

Board of Supervisors Meeting
September 11, 2008
5:00 P.M.

NORTHUMBERLAND COUNTY, VA

A regular monthly meeting of the Northumberland County Board of Supervisors was held in the Northumberland Courts Building, on Thursday, September 11, 2008

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

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

RE: INVOCATION

A moment of silence was given to remember those that lost their lives in the events that happened on September 11, 2001.

RE: PLEDGE OF ALLEGIANCE

Chairman Ronald L. Jett led us in the Pledge of Allegiance.

RE: APPROVAL OF MINUTES FROM AUGUST 14, 2008.

Upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie, the Board voted unanimously to approve the minutes from the previous meetings on August 14, 2008. The vote on the motion was as follows:

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

RE: APPROVAL OF AGENDA

Upon motion by A. Joseph Self, Sr., duly seconded by Thomas H. Tomlin, the Board voted unanimously to approve the agenda for today's meeting.

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

RE: MR. CLIFTON BALDERSON, VDOT ASSISTANT RESIDENCY ADMINISTRATOR

Mr. Balderson reported that mowing has started on the primary roads.

Supervisor Long asked when the trash will be picked up on Brown's Store Road. Mr. Balderson answered that the trash will be picked up when the grass is cut.

Mr. Balderson informed the board that Mr. Dave Ogle has retired and has been replaced by Mr. Quinton Elliot. He stated the Mr. Elliot was looking forward working with the Board.

The Ferry is on schedule for replacement in October/November. The new ferry should have less maintenance work needed.

The Tropical Storm Hanna did not impact much of the County, Mr. Balderson stated. They were prepared for the worst.

Chairman Jett thanked VDOT for the cutting that was done on the roads

Supervisor Self asked if the Johnson Grass can be cut in front of the restaurant in Callao "For the Occasion's". Mr. Balderson stated that Johnson Grass has been a problem this year.

RE: CLINT STABLES, SCHOOL SUPERINTENDENT

RE: SPECIAL APPROPRIATIONS

Upon motion by A. Joseph Self, Sr., duly seconded by Richard F. Haynie, the board voted to approve the following appropriations:

\$ 1,200.00 – Registration Fees for Out of County Teachers for William and Mary Writing Program

\$ 22,708.13 – Federal Medicaid Reimbursements for services provided for students

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. Stables reported that the budget was planned on 1400 students and current enrollment is 1438.

Mr. Stables gave an update to the board on the current budget. The adequate Yearly Progress showed out of the 29 areas assessed at each school, Northumberland Elementary School and Northumberland High School successfully passed all 29 areas. The Middle School passed 28 out of 29 areas.

Mathematics performance of Black Students did not meet the 75% pass-rate. Seventy Four percent of the Schools in the State made AYP and 41 % of the school divisions.

Supervisor Tomlin asked about when the outside work will start at the new school. Mr. Stables stated the paving will start in the next two weeks. Mr. Tomlin questioned the ISAEP program test? Mr. Stables said that the program was put in place to keep kids on track to work towards a job skill.

RE: BUILDING PERMIT REPORT

	2008	2007
Total construction cost for the month	\$ 5,390,466.00	\$ 7,293,082.00
Total Bldg. Permit Cost for Month	\$ 7,306.56	\$ 10,474.52
Total Zoning Permit Cost for the Month	\$ 3,080.00	\$ 3,680.00
Total Levy Fee for the Month	\$ 128.25	\$ 181.20
<i>Total Construction cost year to date</i>	\$42,906,318.60	\$53,261,758.50

RE: GROUND WATER MANAGEMENT AREA DESIGNATION

Mr. Eades stated this is a complicated issue and it has both pro's and con's. He has heard many of the pros but still has concerns and it is hard to find someone to talk to about the cons. He stated that the Board might want to hold a Public Hearing on this but it is not required. He stated that Lancaster County had adopted the resolution, Westmoreland County is discussing it and Richmond County hasn't taken any action on the resolution. Supervisor Self stated he would like to find out the con's of the issue. Mr. Eades noted this would affect the biggest employer of the County. Supervisor Tomlin stated he is concerned with the Middle Peninsula and Maryland areas; he said he did not want to reserve water for them. Mr. Eades stated he would try to summarize the issue with more information and present it next month. Supervisor Self stated to go ahead and get the information for next month, but the Board may not make a decision at that meeting.

RE: YEARBOOK AD FROM THE BOARD OF SUPERVISOR

Upon motion by A. Joseph Self, Sr., duly seconded by James M. Long, the Board voted to approve to have a full page ad in the Northumberland County Yearbook at a cost of \$190.00. 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: VERIZON BILL INFORMATION FOR 580 AND 453 EXCHANGE

Mr. Eades stated that he has received a lot of response after sending a letter to the State Corporation Commission concerning the lack of phone services on the 580 and 453 exchanges. He has had a meeting with the Verizon Representative Randy Dillard recently about the issue. Mr. Eades stated on his personal home bill, he has the Freedom plan that he pays 49.99 a month, Mr. Dillard told him his bill should only be 44.99 because voice mail is not available in his area.

RE: COURT CASE INVOLVING COUNTY PROPERTY AND MR. REE ELLIS

Mr. Eades stated the court case on the Cranes Creek Public Landing is coming up on September 18th at 9a.m. County Attorney Les Kilduff stated that no testimony will be taken that day and there is no real need to be present.

RE: UPDATE ON THE PLAN FOR SEWER IN HEATHSVILLE

Mr. Eades stated he had sent a letter to Rural Development concerning the Heathsville Sewer Study. The letter stated that he is concerned about the connection fee set at \$4,000, the monthly charge at \$50.00, and \$400,000 in outside funds needed to make the project feasible. Mr. Eades stated he is concerned that no one will sign up with these amounts in place. We are asking Rural Development for more grant money to balance the project out.

RE: TROPICAL STORM HANNA DECLARATION

Mr. Eades stated that Tropical Storm Hanna had little affect on us and did not do any noted damage. The Emergency Operations Center was opened that day at 7 a.m. and closed around 2 p.m. and we needed to ratify the local emergency that was issued.

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

**DECLARATION OF A LOCAL EMERGENCY
DUE TO TROPICAL STROM HANNA**

WHEREAS, The Northumberland County Board of Supervisors does hereby find that:

- (1) Due to the conditions of Tropical Storm Hanna, and;
- (2) Due to the high winds and tides, a condition of extreme peril of life and property necessitates the proclamation of the existence of an emergency:

NOW, THEREFORE IT IS HEREBY PROCLAIMED, that an emergency is hereby declared at 1:00 p.m. on September 5, 2008, and exists throughout Northumberland County, and

IT IS FURTHER PROCLAIMED AND ORDERED; that during the existence of said emergency the powers, functions and duties of the Director of Emergency Services and the Emergency Organization of Northumberland County shall be those prescribed by state law and the ordinance, resolutions, and approved plans of Northumberland County in order to mitigate the effects of said emergency.

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: NO WAKE LETTER RECEIVED

Mr. Eades stated that he had just received a letter today concerning No Wake in the Little Wicomico. He said that he has been in touch with Game and Inland Fisheries about surveying this area and should have something from them soon. This issue will be discussed next month so that the information in the letter can be taken into consideration.

RE: APPROVAL OF CHECK REGISTER

Upon motion by A. Joseph Self, Sr., duly seconded by James M. Long the Board voted unanimously approved the check register, as submitted. 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: APPOINTMENT OF KEVIN ELMORE TO PLANNING COMMISSION

Upon motion by James M. Long, duly seconded by Richard F. Haynie the Board voted unanimously approved the appointment of Kevin Elmore to the Planning Commission. 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: BOARD COMMENT PERIOD

Supervisor Self thanked everyone for the cards, calls, etc. due to the death of his daughter-in-law.

Supervisor Jett thanked Bill Knight, Luttrell Tadlock and Kenny Eades for the preparation and handling of Tropical Storm Hanna. Supervisor Long asked why the Rescue Squad Buildings were designated as shelters and why it was not opened. Mr. Eades responded that we figured that this event would not hit us hard and since there was no need to have a shelter through the night, we offered a place for people to stay if they felt more comfortable. We also were trying not to use the volunteers for the shelter knowing that no one would probably show up and use the volunteers only when they are needed.

Public Hearings

RE: REQUEST BY JOHNNY WAYNE KENT FOR A PERMIT TO MAINTAIN A JUNKYARD/AUTOMOBILE GRAVEYARD AT 3450 JESSIE DUPONT MEMORIAL HIGHWAY NEAR WICOMICO CHURCH

Mrs. Joan Kent, stated she is speaking on behalf of her husband. Mrs. Kent said they are not going into the junk yard business; they are just keeping some antique cars on this ½ acre land. Currently there are 15 cars on the lot. She said there are no old tires or antifreeze on the ground and we go there with our pets and family all the time. She asked the Board to grant the request and stated if it was granted the Kent's would proffer that no other cars will be brought onto the property and all the cars will be removed in 5 years. The five years will give them enough time to clean up the property and do away with the cars. She stated that they do not want to crush the cars now and she has gathered a petition with support from her neighbors and from others in the county.

Public Hearing Open

Ms. Alana Duncan stated she is against any junkyards in the county. She said that she is very concerned about this but stated she is glad it will eventually be cleaned up. This property is very close to Tiper's Creek and it does not belong in a residential area.

Ms. Sandy Sperry stated it is good to know the plans for this place but if this is granted we are letting the young people down. She referenced a day is being planned for children at the elementary school to teach students about run-off and aquifers. She said it is very important to teach them to be responsible and safe.

Mr. Eugene Brand stated he is across the street from this site and is concerned about allowing this junkyard. He said the Board needs to avoid “spot zoning”.

Mr. Ron Herring stated he has known the family since 1958 and this is not “spot zoning”. It is zoned B-1. This was there when these people came here. It is a unique collection and Wayne still has his first auto. This is not a new thing for that area and he is in favor of it staying there.

Ms. Ada Jacox stated she is the owner of the winery adjoining the property and she had some concerns with this request but was alright with the Board approving the junkyard as long as no more cars are brought onto the property. This is not the best looking but we must compromise.

Mr. Lara Rennie stated this sets a bad precedent.

Mr. Ray Thompson stated he is against this and if this is granted, how can you say no to anyone else.

Mr. Bill McGuire questioned the mechanical shop that used to be there and if this is grandfathered into the system. He asked the Board to deny the request.

Mr. Jason Swift stated he supports the Kent’s and the run off will not be a problem because there isn’t any. He said he agrees with Mr. Herring, this was there before others moved into the area.

Mr. Miles Cockrell stated this is not an environmental issue.

Mrs. Nancy Brand stated this is an environmental issue and she opposed this.

Public Hearing Closed

Mrs. Joan Kent stressed again, this is not a junkyard business and they will clean it up as much as possible. She said all adjoining property owners are okay with this and keeping 15 cars is all they are asking. She said there is nothing going into the river.

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

1. The site must be completely screened from view from the highway and from adjoining dwellings.
2. Inventory of the site will be taken by staff at its current condition.
3. This permit is only valid for 5 years, ending September 11, 2013.

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 ROSALINDA SO LEMA FOR AN EXCEPTIONS TO THE CHESAPEAKE BAY PRESERVATION AREA ORDINANCE IN ORDER TO GRADE AN EXISTING STEEP BANK WITHIN THE 50 FOOT RESOURCE PROTECTION AREA LOCATED AT 507 PEBBLE ROAD NEAR WICOMICO CHURCH ON MILL CREEK

County Administrator Eades described the request.

Mr. Drew Hammond, Engineer of J.L. Howeth Inc. spoke on behalf of Ms. Lema. Mr. Hammond described step by step the process on the grading plan and sloping of the bank along the creek.

Public Hearing Open

No one spoke during the public hearing

Public Hearing Closed

Upon motion by Thomas H. Tomlin duly seconded by Richard F. Haynie, the Board voted to deny the request.

Supervisor Tomlin stated the request doesn't have anything to do with the house construction and he can not support rolling the bank back that far.

Supervisor Self stated he would like to see what the Chesapeake Bay Local Assistance Department would say about this situation and give us their opinion. Supervisor Tomlin said the group is not "Wild" on this at all. Supervisor Self said there is a lot of indication that something needs to be done to keep the river clean from sediments he would like another opinion before voicing his opinion.

Supervisor Self stated that if this is denied, the applicants can come back in one year for reconsideration.

Chairman Jett stated he agrees with both sides of this problem and said he'd like to see what (CBLAD) says about it.

The vote on the motion is as follows:

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

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

Motion passed 4-1.

Mr. Hammond responded to some of the concerns and described the vertical wall.

Supervisor Self asked Mr. Hammond how much more it would benefit if it took a 3 to 1 slope. Mr. Hammond stated this would not be better and he is more comfortable with a 2 to 1 slope. He said it is just a matter of time before the vegetation is gone.

Supervisor Tomlin stated he wanted to get the opinion of (CBLAD) anyway.

RE: REQUEST BY RANDOLPH NEAL TO ABANDON AN AREA OF OLD FLEETS POINT ROAD LOCATED AT 2966 FLEETON ROAD IN FLEETON

County Administrator Eades described the request. He stated this property was bought from Mr. Kenneth Davis, which included 6 lots. He said it appears that on the latest survey the road was put into the wrong location leaving a 50 foot strip between the state road and the property line.

Supervisor Self asked if our County Attorney, Les Kilduff had an opinion. Mr. Kilduff stated that he just found out that the survey is an advanced print and the surveyor may not be able to give us a certified plat. He said a decision should not be made on this right now because you don't know what you are abandoning without a certified plat. Mr. Kilduff went further to say the Board can still hold a hearing on the request.

Mr. Randolph Neale stated an adjoining property owner Mr. Slater Rice did his own survey and came up with 350 ft. so evidently the road was put into the wrong place.

Chairman Jett stated that the public hearing will be held tonight, but a decision would not be made tonight due to the question about the plat.

Public Hearing Open

Mr. Slater Rice stated he has checked into this matter and originally thought he was trying to close the Avenue but then he went down and measured, and it makes sense to do abandon this area.

Mr. Hunter Manson stated he was speaking on behalf of Mr. Peter Wong. Mr. Wong's property is past Mr. Neale's and he would like to do the same thing if this is approved.

Public Hearing Closed

Upon motion by Ronald L. Jett, duly seconded by James M. Long the Board voted to carry over the request until a certified plat can be examined.

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 FOR THE USE OF GOLF CARTS WITHIN MALLARD BAY SUBDIVISION NEAR HEATHSVILLE

Mr. Barry Kane, President of the Mallard Bay Property Owners Association stated they had a meeting and voted to have a golf cart community.

Public Hearing Open – no comments.

Public Hearing Closed

Upon motion by Thomas H. Tomlin, duly seconded by James M. Long, the board voted to approve the request:

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

§ 79-2. Designation of public highways for golf cart operation.

F. The operation of golf carts and utility vehicles within Mallard Bay Subdivision as described as follows is hereby authorized; Mallard Bay Dr., Teal Way, Redhead Ct., Dabbler Dr., Ruddy Duck Rd., Summer Duck Ln., Woodduck Ct., Bufflehead Ct., Pintail Ln., Pintail Ct., Widgeon Ct., Goldeneye Way, Canvasback Ln., and Ringneck Ct.

RE: AMENDMENT TO THE COUNTY CODE TO INCLUDE “DOMESTIC OR FERAL DOGS” IN THE LIST OF ANIMALS THAT ARE CONSIDERED IN VIOLATION WHEN ALLOWED TO RUN AT LARGE UPON PUBLIC HIGHWAYS LOCATED IN THE COUNTY

County Administrator Eades described the request.

Deputy Roger Briney, Animal Control Officer, stated the only thing he knew about tonight is what he read in the newspaper and he is concerned about this. He said yes there is a problem with dogs bothering bikers, walkers, etc. He can only warn and summons the owner if there is no tag on the dog. He said there are approximately 1,000 stray dogs in the county. The shelter is filled up now and if this is put into effect where will he put the dogs? He stated he was the only one doing this job and he is only part time. The volunteers (at the shelter) won't last long if we start killing dogs. He said there needs to be a spade/neuter law. This is a very stressful job and not sure this would be effective.

Public Hearing Open

Mr. Miles Cockrell thanks Deputy Briney for his work and said if he can't take care of what he has now, this is not needed.

Mr. Harry Kane said he is not sure this ordinance is the “fix”. He asked to consider this with a lot of thought because there is a problem with dogs and we need to find a solution.

Public Hearing Closed

Upon motion by A. Joseph Self, Sr., duly seconded by James M. Long, the Board voted to deny the request and directed Staff to get with Deputy Roger Briney and try to write an ordinance that will take care of the issue of dogs bothering people just trying to take a walk, bike, etc. The vote on the motion was as follows:

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

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

Deputy Briney suggested anyone walking/biking to carry something with them to protect themselves.

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 contractual matter as permitted by Virginia Code Section 2.2-3711 (A) (7). The vote on the motion was as follows:

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

RE: OPEN MEETING

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

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

RE: MOTION AND CERTIFICATION OF CLOSED MEETING

A motion was made by A. Joseph Self, Sr., duly seconded by James M. Long, 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 contractual matter.

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

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

RE: CONSIDERATION OF AN OPERATING AGREEMENT WITH THE RICE'S HOTEL/HUGHLETTS TAVERN FOUNDATION, INC. FOR THE PURPOSE OF ALLOWING THE TAVERN FOUNDATION TO RUN THE NORTHUMBERLAND FARMERS MARKET PAVILION AFTER IT IS BUILT. THE PAVILION WILL BE LOCATED IN HEATHSVILLE

Mr. George Beckett was present to represent the tavern.

Upon motion by Richard F. Haynie duly seconded by James M. Long the board voted to table the request to work out various issues that have come up. 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

PUBLIC COMMENT PERIOD

Ms. Amy Reynolds questioned the No Wake issue in the Little Wicomico area. Mr. Eades said that he should have something from Game and Inland Fisheries at the next meeting.

RE: ADJOURNMENT

Upon motion by A. Joseph Self, Sr., the Board voted unanimously to adjourn the meeting. 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