

**Board of Supervisors Meeting**  
**July 9, 2015**  
**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, July 9, 2015.

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

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

**RE: INVOCATION**

Reverend Susie Brack, Bethany United Methodist Church led us in the invocation.

**RE: PLEDGE OF ALLEGIANCE**

Mr. Danny Crabbe and Mr. Porter Kier led us in the Pledge of Allegiance.

**RE: APPROVAL OF MINUTES FOR JUNE 11 AND 18, 2015 MEETINGS**

Upon motion by Richard F. Haynie. duly seconded by James M. Long, the Board voted to approve the minutes from the June 11 and 18, 2015 meetings. 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 Thomas H. Tomlin duly seconded by Richard F. Haynie the Board voted to approve the agenda for today's 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: RESOLUTION HONORING MR. DANDRIDGE CRABBE FOR SERVING THE COUNTY**

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

**A RESOLUTION HONORING  
DANDRIDGE C. CRABBE**

**WHEREAS;** Mr. Dandridge C. Crabbe, was appointed by the Circuit Court of Northumberland County on February 15, 1975 to serve on the Northumberland County Board of Zoning Appeals, and

**WHEREAS;** Mr. Dandridge C. Crabbe, has dedicated forty (40) years of public service with the Northumberland County Board of Zoning Appeals, and

**WHEREAS;** Mr. Dandridge Crabbe has demonstrated a deep concern for the welfare of Northumberland County Citizens as a representative of Northumberland County, a charter boat captain and waterman in the community, and

**WHEREAS;** the same Mr. Crabbe earned the respect and devotion of the county citizens, his friends and family through the most creditable standards of ethics and honesty, and

**WHEREAS;** the same Mr. Crabbe was presented with some very complicated and controversial issues that came before the Board of Zoning Appeals over the past forty years and he always keeps the citizens interest of Northumberland County first and foremost in making decisions,

**NOW, THEREFORE, BE IT RESOLVED,** THAT THE Board of Supervisors hereby expresses its deepest appreciation and gratitude for his faithful service to the County and its citizens, and wishes for him much happiness and good health in the future.

**BE IT FURTHER RESOLVED,** that this resolution is hereby adopted on this day, July 9, 2015.

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: RESOLUTION HONORING MR. PORTER KIER**

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

**A RESOLUTION  
HONORING OF PORTER M. KIER**

**WHEREAS;** Dr. Porter M. Kier has been a long time county resident and dedicated much time and effort to county organizations in Northumberland County, and

**WHEREAS;** the same Dr. Kier was a noted scientist and former director of the National Museum of Natural History in Washington, D.C., and

**WHEREAS;** the same Dr. Kier has served in an active role in the Northumberland Public Library, Rice's Inn/Hughlett's Tavern Foundation, The Haven, Holley Graded School, NAPS, and the Audubon Society just to name a few, and

**WHEREAS;** the same Dr. Kier has helped the students of Northumberland County in areas of astronomy and natural history,

**NOW, THEREFORE, BE IT RESOLVED, THAT THE** Board of Supervisors, with the support of the citizens of Northumberland County, hereby expresses its deepest appreciation and gratitude for Dr. Porter M. Kier's interest and love for this County, and wishes him much happiness in the future.

**BE IT FURTHER RESOLVED,** that this resolution will hereby be presented to Dr. Kier, this day, July 9, 2015.

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: DR. REBECCA GATES, SUPERINTENDENT OF SCHOOLS**

Dr. Gates reported on the summer school schedule as well as new buses that were bought. She then asked the Board of Supervisors if they would like to have School Board Minutes sent to them. They responded that they did.

She then stated that 101 students out of 103 graduated this year.

Mr. Long asked about the SOL scores. Dr. Gates stated that she will be giving information on that at their upcoming School Board meeting.

**RE: APPEAL TO DANCE PERMIT REVOKE AT NORTHUMBERLAND COUNTY  
COMMUNITY CENTER**

**Note:** Supervisor Long removed himself from his Board seat into the audience because of his involvement in this matter.

County Administrator Eades went through the events that occurred on June 10<sup>th</sup> which caused him to revoke the Community Center dance permits and future applications. Mr. Eades then gave a brief description of the events that took place that night. He stated that there were accounts that anywhere from 225 to 325 people were attending. Fifteen deputies and three state police units responded to the location. Northumberland Rescue Squad responded for the gunshot wound. There were 48 cars parked along Browns Store Road making it a one lane roadway. One person was charged with eight felonies and one misdemeanor. The building occupancy is 187 as stated in the certificate of occupancy issued by the county. He said reports show that law enforcement was called at approximately 12:20 a.m. for a shooting. Mr. Eades said several people are here today concerning this issue but not sure who is the spokesperson. Mr. Long said they had several that would like to speak.

Mr. Calvin Taylor was the first to speak and said he was part of planning the party on this night. He then gave a little background history of the individual that fired shots that night and the victim of the shooting. He explained that Mr. Kelly was involved in a home invasion at Mr. Gilreath's home. He claimed that warrants were out for him and this was brought to the Deputy's attention that night. He said that the Deputies claim that they could not remove Mr. Kelly from the party because Lancaster County had not issued any warrants. Mr. Taylor reiterated that they told the officers at the event that this could be trouble and nothing was done. He also said that there was nowhere near the amount of people that were described. He then said nothing like this has ever happened and usually they have "senior" police officers available for the events and maybe if some "senior" police officers were there that night, this incident could have been prevented.

Supervisor Tomlin asked Mr. Taylor if he was associated with the Northumberland County Community Center. He said he belonged to a social club that is non-profit.

Mr. Gerald Howard stated he is a Board member at the NCCCO Building and feels that they have been victimized. He said they did what they were supposed to do by hiring 2 deputies yet the letter implies that they did not comply with what should have been done. He asked what else could have been done.

Mr. Frank Kolber described the Community Center as a positive place and the people that are positive and do well in the community are the ones getting blamed.

Mr. Ron Estreet stated that many times the Community Center has worked with the Board of Supervisors and this all needs to be worked out as well. This incident has caused some to be upset and they are looking to the Board of Supervisors to understand that this does happen. He asked the Board members to look at the good the NCCCO has done in raising money and do good things.

Mr. Jim Long stated that some parts of this are right. He said during the evening he was out getting cars straight to stay off of the lawn. He said no one came to get him. He continued to say they run a very strict center and someone should have told him what was going on. They have had many functions and this could have been avoided. He doesn't know if Deputies were told or not and is not the time to blame anyone. We need to prevent things like this if we can.

Ms. Phyllis Nickens also a member at the center stated that trouble came to the center that night. She said she was not there the night of the incident but as a whole they believe in safety and trouble just can't be predicted. She hopes nothing like this ever happens again but asks for the Board members of the center to not be punished. NCCCO has done some wonderful things and has benefited the community.

Sheriff Wilkins asked the Board to hear from the 2 deputies that were present the night of the incident but first wanted to say that Mr. Peyton Waller was one of the first at the scene once the shooting occurred but unable to attend. He said this is not a cut and dry case, the incident got out of hand really quick.

Deputy Turner spoke on the events of the evening. He described the person padding down guests as they arrived at the door and said his name was Mr. Thompkins. He came to Deputy Turner as Mr. Kelly came to the door and said he didn't think it was a good idea for him to enter because of a past criminal act. Deputy Turner called Lancaster County to see if there were any warrants issued for Mr. Kelly. He said Lancaster did not have any outstanding warrants so they could not ask him to leave, that decision would have to come from one of the managers of the party. He then stated that Mr. Long was asked about Mr. Kelly entering the building and he spoke to Mr. Kelly then shook his hand and Mr. Kelly agreed to not cause any trouble. Therefore Mr. Long let him enter the building. Mr. Turner then described the shots he heard and then said he called for back- up. He continued to describe the events after the shots were fired.

Deputy Boone who was also working the event with Deputy Turner and said he has been with the Northumberland County Sheriff Office for 10 years and with law enforcement for 17 years. He then told the role he took in the events of the evening, during and after the incident.

Sheriff Wilkins stated that the department has been working with the Center on many occasions specifically with Mr. Nickens and Mr. Long. He said that everyone that was at the event must have amnesia because no one could tell them what was going on that night. He said he wanted to continue to work with everyone to get control on the situation. There was a huge crowd that night and shots were fired. This situation is more difficult than anything they have dealt with.

Chairman Jett asked if the shots were fired inside or outside. Deputy Turner responded saying that he could not determine where the shots were fired. Sheriff stated that the weapon was found in the wheat field.

Mr. Calvin Taylor apologized for making some statements that he felt were mistakes.

Sheriff Wilkins said it was just too many people.

Mr. Jim Long said they cut off the alcohol at 12:30 am and make sure all cups are in the trash. He continued to say this was a mental illness and no one is to blame.

Supervisor Tomlin stated that a lot of people were victimized that night, himself and his wife were there and very much afraid. This is not about the organization but the situation definitely got out of control and he said he wasn't sure this Board has enough wisdom to come up with a safe solution.

Mr. Howard suggested them printing out tickets instead of supplying their own.

Supervisor Haynie stated that security itself needed to be taken a close look at. Mr. Long said they were buying shirts for ones in charge.

Major Doc Lyons clarified the security that is at these events, saying that deputies voluntarily work these events. A notice is put up in the department and they decide to work them or not. They are not forced to provide security.

Mr. Irvin Nickens questioned the liability as far as the security or having an event if something were to happen. They are not sanctioned by the state or the County when they were at events like this.

Supervisor Self made a motion to uphold the letter that County Administrator Eades had previously issued to the Northumberland County Community Center on Browns Store Road denying any future dance permits to the center. He stated that when Mrs. Inez Bates came before the Board concerning the involvement of the building years ago, he doesn't think it was her intent for any of this to happen.

Supervisor Haynie seconded the motion.

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

Supervisor Tomlin said he agreed with what Supervisor Self stated and with the action to uphold the letter to deny any dance permits to the center. He continued to say that Luna Restaurant was revoked as well so this is what we have been doing and need to keep the same decision for the same issues. Supervisor Haynie stated he supports the letter sent but does support what the Northumberland County Community Center does as a whole.

Supervisor Tomlin asked when they can re-apply. Mr. Eades said the ordinance doesn't give a specified time frame. The Board of Supervisors asked staff to look into guidelines for situations like this and see how these events can properly be supervised.

- SUPERVISOR LONG RETURNED TO THE BOARD OF SUPERVISOR SEAT

**RE: BUILDING PERMIT REPORT**

Month of JUNE	2015	2014
Total construction cost for the month	\$ 1,958,076.57	\$ 3,057,197.00
Total Bldg. Permit Cost for Month	\$ 4,781.48	\$ 5,151.48
Total Zoning Permit Cost for the Month	\$ 2,410.00	\$ 2,710.00
Total Levy Fee for the Month	\$ 95.62	\$ 103.02
<b>Total Construction cost year to date</b>	<b>\$ 12,620,908.39</b>	<b>\$ 14,582,938.25</b>

**RE: APPROPRIATION ANIMAL SHELTER FY 2015**

Upon motion by Thomas H. Tomlin duly seconded by A. Joseph Self, Sr., the Board voted to appropriate \$ 2000.00 to line item 10-3501-1004 Animal Shelter fund to pay additional funds to the shelter employees. The money is collected at the indoor yard sale. The appropriation should be put back to FY 2015.

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: LODGE LANDING DREDGING, ADVERTISE FOR BIDS**

Mr. Eades stated that all permits have been received for the Lodge Landing improvement project.

Upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie, the Board voted to advertise for bids to dredge the boat ramp at Lodge Landing. 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: CROWN CASTLE LEASE EXTENSION HEARING NEXT MONTH (TOWER)**

The following notice of public hearing will be heard next month, August 13, 2015

**NOTICE OF PUBLIC HEARING  
LEASE EXTENSION**

Notice is hereby given pursuant to Chapter 11, 15.2-1800 of the Code of Virginia as amended that the Northumberland County Board of Supervisors will hold a public hearing on August 13, 2015 at 7:00 p.m. in the Northumberland County Courts Building at 39 Judicial Place adjacent to the Sheriff's Office in Heathsville, VA for consideration of extending the current lease agreement with Crown Atlantic Company, LLC., for the three (3) towers that are located at 2172 Northumberland Highway, 6234 Northumberland Highway and 11703 Northumberland Highway. Changes from the current lease is to extend the leases by 25 years in five-year renewal periods, give Crown Atlantic Company the right of first refusal and allow the county to put emergency services equipment on the Miskimon Tower.

All written comments should be received by the County Administrator's Office prior to the meeting. For further information and the contents of the lease, contact the County Administrator's Office at the Old Courthouse in Heathsville, VA (804-580-7666 or email keades@co.northumberland.va.us). If you are physically disabled, hearing or visually impaired and need assistance with this hearing, please call Bill Knight at 804-580-8910 (Voice) or Via the Virginia Relay or TDD for assistance.

**RE: BOARD COMMENT PERIOD**

No comments were

**RE: APPROVAL OF CHECK REGISTER**

Upon motion by James M. Long, duly seconded by Richard F. Haynie, the Board voted to approve the check register.

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

**RE: CLOSED MEETING**

Upon motion by A. Joseph Self, Sr., duly seconded by, Richard F. Haynie, the Board voted unanimously to convene into closed meeting to discuss a personnel matter and a matter not involving public business as permitted by Virginia Code Section 2.2-3711 (A) (1) and (4). 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: OPEN MEETING**

The Board convened back into open session upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie, 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 A. Joseph Self, Sr., duly seconded by Richard F. Haynie, 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 the personnel matter a matter not involving public business.

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	

## **PUBLIC HEARING**

### **RE: AMENDMENT TO THE COUNTY CODE TO ADD A SECTION TO CHAPTER 92; MOTOR VEHICLES IN ORDER TO ALLOW SCHOOL BUS CAMERAS**

County Administrator Eades described the amendment that is required to be adopted in order to use the cameras in which have been installed on new buses and on some old buses. This will help hold traffic violators accountable.

Dr. Gates, Superintendent spoke on the matter saying that having these are important to help enforce the violators.

Public Hearing Open

No comments were given

Public Hearing Closed

Upon motion by Thomas H. Tomlin duly seconded by A. Joseph Self, Sr., the Board voted to approve the following ordinance:

#### **ARTICLE V Photo-Monitoring On School Buses**

**In General. Use of photo-monitoring systems to enforce law against passing stopped school uses, penalty.**

(a) For purposes of this ordinance, "school division" means the Northumberland County Public Schools. "Video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of Code of Virginia, § 46.2-859.

(b) All such video-monitoring systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Code of Virginia, § 46.2-1090, and the time, date, and location of the vehicle when the image is recorded.

(c) The operator of a vehicle shall be liable for a monetary civil penalty imposed in accordance with this ordinance, if such vehicle is found, as evidenced by information obtained from a video-monitoring system, to have failed to comply with Code of Virginia, § 46.2-859.

(d) The school division may install and operate a video-monitoring system on any school bus operated by the division for the purpose of recording violations of Code of Virginia, § 46.2-859 and imposing monetary liability in accordance with Code of Virginia, § 46.2-844.B and the provisions in this ordinance.

(e) The school division may also contract with a private vendor to install and operate such video-monitoring systems on behalf of the school division for the same purposes.

Such agreement shall:

(1) Ensure adequate and proper retrieval, storage, and disposal of video-monitoring system recordings in accordance with this section;

(2) Specify the appropriate format, method and frequency of delivery of video recordings to designated and duly authorized law enforcement officers;

(3) Provide that if the school division uses a vendor they shall on request of the county or school division, submit a report to the County and the school division that includes, but is not limited to: (i) the total number of citations issued as a result of a violation detected and recorded by the monitoring system, and (ii) the total amount of funds collected.

(f) Information collected by a video-monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school bus stopping violations. Notwithstanding any other provision of law, all images or video or other personal information recorded by a video-monitoring system shall be used exclusively for enforcing school bus stopping violations pursuant to this ordinance, and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a school bus stopping violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of §§46.2-859 or 46.2-844 of the Code of Virginia, or is requested upon order from a court of competent jurisdiction.

(g) Information collected under this ordinance pertaining to a specific violation shall be purged and not retained later than 60 days after the conclusion of any enforcement action based upon such violation. If an authorized law enforcement officer does not issue a summons or notice of violation within 10 business days of the date on which the violation of this section was recorded, all information collected pertaining to that suspected violation shall be purged.

(h) The school division shall annually certify compliance with this ordinance, and shall make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee.

(i) Violations of the foregoing sections shall carry a civil penalty of not more than \$250 and shall be prosecuted in the same manner as prosecutions for traffic infractions. Such violations shall not be deemed a conviction as an operator and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall such violations be used for insurance purposes in the provision of motor vehicle insurance coverage.

(j) Whenever a violation of Code of Virginia, § 46.2-859 is detected and recorded by a video-monitoring system operated in accordance with this ordinance, the vendor or school division shall promptly submit the recorded video to a law enforcement officer employed by the county and authorized to impose penalties pursuant to this ordinance for review. If, after such review, such law enforcement officer determines that there are reasonable grounds to believe that a violation of Code of Virginia, § 46.2-859 has occurred, the officer may issue a summons or notice of violation by first-class mail to the address of the registered owner of the vehicle involved as shown on the records of the Department of Motor Vehicles.

(k) Any person who receives a summons or notice of violation from a law enforcement officer pursuant to this ordinance may waive his right to appear and be formally tried for the offense pursuant to Code of Virginia, § 16.1-69.40:1B. The waiver shall be effective when the person voluntarily pays \$250.00 to the General District Court Clerk's office within 15 business days after receipt of the summons or notice of violation.

(l) In any prosecution pursuant to this ordinance, proof that the vehicle described in such summons or notice was operated in violation of this ordinance, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.), shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation. A photographic or digital still or video image recorded by a video-monitoring system that clearly shows the license plate number of a vehicle violating Code of Virginia, § 46.2-859 shall be sufficient proof of the identity of such vehicle for purposes of this ordinance.

(m) Notwithstanding the exception in Code of Virginia, § 46.2-1308, all fines imposed for violations of this ordinance, shall be paid into the County Treasury. The Treasurer shall transfer to the school division all fine amounts received in respect to the violations of this section after crediting the county general fund with amount equal to the costs incurred in administering the video enforcement measures under this ordinance.

(n) Prosecution under this ordinance, shall not be permitted where a prosecution or proceeding for the same act has otherwise been initiated under Code of Virginia, § 46.2-859.

The vote on the motion is as follows:

A. Joseph Self, Sr. – YEA

Ronald L. Jett – YEA

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

James M. Long – YEA

**RE: REQUEST BY VERIZON WIRELESS FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A 195 FOOT TALL COMMUNICATIONS TOWER ADJACENT TO THE BAY MOTEL NEAR REEDVILLE**

Zoning Administrator Philip Marston described the request for the tower near Reedville.

Mr. Shawn Hicks representing Verizon was present for the meeting. He gave some information about the new tower that will be installed and stated it would be a 4G LTE signal tower. The tower will not create any noise or dust.

Public Hearing Open

Mr. Bill Turvill from Sunnybank questioned the coverage and whether it would be excellent, good or marginal. Mr. Hicks stated he could not give him specific signal coverage. Mr. Turvill continued and asked why it would only be a 195' tower, why not higher. Mr. Hicks explained that this is what the Engineers have presented to them.

Mr. Phillip Keyser stated this tower is a necessity to the overall safety to the people in this area.

Mr. Bill Crowther supports the tower and said the EMS needs stronger signal strength to communicate, this could be a life and death matter.

Mr. Ben Stallings stated he heard some were opposed to this and he came out to give his support for the tower.

Rev. Susie Brack referenced a recent house fire in Reedville and said that the call had to come from a house phone because the cell phone could not get a signal.

Mr. Ray Lewter stated he is in support of the tower and said it was a long time coming.

Mr. Phil White agrees that having cell coverage is no longer a luxury but agrees this is a necessity.

Ms. Katie Powers also spoke in support of the tower.

Ms. Nicole Harding a nurse from Reedville stated that without cell coverage she has a hard time communicating with her patients, this is definitely a safety issue.

Mr. Richard Harding also supports the tower.

Ms. Kitty Creath stated it would be nice to be taller to cover more but either way would be nice to have more coverage.

Mr. Buddy Silvia stated he works for the Sea Rescue and reiterated that this is a necessity for safety.

Public Hearing Closed

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

1. The construction of the tower shall be completed within twelve (12) months of the date of the permit.
2. The applicant, or subsequent owner, shall provide, at no cost to Northumberland County, space on the tower (excluding the top position), and ground space for installation by the County of components solely for the purpose of public safety and emergency services. The centerline for the tower equipment will be no less than 150 feet, with an area 5 feet above and below, subject to availability. The land space for ground equipment will not exceed 300 square feet, subject to availability. The County's use of the tower shall be in accordance with the Verizon Wireless Collocation Guidelines. The County shall enter into a non-transferable "no rent" license agreement with the tower owner allowing non-commercial use for emergency communication services of an agreed to location on the tower and the related ground space for the County.
3. All sides of the tower will be fenced and maintain screening with already established mature trees and barbed wire shall be used.
4. The tower is to be constructed and depicted on the site drawings.

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 BY ROBERT AND ROSALIE MARANTO FOR AN EXCEPTION TO THE BAY ACT IN ORDER TO CONSTRUCT A SINGLE-FAMILY DWELLING INTO THE RESOURCE PROTECTION AREA LOCATED ON MOLLY'S LANE NEAR FAIRPORT**

Zoning Administrator Marston described the request for an exception to the Bay Act in order to construct a single family dwelling near Fairport.

Mr. Phillip Keyser was available representing the applicants and said they are building their retirement home and this is the proposed garage and breezeway. There is really no other option other than encroaching.

Mr. Robert Maranto stated he has been coming here since 1989 and owned the property since around 1990. The have enjoyed the area and want to retire here.

Supervisor Tomlin asked why so big. Mr. Maranto said that the breeze way and garage add to the square footage so it's only about 3,000 square feet. Mr. Eades spoke up and said that you cannot have a detached garage in the buffer so you have to have a breezeway connecting them which makes it a single structure. Supervisor Tomlin commented that is doesn't make sense to have to do something more impervious because of the Bay Act.

Public Hearing Open

No other 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. Stormwater mitigation shall be provided for the impervious surface through plantings and infiltration.
2. All necessary permits shall be obtained from all regulatory agencies.

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: AMENDMENT TO THE COUNTY CODE, CHAPTER 79-2 TO ALLOW THE USE OF GOLF CARTS WITHIN NORTHUMBERLAND SHORES SUBDIVISION**

County Administrator Eades described the request and stated he had received the request by Mr. Tom Giannasani, President of the Association.

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 requested as follows:

- L. The operation of golf carts in Northumberland Shores Subdivision applies to the state roads and includes Shore Lane where the road begins the 25 mph speed limit and continues to the end of State Routes 786 and 787.

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: AMENDMENT TO THE COUNTY CODE TO ALLOW THE COUNTY TO HAVE FINGERPRINTS OF EMERGENCY MEDICAL PERSONNEL, EITHER VOLUNTARY OR EMPLOYEES, SENT DIRECTLY TO VIRGINIA STATE POLICE.**

County Administrator Eades explained Virginia State Law allows Counties to have the fingerprints sent directly to Virginia State Police in order to speed up the process for Emergency Medical Personnel. Without the ordinance the county has to send the fingerprints to the Department of Health and the ordinance eliminates the Health Department as the go-between.

Public Hearing Open

No Comments were given

Public Hearing Closed

Upon motion by Thomas H. Tomlin duly seconded by Richard F. Haynie the Board voted to approve the following amendment:

## **Article I. Emergency Medical Services Background Checks**

### **Statutory Authority:**

This ordinance is enacted pursuant to VA. CODE §32.1-111.5; VA. CODE §15.2-1503.1 and in accordance with VA. CODE §19.2-389 to regulate the employment of persons seeking to engage or newly engaged in employment with the County of Northumberland, Virginia and to require certain applicants, new employees, and volunteers to submit to fingerprinting for the purpose of obtaining the person's state and national criminal history record.

### **Policies and Procedures:**

A. On and after the effective date of this ordinance, an applicant or new employee seeking to engage in any type of employment with the County of Northumberland, or a volunteer seeking to engage in certain volunteer activities involving the public safety, shall submit, if required, two (2) sets of his/her fingerprints taken by the Northumberland County Sheriff's Office, along with personal descriptive information, to the Sheriff of Northumberland County, along with appropriate fees. Such applicant, new employee, or volunteer may be required to pay the cost of the fingerprinting or a criminal records check or both.

B. Upon receipt of the fingerprints and the appropriate fees, the Sheriff of Northumberland County will transmit both sets of fingerprints, along with the subject's personal descriptive information, and appropriate fees (unless a satisfactory billing arrangement has been entered into between the County of Northumberland and the Virginia Department of State Police/ Central Criminal Records Exchange) via the Virginia Department of State Police to the Central Criminal Records Exchange for the purpose of obtaining criminal history record information regarding such applicant, new employee, or volunteer. The Central Criminal Records Exchange will compare the subject's fingerprints against its criminal file and, (1) if no disqualifying conduct is found therein, or (2) if necessary, will submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records. The results of the Federal Bureau of Investigation check will be returned to the Central Criminal Records Exchange, which will disseminate the state and national results to the Sheriff of Northumberland County.

C. The Sheriff of Northumberland County shall disseminate the results of the criminal background check to the County Administrator of the County of Northumberland or his designee for a fitness determination.

D. In rendering a fitness determination, the County of Northumberland will decide whether the record subject has been convicted of, or is under pending indictment for, (1) a crime which bears upon his/her ability or fitness to serve in the desired capacity; (2) any felony or a misdemeanor which involved force or threat of force, controlled substances, or was a sex-related offense; or (3) other disqualifying conduct or pattern of behavior that would render him/her unable or unlikely to serve effectively in the desired position.

E. If an applicant or new employee is denied employment because of the information appearing in his/her criminal history record, the County of Northumberland shall notify the applicant or new employee that information obtained from the Central Criminal Records Exchange contributed to such denial.

F. The information obtained under the ordinance shall not be disseminated except as provided for in VA. CODE §15.2-1503.1.

G. A record subject may request and receive a copy of his/her criminal history record information from the Northumberland County Sheriff's Office. Should the record subject seek to amend or correct his/her record, he/she must contact the Virginia Department of State Police/Central Criminal Records Exchange for a Virginia state record or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.

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: AMENDMENT TO THE ZONING ORDINANCE TO DEFINE A BREWERY/MICROBREWERY/DISTILLERY; ALLOW THE USAGES OF BREWERIES IN VARIOUS ZONING DISTRICTS; AND UPDATE THE BOARD OF ZONING APPEALS LANGUAGE DUE TO STATE CODE CHANGES**

Assistant County Administrator Luttrell Tadlock described amendment to the zoning ordinance.

Public Hearing Open

No comments were given

Public Hearing Closed

Supervisor Tomlin suggested that since the Code of Virginia says that farm breweries are limited to 15,000 barrels this should be included for a “micro-brewery”.

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

**BREWERY/MICROBREWERY/DISTILLER- to be listed as a Conditional Use in A-1, R-2, B-1.**

**FARM BREWERY- to be listed as a Permitted Use in A-1**

To be added to the definitions-

**BREWERY—**

**BREWERY/MICROBREWERY/DISTILLERY**

A facility for the production and/or packaging of ale, beer, and/or other malt alcoholic beverages, and/or cider for retail and/or wholesale distribution. A Brewery/Microbrewery/Distillery may include a tasting room. A Microbrewery shall not exceed 15,000 barrels per calendar year.

**FARM BREWERY**

An establishment located on one or more lots in Northumberland County licensed as a limited brewery under Virginia Code § 4.1-208

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: ZONING AMENDMENT TO AMEND BOARD OF ZONING APPEALS CHANGES REQUIRED BY VIRGINIA STATE CODE**

Assistant County Administrator Luttrell Tadlock described amendment to the zoning ordinance. These are required wording changes to the Board of Zoning Appeals.

Public Hearing Open

No comments were given

Public Hearing Closed

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

**Article I. General Provisions**

**§ 148-3. Definitions and word usage.**

## **VARIANCE**

A relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this chapter would unreasonably restrict the utilization of the property. As used in this chapter, a variance is authorized only for the height, area and size of a structure or the size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

## **Article XVII. Provisions for Appeal**

### **§ 148-169. Board of Zoning Appeals.**

A. A board (hereafter called the "Board") consisting of five members shall be appointed by the Circuit Court. Members of the Board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

B. The term of office shall be for five years, except that of the first five members appointed, one shall serve for five years, one for four years, one for three years, one for two years and one for one year. One of the five appointed members may be an active member of the Commission.

**[Amended 6-9-2011]**

C. Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has a legal interest.

D. The Board shall choose annually its own Chairperson and Vice Chairperson, who shall act in the absence of the Chairperson.

E. The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

F. Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under § [15.2-2314](#), as soon as practicable thereafter, but in no event more than three business days of providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under § [15.2-2314](#) requests additional documents or materials

be provided by the locality other than those materials provided to the board, such request shall be made pursuant to § [2.2-3704](#). Any such materials furnished to a member of the board shall also be made available for public inspection pursuant to subsection F of § [2.2-3707](#).

G. For the purposes of this section, “non-legal staff of the governing body” means any staff who is not in the office of the attorney for the locality, or for the board, or who is appointed by special law or pursuant to § [15.2-1542](#). Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or other similar privilege or protection of confidentiality

### **§ 148-170. Powers and duties.**

**[Added 8-13-1998]**

The Board of Zoning Appeals shall have the following powers and duties:

A. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or of any ordinance adopted pursuant thereto. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

B. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance, as defined in § [15.2-2201](#), provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § [15.2-2201](#) and the criteria set out in this section.

(1) Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

- (a) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
- (b) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- (c) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

- (d) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
- (e) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § [15.2-2309](#) or the process for modification of a zoning ordinance pursuant to subdivision A4 of § [15.2-2286](#) at the time of the filing of the variance application.

(2) No such variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.

(3) In granting a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

C. To hear and decide appeals from the decision of the Zoning Administrator. No such appeal shall be heard except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.

D. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by § 15.2-2204, the Board may interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail. The Board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

E. No provision of this section shall be construed as granting any board the power to rezone property.

F. To hear and decide applications for special exceptions as may be authorized in this chapter. The Board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guaranty or bond to ensure that the conditions imposed are being and will continue to be complied with. No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.

G. To revoke a special exception if the Board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and

hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.

**§ 148-171. Rules and regulations.**

A. The Board shall adopt such rules and regulations as it may consider necessary.

B. Meetings of the Board shall be held at the call of its Chairperson or at such times as a majority of the Board may determine.

C. The Chairperson or, in his or her absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses.

D. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

E. All meetings of the Board shall be open to the public.

F. A quorum shall be at least three members and the Board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggravated under §15.2-2314, and the staff of the local governing body.

G. A favorable vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant or any matter upon which the Board is required to pass.

**§ 148-172. Appeal to the Board.**

A. An appeal to the Board may be taken by any person aggrieved or by any office, department, board or bureau of the County of any municipality therein affected by any decision of the Zoning Administrator. Such appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken.

B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

C. In no event shall a written order, requirement, decision or determination made by the Zoning Administrator or other administrative officer be subject to change, modification or reversal by any

Zoning Administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination, where the person aggrieved has materially changed his or her position in good faith reliance on the action of the Zoning Administrator or other administrative officer, unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the Zoning Administrator or other administrative officer or through fraud. The 60 day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical or other nondiscretionary errors.

[Added 8-13-1998]

**§ 148-173. Appeal procedure.**

A. Appeals shall be mailed to the Board, c/o the Zoning Administrator, and a copy of the appeal mailed to the Secretary of the Commission. A third copy should be mailed to the individual official, department or agency concerned, if any.

B. Appeals requiring an advertised public hearing shall be accompanied by a certified check made payable to the Treasurer of Northumberland County in an amount as set forth in the Fee Schedule. *Editor's Note: See Ch. 68, Fee Schedule.*

[Amended 7-12-2001]

**§ 148-174. Public hearing.**

[Amended 8-13-1998]

The Board shall, within 60 days from the receipt of a completed application, fix a time for the hearing of an application or appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within 90 days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter. The Board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the Board and shall be public records. The Chairperson of the Board or, in his or her absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses.

**§ 148-175. Decision of the Board.**

A. Any person or persons jointly or severally aggrieved by any decision of the Board or any taxpayer or any officer, department, board or bureau of the County or any municipality therein may present to the Circuit Court a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the Board.

B. Upon the presentation of such petition, the Circuit Court shall allow a writ of certiorari to review the decision of the Board and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than 10 days and may

be extended by the Circuit Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on the application, on notice to the Board and on due cause shown, grant a restraining order.

C. The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

D. The Circuit Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

E. Costs shall not be allowed against the Board, unless it shall appear to the Circuit Court that it acted in bad faith or with malice in making the decision appealed from.

F. In the event that the decision of the Board is affirmed and the Court finds that the appeal was frivolous, the Court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the Board may request that the Court hear the matter on the question of whether the appeal was frivolous. [Added 8-13-1998]

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: PUBLIC COMMENT PERIOD**

No Comments were given.

#### **RE: CARRY OVER**

Upon motion by A. Joseph Self, Sr., seconded by James M. Long, the Board voted to carry over until Thursday, July 16, 2015 to discuss the plan for the Emergency Medical Service plan for the county. It will be open to the public for those that want to attend. 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

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Kenneth D. Eades, Clerk