

VIRGINIA:

At the regular meeting of the Board of Supervisors held at the Charles City Government and School Board Administration Building thereof on Tuesday, **April 27, 2010** at 7:30 p.m. in the 234th year of the Commonwealth and in the 376th year of the County.

PRESENT: Timothy W. Cotman, Sr., Chairman
Gilbert A. Smith
Sherri M. Bowman

RE: ADOPTION OF AGENDA

Motion was made by Gilbert A. Smith to adopt the agenda as presented.

The motion carried as follows:

Sherri M. Bowman Aye
Gilbert A. Smith Aye
Timothy W. Cotman, Sr. Aye

RE: CONSENT AGENDA

Motion was made by Gilbert A. Smith to approve the following consent agenda:

- a. Approval of Minutes: March 10 & 15, 2010 Recessed Meetings and March 23, 2010 Regular Meeting
- b. Approval of payment of \$17,529.71 to CH2MHill for landfill professional services for the period of February 20, 2010 through March 19, 2010.
- c. Refund of Personal Property Taxes: BB&T Leasing, \$93.45; and George Thorne, \$24.40
- d. Acceptance and Appropriation of \$250 Grant Funds from the United Way.
- e. Appropriations for the Month of May, 2010

Board of Supervisors	10,000
County Administrator	0
Legal Services	0
Non Departmental	0
Non Departmental-Telecom	0
Audit	0
Commissioner of Revenue	0
Reassessment	0
Treasurer	12,062
Management Services	0
Information Technology	0
Motor Pool	7,400
Central Gas	603
Memberships	0
Electoral Board	0
Registrar	0
Circuit Court	0
Combined GD/JD Court	0
County Magistrate	0
Clerk of Circuit Court	8,920
Sheriff Judicial	0
Asset Forfeiture - Sheriff	0
Courthouse Security Fund	0
Crater Criminal Justice T.C.	0
Commonwealth's Attorney	15,299

Asset Forfeiture – Com. Attorney	0
Sheriff Law Enforcement	0
IDA Sheriff Support	0
Fire Protection	0
Emergency Medical Response	0
E 911	0
Wireless E911	1,300
Correction & Detention	0
VJCCCA	0
Col Com Correction Justice Board	0
9th District Court Services	0
Codes Enforcement	10,437
Animal Control	5,550
Medical Examiner	0
Emergency Services	7,001
Landfill Monitoring	5,370
General Properties	27,375
Health Department	0
MH/MR Services Board	0
Contributions	0
John Tyler Community College	0
Parks and Recreation	38,960
Library/Cultural	0
Center For Local History	0
Planning Commission	0
IDA Eco Development Support	0
Planning Department	30,058
Com Development Cont	0
Environmental Mgt Cont	0
Cooperative Extension	0
General Fund Contingency	0
Revolving Accounts	0
Revenue Refunds	0
Insurance Recoveries	0
Reimbursable Accounts	0
Holding Accounts	0
Cap Outlay-Repair/Renovation	0
Cap Outlay-New Projects	0
Debt Service	0
Total General Fund	180,335
Public Utility Fund	10,595
Misc Trust Fund	0
<i>Total Utilities/Trust Funds</i>	10,595
 TOTAL BOARD OF SUPERVISORS	 190,930
 <u>OPERATION OF SCHOOLS</u>	
Instruction	678,079
Admin. Attendance & Health Services	67,126
Pupil Transportation	71,418
Operations & Maintenance	119,072
School Food	38,518
Debt Service	0
Technology	34,727
	<u>1,008,940</u>

RE: CONSENT AGENDA (CONTD)

The motion carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

RE: DEPARTMENT OF TRANSPORTATION – MONTHLY REPORT

Jorg Huckabee Mayfield, VDOT Residency Administrator, gave the following monthly report:

Maintenance Activities for the Previous 30 Days:

VDOT forces conducted litter removal on Primary and Secondary Routes countywide. Listed below are some of these:

- Route 5 - John Tyler Memorial Highway
- Route 106 – Roxbury Road
- Route 155 – Courthouse Road
- Route 607 – Wayside Road
- Route 618 – Adkins Road
- Route 620 – Lewis Tyler Lane

VDOT forces monitored and cleared debris from the bike trail.

VDOT forces performed debris and leaf removal from Route 604 (Warriner Road).

VDOT forces worked with our pipe-cleaning contractor to clean and flush out the pipeline under Route 106 (Roxbury Road) near the intersection of Route 600 (Charles City Road)

VDOT forces dismantled beaver dams on the following routes:

- Route 614 – Sturgeon Point Road
- Route 623 – Wilcox Neck Road
- Route 616 – Adams Bridge Road
- Route 650 – Cattail Road
- Route 5 – John Tyler Memorial Highway

VDOT forces performed asphalt pavement repairs to the following roads:

- Route 615 – The Glebe Lane
- Route 623 – Wilcox Neck Road
- Route 612 – Ruthville Road
- Route 614 – Sturgeon Point Road
- Route 632 – Tyler’s Mill Road
- Route 666 – Waymacks Road
- Route 609 – Barnett’s Road
- Route 619 – Weyanoke Road
- Route 617 – Monguy Road

VDOT forces are currently working on Route 607 (Wayside Road,) performing ditch cleaning operations and making asphalt repairs to the roadway.

VDOT forces performed routine sign maintenance on primary and secondary roads throughout the county.

VDOT forces performed routine maintenance to two non-hard surface roads by machining and adding additional stone to roadways.

These are: Route 648 – New Quarter Road
 Route 654 – Deerfield Road

RE: DEPARTMENT OF TRANSPORTATION – MONTHLY REPORT (CONTD)

Maintenance Activities Planned for the next 30 Days:

VDOT forces are currently making repairs to a pipe structure on Route 610 (Green Oak Road); the estimated completion date for this project is April 23, 2010.

VDOT forces will continue to monitor and grade non-hard surface roads throughout the county, on an as-needed basis.

VDOT forces will continue to perform routine sign maintenance throughout the county.

VDOT forces will continue to perform asphalt pavement repairs on secondary routes throughout the county.

VDOT forces are continuing to make shoulder repairs on Route 5 (John Tyler Memorial Highway).

VDOT forces have targeted additional dead trees for removal along with minor trimming to improve sight distance.

VDOT forces will continue to monitor the bike trail for debris.

VDOT forces will monitor problem areas for beaver dams, dismantle and remove them.

VDOT “Blueprint” Reorganization

Ms. Huckabee Mayfield explained that information was mailed last week to localities that described the Richmond District Reorganization and provided local points of contact. Ms. Huckabee Mayfield provided a copy of this correspondence for the Board’s convenience.

RE: DEPARTMENT OF TRANSPORTATION - SECONDARY SYSTEM CONSTRUCTION PROGRAM SIX-YEAR PLAN BUDGET

Ms. Jorg Huckabee Mayfield, VDOT Residency Administrator, presented to the Board the Secondary System Construction Program Six Year Plan Budget. This year, VDOT proposes no changes to the project priorities in the Secondary Six Year Plan. By the Code of Virginia, a Public Hearing is not required but it is required the Board of Supervisors approve the Secondary Six Year Plan.

Ms. Huckabee Mayfield summarized the changes in the Secondary FY10-15 and FY11-16 allocations as follows:

- a. Funding of \$485,283 - removed from Project “Adkins Road Widen Reconstruct, and Shoulder Improvements” (UPC 82892). The Surface Transportation Program (STP) funds are now distributed through the Commonwealth Transportation Board (CTB).
- b. \$9,177 - applied to the Countrywide Pipe and Entrance cost center to balance a deficit.
- c. \$34 - applied to the Countrywide Right-of-Way Engineering cost center to balance a deficit.

Ms. Huckabee Mayfield requested that the Board approve the Plan with the allocation distribution shown in the summary provided.

RE: DEPARTMENT OF TRANSPORTATION – MPO PROJECTS

Mr. Scott Gagnon, VDOT Transportation and Land Use Director, addressed the Board of Supervisors reviewing the Richmond Regional Planning District Commission - Metropolitan Planning Organization (MPO) Charles City road development projects status. He informed the Board there are five projects that are MPO funded. Between 2005 and 2007, four of the five projects were put into inactive status for reasons undetermined. Mr. Gagnon stated the inactive projects are all reasonably fully funded so funds are available for the projects.

County Administrator, John F. Miniplier, Jr., commented that the MPO staff and the TAC staff have discussed these inactive projects and with the reorganization of VDOT, the county will refocus on the status of these projects. He assured the Board an update will be provided at their next meeting.

RE: BOARD COMMENTS

Gilbert A. Smith clarified his request at the last meeting that VDOT forces check the intersection of Kimages and West Run Road – correcting himself saying going north not south at the area in front of the first house on the left side (west side) of the road for a chronic standing water problem.

In addition, **Mr. Smith** requested that VDOT engineers look at the intersection of Rt. 607 and Rt. 106, where an individual was killed a few weeks ago, and come back to the Board with recommendations for what may be done to make people more aware that an intersection is there. He noted that the lines in the road have faded and are nearly gone and suggested a sign saying *Stop Sign Ahead* may be a possible solution.

RE: PUBLIC COMMENT PERIOD

1. Peter Churins, 18700 Tettington Lane, Charles City, addressed the Board of Supervisors regarding the topics of taxes and funding. He commented that his concerns are about the Virginia School Efficiency Review Program (VSERP). He explained that the goal of the VSERP is to ensure that non-instructional functions are running efficiently so that as much of this funding as possible goes directly into the classroom. The program identifies savings that can be gained in the school division through best practices in division, human resources, etc. He provided the Board with a handout of the results of districts close to Charles City that had used VSERP and showed that all but one group (Williamsburg, VA) had gained in savings that then went to use in the classroom. He explained that his research shows that the survey would cost about \$20-30,000 but it could net the county a considerable amount of money in the long term. Mr. Churins stated he understands the Board of Supervisors and the School Board reviewed this program approximately two years ago and turned it down but, he suggested, now is probably a good time to review it again as appreciable gains could be made both to the school system and to the county.

RE: JOINT PUBLIC HEARING WITH THE PLANNING COMMISSION

The Board of Supervisors and the Planning Commission held a joint public hearing to hear citizen comments on an application submitted by Linda Howard (**Big Dog Kennel**) requesting a special use permit (Application #SUP-1-2010) to operate a commercial kennel on 22.4 acres [T.M. #12-(21)-B] located at 5226 North Warriner Road.

RE: JOINT PUBLIC HEARING (CONTD)

Chairman Edward Baber called the Planning Commission to order at 7:45 P.M. Mr. John F. Miniclier, Jr., County Administrator, read advertisements for the public hearing. Chairman Baber reviewed the rules and procedures governing the hearing.

Mr. John Bragg presented the staff report. Site is zoned Agriculture and is designated as a Rural Area within the Comprehensive Land Use Plan. Land uses immediately surrounding the parcel are agricultural and roadside residential. There are no sensitive features such as 100-year floodplain or Chesapeake Bay Preservation area on the site.

Mr. Bragg reviewed the history on file regarding Big Dog Kennel since 1995. During the active permit time (January 2006 – January 2009), there were a number of violations of the terms and conditions. (i.e. note having an approved septic system; routine inability of staff/citizens to contact the kennel by telephone; violations of local laws and ordinances including dog license issues; number of dogs kept at kennel.)

Both Mr. Bragg and Mr. Frank Bates, Animal Control Officer have made several site inspections and found several improvements were made to the kennel facility. (i.e. wastewater system designed, installed, and inspected by professionals; improvements to puppy housing; boarding in outside fields eliminates the need for wastewater control within kennel building; improved fencing for pens and security; Ms. Howard and/or son will be on site 24 hours a day, seven days a week with phones on their persons in order to receive calls.)

Mr. Bragg reports Big Dog continued to operate for several months after the Board of Supervisors denied the renewal of the active special use permit, back in January 2009; and, that Big Dog is operating commercially currently. Staff can not recommend that this special use permit be issued based upon the past performance of Big Dog Kennel.

Chairman Baber asked Mr. Frank Bates, Animal Control Officer, if he had a staff report to present. Mr. Bates cited the kennel's past practices as those of a puppy mill and is not the kind of business that anyone would want within a mile of their home. He asked that the Board of Supervisors be mindful of the types of businesses that are being permitted within the County, and whether there is adequate staffing to ensure the County regulations are adhered too. Mr. Bates asked the Board to consider minimizing the number of stud dogs, and breeding females.

Chairman Baber asked the applicant if they have a presentation. Attorney, Robert L. Isaacs spoke on behalf of Ms. Linda Howard and Big Dog Kennel. Mr. Isaacs presented a memo from GeoEnvironmental Services, Inc, along with an AOSE/PE inspection report and completion statement, which indicates that the wastewater system for Big Dog Kennel has been installed and inspected. Mr. Isaacs indicates that all previous violations have been corrected and the facility is now in compliance with all the requirements of the previous permit and the standards set forth in the County Code. He states that the proposed use of the land fully complies with the nature and character of the neighborhood, and would not cause the neighborhood any undue burden. Big Dog is not a puppy mill. This facility should not be denied a permit based on the type of dog raised on site.

Mr. Isaacs requests the Board not deny the permit request based on past performances, but grant approval based on the compliance to the county codes and standards in place today. Should the Board deny the permit, it would be an arbitrary and capricious decision, there being nothing in the Code to allow for denial.

Prior to sitting down Mr. Isaacs was asked if Big Dog Kennel was operating to date without a special use permit? Mr. Isaacs answered yes.

RE: JOINT PUBLIC HEARING (CONTD)

Chairman Baber opened the hearing to public comments. The following individuals spoke at the public hearing:

1. Eric Halprin - 5226 North Warriner Road, Charles City – Mr. Halprin introduced himself as Linda Howard’s son and explained that at the point of the January, 2009 meeting they were unable to install the septic system due to the large amount of rain and snow the county received. He informed the Boards they had paid someone \$10,000 to install the septic system, but that person fraudulently took their money and did not complete the work. Mr. Halprin explained they then had to raise another \$9,000 to get the installation completed, which was completed April 12, 2010. He noted that at the January meeting Mr. Washington, on the Planning Commission, motioned to have their special use permit put on hold until the septic could be installed, understanding the issues they had encountered with the septic installation. The Planning Commission Chair, Mr. Baber, requested Mr. Washington change his motion to instead deny the petition until Ms. Howard could have a Board of Supervisors’ appeal. Mr. Halprin assured that their dogs are very well taken care of, they have indoor/outdoor shelters, climate controlled, a special building for expectant mothers, all puppy kennels are tiled and grouted. If you asked Mr. Bates, he pressed, about the appearance of their kennels whenever he goes out there, I’m sure he would have no problem saying that they are extremely clean, said Mr. Halprin. (Mr. Bates conceded.) Mr. Halprin stated they maintain a clean kennel abiding by all the specifications put in place by the county and in no way is this a puppy mill.
2. Linda Howard - Ms. Howard addressed the situation raised by Mr. Bates in regards to the death of a dog brought to her for breeding. She explained they had handled the disposal of the dog as they have been instructed to do and did nothing wrong.
3. Lloyd Carter – Mr. Carter stated he understood that under previous county inspection of the kennel it was found that the electrical fencing was turned off. Mr. Carter asked what assurance do we have that that won’t happen again and is there any backup system to continue the electrical current if the power were to go off in the county? (Eric Halprin responded that the fence is in working condition and they have other fail-safes for extra protection in the event of a power outage.)

There being no further comments, the hearing was closed to public comment.

RE: SPECIAL USE PERMIT – BIG DOG KENNEL

Chairman Baber asked for questions, comments and/or a motion from the Commission. Planning Commissioners discussed the following concerns:

- It is understood that the kennel is still operating to date without a special use permit
- Is the fact that sales are done off site have a factor on the operation of a commercial kennel
- Breeding is continuing after permit was revoked
- To consider limiting number of dogs
- Expanding special use permit to include training and grooming.
- Continuing to operate after permit was revoked
- Not allowing a family to earn an income
- Permit should have been pulled some time ago
- Place a shorter term for renewal (expiration date)

RE: SPECIAL USE PERMIT – BIG DOG KENNEL (CONTD)

The following comments were made by the Planning Commission members:

Mr. Alton Washington made a motion to recommend approval to the Board of Supervisors for the issuance of a special use permit to Linda Howard (Big Dog Kennel), with the condition that 1) probation of one year; 2) staff continually monitor the facility to assure the conditions are adhered to; 3) renewal after one year with complete re-application process. Mrs. Jacqueline Wallace seconded the motion.

Chairman Baber asked for discussion of the motion. The additional conditions were discussed:

- Set a certain number of dogs. Currently there are 31 dogs
- Have better control of the number of litters within a time frame
- Breeding to cease when total number of dogs on site reaches 100

Mr. Timothy Cotman asked the Commission if they needed to table the matter in order to consider conditions. Upon the advice of County Attorney Randolph Boyd, Mr. Washington withdrew his motion and Mrs. Wallace agreed.

The Planning Commission voted 6:0 to table the discussion application #SUP-1-2010, Linda Howard (Big Dog Kennel), until the Commission meeting scheduled for Thursday, May 13, 2010 at 7:30 PM.

RE: EMERGENCY NOISE ORDINANCE

The County Administrator, John F. Miniclier, Jr., referred to the 2009 ruling of the Virginia Supreme Court wherein the Virginia Beach, Virginia Noise Ordinance was deemed unconstitutionally vague. County Attorney, Randolph Boyd, explained that Charles City County's Noise Ordinance is very similar to that of Virginia Beach in addition to the noise level maximum noted to be 100 decibels, which is the equivalent of a jackhammer operated ten feet away from you. The new ordinance will be more specific and set new decibel levels for daytime, nighttime and anytime based on the noise source.

Sherriff Javier Smith addressed the Board of Supervisors explained that his office has received a few letters from citizens of the county that are being disturbed and he has deemed they are legitimate complaints. Sheriff Smith affirmed that the issue is a problem and needs to be addressed. He explained that to put the ordinance in place would allow his office to take a position on it and address the issue.

EMERGENCY
NOISE ORDINANCE

Sec. 20-173. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Background noise level shall mean the aggregate of all sound sources impacting at the place where a specific sound generation is measured or evaluated, excluding the specific sound generation itself.

Decibel (dB) means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

Emergency means any occurrence or set of circumstances involving actual or imminent physical injury or illness or property damage that requires immediate action.

RE: EMERGENCY NOISE ORDINANCE (CONTD)

Emergency work means any work performed for the purpose of preventing or alleviating the physical injury or illness or property damage threatened or caused by an emergency.

Instrument, machine or device means and refers to any musical instrument, radio, phonograph, compact disc player, cassette tape player, amplifier or any other machine or device for producing, reproducing or amplification of sound.

Noise means any sound audible to humans.

Public street means any street, highway or right-of-way maintained by the state or county.

Residential dwelling means any building or other structure in which one or more persons resides on a permanent or temporary basis, including, but not limited to, houses, apartments, condominiums, hotels, and motels.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound generation means any conduct, activity or operation, whether human, mechanical, electronic or other, and whether continuous, intermittent or sporadic, and whether stationary or ambulatory in nature, which produces or results in an audible sound.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels. (Ord. No. 3082, 5-12-09)

Sec. 20-174. Administration and enforcement.

The Sheriff's office shall be responsible for enforcement of the noise control program established by this article and may be assisted by other county departments or persons as required. (Ord. No. 3082, 5-12-09)

Sec. 20-175. Violations.

(a) Any person who violates any provision of this article shall be deemed to be guilty of a Class 3 misdemeanor for a first offense. Any person who violates a provision of this article within one (1) year after a previous conviction under this article shall be guilty of a Class 2 misdemeanor.

(b) The person operating or controlling a noise source shall be guilty of any violation caused by that source. Any owner, tenant, resident or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the noise source.

(c) In addition to and not in lieu of the penalties prescribed in this section, the county may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this article and may seek any other remedy or relief authorized by law.

Sec. 20-176. Exceptions.

This article shall apply only with respect to sound emissions originating in zoning districts in which residential use is permitted, whether or not exclusively, under the provisions of the county zoning ordinance and, notwithstanding any provision of this article to the contrary, shall have no application to fire, rescue, police, ambulance or other emergency vehicles or aircraft or to any noise or sound created thereby or to any noise or sound created by any person to sound a warning or call attention to a bona fide emergency. This article shall not apply to noise or sound which customarily accompanies bona fide parades, sporting events, public functions or public commemorative events nor to noise or sound which customarily accompanies activities of churches and synagogues, nor to activities conducted in any gymnasium, arena, theater, amphitheater, swimming pool, stadium, rifle range, gun club or any similar sporting facility, whether any such activity occurs indoors or outdoors, except to the

RE: EMERGENCY NOISE ORDINANCE (CONTD)

extent that any such parade, function, event or activity shall be prohibited or limited, either expressly or by necessary implication, by the terms or conditions of any required use permit issued in connection therewith, or the extent that such parade, function, event or activity shall be conducted without a use permit when such permit is required by the terms of the county zoning ordinance. This article also shall not apply to noise or sound which customarily accompanies normal agricultural, forestal, business or industrial uses as well as the discharge of firearms while hunting. (Ord. of 9-10-1996, § 14-11(d))

Sec. 20-177. Use of sound level meters.

The decibel level of any noise regulated by Sec. 20-178 shall be measured by a sound level meter. In order to implement and enforce this article effectively, the Sheriff shall promulgate standards and procedures for using and testing sound level meters used in the enforcement of this article. (Ord. No. 3082, 5-12-09)

Sec. 20-178. Maximum sound levels.

(a) *Nighttime.* (i) No person shall permit, operate or cause any source of sound to create a sound level that can be heard during the hours between 11:00 p.m. and 7:00 a.m. in excess of seventy (70) dBA when measured from any public street.

(b) *Daytime.* No person shall permit, operate or cause any source of sound to create a sound level that can be heard during the hours between 7:00 a.m. and 11:00 p.m. in excess of eighty-five (85) dBA when measured from any public street.

Sec. 20-179. Specific prohibitions.

The following acts are declared to be violations of this article. This enumeration shall not be construed to limit, in any way, the general prohibitions contained in section 20-178:

(a) *Audio and audio-visual devices, musical instruments, etc.* The playing of any television, boom box, stereo, phonograph, radio, tape player, compact disc player, MP3 player, video player, musical instrument, drum, or any other device that produces, reproduces or amplifies sound, including any such device in a motor vehicle, where the sound is plainly audible to any person other than the players(s) or operator(s) of the device and those who are voluntarily listening to the sound and is plainly audible at a distance of fifty (50) feet or more from the source of the sound or at the property line of the parcel of land on which the sound is being produced, whichever distance is greater.

(b) *Noise-sensitive areas.* The making of any noise within two hundred (200) feet of any school, place of worship, court, hospital, nursing home, or assisted-living facility while the same is being used as such, that interferes with the workings of the institution. (Ord. No. 3082, 5-12-09)

Sec. 20-180. Severability.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this article shall not affect the validity of the remaining parts thereto. (Ord. No. 3082, 5-12-09)

Motion was made by Gilbert A. Smith for the Board to repeal the county Noise Ordinance, Article VI §20-174, & §20-175 of the Charles City County Code, approve the Emergency Noise Ordinance, and authorize a public hearing for the June 22, 2010 meeting for a permanent Noise Ordinance.

The motion carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

The Board of Supervisors directed staff to proceed with the legal requirements toward the development of a permanent Noise Ordinance and to provide the Board, at their May 25, 2010 regular meeting, the recommended noise ordinance for their review.

RE: SESQUICENTENNIAL (150TH) ANNIVERSARY OF THE CIVIL WAR RESOLUTION (Resolution 2010-01)

Motion made by Gilbert A. Smith to approve the following resolution of support, carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

WHEREAS, the 150th Anniversary of the Civil War will be observed from 2011-2015 and the National Park Service and Virginia General Assembly are participating in the commemoration; and

WHEREAS, the Virginia Sesquicentennial of the American Civil War Commission (the Commission) was created by the General Assembly of the Commonwealth of Virginia in 2006 for the purpose of guiding the commemoration of the 150th anniversary of the American Civil War in Virginia; and

WHEREAS, the Commission has requested each locality in Virginia to form a local Civil War Sesquicentennial Committee (Civil War Committee) to assist the Commission with its mission and signature events; and to plan, promote, and coordinate commemorative events and other activities at the local level; and

WHEREAS, Charles City County played a significant role in the war as battles were fought on its soil, armies were encamped on its fields, hundreds of its residents fought for the Confederacy and for the Union, and thousands of its slaves were emancipated as a result of the conflict; and

WHEREAS, Numerous county residents descend from men who fought on both sides in the war, from families who suffered the depredations of war through confiscation of their crops and live stock, and destruction of their homes, and from slaves who escaped to freedom or were emancipated by the war and thus share a personal link to the past; and

WHEREAS, the Sesquicentennial Anniversary is an opportunity to augment tourism, honor our unique heritage, and further local history education;

NOW, THEREFORE, BE IT RESOLVED, that Board of Supervisors of Charles City County hereby supports the Virginia Sesquicentennial of the American Civil War Commission and its efforts to commemorate the 150th Anniversary of the American Civil war in Virginia; and

BE IT FURTHER RESOLVED that the County has formed a Charles City County Civil War Committee and pledges to participate in commemoration activities.

Per the request of the Virginia Sesquicentennial Commission for each locality in Virginia to form a local Civil War Sesquicentennial Committee the Charles City County's Civil War Committee has been organized and Sherri M. Bowman volunteered to be the Board representative on the committee.

RE: VALIC REINSTATEMENT RESOLUTION (Resolution 2010-02)

Motion was made by Gilbert A. Smith and carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

WHEREAS, Charles City County (hereinafter, the "Employer"), PREVIOUSLY ESTABLISHED THE Charles City county 401(a) Cash matching Plan (hereinafter, the

RE: VALIC REINSTATEMENT RESOLUTION (CONTD)

“Plan”) for the exclusive benefit of its employees and their beneficiaries, which Plan was originally effective as of July 1, 2000; and

WHEREAS, the Employer retained the power to amend and/or terminate the Plan; and

WHEREAS, the Employer now desires to amend and restate the Plan by adopting the VALIC Retirement Services Company Governmental Volume Submitter Plan document;

NOW THEREFORE, BE IT RESOLVED, that the Employer hereby amends and restates that Plan, effective July 1, 2002, by adopting the document titled “VALIC Retirement Services Company Governmental Volume Submitter Plan,” in the form and substance as the document heretofore presented to the governing body of the Employer; and

RESOLVED FURTHER, that the appropriate representatives of the Employer be, and the same hereby are, authorized and directed to: (i) execute the adoption agreement to the VALIC Retirement Services Company Governmental Volume Submitter Plan document as approved; (ii) execute all other documents and to do all other things as may be necessary or appropriate to make the VALIC Retirement Services Company Governmental Volume Submitter Plan document July 1, 2002, including the execution of any amendments required by the Internal Revenue Service in order to continue and maintain the qualified and exempt status of the Plan; and (iii) execute any other documents required to obtain reliance on advisory letters issued to the VALIC Retirement Services Company Governmental Volume Submitter Plan by the Internal Revenue Service.

RE: CHARLES CITY COUNTY LIBRARY RESOLUTION (Resolution 2010-03)

Motion made by Gilbert A. Smith, carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

WHEREAS, a public library is vital to a community as they strengthen the community’s capacity for resiliency with their early literacy services, educational resources, free access to information, family life enhancement, and special events; and

WHEREAS, economic impact studies show that a public library aids in promoting economic development by providing free access to technology, employment and career resources, small business resources, and public enrichment programs; and

WHEREAS, Charles City County does not have a public library to serve the 7,200 county residents; and

WHEREAS, a library in Charles City County would be instrumental in creating a Town Center in the county by attracting development and a Town Center would be an asset to the county; and

WHEREAS, the Board of Supervisors of Charles City County has deemed the construction of a public library in the county to be essential to the improvement of the quality of life of Charles City residents; and

WHEREAS, Charles City has dedicated a parcel of land belonging to the county for the site to construct an LEED certified library (approximately 16,580 sq. ft.) at an estimated cost of 5 million dollars; and

RE: CHARLES CITY COUNTY LIBRARY RESOLUTION (CONTD)

WHEREAS, the County will own the building and the Board of Supervisors have committed to provide adequate operational and maintenance funding for the facility; and

WHEREAS, the Board of Supervisors of Charles City County has determined that the library facility will also house the Charles City County Center for Local History, a county owned reference library and archives that has outgrown its present location.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Charles City believes a public library is a necessity for the overall progress of the county and that funds received will be suitably spent building a public library facility that will ultimately provide economic and life enhancing opportunities for Charles City County citizens.

RE: CHARLES CITY COUNTY DISTRICT I FIRE STATION RESOLUTION
(Resolution 2010-04)

Motion made by Gilbert A. Smith, carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

WHEREAS, Charles City County must construct a 5,117 Sq. ft. building, pre-engineered to LEEDS standards, to serve as District One Fire Station to the county and would provide additional space for storage, sleeping quarters, and fire department administration; and

WHEREAS, District One Fire Station will provide needed additional fire protection and EMS coverage to the western half of Charles City County; and

WHEREAS, this fire station is an important addition to the infrastructure of the Roxbury Development Area that will assist in the economic development of the Roxbury Development Center; and

WHEREAS, the proposed facility is within 10 miles of Interstate 64, a key east-west transportation route and can provide direct support to homeland security efforts within the I-64 corridor.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Charles City fully supports the request of no more than \$1,121,496 to be provided from federal funds for the construction of a 5,117 Sq. ft. building to serve as District One Fire Station to Charles City County.

RE: REPLACEMENT OF HIDEWAY WASTEWATER PLANT RESOLUTION
(Resolution 2010-05)

Motion made by Gilbert A. Smith, carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

WHEREAS, Charles City County must replace an existing 20,000 gpd wastewater plant, circa 1980, with a 39,000 gpd plant capable of providing wastewater services to current residents and serving future economic development interests; and

RE: REPLACEMENT OF HIDEWAY WASTEWATER PLANT RESOLUTION (CONTD)

WHEREAS, the wastewater plant upgrade is essential to provide continued support of the needs of approximately 70 low moderate (LMI) families, a 57 seat restaurant, and the county's only commercial marina and motel; and

WHEREAS, A 39,000 gpd wastewater plant will support the progress of small tourist oriented businesses and new multi-family housing development in the Hideaway Development Center.

NOW, THEREFORE, BE IT RESOLVED, the Board of Supervisors of Charles City County fully supports the request of no more than \$245,845 be provided from federal funds to construct the wastewater plant estimated to cost approximately \$452,810.

RE: JOINT PUBLIC HEARING – ZONING ORDINANCE AMENDMENTS

Gilbert A. Smith made the motion for the Board of Supervisors to schedule a joint public hearing with the Planning Commission regarding the proposed amendments to the Zoning Ordinance Definitions & Agricultural District for the next regular meeting of the Board, May 25, 2010. The motion carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

RE: FY2010 SCHOOL BUDGET AMENDMENT & APPROPRIATIONS

Gilbert A. Smith motioned to approve the request of Dr. Janet Crawley, Superintendent of Schools, to amend the FY2010 School Budget and appropriate the funds for operations of the schools for the month ending May 2010 in the amount of \$1,008,940.00 and to accept the amount of \$7,858.00 in new IDEA-Part B Section 619 Preschool Grant Funds. The motion carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

RE: TRANSFER OF FUNDS FOR FY2010 EXPENDITURES

Motion was made by Gilbert A. Smith to approve the staff recommendations for the transfer of funds in the total amount of \$143,354 to cover the FY2010 expenses of Riverside Regional Jail budget, Merrimac Juvenile Detention Center budget, and the cost of replacing the Social Center HVAC. The motion carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

RE: FY2010 TAX RATE

Mr. John F. Miniclier, Jr., County Administrator, presented to the Board the recommendation of a \$0.02 tax rate increase with \$0.01 earmarked for EMS transport. The other \$0.01 would restore funding to the FY2010 level for the Heritage Library, Central Virginia Food Bank & Meals on Wheels, Bay Transit, and to provide an additional \$15,529 to the Riverside Regional Jail budget line item. Each \$0.01 of tax provides approximately \$73,000 in revenue.

RE: FY2010 TAX RATE (CONTD)

Mr. Gilbert Smith stated that he supported restoring the funding to those named services. He asserted that with level funding hopefully the library would be able to be open more hours as it provides an important service especially to job seekers and students.

Ms. Sherri Bowman agreed with Mr. Smith, saying the library, food bank and transit services relate one to another and are very important to our citizens.

Mr. Timothy Cotman also agreed funds be restored to the FY2010 level for these services, stating especially to the Heritage Library budget as we are working very hard as a community to raise money for a new library and the Board should be leading that.

Motion was made by Gilbert A. Smith to approve the real estate tax rate at \$0.68 per one hundred dollars for the Fiscal Year 2010-2011 commencing July 1, 2010 be approved, such tax to be levied for the calendar year 2010 and be collected as provided by ordinance.

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

RE: FY2010-2011 BUDGET

Mr. John F. Miniclier, Jr., County Administrator presented the proposed budget for FY2010-2011 to the Board for approval.

Motion was made by Gilbert A. Smith that the budget and tax levies set forth in the following budget for the Fiscal Year 2010-2011 commencing July 1, 2010 be approved, such taxes to be levied for the calendar year 2010 and be collected as provided by ordinance to approve the following budget for FY2010-2011.

TAX RATES

Real Property Tax (per \$100 of assessed value)	\$0.68
Personal Property Tax (per \$100 of assessed value)	3.50
Tangible Personal Property (per \$100 of assessed value)	3.50
Machinery & Tools	2.50
Merchant's Capital	2.80
Mobile Home Tax (per \$100 assessed value)	0.68
Common Carriers (per \$100 of assessed value)	2.50
E911 Tax	2.00
Electric Utility Tax (Residential Customer maximum)	2.50
Gas Utility (Residential Customer maximum)	2.50

FY2011 BUDGET

General Operating Fund	\$ 6,800,076.00
Social Services Fund	1,999,506.00
Special Welfare Fund	19,000.00
Special Fund	29,485.00
Enterprise Fund	396,599.00
Transfers to The State Fund	5,000.00
School System Fund	\$11,650,950.00
Total FY2010-2011 Budget	20,900,616.00

RE: FY2010-2011 BUDGET (CONTD)

The motion carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

RE: STATE FURLOUGH DAY OF CONSTITUTIONAL OFFICERS AND STAFF

Mr. John F. Miniclier, Jr., County Administrator, reminded the Board that former Governor Kaine deemed Friday, May 28, 2010 as a furlough day for all constitutional officers. He explained that the county pays 50% and the state pays 50% of salaries of many of the constitutional officer; the Commissioner of Revenue salary is a 30/70 split; lastly, the Sherriff and the Commonwealth Attorney salaries are paid 100% by the state. Mr. Jay Brown, Assistant County Administrator, provided for the Boards review the exact money amounts the state will not reimburse for that furlough day.

The County Administrator facilitated the polling of several surrounding localities regarding their decisions on this matter. Mr. Miniclier reported that most offices in the surrounding communities will be open and one is furloughing their constitutional officers and all of their employees. He reported further, James City County is allowing their constitutional officers to make up the salaries using local funds, and they maintain that everyone but the Commonwealth Attorney has the funds in their budget to do so. He also shared that many localities have not yet made a decision.

Mr. Miniclier pointed out that in the past, when the state made cuts to those reimbursements before the County budgets were adopted, in most cases the Board authorized making up for those state cuts. When the state cut reimbursements during the budget year, the County has minimally made up for the cuts and the affected offices had to find savings internally within their own budgets. He recommended that the offices remain open and they take the funds out of their office budgets. It may be more difficult for some then others, he stated, but if there is difficulty meeting such things as postage needs, supplies, etc., the county will look internally to support that and make up the short falls.

The Board of Supervisors unanimously agreed the County Administrator's recommendation was a good and viable plan and to leave this issue to his discretion.

RE: BOARD OF SUPERVISORS' COMENTS AND DIRECTIVES

Mr. Gilbert A. Smith directed staff to brief the Board at their next regular meeting to brief on what has transpired between the County and School System staffs in the way of meetings and working toward combining services.

RE: PUBLIC COMMNETS PERIOD (NON-AGENDA ITEMS)

1. Lloyd Carter, Wayside Road - Mr. Carter asked the Board if he was correct in his understanding that the noise ordinance takes effect immediately. **Mr. Cotman** confirmed this. Mr. Carter asked Mr. Smith to show courtesy to the 4x4 club and let them know that this ordinance is in effect and it may affect their mud bog next month. He continued to ask the Board to consider putting up signs at the public boat landings for watercraft that may dock there. He expressed concern that this will effect citizens in the area and probably also the

Blue Herron Restaurant with the watercraft that dock there. He asked the board to advertise it in the Chronicle and maybe post it at public places around the county.

Mr. Miniclier advised that the Emergency Noise Ordinance is to be posted in the library, on the county website, and advertised in the Chronicle for the June public hearing. He explained that businesses and agricultural, in those areas where they are allowed to do that, are exempt from this ordinance.

2. Elnora Robinson, Adkins Road – Mrs. Robinson asked that all those that can to please donate to the After Prom Party to keep the youth safe on prom night. She also requested of the Board and anyone that is able to chaperone an hour or two at the May 28 event from 11:00 pm to 5:00 am.

RE: PUBLIC COMMNETS PERIOD (NON-AGENDA ITEMS) (CONTD)

3. Ashley Spillman, 5301 West Run Road and member of New Kent Fire Department – Ms. Spillman addressed the Board citing she had a problem in regards to the Charles City Volunteer Fire Department. She explained that on Good Friday her best friend was killed in an auto accident caused by a collision with a large truck as the corner of Rt. 106 and Wayside Road. She asserted that if it weren't for the quick thinking of a New Kent fire fighter recognizing via the ERG manual that there was hazardous material in the truck many more people would have been killed. She asked that the Board of Supervisors look into the matter.

Mr. Timothy Cotman inquired what the material was on the truck. Ms. Spillman explained it was molten acid but she did not know the name of the material or its official hazardous material identification number.

RE: EXECUTIVE SESSION

Motion was made by Gilbert A. Smith to go into executive session to discuss the sale of county real estate under Section 2.2-3711.3 of the Code of Virginia, as amended. The motion carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

Motion made by Sherri M. Bowman to return to regular session, carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

Motion was made by Sherri M. Bowman that the Board of Supervisors discussed only public business matters lawfully exempted from statutory open meeting requirements and public business identified in the motion to convene the executive session. The motion carried as follows:

Sherri M. Bowman	Aye
Gilbert A. Smith	Aye
Timothy W. Cotman, Sr.	Aye

There being no further business before the Board, it hereby adjourns to meet again on Tuesday, **May 25, 2010** at 7:00 p.m. for the Board of Supervisors' regular Meeting.