C | | | | | C | |
| Solid waste transfer sites, public. | C | C | | | | C | |
| Yard sale or garage sale for disposing of used household items. Such sales are limited to two three-day sales per year on the same lot. | R | R | R | | | | |

Sec. 86-172. - Explanation of symbols in table.

The full name of each principal zoning district as established in article IV of this chapter is shown in the left column of the table which follows. To the right of the official zoning district name is shown the abbreviation, or symbol, that is used to refer to each principal district in the permitted use table in this chapter text generally and on the zoning district map. The special purpose zoning districts are also shown here although these special districts are not included in the permitted use table.

| Name of Zoning District | Abbreviated Code |
|---|------------------|
| Primary Zoning Districts | |
| A-C agricultural-conservation district | A-C |
| R-R rural residential district | R-R |
| R-1 suburban residential district | R-1 |
| B-1 local business district | B-1 |
| B-2 general business district | B-2 |
| M industrial district | M |
| R-C rural-conservation district | R-C |
| Special Purpose Zoning Districts | |
| PUD planned unit development district | PUD |
| HP historic preservation district | HP |
| TC transportation corridor district | TC |
| RPA resource protection area | RPA |
| RMA resource management area | RMA |

Within the permitted use table, specific uses permitted within the county are listed first by use groups and then by individual use within the use group. The use groups as well as individual uses within each group are arranged alphabetically. Use groups include the following:

- Agricultural
- Commercial, business and service
- Commercial, retail/finance/personal service
- Manufacturing
- Nonmanufacturing industrial uses
- Public service and institutional
- Professional and business offices

Residential

Recreational, public or commercial

Signs

Unclassified

The columns to the right, one column representing each principal zoning district, contain abbreviation codes which identify the principal zoning district or districts in which each use is permitted. The following abbreviations identify whether a use is permitted by right, a conditional use, or a special exception use:

A use by right is a use that is permitted in a specified zoning district and for which the permit may be approved by the zoning administrator after meeting the requirements of applicable codes and ordinances. The abbreviation used to indicate a "use by right" in the table is "R". When that code is used in the table, it indicates that the corresponding use is permitted by right in the district indicated at the top of the column.

A conditional use is a use that, while permitted in a district, each specific use must be approved as a legislative action by the board of supervisors after review by the planning commission with notices and hearings that are required for a zoning change. The abbreviation used to indicate a conditional use in the table is "C".

Sec. 86-173. - Interpretation of the table.

The table of permitted uses in zoning districts is to be interpreted as follows:

- (1) If a use is not specifically listed in the table then that use may not be established within the county.
- (2) A use may, however, be implied through a listing of a category which contains a family of uses although the use itself may not be specifically listed as a separate use. In such case, the use may be permitted in a district only if it can be clearly demonstrated that the use is customarily accepted as being within the meaning of the category identified in the table.
- (3) If, however, a specific use is listed in the table as permitted in any district by right or by conditional use, then that use may not be implied as belonging to a general category. In such cases a specific use definition shall take precedence over a general category definition.
- (4) Regulations of an overlay zoning district which place limitations on or modify the requirements of a use or uses otherwise permitted in a principal zoning district shall be considered to be in addition to the regulations of the principal zoning district in which such use or uses are located.
- (5) Conditional use permits that are to be authorized by the board of supervisors are identified in the permitted use table. General conditions that apply to all conditional uses are as follows:
 - a. The use shall be designed or arranged on the land in such a way as to cause no more adverse impact on the adjacent property and/or the neighborhood than might be caused by the least restrictive use otherwise permitted by right in the district.
 - b. The use shall comply with all licensing requirements, if any, of any county, state or federal government or agency.
 - c. The use shall not be operated as to cause a nuisance to the neighborhood in which it is located.
 - d. In granting a conditional use, the board of supervisors shall consider the public convenience, necessity, and general welfare, and its action shall also be consistent with good zoning practices.
 - e. It is the intent of this chapter that a conditional use permit shall be automatically issued administratively upon application and without payment of any fees for any legally existing conditional use that was properly authorized by a previous zoning ordinance.

- (6) Accessory uses which are customarily associated with and are essential to the use and operation of a principal use are considered as part of the principal use, and, unless otherwise prohibited by some specific provision of this chapter, such accessory use shall be permitted to be installed and used along with the principal use which it serves. No accessory use may be established or operated except as an adjunct to its principal use.

Sec. 86-208. – Development standards for turkey shoots/shooting matches in the A-C, B-1, B-2 or M districts.

- a. All such turkey shoots or shooting matches that use number 8 shot shall be held such that all ranges shall be at least 300 feet from any and all property lines, and other size shot shall require a range of adequate distance as deemed appropriate by the zoning administrator utilizing information received from local or state law enforcement agencies or private ballistics experts.

Sec. 86-209. – Development standards for excavation or filling, borrow pits, extraction, processing and removal of sand, or gravel and stripping of topsoil and other major excavations including borrow pits, clay pits, mines, quarries, sand and gravel mining and similar operations in the A-C or M districts.

- a. The excavations shall be confined to areas distant at least 50 feet from all adjoining property lines, at least 100 feet from any and all adjoining property lines in any residential or any business district, and distant at least 200 feet from any dwelling or any and all property lines in any platted subdivision, except that excavations may be conducted within such limits, provided that the written consent of the owners of such adjoining properties is secured.
- b. The excavation shall be confined to areas distant at least 200 feet from the right-of-way lines of any existing or platted street, road or highway, except that, where the ground level is higher than the road, the board may permit excavations down to the road level.
- c. Any building containing power-driven or power-producing machinery or equipment shall be distant at least 600 feet from all adjacent property in any residential or business district or the right-of-way lines of any existing or platted street, road or highway.
- d. Access shall not be from a minor residential street. All roadways on and all vehicular entrances and exits from the premises on which such operations are conducted to any public roads shall be located to secure public safety, lessen congestion and facilitate transportation, and shall be so maintained as to eliminate any nuisance from dust to neighboring properties.
- e. All equipment used for the production or transportation of materials shall be constructed, maintained and operated in such a manner as to eliminate as far as practicable noises, vibrations or dust which are injurious or annoying to persons living in the vicinity.
- f. A specific plan of systematic operation and simultaneous rehabilitation shall be submitted to and approved by the board of zoning appeals which shall provide in all respects for the adequate safeguarding and protection of other nearby interests and the general public health, safety, convenience, prosperity and welfare, and which shall include a satisfactory plan and program showing, by contour maps and otherwise how the land is to be restored to a safe, stable, usable and generally attractive condition by regrading, draining, planting or other suitable

treatment to resist erosion and conform substantially with adjacent land characteristics.

- g. Whenever the conditional use shall have expired, or whenever the operation shall have ceased for any period exceeding 12 consecutive months, then all plants, buildings, structures (except fences), stockpiles and equipment shall be entirely removed from the premises and the premises shall be restored as required in this section.

Sec. 86-210. – Development standards for accessory apartments in the B-1, B-2 or M districts.

- a. The principal use of the property is primarily for business;
- b. The floor area occupied by the accessory apartment shall be no larger than one-half the area of the total floor area occupied by the main business building, but in no case shall the accessory apartment occupy more than 1,200 square feet; and
- c. The residential use is in accord with the on-site business and adjacent land uses within the community

Sec. 86-663. - Rules of procedure of board of zoning appeals.

The board of zoning appeals shall adopt such rules of procedure as it may deem necessary in order to carry into effect the provisions of this article, such rules to be in writing and copies available to the public at the office of the zoning administrator and the secretary of the board of zoning appeals. Meetings of the board of zoning appeals shall be held at the call of the chairman and at such other times as the board of zoning appeals may determine. Such chairman, or in the chairman's absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of zoning appeals shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board of zoning appeals and shall be a public record. The board of zoning appeals shall submit a report of its activities to the board of supervisors at least once each year.

Sec. 86-664. - Powers and duties of board of zoning appeals.

(a) *Enumeration.* The board of zoning appeals shall have the following powers and duties:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.
- (2) To authorize upon appeal or original application in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided, however, that the spirit of this chapter shall be observed and substantial justice done, as follows: When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at

the time of the effective date of the ordinance from which this chapter is derived, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter. No such variance shall be authorized by the board unless it finds that:

- a. The strict application of this chapter would produce undue hardship;
- b. The hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- c. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No variance shall be authorized except after notice and hearing as required by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter. In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

- (3) To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.
 - a. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this chapter. Any written notice of a zoning violation or a written order

of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

- b. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.
- c. In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the board of supervisors, modification is required to correct clerical or other nondiscretionary errors.
- d. In any case where the zoning administrator has certified conformity with the provisions of this chapter and a building permit has been issued and construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of this chapter, suit may be filed within 15 days after the start of construction by a person who had no actual notice of the issuance of such permit. The court may hear and determine issues raised in the litigation even though no appeal was taken from the decision of the zoning administrator to the board of zoning appeals.
- e. Procedure on appeal. The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within 90 days of the filing of the application or appeal. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon

which it is required to pass under this chapter or to effect any variance from this chapter. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

- (4) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.
- (5) No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the board of supervisors.
- (6) The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with Code of Virginia, § 15.2-2312 shall be conducted at the continued meeting, and no further advertisement is required.
- (7) Appeals to courts. Appeals to courts from a decision of the board of zoning appeals may be filed in the manner prescribed by law.

Sec. 86-665. – 86-700. – Reserved.

Sec. 86-741. – Purpose of article.

Traditional zoning methods and procedures are sometimes inadequate when competing and incompatible uses conflict. In such cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a zoning method as authorized under Code of Virginia, §§15.2-2296 and 15.2-2303, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community even though such conditions may not be generally applicable to land similarly zoned. While the conditions may vary from property to property by reason of the nature of the use and different circumstances at a particular location, it is not the intention of this section to authorize conditions limited to a particular individual or group, owner or operator, and the provisions of this article shall not be used for the purpose of discrimination in housing.

Sec. 86-742. - Proffer of conditions.

- a) As a part of an application for amendment to the zoning map, the owner of the property which is the subject of the proposed zoning map amendment may proffer, in

writing, reasonable conditions not otherwise prohibited by law in addition to the regulations provided for the zoning district by the ordinance.

b) Such conditions shall be proffered in advance of the public hearing before the board of supervisors that is required by law. The board of supervisors may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal.

c) Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

d) If proffered conditions that are duly accepted include a requirement for the dedication of real property of substantial value, or substantial cash payments for, or construction of, substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the board of supervisors, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property, shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

Sec. 86-743. - Interpretation of proffered conditions.

For the purpose of this chapter, proffered conditions shall be interpreted to include written statements, development plans, profiles, elevations and/or demonstrative materials. Materials of whatever nature and intended as conditions shall be referenced and incorporated in a written statement meeting the requirements for recording in the land records of the county and approved as to form by the County Attorney.

Once accepted such conditions shall become a part of the zoning regulations applicable to the property in question, regardless of changes in ownership or operation, unless subsequently changed by an amendment to the zoning district map, and such conditions shall be in addition to the specific regulations set forth in this chapter for the zoning district in question.

Sec. 86-744. and Sec. 86-745 - Reserved.

Sec. 86-746. - Enforcement of conditions.

The zoning administrator shall be vested with all necessary authority on behalf of the board of supervisors to administer and enforce conditions attached to such rezoning or amendment to the zoning district map, including the ordering in writing of the remedy of any noncompliance with such conditions; the bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and requiring a guarantee, satisfactory to the county, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the board of supervisors, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy or building permits, as may be appropriate.

Sec. 86-747. - Conformity with development plans.

Upon approval, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in substantial conformity with all proffered statements, plans, profiles, elevations or other demonstrative materials, and no development shall be approved by any county official in the absence of such substantial conformity. For the purpose of this article, the term "substantial conformity" shall mean that conformity which leaves a reasonable margin for adjustment to final engineering data but conforms with the general nature of the development, the specific uses and the general layout depicted by the plans, profiles, elevations and other demonstrative materials presented by the applicant.

Sec. 86-748. - Change of approved conditions.

Once proffered conditions have been approved, and there is cause for an amendment which would not be in substantial conformity with the proffered conditions, then an application shall be filed for an amendment. Such amendment shall be the subject of public hearing in accordance with the requirements for a new application except that when an amendment is requested by the profferor which does not affect conditions of use or density, the board of supervisors may, in its discretion, waive the required public hearing. Once approved, such proffered conditions, as amended, shall apply to the property and be enforced in the same manner as the original proffered conditions.

Sec. 86-749. - Review of zoning administrator's decision.

Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of section 86-746 may petition the board of supervisors for review of the decision of the zoning administrator. All petitions for review shall be filed with the zoning administrator and with the clerk of the board of supervisors within 30 days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved. A decision by the board of supervisors on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided written notice of the zoning violation, written determination, or other appealable decision.

Discussion – Mr. Williams commented that he feels the Board is getting a little carried away, he said he understands that this is housekeeping but he feels these amendments are taking the rights away from people in some of the categories. He also said he is surprised there were no public comments.

Those members voting:

| | |
|-----------------|-----|
| T. J. Moskalski | Aye |
| S. K. Greenwood | Aye |
| T. S. Stone | Aye |
| O. O. Williams | Nay |
| C. T. Redd III | Aye |

RE: ADMINISTRATIVE MATTERS – TRENTON L. FUNKHOUSER,

COUNTY ADMINISTRATOR

a. Radio System – System Type Selection – Resolution #12-64 A

Resolution to Authorize an Aid Agreement with Hanover County for the Provision of Emergency and Administrative Communications Services – The County Administrator

said the County is facing a deadline for narrow banding the radio system that serves fire and rescue departments in the County. He commented that the system the Sheriff's Department uses also needs replaced but is not due to the narrow banding mandate. Many options have been pursued over the years and of those options the determination has been made that a partnership with Hanover County would best meet the County's goals of having such a system in place and would be both efficient and effective in the short and long term.

Mr. Funkhouser said there are many advantages to the Hanover system relative to what the County has considered. He said a resolution is before the Board for consideration authorizing the execution of an agreement with Hanover County. A cost model is also presented that indicates, as best can be determined, what the future costs will be and the initial cost that includes a mechanism for discussion of those costs each budget year as we proceed into the future. There is a subscription charge to use Hanover's infrastructure. He explained that King William will always have the ability to develop their own standalone system or switch to an entirely different system.

Continuing he said he feels this is a good partnership to pursue in terms of sharing costs with both Hanover and gives the County the best interoperability options as well as predictability of future costs; Hanover has had an established system for a number of years. He stated this is a 700/800 MHz digital system as opposed to a UHF system that is currently in operation in King & Queen County; VHF systems are being used by a number of other localities.

Chairman Redd asked for clarification that this agreement is just signing on to Hanover's system and does not include any equipment.

The County Administrator said that is correct and explained once the agreement is executed the equipment costs can be refined. The County has been working with Motorola on refining these costs and exploring financing options. Once these items have been refined they will be presented to the Board for consideration for financing options and proceed with equipment purchases. He said Hanover primarily has the infrastructure; King William will be required to upgrade its dispatch consoles and purchase individual radios.

Discussion - Ms. Stone clarified that in regards to the pro rata subscriber charge that King William will pay based upon a cost per subscriber based upon Hanover's actual cost of their pro rata share. For the record she wanted to clarify King William's pro rata share of Hanover's debt services cost are only for the towers or equipment that King William will be directly using and does not include Hanover's new emergency communications facility or any towers King William will not be using.

The County Administrator stated King William will not be subsidizing Hanover's entire network.

Ms. Stone asked for a few potential non substantial changes to the agreement such as King William having access to Hanover's records so if we decide we would like to review those numbers or audits. Also if there is an opportunity for deadlines to be established so King William would receive an estimate to the annual costs, possibly by February of the preceding year, which would provide the numbers for formulating our budget. She feels these items would be very helpful going forward.

The County Administrator clarified the intent, though not spelled out in the agreement, is to communicate on a regular basis.

Mr. William commented on the paging system generator that is provided by the local fire departments. He asked for clarification if the paging system is not on board with the new system, what good is all this high dollar communication.

Mr. Funkhouser stated there are two aspects to the paging system in terms of what Mr. Williams refers to. He stated first is the short term issue of an old generator, staff is aware of this and will work with the King William Fire Department on some cost sharing on this issue; this will be addressed regardless of the agreement with Hanover. The second part is the actual improvements to the paging system that will be associated with the use of the Hanover system, this is more technical, there will be some paging improvements just by joining the Hanover system; but then also with a future tower site in West Point. The County is going to continue to try and improve the paging capability. Right now with the consolidation of dispatch he does not know of any difficulties with paging.

Mr. Williams pointed out all the independent fire and rescue departments are looking forward to better communication but are not looking for the added expense for the changeover.

Mr. Funkhouser stated the current proposal, unless the Board directs otherwise, is to purchase radios on behalf of all of the fire departments in King William County.

Mr. Williams said without a firm figure it is hard to vote on this kind of County expenditure.

The County Administrator stated the vote is for the agreement; details were distributed to the Board previously, with a cost that has been consistent of two to three million for equipment.

Ms. Stone clarified that this resolution is to enter into an agreement with Hanover County basically for shared services for a relationship; and further clarified this is not entering into an agreement for the equipment.

Chairman Redd stated one reason for getting this agreement in place is to determine what equipment will be needed for the system.

On motion by S. K. Greenwood, seconded by T. J. Moskalski, with the following roll call vote, the Board adopted the following Resolution #12-64:

RESOLUTION #12-64
A RESOLUTION TO AUTHORIZE AN AID AGREEMENT WITH HANOVER COUNTY
FOR THE PROVISION OF EMERGENCY AND ADMINISTRATIVE
COMMUNICATIONS SERVICES
SEPTEMBER 24, 2012

WHEREAS, Virginia Code Section 15.2-1300.1 authorizes localities to give and receive aid pursuant to resolution of the governing body and provides for authority and immunity of personnel acting outside the locality where they are employed; and

WHEREAS, the County Administrator has conducted an assessment of resources and needs related to emergency and administrative communications services and has found that the King William County government and the Hanover County government and residents of both counties would benefit from cooperation and sharing of resources in provision of communications services; and

WHEREAS, an Agreement entitled Hanover County-King William County Communications System Agreement describes the nature of the shared services and reimbursement by King William County to Hanover County for the cost of services and such agreement has been considered by the respective Boards of Supervisors of Hanover County and King William County.

NOW THEREFORE, BE IT RESOLVED, the King William County Board of Supervisors this 24th day of September, 2012, finds that Hanover County has resources which will aid King William County government in provision of communications services and finds that it is in the public interest for the two counties to cooperate in providing those services.

NOW THEREFORE, BE IT FURTHER RESOLVED, the King William County Board of Supervisors this 24th day of September, 2012, that the form of the Hanover County-King William County Communications System Agreement presented to the Board this day is hereby approved and the County Administrator is authorized to execute said document on behalf of the County, to include any supporting documents ancillary thereto, in substantially the same form as provided to this Board on the date of this resolution, subject to minor modifications approved by the County Attorney that may be necessary to effect the intent of this resolution and implement this beneficial arrangement subject to continued availability of resources and subject to lawful annual appropriations and to take all actions necessary to implement the terms of this resolution and the associated Agreement and to deploy resources, including personnel and expend funds accordingly.

Adopted this 24th day of September, 2012

Those members voting:

| | |
|-----------------|-----|
| S. K. Greenwood | Aye |
| T. S. Stone | Aye |
| O. O. Williams | Nay |
| T. J. Moskalski | Aye |
| C. T. Redd III | Aye |

b. Consideration of Tabled Item from the August 27, 2012, Board of Supervisors Regular Business Meeting; SP-02-11 – Transportation Corridor Overlay Exception – Applicant requested an exception to delete the sidewalk required by Section 86-374(4)(a) of the King William County Code; Applicant Walt Bailey – The County Administrator stated that the Board was presented with information tonight as a result of a discussion late last week. As noted this item was tabled at the last meeting after several discussions about possible resolutions to the sidewalk requirement. The applicant has submitted a letter that essentially states in lieu of a sidewalk along Horse Alley he agrees to grant easements along Sharon Road, Horse Alley and Route 360 and convey to the County \$3,100; which was the applicants estimate for the cost of the sidewalk construction, with those funds to be used onsite or offsite at the County's discretion. Staff is supportive of this proposal and has no reason to object.

On motion by T. S. Stone, seconded by T. J. Moskalski, with the following roll call vote, the Board approved the following Resolution #12-57(E):

RESOLUTION #12-57(E)
A RESOLUTION
APPROVING THE EXCEPTION REQUEST
OF WALT BAILEY ON BEHALF OF
KING WILLIAM AUTO CENTER
FOR SIDEWALK ALONG HORSE ALLEY
AND ACCEPTING MITIGATION MEASURES
PROPOSED BY THE APPLICANT

WHEREAS, Mr. Walt Bailey applied, on behalf of King William Auto Center, for an Exception Request to the requirements of Section 86-374(4)(a) of King William County code and such request proposed deleting the required sidewalk adjacent to Richmond-Tappahannock Highway (Route 360); and

WHEREAS, on July 25, 2011, the Board of Supervisors approved an Exception Request requiring the sidewalk to be relocated to Horse Alley; and

WHEREAS, Mr. Bailey has submitted a second Exception Request for the King William Auto Center proposing the deletion of the relocated sidewalk along Horse Alley and has offered to mitigate his request by submitting to this Board in writing a proposal to grant fifteen (15) foot wide easements across his property running along Sharon Road, Horse Alley and Route 360 for future sidewalks and to provide \$3,100 to the County for future sidewalk construction either onsite or offsite at the County's discretion,

NOW THEREFORE, BE IT RESOLVED, the King William County Board of Supervisors this 24th day of September, 2012, approves the Exception Request to delete the construction of a sidewalk along Horse Alley upon satisfaction of the mitigation measures proposed to the Board by Mr. Bailey's letter dated September 24, 2012, such measures to be completed prior to the issuance of a certificate of occupancy for the building under construction on the property.

Adopted this 24th day of September, 2012

Discussion - Chairman Redd stated he has an issue with the whole process, as far as the offer made he feels \$3,100 does not buy a lot of sidewalk to do anyone any good.

Mr. Greenwood said he feels the Planning Commission should take the sidewalk exception ordinance out completely; he said he is for the Planning Commission doing away with this exception and also some other things such as setbacks and sidewalks that don't go anywhere.

Mr. Williams said he has a problem the Board is doing this and said this particular sidewalk issue was settled once and now it is being reviewed again. He stated he was never in agreement with the sidewalk requirement on Route 360 when it came up in the TCO to start with, but once one business was required to install a sidewalk it is hard to tell the next one they don't have to; this bothers him.

Ms. Stone clarified the applicant is agreeing to provide the County with easements on all three sides of the property and she feels that is a great deal of value.

Mr. Moskalski agreed with Ms. Stone that the developer has come to this agreement and stated he is pleased. He said he can appreciate what Mr. Williams is saying about that very logic, we could then say we could never overturn the sidewalk ordinance if the Board so chooses. He feels in this case considering the exceptions that have been granted in the past he feels this is a reasonable solution for all parties.

Those members voting:

| | |
|-----------------|-----|
| T. S. Stone | Aye |
| O. O. Williams | Nay |
| T. J. Moskalski | Aye |
| S. K. Greenwood | Aye |
| C. T. Redd III | Nay |

RE: NEW BUSINESS

a. Resolution #12-58 – Marle Hill, Section 4 – Execution and Recordation of a Repudiation and Notice of Invalidity of Public Water Service Agreement – The County Administrator briefly explained Resolution #12-58 and #12-59 stating these items together represent staff effort to resolve Marle Hill Section 4 due to its foreclosure by Union Bank. The property is currently in the name of Manquin Properties LLC. The County pulled the minimal bond that was associated with this project. As typically, as the case with these types of agreements, there were water and sewer credits, there were other performance issues some of which happened, some did not and based on the foreclosure were not going to happen. At the request of Union Bank the County Attorney and to a lesser extent staff has been attempting to work out terms consistent with both the County ordinance and the best interest to put this development on a footing to move forward. As the Board might be aware there are several lots in this development that belong to others, they cannot proceed; there are other issues associated with this development and it is essentially at a standstill until something of this nature is done and Union Bank makes certain subsequent decisions on how it wants to proceed with the property. These items represent an effort to deal with some old issues and to resolve those and put this on a new footing to proceed based on certain terms the County staff is recommending to the Board. He added there is no expense to the County to date for these agreements except for staff time up to these points. Again he said these agreements are being put in place basically to reestablish certain assurances relative to the development agreements and reestablish surety that is appropriate in case something like this happens again. Staff is requesting approval of Resolution #12-58 and Resolution #12-59 in order to execute these agreements and to move forward.

On motion by T. J. Moskalski, seconded by T. S. Stone, with the following roll call vote, the Board adopted the following Resolution #12-58:

RESOLUTION #12-58
A RESOLUTION AUTHORIZING
THE COUNTY ADMINISTRATOR TO EXECUTE
AND RECORD A REPUDIATION AND NOTICE OF INVALIDITY REGARDING THAT
CERTAIN PUBLIC UTILITY WATER SERVICE AGREEMENT DATED
FEBRUARY 12, 2008

WHEREAS, on February 12, 2008, the County entered into a Public Utility Water Service Agreement with Saymar Custom Homes, Inc. and Howard K. Ingalls which was recorded on March 3, 2008 in the Clerk's Office of the Circuit Court of King William County as Instrument No. 080000670, the purpose of which was to effect an extension of the County's public water system to serve certain properties then owned by Saymar Custom Homes, Inc. (Saymar) and Howard K. Ingalls (Ingalls); and

WHEREAS, the Board finds that Saymar and Ingalls and their successors and assigns failed to substantially perform their obligations under the Public Utility Water Service Agreement by failing to complete construction of the extension and failing to perform the other duties placed on them all of which has resulted in no water improvements available to sufficiently serve the intended properties; and

WHEREAS, under the terms of the Agreement, after completion and acceptance in accordance with the requirements of the County, the County agreed to accept ownership of the extension, operate and maintain such extension, provide adequate water supply, and grant certain credits against connection fees; and

WHEREAS, the Board finds that implementation of the terms of the agreement has been rendered impossible by the default of the non-County parties thereto, and that it is in the best interest of the citizens of King William County and future owners of the land involved to declare the agreement invalid and terminated and place notice on the land records of King William County that the aforementioned Public Water Service Agreement is null and void and the County is not bound thereby; and

WHEREAS, the Board of Supervisors wishes to authorize the County Administrator to act on its behalf to record such notice in the land records,

NOW THEREFORE, BE IT RESOLVED by the King William County Board of Supervisors this 24th day of September, 2012, that the form of the Repudiation and Notice of Invalidity of Public Utility Water Service Agreement, presented to the Board this day is hereby approved and the County Administrator is authorized to execute and record said document on behalf of the County, to include any supporting documents ancillary thereto, in substantially the same form as provided to this Board on the date of this resolution, subject to such minor modifications approved by the County Attorney that may be deemed necessary to effect the intent of this resolution.

Adopted this 24th day of September, 2012

Those members voting:

| | |
|-----------------|-----|
| O. O. Williams | Nay |
| T. J. Moskalski | Aye |
| S. K. Greenwood | Aye |
| T. S. Stone | Aye |
| C. T. Redd III | Aye |

b. Resolution #12-59 – Marle Hill, Section 4 – Development Agreement and Water Extension Agreement –

On motion by T. J. Moskalski, seconded by S. K. Greenwood, with the following roll call vote, the Board adopted the following Resolution #12-59:

RESOLUTION #12-59

A RESOLUTION AUTHORIZING
THE COUNTY ADMINISTRATOR TO EXECUTE
A DEVELOPMENT AGREEMENT AND A PUBLIC WATER EXTENSION
AGREEMENT WITH MANQUIN PROPERTIES, LLC REGARDING COMPLETION OF
THE DEVELOPMENT KNOWN AS MARLE HILL, SECTION 4

WHEREAS, a certain subdivision known as Marle Hill, Section 4 was approved for development by the subdivision agent of King William County in 2008; and

WHEREAS, development and construction of the required subdivision improvements ceased in approximately 2009 and the original developer lost control of the property through foreclosure, resulting in a failure to meet County requirements and a drawdown of the surety posted to insure completion of the project; and

WHEREAS, Manquin Properties, LLC has acquired the incomplete subdivision and is prepared to complete the project under certain terms and conditions agreeable to the County, which terms and conditions are incorporated generally in a Public Water Extension Agreement and a Development Agreement which have been presented to this Board for consideration; and

WHEREAS, the Board finds that completion of this subdivision in accordance with the agreed process and terms is in the best interest of the citizens of King William County; and

WHEREAS, the Board of Supervisors wishes to authorize the County Administrator to act on its behalf to enter into the aforementioned agreements,

NOW THEREFORE, BE IT RESOLVED by the King William County Board of Supervisors this 24th day of September, 2012, that the Public Water Extension Agreement and the Development Agreement presented to the Board this day are hereby approved and the County Administrator is authorized to execute said agreements on behalf of the County, to include any supporting documents ancillary thereto, in substantially the same form as provided to this Board on the date of this resolution, subject to such minor modifications approved by the County Attorney that may be deemed necessary and that do not change the purpose or intent of the agreements.

Adopted this 24th day of September, 2012

Those members voting:

| | |
|-----------------|-----|
| T. J. Moskalski | Aye |
| S. K. Greenwood | Aye |
| T. S. Stone | Aye |
| O. O. Williams | Nay |
| C. T. Redd III | Aye |

**RE: PUBLIC COMMENT PERIOD – SPEAKERS: ONE OPPORTUNITY OF 3
MINUTES PER INDIVIDUAL OR 5 MINUTES PER GROUP ON NON-PUBLIC
HEARING MATTERS**

The Chairman opened the Second Public Comment Period.

The County Administrator announced that staff was unable to advertise the authorized public hearing on the proposed road abandonment to occur tonight. It was brought to his attention by one of the Board members that some interested parties are in the audience and are prepared to speak on this matter.

The Chairman announced anyone present to speak to the road abandonment public hearing may speak tonight but will also have to opportunity to return to the meeting on October 22, 2012, and speak at the public hearing that will be conducted at that time.

a. Ann Brummer Todd, property owner in King William, opposes the proposed abandonment of the section of the road on Rt. 633. She said she is concerned because of the importance of access in the railroad system and feels whenever right of way is taken away it is difficult to get back.

There being no other persons to appear before the Board the Chairman closed the Second Public Comment Period.

RE: BOARD OF SUPERVISORS COMMENTS

All Board members thanked citizens for their participation at the monthly Board meetings.

Mr. Williams said he is glad the County is finally getting an updated radio system but would rather have the financing information in order before jumping into an agreement.

Mr. Greenwood said he is concerned about businesses not wanting to come to King William because of mandates.

Mr. Moskalski said he feels businesses appreciate consistency and predictability in the ordinances and he feels the Board accomplished that tonight. He said he disagrees with Mr. Williams as far as the revisions made to the ordinance tonight hurting business; if anything he feels it helped the cause.

Ms. Stone said she is anxious to participate in the review of the TCO requirements and potentially look for options for changes. She noted Mr. Breeden is working on the potential changes, representing the Planning Commission. She also commented on the emergency communication system and that the FCC notified the local governments probably ten or more years ago that this action needed to be taken by January 1, 2013. King William County has looked at different options but the fact is until tonight no real action was taken to move the County in the right direction; for that reason the County is behind the eight ball. She feels having an agreement with a partner will probably assist the County but she said by doing nothing there are serious

daily financial penalties facing the County, starting January 1, 2013, had the County taken no action. Continuing she said there was a decade of opportunity to address this issue, but with a new County Administrator and new Board action has been taken.

Mr. Redd said the County is facing a deadline and sometimes hasty decisions are made when we are faced with these situations. He said he feels the County Administrator, the consultants the County has been working with, and the Board has come up with a very good opportunity even though we are close to the deadline. He said we have explored a lot of options and he feels the Board made the right decision tonight and partnering with Hanover County is positive for King William.

RE: APPOINTMENTS

No appointments

RE: ADJOURNMENT OF MEETING

There being no further business to come before this Board, the meeting was adjourned at 8:30 p.m. on motion by S. K. Greenwood, seconded by T. J. Moskalski, and carried unanimously.

Those members voting:

| | |
|-----------------|-----|
| S. K. Greenwood | Aye |
| T. S. Stone | Aye |
| O. O. Williams | Aye |
| T. J. Moskalski | Aye |
| C. T. Redd III | Aye |

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COPY TESTE:

C. T. Redd III, Chairman
Board of Supervisors

T. L. Funkhouser,
County Administrator
Clerk to the Board