

**Board of Supervisors Meeting
February 12, 2009
5:00 P.M.**

NORTHUMBERLAND COUNTY, VA

A regular monthly meeting of the Northumberland County Board of Supervisors was held in the New Courts Building, on Thursday, February 12, 2009

Present: Ronald L. Jett. – Supervisor
 Richard F. Haynie – Supervisor
 A. Joseph Self, Sr. – Supervisor
 Thomas H. Tomlin – Supervisor
 James M. Long – Supervisor

 W. Leslie Kilduff, Jr. – County Attorney
 Kenneth D. Eades – County Administrator
 Luttrell Tadlock – Assistant County Administrator

RE: INVOCATION

Pastor Jeff Cerar, from St. Stephens Anglican Church led the invocation.

RE: PLEDGE OF ALLEGIANCE

Mr. A. Joseph Self, Sr., Supervisor led us in the Pledge of Allegiance.

RE: APPROVAL OF MINUTES FROM JANUARY 8, 2009

Upon motion by James M. Long, duly seconded by A. Joseph Self, Sr. the Board voted unanimously to approve the minutes from the previous meeting on January 8, 2009. The vote on the motion was as follows:

Ronald L. Jett – YEA	A. Joseph Self, Sr. - YEA
James M. Long – YEA	Richard F. Haynie - YEA
Thomas H. Tomlin – YEA	

RE: APPROVAL OF AGENDA

Upon motion by A. Joseph Self, Sr., duly seconded by James M. Long, the Board voted unanimously to approve the agenda for today's meeting with two changes. Mr. Clint Stables, School Superintendent asked to be taken off the agenda due to a prior commitment and to add a Closed Meeting after the public hearings to discuss a personnel matter. The vote on the motion was as follows:

Ronald L. Jett – YEA	A. Joseph Self, Sr. - YEA
James M. Long – YEA	Richard F. Haynie - YEA
Thomas H. Tomlin – YEA	

RE: MR. PAUL LEE, ROBINSON, FARMER, COX ASSOCIATES – DISCUSSION OF AUDIT REPORT

Mr. Lee stated that the audit went well. He said there were some issues that were reported on last years audit that have been addressed to meet the new auditing standards. He said the standards were very tough and this is a continuous process to meet the standards. County staff has worked hard at getting the reports out to meet the standards. The County Administrator's and Treasurer's staffs are doing a great job on the cost allocation requirements and tax collection rate. Mr. Lee suggested that a policy and procedures on our accounting practices should be adopted before the next audit.

RE: MR. SEAN TRAPANI, RESIDENCY ADMINISTRATOR, NORTHERN NECK VDOT RESIDENCY

Mr. Trapani reported to the Board that the six-year plan is being revised and is still a moving target. There is no money in the account to perform any of the projects. Pot holes are being patched in the county and there has been very little snow removal.

RE: MS. JANE MCQUADE, DIRECTOR, NORTHUMBERLAND COUNTY PUBLIC LIBRARY

Ms. McQuade gave a presentation on the library usage. She stated that the computer usage has increased as well as the overall library use. She stated many people are using the library's resources for job hunting and filling out applications online. She also reported on the after school homework program for kids. She stated this is going great and all but one made the honor roll.

The Board of Directors for the library will not be asking for any additional money in next year's budget.

RE: LUTTRELL TADLOCK, ASSISTANT COUNTY ADMINISTRATOR – YEAR END REPORT

Planning Commission

During the past year, the Northumberland County Planning Commission held eleven (11) regular meeting. The amendments and the re-zonings the Commission considered are as follows:

AMENDMENTS CONSIDERED

- 1) An amendment to the Northumberland County Zoning Ordinance Article I, Section 148-3, Definitions and word usage; to define “Aquaculture”, “Aquaculture Facility” and “Aquatic Organism”.
- 2) An amendment to the Northumberland County Zoning Ordinance Chapter 148 to list “Aquaculture Facility” as a Conditional Use in certain zoning districts.
- 3) An amendment to the Northumberland County Zoning Ordinance to include “Adult Businesses”.
- 4) An amendment to the Northumberland County Zoning Ordinance to include “Commercial Kennel”, “Commercial Breeding Kennel” and “Private Kennel”.
- 5) Amendment to the Northumberland County Zoning Ordinance Chapter 148, Article V, Section 43 B; Use regulations in Residential Waterfront (R-2): to add “Auto reconditioning, truck repairing, re-treading” as a conditional use.

- 6) Auto and light truck reconditioning and/or repairing.
- 7) Amendment to the Northumberland County Zoning Ordinance to add “Private Pier and Shoreline Stabilization Structures” as a permitted use in the Conservation District (C-1), Agricultural District (A-1), Residential General District (R-1), Residential Waterfront District (R-2), Business General District (B-1), and Industrial Light District (M-1). This language was unintentionally omitted during the update of a previous version of the zoning ordinance.
- 8) Zoning Review: Section 1 “Purpose” of current zoning classifications.

REZONINGS

- 1) Request by James L. Dunn for a change in zoning district classification, to rezone Tax Map Parcel #36A-(1)-67 for the purpose of constructing twenty-eight (28) condominiums.

The Commission spent its time this past year reviewing portions of the Zoning Ordinance and following the work plan. During 2009 the Planning Commission will continue reviewing sections of the Zoning Ordinance and to follow the work plan as set in the 2006 Comprehensive Plan.

Office of Building & Zoning

The Office of Building and Zoning administers various ordinances involving building, zoning, wetlands, etcetera, as well as the planning functions of the County. The following is a compiled list of various requests from the 2008 calendar year, which were processed through this office.

In 2008, the total estimated cost of construction was \$58,370,822.60 compared to \$68,699,269.09 for 2007. The total estimated cost of construction showed a decrease of 15% from 2007 to 2008.

- **Single Family Dwelling**

The average cost of permitted dwellings in 2008 was \$311,807.42 compared to the 2007 figure of \$350,792.80. In 2008, the average square footage of a single family dwelling was 3681, compared to 3755 square feet for a single family dwelling in 2007.

In 2008, the number of single family dwellings totaled 76 units which reflect a decrease of 7.3% from the 82 single family dwellings in 2007.

- **Modular Homes**

The average cost of permitted modular homes in 2008 was \$175,108.20 compared to the 2007 figure of \$182,012.36. In 2008, the average square footage of a modular home was 2564, compared to 2647 square feet for a modular home in 2007.

Modular homes showed a decrease of 16.7% having 35 new modular home permits in 2008 compared to 42 new modular homes in 2007.

- **Double Wide Homes**

The average cost of permitted double wide in 2008 was \$55,500.00 compared to the 2007 figure of \$79,831.

Double wide homes showed a decrease of 67% having 4 new double wide permits in 2008 compared to 12 in 2007.

- **Mobile Homes**

Mobile homes showed a decrease of 22% having 14 new mobile home permits in 2008 compared to 18 new mobile homes in 2007. The average cost of a permitted mobile home in 2008 was \$17,728.57 compared to \$11,556 in 2007.

RE: BUILDING PERMIT REPORT:		
	2009	2008
Total construction cost for the month	\$ 4,293,122.00	\$ 4,391,915.00
Total Bldg. Permit Cost for Month	\$ 6,226.88	\$ 6,780.48
Total Zoning Permit Cost for the Month	\$ 3,100.00	\$ 2,810.00
Total Levy Fee for the Month	\$ 109.27	\$ 119.09
<i>Total Construction cost year to date</i>	\$ 4,293,122.00	\$ 4,391,915.00

RE: COURTROOM SECURITY FUND, APPROPRIATION

Upon motion by A. Joseph Self, Sr., duly seconded by James M. Long, the Board voted to transfer \$15,000.00 from the Courtroom security fund to the General fund and appropriate it into the Sheriff's part time line item 3102-1002. The vote on the motion is as follows:

Ronald L. Jett – YEA	A. Joseph Self, Sr. - YEA
James M. Long – YEA	Richard F. Haynie - YEA
Thomas H. Tomlin – YEA	

RE: WESTMORELAND PLAYERS PERMIT FEES

Upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie, the Board voted to waive the building and zoning permit fees for an addition to the Westmoreland Players building in Callao since they are a non-profit and community based organization. The vote on the motion is as follows:

Ronald L. Jett – YEA	A. Joseph Self, Sr. - YEA
James M. Long – YEA	Richard F. Haynie - YEA
Thomas H. Tomlin – YEA	

RE: MICROPHONE SYSTEM FOR COURTROOM

Mr. Eades handed out a quote they had received for a lapel microphone system. Mr. Eades was directed to get in touch with Computer Telephone Technologies to get another quote.

RE: ENHANCEMENT GRANT, OLD JAIL

Mr. Eades informed the Board that he had received a letter from the Virginia Department of Transportation stating that the grant to fix up the old jail had been denied because it did not demonstrate a clear link to transportation.

RE: NO WAKE REQUESTS, LITTLE WICOMICO AND CRABBE MILL

Mr. Eades informed the Board he had received an email request to make changes to the Little Wicomico "No Wake" decision that was made in January. The Board will wait until the boating season is over to see how effective the current markers are before making any changes.

He also received a request for "No Wake" for the Crabbe Mill and Bush Mill Streams.

RE: BOARD COMMENT PERIOD

RE: BOATHOUSE REQUIREMENTS SENT TO PLANNING COMMISSION FOR REVIEW

Upon motion by Thomas H. Tomlin, duly seconded by A. Joseph Self, Sr., the board voted to adopt the following resolution:

RESOLUTION AMENDMENT TO ZONING ORDINANCE

WHEREAS, On February 12, 2009 the Northumberland County Board of Supervisors discussed the permitting of boathouses; and

WHEREAS, the same Board currently allows boathouses as a special exceptions permit under the Zoning Ordinance either, administratively, if there are no objections and within size, height and square footage requirements, or by a public hearing before the Board of Supervisors; and

WHEREAS, the consideration of boathouses can be an issue between neighbors and users of the water; and

WHEREAS, the Zoning Ordinance does not have many specific criteria to aid in the consideration for approval or denial a boathouse and this lack of criteria makes it difficult for the applicant, the public and the Board,

NOW, THEREFORE, BE IT RESOLVED that the Northumberland County Board of Supervisors requests the Northumberland County Planning Commission to make a recommendation as to whether Northumberland County should continue to allow boathouses under any circumstances, and if, the recommendation is to continue to allow boathouses, then the Northumberland County Planning Commission is requested to recommend specific criteria to be added to the Zoning Ordinance to aid in the consideration for approval or denial of applications for boathouses by the Board of Supervisors.

The vote on the motion is as follows:

Ronald L. Jett – YEA

James M. Long – YEA

Thomas H. Tomlin – YEA

A. Joseph Self, Sr. - YEA

Richard F. Haynie - YEA

RE: APPROVAL OF CHECK REGISTER

Upon motion by James M Long duly seconded by A. Joseph Self, Sr., the Board voted unanimously to approve the check register, as submitted. The vote on the motion was as follows:

Ronald L. Jett – YEA	A. Joseph Self, Sr. - YEA
James M. Long – YEA	Richard F. Haynie - YEA
Thomas H. Tomlin – YEA	

RE: CARRY OVER BOATHOUSE REQUEST- REQUEST BY MICHAEL AND BRENDA SANDERS, FOR A PERMIT TO CONSTRUCT AN 18’X36’X16’ OPEN-SIDED BOATHOUSE ON THE COAN RIVER AT 990 COAN HAVEN ROAD WITHIN COAN HAVEN SUBDIVISION NEAR BUNDICK

County Administrator Eades stated due to a tie vote on this request last month, Mr. Les Kilduff, County Attorney was directed to give his opinion on the matter.

Mr. Kilduff stated that according to Virginia Code 15.2-142.7, the majority did not pass therefore motion failed. The request is denied.

RE: REQUEST BY WILLIAM L. AND VIRGINIA H. BURGESS FOR A CONDITION RE-ZONING (CHANGE IN ZONING CLASSIFICATION) IN ORDER TO OPERATE AN AUTOMOTIVE REPAIR SHOP NEAR 414 FOX POINT ROAD AT FAIRPORT

Mr. Luttrell Tadlock, Assistant County Administrator, described the request. He stated that this had progressed through the Planning Commission and is recommended for approval by the Commission. Mr. Tadlock stated that proffers had been made by the Burgesses and they are as follows:

- 1) Vehicle body work, painting, and light mechanical work will only be performed on vehicles classified as light-duty. This includes vehicles having a 14,000 lb. gross vehicle weight (GVW) or less.
- 2) There will be no tire recapping/re-treading conducted on the property.
- 3) There will be no expansion to the 40’x 50’ building used for the vehicle repair business. The private 24’ x 48’ shed may be expanded only if used for personal use and not for the vehicle repair business.
- 4) No employees will be hired.
- 5) There will be no more than three cars stored outside of the building on the property. This does not include vehicles registered in the name of William L. Burgess Jr. for personal or business use or vehicles with current tags, title, and registration being serviced by Mr. Burgess.
- 6) At the time that William L. Burgess, Jr. no longer operates the existing vehicle repair business, the property will revert from the conditionally rezoned Agricultural (A-1) to the original zoning Residential Waterfront (R-2).

Mr. Billy Burgess stated he just wants the business.

Public Hearing Open

Mr. Nick Borwitz had a question about the conditional uses that are permitted.

Mr. Stan Chicowitz stated he supports Mr. Burgess.

Mr. Lyn Young is concerned with the business being so close to the water and also thinks this will make the land harder to sell in years to come. He asks the Board not to support the request.

Ms. Sandi Harris spoke in opposition because of the contamination that an auto repair shop will have on the water. She thinks Mr. Burgess should relocate.

Mr. Dick Saxor noted the Chesapeake Bay Act exercises zoning powers and it says nothing about abandoning the act for a nice guy. He said this is a bad idea and to deny the request.

Mrs. Reid Armstrong-Pierce asked about the time the application was submitted as far as zoning issues that are coming up tonight. Mr. Eades stated this was submitted before the emergency zoning went into place which grandfathered the request.

Mr. John Ambrose stated he is a neighbor and this business will affect everyone.

Mr. Larry Moore stated that Mr. Burgess should be able to do what he wants and there won't be any soil contamination.

Mr. Cliff Ames a neighbor stated that a group of neighbors got together sometime ago and dredged the creek and noted Mr. Burgess did not help.

Mr. Bob Lindsay used the term "Avalanche" to explain how requests like this one can be unpredictable and this will set a precedent.

Mr. Ron Herring stated Mr. Burgess is a responsible business owner and keeps a neat place. He said he has tried to be a good citizen and does things the right way.

Mr. Ashley Burgess told the Board to focus on the proffers that have been made. He then explained some of the concerns that were discussed. He stated the building that was put up by National Barn has been there for three years.

Public Hearing Closed

Upon motion by Thomas H. Tomlin duly seconded by A. Joseph Self, Sr., the Board voted to approve the request with the proffers.

The vote was as follows:

Ronald L. Jett – YEA	A. Joseph Self, Sr. - YEA
James M. Long – NAY	Richard F. Haynie - YEA
Thomas H. Tomlin – YEA	

Supervisor Tomlin explained this is a conditional rezoning and the proffers that were put on this limit the scope. The permit even expires when the business is no longer there.

RE: JOINT PUBLIC HEARING WITH THE NORTHUMBERLAND PLANNING COMMISSION TO CONSIDER CHANGES TO THE ZONING ORDINANCE THAT INVOLVE MOVING SOME PERMITTED USES TO USES THAT REQUIRE A CONDITIONAL USE PERMIT WITHIN THE CONSERVATION, C-1; AGRICULTURE, A-1; AND RESIDENTIAL WATERFRONT, R-2 ZONING DISTRICTS

Planning Commission, Chairman Al Fisher called the meeting to order.

The following Planning Commission Members were present:

Chris Cralle
Alfred C. Fisher, Chairman
Edwin E. King
William Kling
Garfield M. Parker, Jr.
James W. Stone
Charles W. Williams, III
Kevin Elmore

Zoning Administrator, W.H. Shirley described as follows:

At the January 8, 2009, meeting of the Northumberland County Board of Supervisors, the Board adopted, upon the recommendation of staff, an emergency ordinance that moved certain permitted uses in zoning districts C-1, conservation; A-1, agriculture; and, R-2, residential waterfront, to requiring a conditional use permit in the same district. No current allowed uses have been eliminated. The reason for the staff recommendation is that in each of the aforesaid districts, there are areas that are essentially residential and the uses that have been proposed to require the conditional use permit are often not compatible with residential development. These proposed changes are tonight being presented to the planning commission and the board of supervisors in a joint public hearing to be considered for adoption into the zoning ordinance as is proscribed by law. The planning commission will conduct a public hearing and make a recommendation to the Board of Supervisors to either adopt the proposed changes or deny the proposed changes. The Board of Supervisors will then consider the recommendation of the planning commission. With the commission's approval I will read the recommendation acted upon by the board of supervisors on January 8th and under consideration tonight.

Public Hearing Open

Mr. Steve Jett stated he opposed this legislation. The rights should not be taken away.

Ms. Elizabeth Jett stated this is taking away rights and its not doing anything for anyone trying to make a living.

Ms. Betty Hall questioned why the staff came up with the plans and why are you trying to suppress small business.

Mr. Lynn Young questioned what was included in the changes.

Mr. Bill Wiggins stated he has been here for 21 years and he sees very few businesses outside of the villages and said this is taking away persons rights.

Mr. Lyn Balderson stated he works hard to own his land and if this goes through there will be trouble getting business in A-1.

Mr. Ron Herring stated this could be the end of cottage industry.

Ms. Lisa Spring stated people should make their own decisions about their land.

Mr. Larry Moore said he agrees all with what is being said.

Public Hearing Closed

Commission member Bill Kling asked why is their emergency on this tonight. Mr. Shirley stated there isn't any emergency, it's just a method to make a change. He then explained that this process has been going on for five years and it is taking too long. It has not been instigated by anything but it is better to act now than to wait until after the fact. This will protect neighborhoods and homes in established areas as well as land owners.

Mr. Kling stated he also serves on the Economic Development Commission and they are trying to bring business into the County and this is a stumbling block. Mr. Shirley stated the intent is not to limit but to have control over intrusive and objectionable requests. The Board needs to have control over for better development in the County.

Mr. Charles Williams stated that staff had good intentions but at the same time is taking away rights. He said he can not support this and recommended to deny.

Upon motion by Edwin King, duly seconded by William Kling, the Commission recommended to deny the request. The vote on the motion is as follows:

Chris Cralle- YEA
Alfred C. Fisher, Chairman - YEA
Edwin E. King - YEA
William Kling - YEA
Garfield M. Parker, Jr. - YEA
James W. Stone - NAY
Charles W. Williams, III - YEA
Kevin Elmore - YEA

***The Planning Commission recommended to the Board of Supervisors to deny the changes as presented.**

Upon motion by Thomas H. Tomlin, duly seconded by James M. Long, the Board voted to deny the zoning changes as presented. The vote on the motion is as follows:

Ronald L. Jett – YEA	A. Joseph Self, Sr. - YEA
James M. Long – YEA	Richard F. Haynie - YEA
Thomas H. Tomlin – YEA	

Supervisor Tomlin stated this is not the end of the road on this issue and he doesn't want to stop the train. This needs to keep on schedule. He said he wants the people to have a say and needs to go on a regular course.

Chairman Jett agreed with Supervisor Tomlin and added he was glad to see the public come out and participate.

Supervisor Tomlin stated this is a work in progress and it is hard to legislate common sense.

Upon motion by Thomas H. Tomlin, duly seconded by Richard F. Haynie, the Board voted to rescind the Emergency Ordinance that was put in act at the January 8, 2009 Board meeting. The vote on the motion is as follows:

Ronald L. Jett – YEA	A. Joseph Self, Sr. - YEA
James M. Long – YEA	Richard F. Haynie - YEA
Thomas H. Tomlin – YEA	

RE: PUBLIC COMMENT PERIOD

Mr. Ed Hoche on the Great Wicomico River stated that the high powered rifle shooting across the creek from him was very disturbing. After a brief discussion, Supervisor Tomlin said that he knows the person shooting and will talk to him.

RE: CLOSED MEETING

Upon motion by A. Joseph Self, Sr., duly seconded by James M. Long, the Board voted unanimously to convene into closed meeting to a personnel matter as permitted by Virginia Code Section 2.2-3711 (A) (1). The vote on the motion was as follows:

A. Joseph Self, Sr. – YEA	Ronald L. Jett – YEA
Richard F. Haynie – YEA	James M. Long – YEA
Thomas H. Tomlin – YEA	

RE: OPEN MEETING

The Board convened back into open session upon motion by A. Joseph Self, Sr., duly seconded by James M. Long, the Board voted unanimously that in the closed meeting just concluded, nothing was discussed except the matters lawfully permitted to be so discussed under the provisions of the Virginia Freedom of Information Act cited in the motion. The vote on the motion was as follows:

A. Joseph Self, Sr. – YEA	Ronald L. Jett – YEA
Richard F. Haynie – YEA	James M. Long – YEA
Thomas H. Tomlin – YEA	

RE: MOTION AND CERTIFICATION OF CLOSED MEETING

A motion was made by A. Joseph Self, Sr., duly seconded by Thomas H. Tomlin, the Board voted unanimously to certify the closed meeting:

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

WHEREAS, 2.1-344.1 of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law;

NOW THEREFORE, BE IT RESOLVED that the board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board specifically personnel matters.

The vote on the motion was passed by a roll call vote as follows:

Ronald L. Jett – YEA	A. Joseph Self, Sr. - YEA
James M. Long – YEA	Richard F. Haynie - YEA
Thomas H. Tomlin – YEA	

RE: SALARY SET FOR DAVID CRANDALL

Upon motion by A. Joseph Self, Sr. duly seconded by James M. Long, the Board voted to set the salary for David Crandall at \$40,077.00. The vote on the motion was:

Ronald L. Jett – YEA	Thomas H. Tomlin – YEA
A. Joseph Self, Sr. – YEA	Richard F. Haynie – YEA
James M. Long – YEA	

RE: ADJOURNMENT

Upon motion by Thomas H. Tomlin, the Board voted unanimously to keep the meeting open in anticipation that there will need to be action on the school construction. The vote on the motion was:

Ronald L. Jett – YEA	Thomas H. Tomlin – YEA
A. Joseph Self, Sr. – YEA	Richard F. Haynie – YEA
James M. Long – YEA	

Kenneth D. Eades, Clerk