

**Board of Supervisors Meeting
December 13, 2012
5:00 P.M.**

NORTHUMBERLAND COUNTY, VA

The meeting was convened for the regular monthly meeting of the Northumberland County Board of Supervisors that was held at Northumberland Courts Building, on Thursday, December 13, 2012.

Present: Ronald L. Jett. – Chairman
 Richard F. Haynie – Vice Chairman
 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

Supervisor Long led the invocation.

RE: PLEDGE OF ALLEGIANCE

Chairman Jett led in the Pledge of Allegiance.

RE: APPROVAL OF MINUTES FOR NOVEMBER 8, 2012

Upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie, the Board voted to approve the minutes from the November 8, 2012. 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: APPROVAL OF AGENDA

Upon motion by A. Joseph Self, Sr., duly seconded by James M. Long the Board voted to approve the agenda for today's meeting. Mr. Eades stated that the first public hearing, a request by Lisa Ambrose has been withdrawn. 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: MR. BROWN, SUPERINTENDENT OF VIRGINIA DEPARTMENT OF TRANSPORTATION

Mr. Brown informed the Board that pothole patching is going on and the snow removal equipment is ready to go for the winter season. There will be normal maintenance occurring in the coming months as well. The paving schedule will be set soon.

Supervisor Tomlin questioned the traffic light plans at the intersection of Academic Road and 360 after Delegate Ransones' request to the department. Mr. Brown stated that it has not warranted any of the requirements for a light yet.

Supervisor Long noted that a part of a sign is missing on Rt. 201 Courthouse Road right before Providence Church.

RE: DR. REBECCA GATES, SUPERINTENDENT OF SCHOOLS

Dr. Gates handed out the budget schedule that has been approved by the school board. She noted that the meeting on February 25th will be at the school board office and a presentation will be given with general information. She encouraged the Board to be there.

RE: SCHOOL BOARD APPROPRIATION

Upon motion by James M. Long, duly seconded by A. Joseph Self, Sr., the Board voted to appropriate the following:

- \$10,401.14 – RCC Summer Youth 2012
- \$ 4,040.00 – Project Graduation Summer Academy 2012
- \$ 2,024.46 – E-Rate Reimbursements
- \$ 781.72 – UVA “Investing in Innovation” Reading Grant remainder of Funds received 2011-2012

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 questioned Dr. Gates on the implication of the fiscal cliff. Dr. Gates said she is trying to stay hopeful and is waiting for more detail.

RE: BUILDING PERMIT REPORT

Month of November	2012	2011
Total construction cost for the month	\$1,592,826.38	\$ 2,113,135.00
Total Bldg. Permit Cost for Month	\$ 3,741.44	\$ 3,754.84

Total Zoning Permit Cost for the Month	\$ 1,870.00	\$ 1,770.00
Total Levy Fee for the Month	\$ 74.83	\$ 72.09
Total Construction cost year to date	\$ 19,618,630.16	\$ 25,116,406.43

RE: RESOLUTION – HONORING LINDA L. BOOTH, RETIREMENT CLERK OF THE CIRCUIT COURT

Upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie the Board voted to adopt the following Resolution:

**RESOLUTION
RECOGNITION TO LINDA L. BOOTH**

WHEREAS, Linda L. Booth began her public service career in Northumberland County, VA on March 1975 as a part-time employee in the Clerk of Circuit Court’s office and progressively went full-time in September of that same year as Deputy Clerk; and

WHEREAS, Linda L. Booth was promoted to Chief Deputy and held this title for many years before being appointed as Acting Clerk of the Circuit Court in January of 2007 and in April of 2007 elected by a special election, as Clerk of the Circuit Court; and

WHEREAS, Linda L. Booth has provided over three decades of dedicated service to Northumberland County and has greatly contributed to the quality and success of the County; and

WHEREAS, Linda L. Booth has shown great leadership as well as a good friend and mentor to many who have worked with and for her throughout her years of service to the County; and

NOW, THEREFORE, BE IT RESOLVED, that the Northumberland County Board of Supervisors, on behalf of the County and all of its citizens hereof, hereby acknowledges, commends, and thanks **Linda L. Booth** for all of her contributions and dedication of service to Northumberland County; and

BE IT FURTHER RESOLVED that the Board hereby congratulates **Linda L. Booth** upon her retirement and wishes her success, good health, and happiness in her retirement.

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: ANIMAL SHELTER APPROPRIATION

Upon motion by Thomas H. Tomlin, duly seconded by James M. Long, the Board voted to appropriate \$2,400.00 from account 10-286 to line item 10-3501-1004 to pay additional funds to

animal shelter employees from monies that the volunteers have raised. 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: SHERIFF OFFICE APPROPRIATION

Upon motion by Thomas H. Tomlin, duly seconded by James M. Long, the Board voted to appropriate the following within the Sheriff’s Department:

\$ 1,423.37 – Deer hit
\$11,275.00 – total loss of a deputy car
\$ 7,000.00 – total loss of a deputy car

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	

Mr. Eades said he had addressed the recent accidents with a representative from VACorp and we are pooled with the state, so this should not directly affect our insurance rates.

RE: RE-APPOINTMENT TOMMY TOMLIN, DEPARTMENT OF SOCIAL SERVICES

Upon motion by Richard F. Haynie, duly seconded by A. Joseph Self, Sr., the Board voted to re-appoint Supervisor Tommy Tomlin to the Department of Social Services Board. 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 – Abstain	

RE: APPOINTMENT- SHARON FISHER, NORTHUMBERLAND COMMUNITY POLICY AND MANAGEMENT TEAM BOARD (CPMT)

Upon motion by Richard F. Haynie, duly seconded by A. Joseph Self, Sr., the Board voted to appoint Mrs. Sharon Fisher to the CPMT Board at Social Services. Mr. Don Phillips is currently the citizen representative on the Board and his appointment is about to expire. Mrs. Fisher’s appointment will expire on January 1, 2017.

The vote on the motion is as follows:

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

Richard F. Haynie - YEA

RE: ABSTRACT VOTES FROM NOVEMBER ELECTION

President and Vice President of the United States

Republican Party - Mitt Romney/Paul Ryan - 4310
Democratic Party - Barack Obama/Joe Biden - 3191
Constitution Party – Virgil Goode/Jim Clymer - 16
Libertarian Party – Gary Johnson/James P. Gray - 23

United States Senate

George F. Allen – Republican 4220
Timothy M. Kaine - 3253
Write-In Votes - 5

Member House of Representatives

Robert J. “Rob” Wittman – Republican - 4577
Adam M. Cook – Democrat - 2755
G. Gail Parker – Independent Green - 75
Write-in Votes - 2

Proposed Constitutional Amendments

Question 1 – “Yes” 5214, “No” 1657
Question 2 – “Yes” 5611, “No” 1130

RE: WOOD DEBRIS REQUEST FROM LOCAL CONTRACTOR

Mr. Eades updated the Board on the information he has received since the last board meeting on the request during the Public Comment Period by Jeff Gordon a local contractor to bring in debris that he collects from residents. Mr. Eades said he checked with Westmoreland, Lancaster and Richmond County. Westmoreland has its own landfill and charges per ton. Richmond County doesn't have any facility and allows them to put it in the open box at the sites. Lancaster County used to have a contract with Lively Wood Yard but became too expensive to maintain the contract and now sends contractors directly to Lively Wood Yard to dispose of the debris. Mr. Eades continued to say he has talked with Mr. Leon Saffelle and he said years ago, he tried to work with contractors for a fee and had a very hard time getting paid for the service. Mr. Eades said the cost to the county would be extensive and a great deal of up-front cost to rent/buy a tub grinder and other equipment. He said that anyone can take wood debris to Lively Wood Yard which really isn't too far away. Chairman Jett directed Mr. Eades to suggest using the Lively Wood Yard for right now and will take it in to consideration at a later time.

RE: BALTIMORE MEETING TOMORROW CONCERNING OMEGA AND THE MENHADEN POPULATION

Mr. Eades stated he received notice that a bus would be taking individuals to the meeting in Baltimore at 4:30 a.m. in the morning for the Atlantic States Marine Fisheries Commission meeting. He said they would not be taking any comments but will vote on any reduction of catch and the allotment between the bait fishermen and Omega. Chairman Jett said he had talked with Mr. Eades about attending the meeting and the conference room where it is held only holds approximately 175 people and Omega was taking 100 so they were fearful that they may not even be able to be close to the room and have decided not to go.

RE: UPCOMING CHRISTMAS CALENDAR FOR COURTHOUSE

Mr. Eades said the courthouse will be following the state holiday schedule and will be closed on December 24th, 25th, 26th, 31st and January 1st.

RE: DEQ MEETING ON SLUDGE

Mr. Eades said he has received notice that DEQ will be hosting an upcoming hearing on sludge at the Library.

RE: BOARD COMMENT PERIOD

Mr. Long asked if the fence at the Ditchly trash site has been fixed. Mr. Eades said it had.

RE: APPROVAL OF CHECK REGISTER

Upon motion by James M. Long duly seconded by Richard F. Haynie, 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: 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 discuss a personnel matter and contractual matter as permitted by Virginia Code Section 2.2-3711 (A) (1), (3) and (7). 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 Thomas H. Tomlin, 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
Richard F. Haynie – YEA
Thomas H. Tomlin – YEA

Ronald L. Jett – YEA
James M. Long – YEA

RE: MOTION AND CERTIFICATION OF CLOSED MEETING

A motion was made by Thomas H. Tomlin, duly seconded by A. Joseph Self, Sr., 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 a personnel matter, and contractual matters.

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

Ronald L. Jett – YEA
James M. Long – YEA
Thomas H. Tomlin – YEA

A. Joseph Self, Sr. - YEA
Richard F. Haynie - YEA

RE: ACTION TAKEN- SALARY ADJUSTMENTS

Upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie, the board voted to increase County Administrator Kenneth D. Eades salary to \$95,000.00 a year and Assistant County Administrator, Luttrell Tadlock salary by \$10,000.00 effective January 1, 2013. 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

PUBLIC HEARING

- **The public hearing scheduled for the request by Lisa Ambrose for a conditional use permit to establish a multifamily dwelling at 1418 Fruit Plain Road near Hyacinth has been withdrawn by the applicant.**

RE: REQUEST BY JOHN M. MCSHANE, OWNER, AND THE GREAT WICOMICO OYSTER CO. APPLICANT, FOR A CONDITIONAL USE PERMIT TO ESTABLISH A COMMERCIAL AQUACULTURE OPERATION AT 191 BOW WOOD DRIVE NEAR WICOMICO CHURCH

Zoning Administrator Shirley described the request for conditional use permit to establish a commercial aquaculture operation at 191 Bow Wood Drive near Wicomico Church. He said he has received three comments on the request mostly questioning aspects of the permit if approved.

Mr. McShane, present at the meeting, explained his operation currently and what he would like to do. He said he has already established his permits from VRMC and this is not going to be a giant operation, he just wants it to be legal.

Supervisor Tomlin asked how many cages he has on land. Mr. McShane said he has 100.

Public Hearing Open

Mr. Anthony Kaballero had some questions regarding the request, one of which was if this was sold, would the permit be transferrable. Mr. Eades said the permit could have a condition that addresses the transfer of property if sold but that would be up to the Board.

Zoning Administrator then read the suggested conditions if approved.

Mr. Glenn Lester stated he is in favor of this request and it adjoins his property. He said this is a good thing and there is nothing wrong with his operation.

Dr. Herb Smith also spoke in favor saying we need more oysters and the healthier the Bay is the better. The population is coming back. He has no objections to this.

Ms. Monica Faber, brother to McShane said she lives next door and is in favor of this request. It is very beneficial to the water and not offensive.

Mr. Lynton Land said it is a great benefit and this community's history with oysters has been established and we need to do everything we can do to bring the oysters back.

Mr. Wade Hall said this is a good thing and he supports it. The pump that runs cannot be heard.

Public Hearing Closed

Supervisor Tomlin questioned what an up-dweller was. Mr. McShane said it helps the oysters to grow faster by moving water around the oyster verses the water being stagnant. Mr. McShane plans to retire the pool pumps and go with a different style pump that he has applied for a grant.

Supervisor Tomlin then questioned his VMRC permit as far as the cage devise.

Chairman Jett asked about the pumps and when a generator is used. Mr. McShane said the generator is only used when the electricity is out.

Upon motion by Thomas H. Tomlin duly seconded by James M. Long the Board voted to approve the request with the following conditions:

- 1) The permit is valid for one (1) year and will expire on December 13, 2013, if the operation has not been established;
- 2) The operation may in no way impede boat traffic on Barretts Creek;
- 3) Noise must be kept at a minimum and tumbling operations will be permitted on weekdays only between sunrise and sunset; and,
- 4) All exterior lighting must be non-reflective and directed downward

The vote on the motion is as follows:

A. Joseph Self, Sr. – YEA
Richard F. Haynie – YEA
Thomas H. Tomlin – YEA

Ronald L. Jett – YEA
James M. Long – YEA

Supervisor Tomlin said he voted for this request versus another request that was turned down this year because the applicant owns over 7 acres of land.

RE: REQUEST BY GREGORY S. SWIFT FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A COMMERCIAL PIER AT 15 EDWARDS LANE NEAR FLEETON

Zoning Administrator W.H. Shirley described the request for a conditional use permit to construct a commercial pier at 15 Edwards Lane near Fleeton. Mr. Shirley said he has not received any comments on this request.

Public Hearing Open

No comments were given

Public Hearing Closed

Upon motion by Ronald L. Jett duly seconded by James M. Long the Board voted unanimously to approve the request with the following conditions:

- 1) The permit is valid for (1) one year and will expire on December 13, 2013, if the pier has not been constructed; and,
- 2) All exterior lighting must be non-reflective and directed downward

The vote on the motion was as follows:

Ronald L. Jett – YEA
James M. Long – YEA
Thomas H. Tomlin – YEA

A. Joseph Self, Sr. - YEA
Richard F. Haynie – YEA

RE: REQUEST BY ROBERT W. NICHOLAS FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A PRIVATE STORAGE BUILDING NEAR MUNDY POINT

Zoning Administrator W.H. Shirley described the request for the conditional use permit to construct a private storage building near Mundy Point. Mr. Shirley said he has not received any comments on the matter.

Mr. Mike Plante, contractor from Eagle River Construction, said he is here tonight representing Mr. Nicholas. He said the unit will be used to store cars, bikes, etc. Mr. Nicholas plans to eventually put up a retirement home on the property as well in the future.

Public Hearing Open

No comments were given

Public Hearing Closed

Upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie, the Board voted to approve the request with the following conditions:

- 1) The permit is valid for one (1) year and will expire on December 13, 2013, if the building has not been constructed; and,
- 2) The building must be situated on the property as shown on the site plan submitted with the application.

The vote on the motion was as follows:

Ronald L. Jett – YEA
James M. Long – YEA
Thomas H. Tomlin – YEA

A. Joseph Self, Sr. - YEA
Richard F. Haynie – YEA

RE: REQUEST BY JEFFERY HUNT FOR AN EXCEPTIONS TO THE CHESAPEAKE BAY PRESERVATION AREA ORDINANCE TO RECONSTRUCT TWO BUILDINGS WITHIN THE SEAWARD 50 FOOT BUFFER AT 375 LOGAN LODGE ROAD NEAR KILMARNOCK

Zoning Administrator Shirley described the request for the exception to the Bay Preservation area ordinance to reconstruct two buildings within the seaward 50 foot buffer at 375 Logan Lodge Road near Kilmarnock. Mr. Shirley stated he has not received any comments on the request.

Mr. Shirley read the suggested conditions.

Public Hearing Open

Mr. Frank Vanacheck stated he will be doing the work and he thinks it will make it look better.

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 following conditions:

- 1) The reconstruction will be as shown on the site plan submitted with the application; and ,
- 2) Stormwater mitigation will be installed to meet the requirements of the Northumberland County Chesapeake Bay Preservation Area Ordinance.

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: REQUEST BY ED KING FOR A CONDITIONAL USE PERMIT TO ESTABLISH A PRECIOUS METALS SHOP AT 14679 RICHMOND ROAD NEAR VILLAGE

Zoning Administrator Shirley described the request for the conditional use permit for a precious metals shop near Village. He has not received any comments on the request.

Mr. King was present for the public hearing stating he has adequate parking for this type of shop.

Public Hearing Open

No comments were given

Public Hearing Open

Upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie, the Board voted to approve the request for the conditional use permit with the following conditions.

- 1) The permit is valid for one (1) year and will expire on December 13, 2013, if the business is not in operation;
- 2) The permit extends to the owner/applicant only and any future owner or potential operator of a precious metals shop in the same location must receive Board of Supervisors approval; and,
- 3) There must be adequate parking on the site for any customers of the precious metals shop.

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: REQUEST BY PATRICK BOONE, OWNER, AND CHERYL KARCIC AND MAURICE JOHNSON, APPLICANTS, FOR A CONDITIONAL USE PERMIT TO ESTABLISH A TOURIST HOME AT 150 EAST HARBOUR DRIVE NEAR SUNNYBANK

Zoning Administrator Shirley described the request for the tourist home near Sunnybank.

Mr. Pat Boone stated the suggested conditions that staff has come up with are what he has in mind. He said that he has a very strict contract and he plans to work with the neighbors.

Public Hearing Open

Mr. Kenny Kuykendall said this is a good thing to have in these hard economic times.

Mr. Richard Anderson from the local homeowners association said their subdivision has 65 lots and when this issue of a tourist home came up, they voted and this is not what the community wants. He told the Board that they are depending on them to take care of them.

Mr. Pat Boone said he has been doing this thing a while and he has had no complaints. It is not a problem and he questioned the votes from the association.

Chairman Jett said we cannot enforce covenants from the homeowners association.

Mr. Anderson said Mr. Boone is selling this home and it's not right.

Mr. Boone said that the state of Virginia does not consider a tourist home "commercial".

Mr. Kuykendall said that the Johnson's want to retire at this home in about 5 years and Mr. Boone will be managing this home for them.

Supervisor Self asked when the covenants were done. Mr. Anderson said they are being redone now.

Public Hearing Closed

Chairman Jett said he is not ready to move on this tonight. Supervisor Tomlin asked what additional information is needed. Chairman Jett said no additional information is needed but he said he needed time to think.

Upon motion by Ronald L. Jett duly seconded by Richard F. Haynie, the Board voted to table the request but a decision will be made at the January 3, 2012 meeting.

The vote on the motion is as follows:

Ronald L. Jett – YEA
A. Joseph Self, Sr. – YEA
James M. Long – YEA

Thomas H. Tomlin – YEA
Richard F. Haynie – YEA

RE: REQUEST PHYLLIS D. SWIFT FOR A SPECIAL EXCEPTIONS PERMIT TO OPERATE A COMMERCIAL KENNEL AT 38 BLUNDONS ROAD NEAR BURGESS

Zoning Administrator Shirley described the request for a special exceptions permit to operate a commercial kennel at 38 Blundons Road near Burgess. Mr. Shirley gave a chronological listing of events leading to the current application.

- 1) On October 12, 2007, Mrs. Swift, Trading as “Passion for Pets”, applied for a Special Exceptions Permit to operate a commercial kennel.
- 2) The Board of Supervisors heard Mrs. Swift’s request on Dec. 12, 2007, at which the request was tabled until guidelines for an ordinance could be adopted.
- 3) The request was re-advertised for and heard at the June 12, 2008, Board of Supervisors meeting. The Board tabled the request until the July, 2008, meeting to gather information on application requirements and to determine if a scaled drawing of the proposed building was required. It was at this hearing that the applicant first mentioned her intention to construct a building to house the dogs.
- 4) At the July 10, 2008, Board Meeting, Mrs. Swift’s application was approved with conditions, one of which required the building to be constructed within 2 years at which time the permit would expire if the building was not completed.
- 5) On March 16, 2011, Mr. Shirley inspected the property and facilities and found several instances of non-compliance with the conditions the Board had set. He wrote Mrs. Swift a letter dated March 18, 2011, outlining the issue of non-compliance and informed her that she had 30 days from the date of the receipt of the letter to comply with the conditions or she would have to reapply to the Board for permission to continue the operation.
- 6) Some of the conditions that were found lacking were completed but others were not and Mrs. Swift was notified by certified letter dated November 2, 2012, that her permit had expired and she either had to re-apply for the Special Exceptions Permit by November 20, 2012 to have the Board consider the matter at its December 2012 meeting or cease and desist from all operations and remove all dogs from the property within 30 days of the date of the receipt of the letter. Mrs. Swift along with her attorney, Susan Rager, came to the office and reapplied on November 21, 2012.

Mr. Shirley noted he has received comments of objections for the request.

Mr. Eades stated the policy for public speaking is 4 minutes per speaker and 6 minutes for an attorney representing a group of people.

Mrs. Swift’s Attorney, Susan Rager spoke on her behalf. She explained that when Mrs. Swift applied for this request she was told she had two options since her permit expired in 2010 and if she didn’t act and do something they would remove her dogs. She stated Mrs. Swift is not applying for a building at this facility. She then noted state code, § 3.2-6507.2. Commercial dog breeding; requirements, along with the state definition of a commercial dog breeder which states "Commercial dog breeder" means any person who, during any 12-month period, maintains 30 or more adult female dogs for the primary purpose of the sale of their offspring as companion animals. Ms. Rager stated that Ms. Swift has 23 adult female dogs on the property and according to § 3.2-6507.2. Commercial dog breeding; requirements, Ms. Swift does not apply and since the County doesn’t have an ordinance defining this

as any different, she is in regulation. Supervisor Tomlin stated the county's definition of kennel is "for compensation".

Ms. Rager stated that her facility doesn't meet the threshold and there is nothing she is applying for new or different for she has been in business 10 years. She then continued to say they have not received any "noise" complaints from the local sheriff department yet one letter of objection is because of the barking? She said Ms. Swift is not asking for anything. She is not building a building and just wants to continue with her business. She said Ms. Swift's last inspection, which was in July of 2012 was clean bill of health.

Zoning Administrator Shirley spoke up and said the original application that was made to the office did not mention any building to be constructed and it was not until the hearing that it was brought up about construction a building a to house the animals she currently had at that time. The special exceptions permit was not applied for until after Tom Kimmit got his commercial kennel permit and Ms. Swift came to him to get one as well.

Ms. Rager stated this is not a new business but the county can regulate it. She then questioned the application that it was not a commercial kennel. Chairman Jett questioned Ms. Swift and asked if she signed the application. County Attorney Kilduff said she originally received the permit for a commercial kennel from the County. Ms. Rager reiterated that she has been in business 10 years and she is already operating the kennel.

Zoning Administrator repeated himself again saying the building was not part of the original application; it was first mentioned at the first public hearing. Ms. Swift came to him after Tom Kimmit got his commercial kennel license and she said she didn't realize she needed one. Ms. Rager responded to this saying she has been in business 10 years and was told if she did not come back and apply she was going to be shut down.

Public Hearing Open

Ms. Cyndi Salesky of Irvington stated she was at the previous public hearing and the building was added because the dogs were living out in the cold and in the extreme heat. The facility is not clean and in bad condition. The dogs are not socialized and there are charges pending for her. She said she is very disappointed that the building has not been built and nothing has been done.

Dr. Herb Smith, a veterinarian for 48 years, said he was also at the original hearing and he disapproves of extending the permit. He said if this is approved that she should only be allowed no more than two bitches. The first 16 weeks are imperative to a puppy's life.

Ms. Barbie Swift, daughter of Ms. Swift, commented that this is not a puppy mill; each animal there has a name. This is not something that is making us rich and it's working from the heart to help people out. It's a love and passion for animals and people trust them. If you take away the dogs, this would just be the worst thing you can do.

Mr. Don Lee, neighbor stated this building is not going to happen. He said he has waited 10 years and people cannot sleep and it just hasn't been good. At 5:12 a.m. the dogs were barking and somebody has to protect the kids. The kids come home from school and hear 80 dogs barking. Someone once told him to put ear plugs in. Mr. Lee then questioned where the disposal waste was going. This

situation needs to be rectified, this is a residential area and not for a commercial business and he has been punished and kids need to sleep. Mr. Jim Sinclair (attorney for Mr. Lee) also reiterated the issues with this facility saying the welfare of the animals is a problem, the waste and the noise is all an issue and the kennel building was supposed to correct some of this and now she is asking not to put up the building. He noted this is the same problems as before.

Ms. Dawn McAfee stated she has not been at this kennel and has been a dog trainer since 1976. She agreed with Dr. Smith to a point. She said she breeds with a passion for the dog and not to sell them. They are members of her family and it comes with a responsibility and you have to be brave despite all issues that come along with raising dogs. She said she has worked with dogs that came from this facility and they were under socialized as far as behavior. She referenced one lab in particular that she said was a basket case. She then said she has 12 dogs and it's no way someone can take care of this many dogs as she has at this facility.

Mr. Dick Saxer questioned the charges that are against Ms. Swift as this could be serious and suggested waiting until the charges are resolved.

Ms. Joyce Page from the Animal Welfare League of the Northern Neck said they do not take in any animals because they do not have a facility for such.

Ms. Kit Thomas supported Ms. Swift as she said she has aided their dog and cat at times when they needed her and the animals came back healthy and in good spirits. She said this business has been good to the community.

Ms. Martha Tallent also supported Ms. Swift as her dog is always willing to go back and stay at this facility. She said Ms. Swift makes a fine contribution to what she does.

Attorney Rager stated that Ms. Saleskey has never been to this facility so all she said is "hear say" and Mr. Lee is just upset about this noise and said he has never contacted Ms. Swift about the noise.

Public Hearing Closed

Supervisor Long motioned to deny the request, with a second from Supervisor Self. Supervisor Long stated he wants to deny this because she had a reasonable time to build the building and didn't do it.

Supervisor Tomlin said he was going to have to vote against the denial because of the pending charges and he said he would like to see the outcome of the charges against Ms. Swift before making a decision. Supervisor Long agreed and withdrew his motion to table this request at this time and Supervisor Self also withdrew his second.

Upon motion by James M. Long, duly seconded by A. Joseph Self, Sr., the Board voted to table this request until the February 14, 2013 meeting.

The vote on the motion is as follows:

Ronald L. Jett – YEA
A. Joseph Self, Sr. – YEA

Thomas H. Tomlin – YEA
Richard F. Haynie – YEA

James M. Long – YEA

RE: PUBLIC COMMENT PERIOD

None

RE: EMERGENCY SERVICES RADIO EQUIPMENT UPGRADE

Upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie, the Board voted to enter in a contract with Radio Communications of Virginia (copy in Board papers) in the amount of \$900,046.65 to upgrade the emergency services radio system into a simulcast VHF signal with three repeated channels. 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: CHANGE IN MEETING DATE

Upon motion by James M. Long, duly seconded by A. Joseph Self, Sr., the Board voted to change their January 2013 meeting date to January 3, 2013 and meet at 3:00 p.m. to interview architects for work on the sheriff's office building. The regular meeting will begin at 5 p.m. 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: REASSESSMENT – HIRING DAVID BUGG, ATTORNEY AT LAW TO ASSIST

Upon motion by James M. Long, duly seconded by Thomas H. Tomlin, the Board voted to hire David Bugg, attorney, to assist in the law suit against Blue Ridge Mass Appraisal Service. 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: ADJOURNMENT

Upon motion by A. Joseph Self, Sr., seconded by James M. Long, the Board voted to adjourn. The vote on the motion was:

Ronald L. Jett – YEA
A. Joseph Self, Sr. – YEA
James M. Long – YEA

Thomas H. Tomlin – YEA
Richard F. Haynie – YEA

Kenneth D. Eades, Clerk