



County of Hanover

Board Meeting: April 23, 2014

Subject: Approval of Board of Supervisors Minutes –
January 8, 2014
January 22, 2014
February 12, 2014

**Summary of
Agenda Item:** The minutes of January 8, 2014, January 22, 2014 and February 12, 2014 are
included in the packet to be approved.

**County
Administrator's
Recommended
Board Motion:** A motion to approve the Board of Supervisors' minutes of January 8, 2014, January
22, 2014 and February 12, 2014.

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VIRGINIA: At a regular meeting of the Hanover County Board of Supervisors held in the Board Room of the Hanover County Administration Building, Hanover County, Virginia, on Wednesday, January 8, 2014 at 2:00 P.M.

PRESENT: Mr. W. Canova Peterson, Chairman
Mr. Sean M. Davis, Vice-Chairman
Mr. Wayne T. Hazzard
Mrs. Angela Kelly-Wiecek
Mr. Aubrey M. Stanley
Mr. G. E. Via, III
Mr. J. Elton Wade, Sr.
Mr. Cecil R. Harris, Jr., County Administrator
Mr. Sterling E. Rives, III, County Attorney

I. Call to Order

The Chairman called the meeting to order at 2:00 P.M. All Board Members were present.

A. Invocation

The invocation was given by Mr. Via.

B. Pledge of Allegiance

The Pledge of Allegiance was led by Mr. Davis.

II. Consideration of Amendments to the Agenda

Mr. Peterson asked if there were any amendments to the Agenda.

Mr. Davis asked that the Board of Supervisors note that staff had placed an amendment to Item IV.D – Appointments to recommend that the Circuit Court Judge reappointment to the Board of Equalization Mr. Rino (Rick) Balducci. With that revision Mr. Davis **MOVED** to make that amendment.

Mrs. Kelly-Wiecek **SECONDED**.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye

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Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

III. Citizens' Time

Offered to anyone who wants to address the Board of Supervisors for up to five minutes on any matter within the scope of the Board's authority that is not on the agenda for that meeting. If you have issues or questions for any agenda items, you are encouraged to contact, prior to the Board Meeting, applicable County staff and/or your Board representative.

Mr. Peterson asked if anyone wished to speak during citizens' time. Seeing no one come forward, he closed Citizens' Time.

IV. Consent Agenda

Mr. Peterson asked if anyone wished to have anything pulled from the Agenda. He advised that there was a revised appointment sheet.

Mr. Stanley made a **MOTION** to approve the following Consent Agenda.

Mr. Davis **SECONDED**.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

A. Budget Supplement and Authorization of Public Safety Training and Response Equipment with Asset Forfeiture Funds – Sheriff's Office - \$7,949.

Board Sheet Background:

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The Hanover County Sheriff's Office has received grant funding through the Virginia Attorney General's Asset Forfeiture Sharing Program.

Hanover County's Crisis Intervention Team (CIT) is designed to assist law enforcement and other first responders to effectively communicate to those who are in a psychiatric crisis. The identified benefits of the CIT approach are enhancing safety for all involved in a crisis situation and strengthening the relationships between those agencies involved in an emergency mental health response, mental health consumers and their families. This funding would be utilized in continuing community outreach and education.

The Sheriff's Office is requesting approval to spend \$7,949 in current year forfeiture funds to purchase public safety training and response equipment.

Training	\$450
Equipment	\$2,250
Supplies	\$5,249
Total	\$7,949

As of December 2013, the Sheriff's Office has \$277,488.02 remaining in Federal Forfeiture Funds. This amount is roughly equivalent to the last three years of funds received (FY11-13). These funds cannot be appropriated in anticipation of future collections per the following state and federal regulations: US DOJ Forfeiture Guide, Section X. *Uses of Equitable Shared Property*, A.4.b; VA DCJS Forfeited Asset Sharing Manual, Appendix H. *Uses of Equitable Shared Money*; and, VA Sheriff's Accounting Manual, Chapter 8 Forfeited Property – Best Accounting Practices. This request meets the requirements for the use of forfeiture funds

The Finance Department concurs with this request.

On motion of Mr. Stanley, seconded by Mr. Davis, the Hanover County Board of Supervisors approved the budget supplement and purchase of public safety training and response equipment with Asset Forfeiture Funds in the amount of \$7,949. (A copy of the Budget Supplement is filed with the Board's papers.)

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

**B. Budget Transfer of Reserve for Contingencies – Technology Improvements
\$205,000.**

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Board Sheet Background:

This budget transfer is being requested to fund technology investments county-wide. The projects to be funded are:

1. Computer Replacement Program - \$50,000
2. LaserFiche - \$80,000
3. VCAIS System - \$75,000

The County currently has a number of desktop and laptop computers that are more than five years old, which is the point at which issues typically, arise. As new enterprise applications are deployed using full feature client side applications the need to keep the client systems current becomes more apparent. Computers are only replaced when the equipment is no longer functional.

The County has implemented LaserFiche document management software in several Departments. Departments are acquiring full licenses and adding documents to the system. The requested funds are to purchase a site license to provide read/search access for all County employees. These funds will cover a site read-only license (\$60,000) and provide for training (\$20,000).

VCAIS (Virginia Commonwealth's Attorney's Information System) is the Commonwealth's Attorney's case reporting system that the State is no longer supporting. The software master copy has been eliminated so now only the jurisdictional copies exist; meaning changes must be made on each system at the local level.

After approval of this transfer, there will be \$781,742 remaining in the Reserve for Contingencies. Finance & Management Services concurs with this transfer request.

On motion of Mr. Stanley, seconded by Mr. Davis, the Hanover County Board of Supervisors approved the Budget Transfer of Reserve for Contingencies for technology improvements in the amount of \$205,000 as follows:

Department: Information Technology, CIP
General Fund

Expenditures:

Additions to Expenditures

Non-Departmental

Transfer to Capital Project Fund

205,000

Total additions to expenditures

\$ 205,000

Deductions to Expenditures

Nondepartmental

Reserve for Contingencies

205,000

Total deductions to expenditures

\$ 205,000

Net Change to fund

\$ _____

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County Improvements Fund

Expenditures:

Additions to Expenditures

Capital Improvements Program

Computer Replacement	50,000
IT Laserfiche	80,000
Commonwealth’s Attorney’s VCAIS System	<u>75,000</u>
Total additions to expenditures	\$ <u>205,000</u>

Revenues:

Additions to Revenues

County CIP Fund

Transfers from General Fund	<u>205,000</u>
Total additions to revenues	\$ <u>205,000</u>

Net Change to fund	\$ <u>205,000</u>
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Vote:

W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

C. Budget Appropriation - \$66,807 – Hanover County Sheriff’s Office – 2013 State Homeland Security Program (SHSP) Managed by Virginia Department of Emergency Management.

Board Sheet Background:

The Hanover County Sheriff’s Office has received grant funding allocated to the 2013 State Homeland Security Program (SHSP).

These funds will be used for purchasing gas masks, mask accessories and protective clothing. The overall project proposed is the purchase of equipment to aid in the protection of law enforcement personnel as they respond to potentially hazardous material situations. Equipment identified is the purchase of Personal Protective Equipment (PPE) in the form of upgraded or replaced gas masks and protective clothing.

The Gas Masks and Protective Clothing requested directly connect with National Preparedness Goals and are a component of Homeland Security Presidential Directive 8.

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The Sheriff's Office also needs to replace its aging inventory of assigned gas masks that have deteriorated since they were purchased almost 10 years ago. The purchase of the masks will enhance officer ability to operate in an environment not conducive to public health where potential airborne threats are identified.

Essentially 177 gas masks will be purchased and the remaining funding used to begin updating and expanding our current personal protective equipment resources.

The Finance and Management Services Department concurs with this request.

On motion of Mr. Stanley, seconded by Mr. Davis, the Hanover County Board of Supervisors approved the appropriation of the 2013 State Homeland Security Program in the amount of \$66,807 to the Sheriff's Office Budget as follows:

Department: Sheriff's Office
General Fund

Expenditures:

Additions to Expenditures		
Sheriff's Office		
Operating	\$	<u>66,807</u>
Total additions to expenditures	\$	<u>66,807</u>
Net change to expenditures:	\$	<u>66,807</u>

Revenues:

Additions to Revenues		
Sheriff's Office		
Federal: Sheriff – Homeland Security		66,807
Total additions to revenues	\$	<u>66,807</u>

Net change to revenues:	\$	<u>66,807</u>
Net change to fund	\$	<u>66,807</u>

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye

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Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

D. Appointments

Approved as recommended.

Committee Name	District	First Name	Last Name	Term Begins	Term Length	Expiration	Board Member Recommendation
Hanover Airport Advisory Committee	At-Large	Mark A.	McCauley	1-08-14	4 years	12-31-17	Mr. Peterson
Board of Equalization	N/A	Rino (Rick)	Balducci	3-01-14	3 years	2-28-17	Mr. Davis recommends the reappointment of Mr. Rino (Rick) Balducci moving forward to the Circuit Court Judge for Reappointment

On motion of Mr. Stanley, seconded by Mr. Davis, the Hanover County Board of Supervisors approved the nomination of Mr. Rick Balducci (Rino E. Balducci, Jr.) to go forward to the Circuit Court for consideration of reappointment to the Board of Equalization for a (third) three-year term. Mr. Balducci's current term ends February 28, 2014.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

V. Annual Reorganization Session

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Mr. Peterson explained that this is their annual reorganizational meeting. He thanked each member on this Board for their hard work, persistent efforts that made 2013 a very good year for Hanover County. He said it has been his honor and privilege to serve as Chairman and he hoped he met their expectations. He acknowledged that this year has definitely been an adventure, starting off considering two major issues at once; implementing the cash proffer policy that was eliminated in 2012 and reinstating a small cash proffer for roads only; they initiated the review of the Comprehensive Plan; it was amended to reflect public comments and a Plan was passed promoting “smart growth” and “protection of our rural character.” This Board also “tackled” the County budget that required great fiscal restraint and innovative cost control measures. The final budget that they approved did not require any reductions in services for our citizens and it did not require an increase in the tax rate. Something they are very proud of. The schools received a lot of their attention this year. With completion of the consolidation of the school and County Finance Departments, they worked with the School Board to provide additional funding for well over 100 projects, long neglected maintenance projects at all of the schools during the summer break. The schools were relieved of direct responsibility for their Capital Debt Requirements and they now have initiated a comprehensive study to assess existing facilities and to identify future capital improvement requirements. Our Legislative Committee successfully spearheaded a joint jurisdictional effort to ensure that no tolls would be collected on Interstate-95 and we are still traveling free up and down the interstate. They initiated a process with the Department of Justice to have Hanover County exempted from oversight under the Civil Rights Act. This was approved and places us in the position of being grandfathered if new rules are implemented. Economic Development has picked up. There was an opening of the Vitamin Shop Distribution Center; the ground breaking of the Republic National Wine Distributors; and

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the resurgent of the Outlet Mall. The new Courthouse project which was initiated in 2006 but was “put on the shelf” until such time as economic conditions improved has begun. And he believed they all enjoyed their last meeting in December when they had a chance to honor Mr. Frank Hargrove, Sr. by naming the airfield at Hanover County Airport Hargrove Field. He said there are many more things but he would stop right there. “I simply want to thank you, my fellow Board Members and my fellow citizens for the privilege that you have allowed me to have to serve. It has been and is the greatest of honors.”

A. Election of Chairman

Mr. Peterson opened the floor for nominations for the next Chairman for the Hanover County Board of Supervisors.

Mr. Stanley said this is an important time for all of us in government “no matter what level we are.” He said he was riding by a church this morning in the South Anna District and the words on the marquee said “when times are trying keep on trying.” He said the person he was going to speak about he believed will do that “keep on trying.” Sean Davis has served on our Board as Vice-Chairman for the past year and he has watched him grow into a true representative not only of his district but of Hanover County and he was honored to nominate Mr. Davis for Chairman for the year 2014.

Mr. Peterson asked if there were any other nominations. Hearing none, he closed nominations.

The Hanover County Board of Supervisors elected Mr. Sean M. Davis as Chairman for the 2014 term.

W. Canova Peterson

Vote:
Aye

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Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

Mr. Davis asked Mr. Peterson to join him down front to present him with a plaque for his outstanding service as Chairman this past year.

B. Remarks from Incoming Chairman

Mr. Davis thanked all of his fellow Board members. He stated that he did not know that Mr. Stanley was going to say the kind words that he said and that meant a great deal to him. Giving a little bit of history of his life he said: When Lisa and he moved back to Virginia after being in the Marine Corp, one of the first pieces of mail he got was from his County Supervisor, Mr. Wade and it said “Welcome Home.” And he ventured to say that does not happen in Henrico County or Chesterfield, so Hanover is a special place. He thanked his fellow Board Members for their vote of confidence. Knowing each of them personally he was aware that they believe their vote is in the best interest of their district as well as the County, and “I’m humbled by your support.” It has been said that in the past two years the environment in Hanover County can be compared to no other time in recent memory, and he agreed with that. The long recession and uncertain outcome for many Hanoverians has created circumstances that no one could ever have expected. There are many of our friends and neighbors that are very much in the mix of tremendous personal storms. However, he believed their brightest days are ahead. Hanover has a spirit unmatched by any. Our people are our strongest resource. And Hanover epitomizes American exceptionalism. “We are better and we know we’re better,” and therefore, they are duty bound to service a beacon of all that is true and right. “As we move into the coming years,

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we shall do so with confidence with a steadfast result to seek solutions to our challenges.” Simply identifying problems is not going to be their course. Their convictions will be in sound policy and not politics. They will work to build up and not to tear down. Their course is chartered not to a destination but to a journey for what is best for Hanover.

Mr. Davis said regarding education our School Board is one of the finest in the nation. Our Superintendent is one that all should strive to emulate. This past year brought many challenges their way. Through calm, steadfast leadership and a commitment to accurate communication effects they once again prove that focusing on the children’s education will always prove to be the right goal. With that just this morning, Dr. Wilson was awarded from the YWCA for women and education, the top award and that serves to the spirit of Hanover. On public safety, “I’ve said before there can be no good in a community if a community is not safe.”

Mr. Davis thanked Col. Hines for his leadership during these difficult economic times. This Board knows the value that the Hanover County Sheriff’s Office has to all of our citizens. We’re committed to identifying solutions to all needs pertaining to the essential services of government and Sheriff Hines’ department certainly falls within that arena.

Mr. Davis said thank you to the men and women of the Hanover Fire and EMS both career and volunteer. Thank you for your dedication during these tough times. Chief Piland has demonstrated remarkable leadership ability and it is evident in the performance of his department’s duties over this last year.

Mr. Davis said all County employees are an asset. They are our friends; they are our neighbors, and should be treated as such. It is the Board’s goal to work on looking at compensation initiatives for those who serve our citizens and have weathered this storm. “And

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we thank you for that.” He said in 2011 the Board passed a resolution that gave a 2% pay increase to Board of Supervisor Members.

Mr. Davis advised that as his first official act as Chairman he would move to freeze the pay for the Board of Supervisors for this year.

Mr. Davis said we realize that great things in 2014 cannot always be assured but they will actively and aggressively seek sound economic development in appropriate areas within our borders. “For our current businesses we are here to partner and we want and need your input and we are open to your ideas.”

Mr. Davis said in closing many folks know that he was raised by a single mom who worked to raise two young boys and has been a blessed man in many areas of his life. With that he felt an obligation to do all that he can to help others. “If I can be in any position to use my position or any influence that I may have to better another’s life then I feel it is my duty to do so. I call on all of us to seek out our neighbor, those who are in need and display the true Hanover Spirit. Let us be one community all for one and one for all. May God Bless you, may God Bless your family and my God continue to bless Hanover County.”

C. Election of Vice Chairman

Mr. Davis said he would entertain a motion for nominations of Vice-Chairman.

Mr. Via said it would be his pleasure to nominate Mr. Hazzard as the Vice-Chairman of the Board of Supervisors for the year 2014.

Mr. Davis said there is a nomination on the floor, which requires no seconded, is there any discussion. There was none.

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The Hanover County Board of Supervisors elected Mr. Wayne T. Hazzard as the Vice Chairman for the 2014 term.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Abstained
Angela Kelly-Wiecek	Nay
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

Mr. Davis made a **MOTION** to accept the following Resolution:

WHEREAS the prior Board of Supervisors approved on April 13, 2011, a 2 percent salary increase for the Chairman and other Board of Supervisors' members effective January 1, 2012, and on January 1 of each succeeding year during the four (4) year term; and

WHEREAS the Board of Supervisors recognizes the current economic situation;

NOW, THEREFORE, BE IT RESOLVED by the Hanover County Board of Supervisors that the prior approved 2 percent salary increase for the Hanover County Board of Supervisors effective January 1, 2014, shall be suspended until further action of the Board.

Mrs. Kelly-Wiecek advised that she and Mr. Davis have discussed this on a number of occasions and she knew how important it is to both of them, so it was her pleasure and honor to **SECOND** this motion. She thanked him for his leadership and bringing this to them.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

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D. Adoption of Proposed Board of Supervisors' Meeting Schedule; January – December 2014

Mrs. Kelly-Wiecek made a **MOTION** to accept the proposed meeting schedule.

Mr. Via **SECONDED**.

Mr. Harris advised that the scheduled date of March 26, 2014, which according to the Board's Rules the meeting would typically start at 6:00 p.m. However; because of the Budget Schedule this year they would recommend that this be the Budget Public Hearing. It has been tradition that on the Budget Public Hearing as with all public hearings, they start at 7:00 p.m. He said at this time they do not see the need to have any administrative items prior to the budget public hearing and so he would recommend that the March 26, 2014 start at 7:00 p.m. rather than 6:00 p.m.

Mr. Davis asked if any Board Members had questions regarding this change. There were none.

The Board of Supervisors voted to accept the proposed meeting schedule with the time change for March 26, 2014 from 6:00 p.m. to 7:00 p.m.

January – December 2014

<u>Date</u>	<u>Day</u>	<u>Time</u>	<u>Type of Meeting</u>
January 8, 2014	Wednesday	2:00 p.m.	Regular Board Meeting
January 22, 2014	Wednesday	6:00 p.m.	Regular Board Meeting
February 12, 2014	Wednesday	2:00 p.m.	Regular Board Meeting
February 26, 2014	Wednesday	6:00 p.m.	Regular Board Meeting
March 5, 2014	Wednesday	2:00 p.m.	Budget Work Session
March 12, 2014	Wednesday	2:00 p.m.	Regular Board Meeting
March 26, 2014	Wednesday	7:00 p.m.	Budget Public Hearing
April 9, 2014	Wednesday	2:00 p.m.	Regular Board Meeting
April 23, 2014	Wednesday	6:00 p.m.	Regular Board Meeting
May 14, 2014	Wednesday	2:00 p.m.	Regular Board Meeting

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May 28, 2014	Wednesday	6:00 p.m.	Regular Board Meeting
June 11, 2014	Wednesday	2:00 p.m.	Regular Board Meeting
June 25, 2014	Wednesday	6:00 p.m.	Regular Board Meeting
July 23, 2014	Wednesday	2:00 p.m.	Regular Board Meeting
August 27, 2014	Wednesday	2:00 p.m.	Regular Board Meeting
September 10, 2014	Wednesday	2:00 p.m.	Regular Board Meeting
September 24, 2014	Wednesday	6:00 p.m.	Regular Board Meeting
October 8, 2014	Wednesday	2:00 p.m.	Regular Board Meeting
October 22, 2014	Wednesday	6:00 p.m.	Regular Board Meeting
November 12, 2014	Wednesday	2:00 p.m.	Regular Board Meeting
November 25, 2014	Tuesday	6:00 p.m.	Regular Board Meeting
November * *, 2014 <u>Date to be</u> <u>determined</u>	Pending	8:00 a.m.	Special Board of Supervisors Meeting - <i>the primary purpose of the meeting will be to discuss the Hanover County Legislative Agenda for the 2015 Session of the Virginia General Assembly with members of the delegation representing Hanover County</i>
December 10, 2014	Wednesday	2:00 p.m.	Regular Board Meeting

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

E. Appointments of Board Members to Committees

Upon a motion by Mr. Hazzard, seconded by Mr. Via, the Hanover County Board of Supervisors voted unanimously to approve the appointments of Board Members to Committees.

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COMMITTEE NAME	DISTRICT	FIRST NAME	LAST NAME	TERM BEGINS	TERM LENGTH	EXPIRATION	2014 RECOMMENDATIONS
Agricultural & Forestal Districts Advisory Committee	Board	Aubrey	Stanley	01/25/12	6 years	12/31/18	Stanley
Bench Marking Task Force	Board	Aubrey	Stanley	12/11/13	1 year	12/31/14	Stanley
Bench Marking Task Force	Board	Angela	Kelly-Wiecek	12/11/13	1 year	12/31/14	Kelly-Wiecek
Bench Marking Task Force	Board	G. E. "Ed"	Via	12/11/13	1 Year	12/31/14	Via
Cannery Advisory Committee	Board	Aubrey	Stanley	01/09/13	1 year	12/31/13	Stanley
Capital Area WIA Policy Board	Board	Angela	Kelly-Wiecek	01/09/13	1 year	12/31/13	Kelly-Wiecek
Capital Region Airport Commission	Board	Aubrey	Stanley	01/25/12	4 years	12/31/15	Stanley
Capital Region Airport Commission	Board	G. E. "Ed"	Via	01/25/12	4 years	12/31/15	Via
Capital Region Collaborative	Board	Angela	Kelly-Wiecek	01/25/12	2 years	12/31/13	Kelly-Wiecek
Capital Regional Taxicab Advisory Board	Board Rep	Aubrey	Stanley	01/25/12	2 years	12/31/13	Stanley
Capital Regional Taxicab Advisory Board	Board Alternate	G. E. "Ed"	Via	01/25/12	2 years	12/31/13	Via
Central Virginia Waste Management Authority-Board	Board Member	Wayne	Hazzard	01/25/12	4 years	12/31/15	Hazzard
Chickahominy District Health Advisory Board	Board	Elton	Wade	01/25/12	4 years	12/31/15	Wade
Community Development Committee	Board Committee Chair	Sean	Davis	01/09/13	1 year	12/31/13	Davis
Community Development Committee	Board	Wayne	Hazzard	01/09/13	1 year	12/31/13	Hazzard
Community Development Committee	Board	Canova	Peterson	01/09/13	1 year	12/31/13	Peterson
Community Services Board (Chapter 10)	Board	Sean	Davis	01/01/12	3 years	12/31/14	Davis
Facility Space Needs Committee	Board	Wayne	Hazzard	01/09/13	1 year	12/31/13	Hazzard
Facility Space Needs Committee	Board	Canova	Peterson	01/09/13	1 year	12/31/13	Peterson
Facility Space Needs Committee	Board (Committee Chair)	Aubrey	Stanley	01/09/13	1 year	12/31/13	Stanley

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Finance Committee	Board Committee Alternate	Sean	Davis	01/09/13	1 year	12/31/13	Davis
Finance Committee	Board Committee Chair	Wayne	Hazzard	01/09/13	1 year	12/31/13	Hazzard
Finance Committee	Board	Angela	Kelly-Wiecek	01/09/13	1 year	12/31/13	Kelly-Wiecek
Finance Committee	Board	Canova	Peterson	01/09/13	1 year	12/31/13	Peterson
Greater Richmond Partnership, Inc.	Board	Angela	Kelly-Wiecek	01/09/13	1 year	12/31/13	Kelly-Wiecek
Hanover Airport Advisory Committee	Board	G. E. 'Ed'	Via	01/09/13	1 year	12/31/13	Via
Hanover/Ashland Liaison Committee	Board	Wayne	Hazzard	01/09/13	1 year	12/31/13	Hazzard
Hanover/Ashland Liaison Committee	Board	G. E. 'Ed'	Via	01/09/13	1 year	12/31/13	Via
Hanover's Promise	Board	Sean	Davis	01/25/12	2 years	12/31/13	Davis
Hanover's Promise	Board	Angela	Kelly-Wiecek	01/25/12	2 years	12/31/13	Kelly-Wiecek
Historical Commission	Board	Sean	Davis	01/25/12	2 years	12/31/13	Davis
James River Advisory Council	Board	Sean	Davis	01/25/12	4 years	12/31/15	Davis
Joint Education Committee	Board Rep.	Wayne	Hazzard	01/09/13	1 year	12/31/13	Hazzard
Joint Education Committee	Board Rep	Canova	Peterson	01/09/13	1 year	12/31/13	Peterson
Joint Education Committee	Board Rep-Alternate	Ed	Via	01/09/13	1 year	12/31/13	Via
Legislative Committee	Board Alternate	Sean	Davis	01/09/13	1 year	12/31/13	Davis
Legislative Committee	Board	Wayne	Hazzard	01/09/13	1 year	12/31/13	Hazzard
Legislative Committee	Board - Committee Chair	Angela	Kelly-Wiecek	01/09/13	1 year	12/31/13	Kelly-Wiecek
Legislative Committee	Board	G. E. "Ed"	Via	01/09/13	1 year	12/31/13	Via
Metropolitan Richmond Air Quality Committee	Board Elec Off	Elton	Wade	01/09/13	1 year	12/31/13	Wade
Parks and Recreation Advisory Commission	Board	Sean	Davis	01/25/12	4 years	12/31/15	Davis
Parks and Recreation Advisory Commission	Board	Elton	Wade	01/25/12	4 years	12/31/15	Via
Richmond Area Metropolitan Planning Organization Board	Board	Sean	Davis	01/25/12	2 years	12/31/13	Davis
Richmond Area Metropolitan Planning Organization Board	Board-Alternate	Angela	Kelly-Wiecek	01/25/12	2 years	12/31/13	Kelly-Wiecek

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Richmond Area Metropolitan Planning Organization Board	Board	Canova	Peterson	01/25/12	2 years	12/31/13	Peterson
Richmond Metro Convention and Visitors Bureau	Board	G. E. "Ed"	Via	01/25/12	2 years	12/31/13	Via
Richmond Regional Planning District Commission	Board	Sean	Davis	01/25/12	4 years	12/31/15	Davis
Richmond Regional Planning District Commission	Board (Exec Committee Rep)	Angela	Kelly-Wiecek	01/25/12	4 Years	12/31/15	Kelly-Wiecek
Richmond Regional Planning District Commission	Board	Canova	Peterson	01/25/12	4 Years	12/31/15	Peterson
Roads Committee	Board	Wayne	Hazzard	01/25/12	4 years	12/31/15	Hazzard
Roads Committee	Board	Canova	Peterson	01/25/12	4 years	12/31/15	Peterson
Rules Committee	Board	Sean	Davis	01/09/13	1 year	12/31/13	Davis
Rules Committee	Board	Canova	Peterson	01/09/13	1 year	12/31/13	Peterson
Rules Committee	Board Committee Chair	G. E. 'Ed'	Via	01/09/13	1 year	12/31/13	Via
Safety and Security Committee	Board	Sean	Davis	01/09/13	1 year	12/31/13	Davis
Safety and Security Committee	Board	Angela	Kelly-Wiecek	01/09/13	1 year	12/31/13	Kelly-Wiecek
Safety and Security Committee	Board Committee Chair	Aubrey	Stanley	01/09/13	1 year	12/31/13	Stanley
Safety and Security Committee	Board Alternate	Elton	Wade	01/09/13	1 year	12/31/13	Wade
Social Services Advisory Board	Board	G. E. 'Ed'	Via	01/25/12	4 years	12/31/15	Via
Sports Backers	Board	Angela	Kelly-Wiecek	01/08/14	1 year	12/31/14	Kelly-Wiecek

Vote:

W. Canova Peterson
 Sean M. Davis
 Wayne T. Hazzard
 Angela Kelly-Wiecek
 Aubrey M. Stanley
 G. E. Via, III
 Elton J. Wade, Sr.

Aye
 Aye
 Aye
 Aye
 Aye
 Aye
 Aye

Motion approved.

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F. Consideration of Re-adoption of Board of Supervisors' Standing Rules and Procedures (with amendments)

Mr. Davis explained that the Board has a standing rules committee seeking input from the public by the Board members. There were a few amendments on those and they have been published.

Mr. Via made a **MOTION** that the Hanover County Board of Supervisors approve the re-adoption of the Board's standing rules and procedures (with amendments). (A copy is filed with the Board's papers.)

Mr. Hazzard **SECONDED**.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

VI. Presentation – Comprehensive Services Act (CSA) – Mr. Taylor

Board Sheet Background:

As a follow up to the presentation of the Human Services annual report, additional information will be provided on the Comprehensive Services Act (CSA). CSA is a Virginia law enacted in 1993 designed to help at-risk youth and their families. It represents a single state pool of funds (State and local) managed by interagency teams which plan and oversee services.

In FY13, 105 youth were served through this program in Hanover County. The youth fall into two main categories: Private Day services (Autism, severe developmental delays, and serious behavior problems) and Foster Care services.

The presentation will provide more background information and describe goals of the program.

Mr. James Taylor, Deputy County Administrator, congratulated Mr. Davis, Mr. Hazzard as the newly elected Chairman and Vice Chairman and Mr. Peterson for his service as Chairman

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last year. In December he provided an update on the Human Services Annual Report and there were some questions at that time about the Comprehensive Services Act (CSA); therefore, this presentation is to provide additional information on CSA. CSA is a law that was enacted in Virginia in 1993 designed to help at-risk youth and their families through the collaboration of the community, parents, youth, state and local agencies, and public and private sector providers.

He was not employed by the County in 1993 but it is his impression that there were kids being served by many different groups and the idea behind this law is that it would pull together one comprehensive team to look at the services that were needed for those kids and to manage that kind of in a central pool of funds. The Code Reference is Section 2.2 - 5211 State Pool of Funds; *The General Assembly and the governing body of each county and city shall annually appropriate such sums of money as shall be sufficient to (i) provide special education services and foster care services for children and youth...and (ii) meet relevant federal mandates for the provision of these services.*

Mr. Taylor stated that CSA has a State Executive Council (SEC) which is a supervisory body responsible for programmatic and fiscal policies that support CSA.

Leaders on this Council include folks from State Government, General Assembly, Local Government and the private sector with parent representatives.

William Hazel, Sec of Health & Human Resources	Jim Stewart, Behavioral Health & Dev. Services
Karin Addison, Dep. Secretary Education	Cynthia Jones, Dept. of Medical Assistance Svc.
Richard Bell, House of Delegates	Martin Nohe, Prince William Board of Supervisor
Mary Bunting, City Manager Hampton	Pat O'Bannon, Henrico Board of Supervisors
John Edwards, Virginia Senate	Joseph Paxton, Rockingham Co. Administrator
John Eisenberg, VA. Dept. of Education	Greg Peters, UMFS
Michael Farley, Elk Hill	Cynthia Romero, State Health Commissioner

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Mark Gooch, Dept. of Juvenile Justice	Margaret Schultze, VA. Dept. Social Services
Lelia Hopper, Court Improvement Program	Parent Representative

There are two categories where the youth are served through CSA:

Mandated includes Foster Care; Foster Care Prevention; Special Education – Private Day Care; Special Education – Other.

Non-Mandated includes Court involvement.

The Goals of CSA:

- Keep kids at home with their families.
- If a child must be removed, then the goal would be to place them in the least restrictive environment in the community.
 - Keep family engaged
 - Ensure permanent connections in community
 - Return home
- Protect welfare of kids and safety of the public
- Increase interagency collaboration
- Provide community flexibility in the use of funds and to make them accountable

Interagency Teams: Made up of representatives from the Health Department, Schools, Social Services, Community Services Board, Courts, Private Providers, and Parent Representatives.

How the process works: There is FAPT (Family Assessment & Planning Team) and CPMT (Community Policy & Management Team). FAPT meets once a week and reviews these cases and makes recommendations in terms of what services are needed for the child. It is facilitated by CSA Coordinator, Hope Hodgson. CPMT deals with policy issues and authorizes the funding for those requests. This group meets two times a month. It is chaired by him [Mr. Taylor] and it involves the directors from all the different interagency teams mentioned earlier.

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Mandated verses Non-Mandated Types of Services:

Mandated services deals with eligibility within the category; all other funding sources must be exhausted; the FY13 Budget = \$5,275,734; there are State and Local matching funds; and Sum Sufficient Funding which means the County has to provide whatever funding is necessary in order to provide the services.

Mr. Hazzard asked for examples of mandated services.

Mr. Taylor replied that mandated services would apply if a youth is no longer eligible to be served in the public school setting and has been removed from school and placed in a private day school, or where a child has been removed from their family by Social Services and has to be placed in a foster family.

Non-Mandated are mostly Court Services children that has eligibility within a category; other funding options may be available but limited; FY13 Budget= \$84,600; there is State and Local matching funds; and Limited funding; additional funds would be local only. The bulk of what Hanover does is mandated services.

Comparison of Expenses:

	State Funds	Local Funds	Recoveries	Total Funds
FY 13	\$2.5 million	\$2.1 million	\$0.1 million	\$4.7 million
FY 12	\$3.1 million	\$2.4 million	\$0.1 million	\$5.6 million

Mr. Taylor said every request for funding is reviewed by the team and has to be approved and they take reviewing these requests very seriously. As Chairman of the CPMT he liked to place himself in the position of an average citizen to think what they would think about the request for this service and would they think that would be necessary.

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Expenses by Category:

	% of Expenses FY11	% of Expenses FY12	% of Expenses FY13
Congregate Care	15%	16%	31%
TFC/Family FC	20%	17%	11%
Community-Based Services	11%	14%	15%
Private Day Education	42%	42%	41%
Wrap-around w/disabilities	0%	2%	1%
Non-Mandated	2%	1%	1%

Mr. Taylor – this is a break-down by category of expenses. The bulk of the expenses are Private Day Education in FY13, 41% and Congregate Care (i.e. group homes or residential services) in FY13 is 31%; TFC/Family Foster Care is 11%; Community-Based Services (Counseling or mentors) is 15%.

	Hanover	Spotsylvania	Stafford
Residential Care Includes Education	17%	29%	20%
Group Home	13%	3.5%	0%
Independent Living (IL) Arrangement	.4%	.03%	0%
IL Stipend	0%	.4%	.2%
TFC	11%	24%	0%
Family FC	1.5%	3.3%	7%
Community-Based Services	15%	4.4%	5%
Private Day Education Services	41%	35%	65%
Wrap-around w/disabilities	1.5%	.5%	1.5%

Mr. Taylor in comparing Hanover to some of our peers they are all different. Spotsylvania and Stafford are similar in size to Hanover; however, for instance Spotsylvania has a high component for Residential Care compared to Hanover's 17%, and Hanover has a high component in Group Homes at 13% and the other localities do not have much of their expenses there.

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Mrs. Kelly-Wiecek questioned the difference between residential care and group home is institutional verses small community based; literally homes and neighborhoods.

Mr. Taylor replied correct.

Mrs. Hodgson from the audience, said an example of a residential care would be places that are a locked residential facility, with a larger staff, and more supervision.

Mr. Taylor said a more institutional treatment type of center. A group home also has some of those components to it but it is not an institution it is a home.

Peer Comparison:

FY13	Expenses
Hanover	\$4,411,108
Spotsylvania	\$6,834,680
Stafford	\$4,671,183

(Based on end of year reports to Office of Comprehensive Services and do not account for any payments made after June 30).

Mr. Taylor said this is a comparison slide. This is all the expenses that were compared to Spotsylvania and Stafford. Those counties are also spending a lot of money on these services.

Mr. Taylor said in gender comparison most of the children that are served are boys. He introduced Hope Hodgson to give some examples, case studies, and success stories.

Mrs. Hodgson, CSA Coordinator advised that she would like to share a couple of cases that have occurred within the past. She said the particular cases she would be talking about are recent and involve young girls. A 16 year old young lady, who had been in detention at Marimac and on probation, came through FAPT for CSA funding and received in home services. First she went into foster care prevention and got in-home and mentoring services after she came through the court system to us. While she was in our care, the only parent she had was her dad and he passed away. She had no real solid extended family so with the lack of support from her family the services that we put in place really helped her to be stable. She had been using drugs and

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alcohol, not attending school and now she is with some relatives that were found and connected with her and she is drug and alcohol free, attending school every day, she is coming off probation and doing really well. It is very clear that the services she had through FAPT got her to where she needed to be.

Another young lady who was served through FDNS, FAPT determined the need of services that is served through case management with the CSB. This young lady is now 17 and the day we got the call she had jumped out of a car on the highway. Her mom was frantic and they really needed help. She had been injuring herself and made suicide attempts. After a multi-mental health diagnosis and hospitalizations, she had residential treatment then group home treatment with private day school. She went back to her family who was in an upheaval at the time. The parents got divorced and the dad ended up taking custody of all the children and with the services in place she is much healthier, she holds her head up, has left private day school and is now in public school and services are decreasing. So, she is doing really well. It was approximately a four year period from the time that she came into care. So, a lot of things happened in her life, but it is clearly a success for her.

Another young lady also served through the FDNS program. She was also cutting herself and had suicide attempts. She came into care in the spring of 2012. She spent some time in a locked residential and also in private day school. Now, she is back in public school doing really well, has amazing coping skills and is actually working with a group where she is helping kids who have other mental health issues.

Another young lady who is currently in care is 15 years old and has a lot of mental health issues. She is in foster care. She was hospitalized and brought back from locked residential to her home with very intensive “wrap-around” services in the home. Started out at 120 hours a

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week, which really only lasted about a week, and within approximately 1.5 months was decreased to 10 hours of home based services and mentoring. She is doing really well and her family has developed some really strong parenting skills. Before she was in the hospital she was sneaking out at night doing a lot of dangerous behaviors.

Another young lady who entered foster care in 2010 had a history of suicide attempts, hospitalizations, lots of mental health issues and now she is completing college courses. She goes to individual counseling weekly. She has a full time job that she has held for over a year and is a supervisor at her job. She is leaving on a mission trip to Africa and the only service we are providing for her right now is what they call an independent living site where she is living in her own apartment.

Mrs. Hodgson said in the past three years that she has been here they have had quite a few children adopted. Two little boys that had quite a few services and a lot was tried to really get their mom to engage in parenting. Everything they did failed and the foster family, an older couple, ended up adopting both boys and has done amazing work with them.

Another young child who got some really intense therapy and he was adopted. She said there have been quite a few younger children adopted since she has been here.

Mrs. Hodgson said those are some of the success stories that really stood out to her in the past year or so.

Mrs. Kelly-Wiecek replied that when Mrs. Hodgson talked about suicide attempts and a history of cutting themselves, it sounds like a number of these individuals are suffering and their families have been dealing with this for a while prior to this type of intervention. She asked if there is some sort of referral process after the first attempt. She did not understand the process of how individuals get that bad prior to some intervention.

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Mrs. Hodgson advised that in a number of case crises, calls are made or when a child goes into a hospital they may only stay for a short period of time. The hospital does an assessment and if after 3 days or 30 days their time might be maximized so the child is released because the hospital believes the child is safe to go home and there isn't really a lot of solid follow-up with services in place because a lot of insurances do not cover things like the home based counseling and in a lot of cases the parents may not know who to turn to. So, after multiple reaching out to hospitals or calling CSB for help the parents are finally connected with services and end up coming to see us.

Mrs. Kelly-Wiecek said certainly we could be more effective if intervention could happen earlier and perhaps before they get to the point where they have to be put into a private day school. If there is something that could have been done with some of the other services that we have Georgetown School or something along to those lines, prior to getting to this crisis point and the intervention is so intense.

Mrs. Hodgson advised that quite a few of our children do attend Georgetown and one of the things that connect with the schools is that we have started doing something that we have termed as Multi-Disciplinary Case Assessment Team (MDCAT). So, even if a youth is not clearly eligible for CSA anybody in the County who is concerned about the child or the family can bring the child's scenario and the issues to the FAPT team as a networking/brainstorming meeting and we will look at resources and the schools have started to really be able to look at what is happening in the classroom and maybe identify some things a little earlier before they end up being connected with other agencies.

Mr. Taylor added that a lot of the children are identified in the schools. Schools are a very important part of this process. The CSB to where they might be seen and referred through

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CSA. Also the parents are basically the ones who bring the situation to us and tell us they cannot deal with it anymore and they need help. He hoped that sharing some of these examples with them might shed a little more light about the types of situations that they have and the children that they are dealing with. He said a lot of these cases will “break your heart.” There are very sad situations. A lot of these children have developmental disabilities and a lot of them have a lot of trauma in their life whether it’s the death of a parent or what have you. So, they are trying to give these children what they need so they can get back on their feet. Some children come to them for only one service and we are done with them. Other children we will carry for years until they are 18 years old or in some cases even 21.

Mr. Davis thanked Mr. Taylor. He said they certainly appreciate Mrs. Hodgson, Ms. Crossen-Powell and Mrs. Sager for their service not only to Hanover but to those that they serve. He said they have always said “you serve those and help those who need service and help the most.” He said they are grateful for that and the families in Hanover are grateful as well.

VII. Transportation Update

Mr. Davis asked for the Transportation Update

Mr. Vidunas advised that VDOT is on the agenda first but they were running a little late, so he asked if it was okay he would present first.

Mr. Davis agreed that would be fine to have Road Projects Status first.

VII.B. Road Project Status Report – Mr. Vidunas

Board Sheet Background:

Joe Vidunas, Transportation Engineer, Department of Public Works, has updated the Road Project Status Report (filed with the Board’s packet) for the past quarter and will be prepared to address the Board regarding the status of all County road projects.

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Mr. Vidunas said it was a pleasure to provide this quarterly update on many varied road projects throughout the County.

1. U.S. Rt. 33/Rt. 54 Intersection (Realign intersection) – Completed. Final Inspection December 4, 2013.

Mr. Stanley thought the speed limit is a little fast and he had talked to Mr. Flagg about the area turning into the former Southern States that maybe there should be a bit of a turning lane.

Mr. Hazzard said it is overall a much improved area and there are not backups at 5:00 p.m.

Mr. Davis said this area has been one of the longest on-going and most polarizing of road projects in Hanover and he often travels that roadway. He said it seemed that both representatives who are served by that intersection have said their “peace” and he just wondered if that was one of Mr. Stanley’s first campaign promises when he first ran for Supervisor.

Mr. Stanley said yes, either to get it fixed or not fixed. It has been on-going for some time now but the conclusion is very good.

2. U.S. Rt. 360 (Bridge replacement over Chickahominy river) – Construction phase. VDOT has undertaken to replace the four bridges on U.S. Rt. 360. VDOT is beginning work on the foundation on the center portion of the bridge. Work started in June and will be going on for some time.
3. Georgetown Rd. Bridge & Approaches (Replace bridge over Crump Creek) – Pre-Construction phase. During his last update he indicated that this project had been “dead” and awarded to English Construction Contractors. Work is scheduled to begin approximately mid-February.

Mr. Davis said he had spoken with the Sheriff’s Office about this project because we want to make sure they are familiar with the on-going progress especially the number days prior to construction so they will be aware that there will be some traffic diversion. He asked Mr. Vidunas to make sure the Sheriff’s Office is fully aware of when it begins.

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Mr. Vidunas said yes sir.

4. Sliding Hill Rd. / Air Park Run Intersection Improvements (add left-turn lane) – Advertisement phase for bids, which are due by January 24, 2014; if they get acceptable bids breaking ground is anticipated in early March, with construction extending through August.
5. Pole Green Rd. / Rural Point Rd Intersection Improvements (Add turn lane & safety improvements) Project set to go to bid January 19, 2014; look to begin construction latter part of March and extending through August.
6. U.S. Rt. 360 & Elm Drive (Safety improvement) VDOT should be wrapping up right-of-way acquisition phase and have established a May 2014 advertisement date.
7. Pole Green Rd. / Walnut Grove Road Intersection (Add turn lanes & safety improvements) – Preliminary Right-of-way acquisition phase; anticipate extending offers to property owners soon.
8. Atlee Rd. / U.S. Rt. 301 intersection (add dual left & right turn lanes on Atlee Road) – Close to concluding right-of-way acquisitions. There are eleven different property owners they have been working with. Have come to an agreement with nine, an attentive agreement with another, and this evening there is a public hearing to address the remaining parcel. They are optimistic that they will soon be able to clear the right-of-way, which will allow them to move to the next stage of the project which will be the utility adjustments and once that is taken care of, they will advertise the project for construction.

Mr. Peterson said while they are talking about the Atlee Road interchange he wished to bring up something he has not brought up before even in the Roads Committee. Starting on Atlee Road from U.S. Route 301 south all the way to the Lee-Davis and Walnut Grove Intersection there is a constant change in speed limits. He asked if they would look into the speed limits along this stretch and get a consistency of perhaps 40 MPH throughout that entire stretch because it is quite confusing right now.

Mr. Vidunas said that is certainly something they can address with VDOT. Ultimately the speed limits are determined by the VDOT traffic engineers after they review the corridor or whatever area is being considered. But he would bring this to their attention and let the Board know of their findings.

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Mr. Peterson said he would appreciate that because he has had several people mention to him that this is a very confusing stretch regarding the speed limit.

9. Taylorsville Rd. Bridge & Approaches (Bridge over Little River) – Right-of-way acquisition phase. VDOT has targeted an August advertisement date.
10. Atlee Rd. Extension (Extend Atlee Rd. 0.4 miles to Atlee Station Road) – Preliminary Right-of-way acquisition phase; approximately 28 parcels needed to be acquired for the project. They are wrapping up appraisals. They have not presented offers to property owners yet, but anticipate doing that soon. The design is being revised to provide access to the Keeton and Hayes parcels via a bridge underpass on Atlee Road extended. State law requires that the existing crossing on Cool Spring Road be removed, necessitating this change.

(Looking at the map during the presentation – filed in Board’s packets)

Mrs. Kelly-Wiecek asked if he was saying that “hatched area” that goes under Atlee Road Extended from the original Cool Spring Road is going to go under the flyover.

Mr. Vidunas replied that it is going to go under the Extended Atlee Road section.

Mrs. Kelly-Wiecek asked what the “red hatched” area was.

Mr. Vidunas replied that the “red hatched” area is going to eliminate the existing pavement and the existing crossing.

Mrs. Kelly-Wiecek asked if that has been communicated to the storage business owners to the left.

Mr. Vidunas replied that it has not been discussed with any of the adjacent property owners at this point. They recently conferred with VDOT, the bridge section, traffic engineers, VDOT’s Location and Design section and the consensus among the group was that this was the best practical approach to providing access to those properties given the guidance that they had to eliminate that existing crossing.

Mrs. Kelly-Wiecek said so Cool Spring Road will be moved northeast.

Mr. Vidunas replied correct.

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There was general discussion between Mrs. Kelly-Wiecek and Mr. Vidunas regarding some roads on the map for New Cool Spring Road.

Mrs. Kelly-Wiecek said as a reminder before they start issuing offers, she wanted to have another conversation with him so she will be able to answer questions the citizens will have.

11. U.S. Rt. 360 (I-295 to Wynbrook Ln.) (Widen to 8 & 6 lanes) Right-of-way acquisition complete; utility relocation phase. Holding a September advertisement date.
12. U.S. Rt. 360 (Bell Creek Rd. Intersection) (Realign intersection & add turn lanes) Working towards right-of-way plans phase; phase 3 is a historic project that has been on hold indefinitely and will remain so until any funding is ever found for that \$30M project.
13. Lewistown Rd. Bridge & Approaches (Replace & widen bridge over I-95) – VDOT is actively engaged in the right-of-acquisition on this particular project. The County is working very closely with VDOT on an exchange agreement that will exchange some County owned property that is needed for the roadway improvements in exchange some property to be acquired by VDOT as a result of the project. We would anticipate in coming to you very soon with an exchange agreement for your consideration that will allow that to happen.

Mr. Vidunas said the next two projects (Cedar Ln. and Ashland Rd. shoulder wedge) have now been combined. Not certain that they will be advertised as two separate projects but VDOT is developing them simultaneously to be advertised in December of this year.

14. Cedar Ln. Shoulder Wedge (Rt. 1 to Ashland Rd)
15. Ashland Rd. Shoulder Wedge (Ashcake Rd. to Pouncy Tract Rd)
16. Greenwood Rd. Bridge & Approaches (Replace bridge over Chickahominy River) – Early design stages. Looking at a January 2015 advertisement date.
17. Cedar Ln. / U.S. Rt. 1 intersection (realign Cedar Ln. & add turn lanes).

Mr. Vidunas explained that last month they wrapped up meetings with various adjacent property owners. They sent invitations to all property owners to sit down with them to discuss the concepts for the improvement that they planned. He reviewed a map of the concept that they

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would like to go forward with. He noted that they will be maintaining the current access on Cedar Lane to U.S. Route 1 but will be eliminating left turns because of the new raised median. The red lines (on the map) are symbolic of traffic signal which they have received VDOT approval for. The conversations they had with property owners were very helpful and they got some very good input. He believed that by in-large the owners were appreciative of having the opportunity to comment on the project at such an early stage.

18. U.S. Rt. 33 / Ashland Rd. Intersection (Widen intersection – add turn lanes) – at this point VDOT does not believe any of the businesses will be adversely impacted in the sense of being taken as a result of this. In terms of the lane on the south leg we are proposing a left, a through and a right and then on the other three legs you will notice a combined through and right and a separate left turn lane. We have asked VDOT to possibly shift Ashland Rd. a little to the south to provide more spacing between Stanley Store and the roadway.

Mr. Hazzard said looks like you are talking about going north that has all three lanes in it.

Mr. Vidunas replied yes, north is correct, not south.

19. Creighton Rd. / Cold Harbor Rd. Intersection (Widen intersection – add turn lanes) – Preliminary right-of-way acquisition phase.

20. U.S. Rt. 360 (Lee-Davis Rd. Intersection (Widen intersection-add turn lanes) In Design phase. On-hold pending execution of project administration agreements.

21. Rt. 301 Bridge & Approaches (Replace Bridge over Mechumps Creek) Pre-Design phase. On-hold – insufficient funding.

22. Cool Spring Rd. Shoulder Wedge (New Ashcake Rd. to 1.0 Mi. S. of New Ashcake Road) Pre-Design phase. On-hold – insufficient funding.

23. E. Patrick Henry Rd. / Woodside Ln. Intersection (Add turn lanes) Pre-Design phase. Design to begin upon execution of project administration agreements.

Mr. Vidunas said the next three are basically the same report. They are in the process of finalizing County / State agreements with VDOT. There were submitted agreements on each project.

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24. Studley Rd. / Rural Point Rd. Intersection (Roundabout) – Pre-Design phase. Design to begin upon execution of project administration agreements.
25. Sliding Hill Rd. (Widen to 4 lanes) – Pre-Design. Design to begin upon execution of project administration agreements.
26. Beaver Dam Rd. Bridge & Approaches (Replace bridge over Newfound River) – Pre-Design phase. On-hold – insufficient funding.
27. Spring Rd. Bridge & Approaches (Replace bridge over South Anna River) – Pre-Design phase. On-hold – insufficient funding.
28. U. S. Rt. 360 (Lee-Davis Rd. to Walnut Grove Rd.) (Widen to 6 lanes) – Design phase – On-hold – insufficient funding.

Mr. Davis opened the floor for questions or comments from the Board Members.

Mr. Via asked where they are with the Airpark Road intersection project.

Mr. Vidunas advised that the Sliding Hill / Airpark Road are currently out to advertisement for bids. Bids will be received later this month and they anticipate beginning construction in early March.

Mr. Via said he had received several telephone calls from citizens regarding turning right out of the Airpark, with the stone washing away from the shoulder of the road. He realized this will be a project that is imminent. VDOT came by and put some stone in that ditch line but when people take a right out of there the stones wash right down into the ditch. He did not know if there is anything they can do about that but he is continually getting calls about it especially now that they have a new trucking company coming in and out of the Fed Ex.

Mr. Vidunas said yes, and they will pass that on to VDOT.

Mrs. Kelly-Wiecek said she would like to take this opportunity to confirm that she has had a number of people ask her when the new apartments are going up there at that intersection because there is an area being cleared and she would simply like to go on record as saying there are no apartment buildings approved for that land. The land is just being timbered.

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Mr. Davis asked if anybody was there from VDOT.

Mr. Vidunas answered yes, Marshall Winn is present.

VII. A. Highway Matters – Mr. Winn

Board Sheet Background:

A representative of the Virginia Department of Transportation's (VDOT) Ashland Residency will be available to address the Board concerning highway related matters. The attached report (filed in Board's packet) summarizes maintenance and other activities recently performed by VDOT throughout the County.

Mr. Marshall Winn, from VDOT, said in the western part of Hanover, in the Montpelier area they had cleaned up a lot of tree debris and intersection cut back at Tyler Station (Rt. 738) for Mr. Stanley and they will try to keep that an on-going thing. There is pavement and pothole repair on Ashland Road, Mountain Road and Stone Horse Creek Road. In the Mechanicsville area, pothole repair on Pole Green Road, Lee Avenue, Bell Creek Road, Shady Grove Road, Lee-Davis Road, Richfood Road and several others; shoulder repairs in S. Mayfield Road, Ellerson road, Old Richfood Road, Meadow Bridge Road, Westhaven Road and Silkwood Road; Tree Removal/Vegetation Control: Lee Avenue, Atlee Road, Chamberlayne Road. Shoulder Repairs: Atlee Road, Shady Grove Road, Pole Green Road, Mayfield Drive, Ellerson Road, Old Richfood Road and Meadow Bridge Road. Surface Treatment: Service Road off of Old Business on U.S. Route 360, where they replaced a pipe this past summer. Elko Maintenance Area (basically Old Church and eastern part of Hanover): They had to do erosion control on the slopes where they replaced the pipe on both slops there, which has been completed and the road is open. Removed leaves from ditches: basically in subdivisions throughout the eastern part of

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Hanover. Have done litter pickup and continue to do litter control and so forth throughout the County.

Mr. Winn stated that at the last Board meeting they talked about some of the pavement items they were going to do, fortunately they got some of that done: County Complex paved, the road going into the dump at Courtland Farm, Beechwood Farms, Blue Star Estates and then due to temperature constraints they had to stop paving, which unfortunately that left quite a few roads out that were initially to be paved. They will complete the rest of those routes in the month of April. One being Pole Green right at Pole Green Elementary School, and Brandy Creek the main road coming off U.S. Route 360 and Brookingway, paving from Cold Harbor Road to the end of the road. The other road is on Crown Hill at the subdivision road.

U.S. Route 33 and U.S. Route 54 Intersection Relocation completed; continuing work on U.S. Route 360 bridges at the Hanover-Henrico line. Route 634, Beatties Mill Road replaced pipe culverts-completed. Route 620, replaced drainage structure - completed.

Unfortunately, there are two roads closed right now: Route 605 – River Road and Route 615 - Williamsville Road. That contractor has the pipe installed and the head wall installed on River Road but with all the bad weather water is still being pumped, as well as with Williamsville Road which is scheduled to be open at the end of January – weather permitting. River Road – if they can get everything pumped down and the back fill done they can probably do it in a couple of weeks if weather permits and hopefully that road will be open in a couple of weeks. Traffic Engineering Studies: began speed limit study on Bell Creek Road from U.S. Route 360 to Alpen Road – anticipation completion - end of January 2014. Safety Review done at U.S. Route 54 and Route 671 (Scotchtown Road) anticipate completion - end of January 2014. Completed evaluation and recommended installation of “Do Not Stop on Tracks” sign along

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Cedar Road at the Railroad Crossing. Began a speed study for 45 mph zone on Verdi Lane - Anticipate completion - February 2014; Evaluation done at Verdon Road and Teman Road it is being completed and stop signs have been installed at the Railroad tracks and installed a “Be Alert New Traffic Pattern” sign up.

Permits: reviewed 21 plans; Issued 13 permits and most of those permits were basically cable TV, Verizon type stuff and Virginia Natural Gas.

Mrs. Kelly-Wiecek asked if they had responded to a constituent concern about some equipment being parked in their subdivision while they were repaving Beechwood Farms and the heavy equipment was crumbling the shoulders and creating a disturbance in that neighborhood. She asked what eventually happened with that and also what is the policy regarding the parking of heavy equipment when a neighborhood is being paved.

Mr. Winn said he did not get involved with this situation until they were really far into the paving of that subdivision. He believed that the neighborhood was a convenient spot for the contractor to park and there is a VDOT inspector with them. He told that person from now on they need to look at a better place to park their equipment. They will be repairing the shoulder and any damages they did to the shoulder or entrances of that neighborhood.

Mr. Hazzard advised that he wanted to make everyone aware of the cooperation they get from Mr. Winn. He explained that he called him one day when he was leaving the industrial park and there was a pothole at the end of the road and he asked Mr. Winn the next time he had an asphalt truck available would he get them to patch those potholes. He said he went out for about an hour and when he came back that pothole was fixed. He thanked Mr. Winn for his prompt response in all of these things.

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Mr. Peterson echoed Mr. Hazzard's comments. They have had some problems with a box culvert under Bell Creek Road where Home Depot and Martin's is located, and every time he has called Mr. Winn he has been right there "Johnny on the spot" even when it was the beavers that was causing the problems he was there immediately to discover what the problem was. He really appreciated that. He spoke to Mr. Vidunas earlier about questions he had on Atlee Road regarding the speed limits and he asked Mr. Winn to take a look at that. Regarding the road paving he has gotten quite a few calls from folks in Spring Meadows Subdivision and those roads have not had any attention in a quite a while. He asked if he had any idea when that will be coming up within his scheduled maintenance for paving.

Mr. Winn said he believed that project is coming this summer but he would have to verify that. He asked if he was talking about both sides of the roads in Spring Meadows.

Mr. Peterson answered yes.

Mr. Winn reiterated that he was reasonably sure it is on this coming year's schedule. The remainder of Battlefield Green is on the schedule as well. But he would verify it and get back with him.

Mr. Peterson appreciated that.

Mr. Stanley agreed said he was glad the other Board members talked about how responsive Marshall is when you call him because he is very cooperative with him as well. On Scotchtown Road (671) and U.S. Route 54 a citizen requested a look into the safety issue there.

Mr. Winn said he believed they went out there and cut back a little bit more looking west coming from Scotchtown way. Because there is a utility easement there and grass has grown up there and in the right-of-way they did a lot of trimming in there.

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Mr. Stanley appreciated that. Also, at Verdon and Teman Road, he was there yesterday and VDOT was putting up signs. He believed that will address some of the issues coming up from Verdon because it is a blind spot there. “If we all would do things we are supposed to and drive slow it would never happen anyway” but some people do drive through there pretty fast. He said VDOT has done some very good things. He again thanked Mr. Winn for the work done at Teman and Tyler Station. He said citizens have responded to him and said they did a good job.

Mr. Winn advised they want to trim a little more of the sweet gum trees back to the fence line where that pond is if they can find out who the owner is of the pond.

Mr. Stanley said Mr. Mills owns that pond.

Mr. Winn believed cutting those trees back would eliminate all the sight distance problems.

Mr. Stanley agreed that sight distance is a real issue.

Mr. Davis stated he has been very pleased with VDOT, and their spirit of cooperation and actually getting things done. He said he had asked Mr. Vidunas about River Road and Williamsville Road and they know there have been some delays. He asked if the contractor is being charged with delays due to the weather issues and their inability to complete the job.

Mr. Winn explained that with this contract the contractor was supposed to do Pouncy Tract, Beatties Mill, 605 and 615 and have it all done by December 12th. From that point on they are getting liquidated damages of \$690 a day. No matter how long it takes.

Mr. Davis said for the record we certainly care about normal traffic, school buses and those types of things but that area as you well know is an economic area for our farmers and everything else and they are moving constantly down there so it provides some exasperated

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situations. He said the last thing he wanted to say was that he and Mr. Peterson needed an update on the pedestrian cross-walk at Lee-Davis High School and asked to have it within a week or two.

Mr. Winn stated they added some curb cuts and everything.

Mr. Davis answered that looks good but there were some citizen concerns that he had shared with Mr. Vidunas on how some things were going to be done and there were some additional things coming up and he thought they needed get that update so he could send out some type of correspondence to the folks that are asking.

Mr. Winn agreed.

Mr. Davis thanked him.

VIII. Authorization to Advertise Public Hearing – Department of Public Works – Ordinance No. 13-16, Amendments to the Hanover County Drainage Design Handbook – Mr. Flagg

Board Sheet Background:

The Drainage Design Handbook was first adopted in 1988 and minor revisions were approved in 2008. In January 2011, the manual was revised significantly to adapt to changes in regulatory standards, design standards, County ordinances, and County policies concerning drainage improvements. The Handbook was originally drafted by a citizen committee and has served Hanover County well for over 25 years.

Virginia Stormwater Regulations require Virginia Stormwater Management Program authorities such as Hanover County to adopt either the methodology set forth in the regulations for stream channel protection (“Energy Balance”), or an alternative methodology that is demonstrated to achieve equivalent results to the Energy Balance methodology. The Department of Public Works (DPW) retained Williamsburg Environmental Group, Inc. to perform a study comparing the Energy Balance methodology with the County’s proposed alternative methodology (“Permissible Velocity”) (Study Attached). The study demonstrated that the Permissible Velocity approach achieves equivalent results to the Energy Balance methodology, and in some cases is even more protective of stream channels encountered in Hanover County. DPW proposes the revisions to the Drainage Design Handbook to establish the Permissible Velocity methodology as the stream protection criteria for Hanover County’s Stormwater Program. The criteria must be approved by the Virginia Water Control Board upon adoption. A black-lined edit of the changes to the Handbook is attached. (Filed in Board’s Packet).

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The development community has been informed of the Department's plans to update the Handbook through the County's Quarterly Development Community meetings.

The Public Works Department recommends authorization of a public hearing on the Ordinance adopting the revised Handbook.

Drainage Design Handbook Establishes Standards for Design:

- **Erosion & Sediment Control**
- **Chesapeake Bay Preservation**
- **Virginia Stormwater Management Program (VSMP)**
- **Construction General Permit VSMP Implementation**
- **Municipal Separate Storm Sewer System (MS4) General Permit (MCMs 4 & 5)**

Mr. Flagg, Director of Public Works, said he would be discussing authorization for a public hearing for our Hanover County Drainage Design Manual. He has spoken about this when they advertised a number of ordinances related to their stormwater program in the fall as pending. This particular action deals with their standards that they employ. This Drainage Handbook has been a special handbook for the County since 1988. A citizens' Committee helped draft it and it dealt with things that they have used for years about lot drainage, subdivisions, and special conditions that were important to Hanover and they have used it in that regard. He said they propose to use some of the practices they have employed for years to meet some of these new State Stormwater requirements as alternatives to the State Requirements. There are some "carve-outs" in those regulations that provide them with an opportunity and this is that purpose here, trying to use things they have done for years successfully as an alternative to criteria they have established in the State Regulations. It will help them comply with all these rules but in particular the states do not want a management program and that is why they are proceeding in this regard.

Mr. Davis left at 3:32:42 p.m.

Mr. Davis returned at 3:33:26 p.m.

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Mr. Flagg: Summary of Changes

- Updates references to ordinances
- Updates references to applicable design standards
- Clarify design requirements relating to permissible velocity for open man-made and natural channels
- Updates ‘Stormwater Management’ section IX to reference the “permissible velocity” approach as the local alternative to “energy balance” approach in the state regulation.

The summary in the changes in the Handbook are in the Board’s packet but some administrative things like updating references, and applicable design standards change with time. The focus here is dealing with a concept but it is permissible velocity. In looking at stream and design channels one of the things that have been important to them is will those channels erode and they use the term “permissible velocity.” “If you start running the water too fast, that channel will erode and that’s what this concept is about.” It is about establishing how much water it can take based on geomorphology of that stream channel. They have used this approach for many years in this particular handbook, in the back of the book is a table that lists permissible velocities for different soil types. It has worked successfully and they hope to continue using it.

The State has come out with an approach they refer to as “energy balance” but it really does not have anything to do with energy. When they deal with the regulations and channels, they have manmade channels, restored channels and natural channels. This particular criterion applies to an alternative for the natural channels and how we evaluate those. They are trying to avoid these types of infractions. These are examples of where they have had channels “blow-out” over time. Sometimes, they are exasperated by water moving too fast leaving developments. And then something like the hurricane Gastone comes along and “blows the world out.” But these are also a subject of this renowned TMDL, and where they have to go in and fix problems after the fact. So, they want to be very careful not to start the problems to

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begin with as developments are approved. That is the focus of this criterion - preventing problems before they occur.

Mr. Flagg reviewed the State's criterion for this energy balance formula in his presentation (filed in the Board's papers). It is really a relationship between post development, quantity of runoff, times of ratio of volume, pre-developed over volume developed, and he said he really did not know exactly what that means. It's a relationship that they have proposed but it's kind of non-intuitive. So, they took the time to study this in more detail to propose their criteria's alternative, because they have an option to put an equivalent or more protective standard forward if they deem appropriate. So, they used from their tables this permissible velocity approach and intuitively it's a little simpler to apply. They establish the soil types in a particular channel and pick a velocity that it should be able to withstand and then design against common sense and error approach. He said it is not always easy to comply with but it works.

Mr. Flagg advised that in this particular analysis and in the Board's packets there is a very comprehensive analysis, they procured Williamsburg Environmental Group to do an analysis to meet the State requirements. He said they suspected many of the things but this helped them confirm it in writing. In that analysis they used two storms: 1 and 2-year storms are different:

Table 5 23-Hour Precipitation for Hanover County, Virginia
(Virginia NRCS, 210-VI-EFH, Part 650, January 2008)

Return Event	Precipitation (Inches)	Distribution
1-year	2.71	Type II
2-year	3.28	Type II

Example channels – different types:

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Table 4 Receiving Channel Summary

Channel ID	Fortier and Scobey Description	AASHTO Classification	USCS Classification	Permissible Velocity (fps)
I	Sandy loam, non-colloidal	A2	SM	2.00
II	Graded loam to cobbles, non-colloidal	A1-b	SM	4.00

One-year storm 2.7” and a two-year storm 3.2”. These tend to be the storms they look at because these occur relatively frequently for things like stream channel erosion. They then analyzed two channels. One is a very sandy channel which tends to be very prevalent in Hanover; then a channel that is a little more graded or clay which can withstand a higher velocity. That is what is represented on the second channel. In Hanover they are very concerned with “sandy channels” and what the effects might be.

Table 6 Pre-Developed Hydrologic Input Summary:

Condition ID	Land Cover	% Impervious	Area (acres)	Soil HSG	GN	Tc (hours)
A	Woods good	0	30	C	70	0.6
B	Row crops good (SR+CR)	0	30	C	84	0.5
C	Residential district (2 acres)	12	30	C	77	0.5
D	Residential district (1 acres)	20	30	C	79	0.5
E	Residential district (1/4 acres)	38	30	C	83	0.4
F	Townhouses (1/8 acres)	65	30	C	90	0.3
G	Commercial and business	85	30	C	94	0.2

Mr. Flagg said the tables above represent two things: one the pre-development condition verses the post-development because in the State’s methodology they use this relationship between runoff volumes, pre-impost to “ratchet” down the post development flow in a prescriptive way. So, these were sort of the beginning conditions. A lot of their projects start

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out as woods, but there also are situations where it is an agricultural setting like row crops or it is already developed to some level, maybe one house to every 2 acres but that is a post development condition and it is higher than “woods.” And then move on to design towards a particular outcome post development.

Permissible Velocity verses Energy Balance

**Table 13 Routed Detention Basin Summary –
Receiving Stream I (permissible velocity = 2.00 fps)**

**Table 14 Routed Detention Basin Summary –
Receiving Stream II (permissible velocity = 4.00 fps)**

Mr. Flagg explained that he has used table 13 & 14 (filed in the Board’s Packet) to represent the difference between the two methodologies. The “Permissible Velocity” for the two-year storm with that sandy channel in the Hanover setting is good for two-feet per second. Q is for quantity of runoff and if the channel size is the sand the velocity goes up when the quantity goes up. So, where there is higher quantity numbers that velocity can be expected to be higher with the same channel. We are just looking at quantity but there is a relationship to the lots.

Mr. Flagg said in the case of “permissible velocity” they would be allowed to release 8.5 cubic feet per second, to sustain that channel and not erode it. Under “Energy Balance” is a range of permissible quantities of water that can be released and it varies with each of those development conditions because again the State is computing a runoff volume pre-impound and modifying the flow based on that. So, what starts to happen is some really strange things that concerned us (chart filed in Board’s Packet): 1) looking at woods in the first couple scenarios A-1 and A-2 they are essentially the same and we are going to end up at the same spot from a development standpoint. But in A-3 and A-4 with regard to Woods we are really overdesigning

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significantly to a tune of about double. So, the developer is being asked to do more than they need to do which is a direct relationship to expense. By the time we get to these other post-development scenarios like converting a crop deal, they are not doing nearly enough. In fact, scenario B-1, 2, 3, and 4 jump up significantly. So, we would expect to see discharge velocities that significantly exceed the permissible velocity. This will be a bad thing for Hanover because it will release water at a rate that will erode our channels. Therefore, we go in one setting from doing way more than is needed to another setting where not enough is being done. That does not make sense to us. We are looking towards a policy where we can focus on exactly what the channel situation is.

Mr. Davis said he understood if going to the Energy Balance approach in Q2 from A-4 to B-1 the significant jump and then obviously B-3 comes back down to a little more equalization, but he was not sure he understood from A-4 to B-1 what causes that significant jump there in Q2 cfs.

Mr. Flagg replied that it really comes back to the formula. Looking at that formula the change in scenario perimeter is the pre-development conditions. So, you go from woods in the A scenarios to the B scenarios are farm fields. Because that pre-development condition allowed more runoff you do a different level of adjustment with that fraction of runoff volume pre and runoff volume developed, and the difference in post development is smaller so the adjustment is smaller.

Mr. Hazzard said to help clarify the field already puts out more sustainable water because of its ability to drain than the woods. So, it does not require as much remediation for those as they do for the woods which by their standards already is not putting out a lot.

Mr. Flagg said that was correct.

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Mr. Hazzard said so then because you do not have to do as much you end up with more water coming off of the field once it is developed because the existing standards were higher than the woods when you started.

Mr. Flagg said correct, but the net result is a problem with that channel post development.

Mr. Hazzard said he understood but that is if they use their standard, but the way he is going about it is at the end of the day both will be developed very similarly so that the runoff will remain consistent from both sites.

Mr. Flagg replied yes. They are going to “ratchet down” and care about what that channel is.

Mr. Davis advised he recognized that there will be a difference but using the energy balance approach just seemed like things would go “through the roof.”

Mr. Flagg explained that is the root of their concern with the methodology and when looking at our conditions here in Hanover. He expected they will see changes statewide over time because folks are going to figure this out. For instance folks in Amherst County being required to go back to these extreme levels but they will be discharging into a rock channel, it will take all the water in the world and people are going to question why they are being with such an oppressive level of reduction. Counter to that you will see areas start to erode that we did not think should erode. Therefore, they will see two sides of the coin emerge and they are trying to avoid that with these particular criteria.

Mr. Flagg in Summary:

- Permissible Velocity approach focuses more on the channel characteristics and does not require over design or under design.
- Permissible Velocity approach should generally result in overall less cost but will be site and condition specific. (*forested sites*)

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- Permissible Velocity approach is more protective for the “community” and lowers the chance of problems that will have to be addressed through other mandates such as MS4, maintenance and other related problems.

Mr. Flagg advised they believe the permissible velocity approach focuses on the channel and that is what is important, they want to preserve that channel. In general he would submit it should result in overall less cost but you have to look at that across the whole spectrum. You will have sites that start out as woods and it will be cheaper for those, but sites that start out as row crops, it is going to be more expensive for them. Overall in the community they will be preserving the community to a higher level and not have those “sins of the past” to fix as readily either. He suggested that the Board will have to consider where we are more restrictive we are actually preventing problems that will end up costing us. And that is a point he would make in the adoption of the criteria.

Mr. Flagg said since they are talking about the drainage manual, he would note, it is not changing in the manual but it is also an alternate criteria they have used for flooding. There is an alternate criterion for flooding. The State automatically requires that post development not exceed the pre-development level for the 10-year storm. What has been important for years is that things that matter do not get flooded, like a house. Their goal is to make sure when subdivisions and homes are built the homes and crawl spaces are safe from flooding. And they work hard to do that and that is what this criterion has been about. They focus very intently when reviewing subdivision and plot plans on this 100-year storm for flooding. The yards can be flooded but it is important that the water does not go into the new homes and this is another criterion where they vary from the State rule. It has been in place for years so, they are grandfathered to continue with that approach and it is being submitted as part of their program application to have alternate criteria to the State’s base criteria.

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- Will continue to maintain existing alternate criteria for flooding as defined by the Handbook (Grandfathered).
- No automatic 10 year peak attenuation.
- Evaluate flooding for 100 year storm.

Mr. Peterson said the main amendments here are the permissible velocity verses the energy balance.

Mr. Flagg stated yes.

Mr. Peterson noted it was his understanding is that this has been vented with people in the engineering and development community.

Mr. Flagg said that was correct, and they have used these criteria for years, so the County is used to using it. The “tweaks” in the Manual are to conform to the Code Requirements and show it as an alternate; secondarily this was discussed at the quarterly developers meeting last fall. They did not disclose the specifics but they discussed the concepts so the Development Community would be aware that it was coming. He has personally sent it to a number of local engineering firms asked them if they had any concerns. And then the Board is aware they had discussed it on and off at the Community Development Committee level. All of this was done to make sure the Development Community was informed.

Mr. Peterson asked to look again at photographs Mr. Flagg had shown earlier, of the washed out stream channels. He said there are situations like this in a number of places in the County. And he knew they have the new regulations that the DPA is looking to put into effect this summer. He asked if there was anything they could fix now or do they have to wait until all this stuff comes in, or will this stuff count towards meeting our criteria.

Mr. Flagg answered they are working to make sure it counts. There is always an evolving set of rules changing but they try to stay on top of it and some of the Board Members

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are aware that they just applied for some grants to fix problems like these. It is their goal and intent to make sure they get credit for those repairs and he believed they will.

Mr. Peterson made a **MOTION** to advertise for public hearing Department of Public Works Ordinance 13-16, Amendments to the Hanover County Drainage Design Handbook,

Mr. Hazzard **SECONDED**.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G.E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

Mr. Davis asked for Mr. Rives' report. He noted that this is the first day that the General Assembly goes into session and how much they appreciate Mr. Rives work prior to this. He said it is important to note that the legislative committee led by Mrs. Kelly-Wiecek and Mr. Rives and those that work diligently on this and they appreciate all that they do.

IX. Legislative Committee Report and Overview of Proposed Legislative – Mr. Rives

Mr. Rives, County Attorney, advised that Mr. Walter, Assistant County Attorney is doing a great job of previewing all of bills that are being filed. As of this morning he reported that 1,100 House Bills and Resolutions have been filed, and 400 Senate Bills and Resolutions have been filed. Out of those Mr. Walter has identified 250 that are of particular interest to Hanover County.

Mr. Rives said the first item of business is to discuss the Legislative Committee's recommended additions to the Legislative Agenda and he requested the assistance of the Chair of the Legislative Committee and the members to discuss these items.

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Legislative Committee Report and Overview of Proposed Legislation

Legislative Committee of the Board of Supervisors met on December 19, 2013, and voted to recommend that the following items be added to the Board's Legislative Agenda for the 2014 Session of the General Assembly:

1. Support for a study by the Joint Legislative Audit and Review Commission (JLARC) of Medicaid-funded transportation services.

This pertains to the Department of Medical Assistance Services (DMAS) which oversees a State Contractor Transportation Services provided by Logisticare for persons with intellectual disabilities or mental illness.

There have been on-going problems with the performance of this contract in Hanover, but not just in Hanover. In Fairfax County they reported over 600 complaints in 2012 alone. As a result of those complaints Delegate Albo has introduced into the General Assembly HJ Resolution 40, calling for a JLARC study.

HJ 040 Study; JLARC; Medicaid-funded transportation services in the Commonwealth; report.

Patron: David B. Albo

Directs the Joint Legislative Audit and Review Commission (JLARC) to review the Commonwealth's contract with Logisticare for Medicaid-funded transportation services, identify remedies and alternatives available to the Commonwealth to resolve the issues surrounding Logisticare's questionable performance, and review the Department of Medical Assistance Service's oversight of the Commonwealth's contract with Logisticare. The resolution provides that the Commonwealth's contract with Logisticare not be renewed or extended prior to the completion of this study.

Mr. Rives noted that Mr. Davis serves on the Community Services Board and has been particularly interested in this topic and he invited him to add any comments.

Mr. Davis stated that it was certainly something that came up and they recognized it here in Hanover, not just from an efficiency standpoint but those who are served and last year through some interesting turn of events realized that CSB was in dire need of some assistance and he asked the CSB to commission a transportation study because of some things that had happened, without any knowledge that this was taking place in any other areas. Our transportation study revealed what was also happening in other localities so they brought it before the Legislative Committee. He thanked Mrs. Kelly-Wiecek, her committee and Mr. Rives for taking this on.

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This resolution provides that the Commonwealth's contract with Legisticare not be renewed or extended prior to the completion of this study. These are transportation needs for folks who are going to and from Medicaid funded services.

2. Opposition to any measures to create a regional transportation authority, whether that be an expanded or renamed Richmond Metropolitan Authority or other entity, which does not include all localities in the region having proportional representation.

Mr. Rives said the second item being reported from the Legislative Committee is one that Mrs. Kelly-Wiecek the Chair of the Committee, and also given her position on the RRPDC is particularly interested in. Delegate Loupassi has for several years now tried to restructure representation on the RMA, which included only representatives from Henrico, Richmond and Chesterfield. This year Delegate Loupassi introduced a bill that not only changes the representation on the RMA but changes the name to the Richmond Regional Transportation Authority. It still includes only those three jurisdictions; however, and the concern is when and if the Richmond Region reaches the population and vehicle registration thresholds set forth in State Law to become a Regional Taxing Authority that it may be the RMA that is designated to do that.

Mrs. Kelly-Wiecek emphasized that the reason they are talking about an additional three items here is because there is a great deal of activity at this time of year with bills that are being filed and they are keeping a "keen eye" out for those items that are going to have a greater impact to the citizens of Hanover County. This one came to us partially through the MPO and we are concerned because the transportation bill that was passed last year sets in place certain benchmarks that would indeed add to a sales tax rate once our Metropolitan area reaches a certain level of population. All of the nine jurisdictions that are defined as the Richmond region including Hanover would then be subject to additional sales tax and if any organization is

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designated as a transportation authority they must have representation from all nine jurisdictions; otherwise, we are clearly looking at taxation without representation, and that is not something we are interested in for Hanover County. For that reason they will be active in monitoring this and opposing anything that does not include propositional representation. She encouraged all of her fellow Board members to use whatever contacts they have to assist in this regard.

Mr. Peterson stated that the PDC has not taken a position on this at all and that is largely because the PDC has taken the positions only on things that everybody agreed on and for that reason it is his understanding that most of the jurisdictions are considering a similar legislative addition within the district we have here.

Mrs. Kelly-Wiecek asked Mr. Peterson as one of our members on the MPO, to speak to any of the discussions going on at the MPO. This organization that is represented by all nine localities.

Mr. Peterson explained that the MPO is basically a “sister” organization with the PDC with many of the same members. He sits on both Boards and their discussions in the MPO simultaneously have been looking at making the MPO more of a planning issue because it does have representation of all nine jurisdictions. There has been discussions in the MPO where they have had RMA come in and make presentations and what they have really seen is the MPO has more expertise in planning and RMA has more expertise in operational issues. But he felt the most important thing our legislative committee has come up with is not what the name or how the group is designated but that every jurisdiction in the region have their appropriate level of voice within the decisions.

Mr. Rives continued - the third item pertains to stormwater.

3. Support for the position by the Virginia Association of Counties (VACo) regarding the implementation of local stormwater programs.

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This year VACo added an item to its legislative agenda which reads *VACo supports legislation that would delay from July 1, 2014 to July 1, 2015 the date by which stormwater programs must be put into effect by local governments.* There are three primary components to the stormwater regulations that will become effective this summer in Hanover. The first is the State Delegation of the State Permitting Authority and Responsibility from the State to Localities. That will become effective on July 1, 2014. That is a program that Mr. Flagg believes his staff is well prepared to undertake and that there are in fact advantages to Hanover residents and property owners to having that permitting being done by Hanover authorities as opposed to State authorities. The staff does not believe it is necessary for that portion of the program to be postponed in Hanover; however, there are many rural localities that do not have full time engineering staff as we are fortunate to have, for whom this mandate and this delegation will be an extraordinary burden and that is the provision that the VACo legislative item was added to address and the Legislative Committee thought that it would be appropriate for Hanover to join its fellow counties and support them by supporting this VACo provision.

Mr. Hazzard said if nothing else by delaying it, it gives time for the discussion to go on so that maybe we will get more meaning and value of what they intend to implement. The smaller counties have a cost burden that they did not recognize until now. So, I know that there is going to be legislation coming out to mimic VACo's request so, he thought they should support it.

Mr. Rives said if there were no further questions or comments on these three items, he believed it was an appropriate time for the Board to take action on whether to add these items to the Legislative Agenda.

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Mrs. Kelly-Wiecek made a **MOTION** to add these three items to our Legislative Agenda for the 2014 session.

Mr. Hazzard **SECONDED**.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G.E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

Mr. Rives advised that he had sent out to the Board a summary of some of the bills of interest from last week. So, his intention was not to discuss them all. Delegate Ware has introduced a couple of bills calling for the State to pick up the cost of local electoral boards and in particular the costs of primaries held by the Federal Government and the State. There have been multiple bills submitted on Ethics Reform this year. It has been interesting to follow some of those, there is apparently a by-partisan bill in the House that Delegate Toscano and Delegate Howell both support that proposes a cap of \$250 per item on gifts that legislatives may receive. It does not include intangible items like entertainment or travel; although there is an enhanced reporting requirement for those items.

There are several school calendar bills as there have been for the last several years that would eliminate the current post Labor Day opening provision and they will continue to work on those bills as they have done in the past.

HB 0066 School resource officers; local school board to place officer in each public school.

Patron: David I. Ramadan

Requires each local school board to place a school resource officer in each public elementary and secondary school.

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Mr. Rives said there are 27 schools in Hanover. Currently there are resource officers assigned to each of the middle and high schools for a total of eight, plus one at the Technical schools making a total of nine. So, we would have to add a number of additional officers. We do have some DARE officers that go from elementary school to elementary school but Sheriff Hines advises they would have to add an additional 13 officers to meet this requirement. The first year cost for an additional law enforcement officer is about \$138,000 because of the cost of the equipment and the training and all of the other requirements necessary to put a trained law enforcement officer on the job. The annual cost thereafter is substantially less. He believed that both the superintendent of schools and the Sheriff would certainly confirm if there is going to be armed personal in each public school they will be a well-armed, equipped, trained and supervised Law Enforcement Officer. And not a private contractor or a librarian who is required to carry a fire arm in the course of their duties which are some of the proposals that have been out there.

HB 0071 Agricultural operations; local regulation of certain activities.

Patron: Brenda L. Pogge

Protects customary agritourism activities at agricultural operations from local bans in the absence of substantial impacts on the public welfare.

Mr. Rives - this bill is another attempt to address concerns about local government regulations of agricultural operations and particularly agricultural operations that involve some form of retail or entertainment component. There was a bill last year that was defeated. There are legitimate concerns about agri-business and dealing with local regulations. He believes VACo would say that zoning control should be left in the hands of local government. This bill purports to protect “customary agritourism activities” in the absence of “substantial impacts.” These terms are not well defined. In reading the specific bill it states *no local government may require a special exception or conditional use permit for agritourism activities including the sale of agriculture or silvicultural products and the processing preparation or sale of food products*

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on any property that is zoned agricultural. The processing and sale of food products presumably includes what we would consider to be a restaurant and agritourism activities can be wineries and the activities associated with those. Most people think there are some activities that can be held in certain places on lands zoned agricultural particularly if there are some safeguards for the residents in the area. For example most people think that Ashland Berry Farm is a great asset for Hanover County in its current location but there might be some other places zoned agricultural where those types of activities would generate more problems. This is an area where our zoning ordinances would have to be changed substantially if this bill were passed and it will eliminate the CUPs that we currently require for business like the Ashland Berry Farm or the SEs that we require for roadside stands selling agricultural products. We will monitor this bill.

HB 0178 Virginia Retirement System; assumed rate of return on investments.

Patron: Peter F. Farrell

Provides that if the General Assembly adopts an assumed rate of return on investments that is different from the rate used by the Board of the Virginia Retirement System (VRS), the Board shall recalculate the employer contribution rate for each employer to incorporate the assumed rate of return adopted by the General Assembly.

Mr. Rives - if the General Assembly decides to adopt a different presumed rate of return, then that's adopted by the VRS Board, then the VRS Board shall recalculate the contribution rate for all employers not just the State, and that would be the rate that would be applicable.

HB 0182 Retirement benefits for local employees.

Patron: Peter F. Farrell

Provides that any locality may establish and maintain a defined contribution retirement plan for its employees in lieu of any other retirement plans for employees hired on or after July 1, 2014.

Mr. Rives - this bill would provide that any locality could establish a defined contribution retirement plan for new employees that are hired after July 1, 2014, instead the defined benefit plan that VRS currently provides.

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HB 0199 Legislation affecting local government expenditures or reductions.

Patron: R. Steven Landes

Requires the Division of Legislative Services to identify and forward to the Commission on Local Government (Commission) joint resolutions introduced calling for a study of local government expenditures or revenues.

Mr. Rives – this bill requires that any resolutions calling for studies of local government expenditures or revenues be sent to the Commission on Local Government to evaluate the impact.

SB 048 Prohibition on oil and gas drilling.

Patron: Richard H. Stuart

Prohibits the drilling for oil and gas in the Eastern Virginia Groundwater Management Area.

Mr. Rives – this bill would prohibit any drilling for oil or gas in the eastern Virginia Groundwater Management Area, which is Hanover County east of Interstate 95. So, this would be a blanket prohibition on oil and gas drilling east of I-95 in Hanover. The bill does a number of other things in combination of existing law calling for studies and the development of regulations to assure the drilling that might take place in the future, can be done safely in with regard to the potential impact on ground water.

SB 053 Regulation of stormwater; waiver of charges for places of worship.

Patron: Richard H. Stuart

Requires a locality that adopts a system of stormwater management service charges to provide for a waiver of at least 50 percent of such charge to any church, synagogue, or other place of worship.

Mr. Rives – this bill provides local governments that adopt stormwater management service charges provide a waiver of at least 50 percent for churches, synagogues and other places of worship. Currently those places are not subject to real estate taxation, but do pay service fees for water and sewer and other utilities.

HB 0204 Secretary of the Commonwealth; centralized filing of disclosure forms.

Patron: K. Rob Krupicka

Centralizes the filing of economic interest disclosure forms in the Office of the Secretary of the Commonwealth.

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Mr. Rives – this bill would require that all economic interest disclosure forms be kept by the Office of the Secretary of the Commonwealth in Richmond and not here locally.

HJ 040 Study; JLARC; Medicaid-funded transportation services in the Commonwealth; report.

Patron: David B. Albo

Directs the Joint Legislative Audit and Review Commission (JLARC) to review the Commonwealth's contract with Logisticare for Medicaid-funded transportation services, identify remedies and alternatives available to the Commonwealth to resolve the issues surrounding Logisticare's questionable performance, and review the Department of Medical Assistance Service's oversight of the Commonwealth's contract with Logisticare. The resolution provides that the Commonwealth's contract with Logisticare not be renewed or extended prior to the completion of this study.

Mr. Rives said this bill was discussed earlier.

HB 0169; Commonwealth Transportation Board; membership

Patron: Michael J. Webert

Mrs. Kelly-Wiecek asked about HB 0169; Commonwealth Transportation Board; the membership increase.

Mr. Rives advised there are actually three bills that he has seen and there may be more that would change the membership for the CTB.

HB 0146; Commonwealth Transportation Board; composition

Patron: Timothy D. Hugo

Mrs. Kelly-Wiecek regarding HB 0146 noted that none of these is looking to add from the Richmond Region other than the one that is looking to add Delegates and Senators to that. She stated her point was they, at the PDC, chose not to address that particular issue this year. She asked Mr. Rives to watch out for this bill because obviously if they add four new members none of which are from the Richmond area, that further dilutes our representation, which will be a concern.

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Mr. Rives said she was correct. There is one bill that would double the representation for the Richmond, Tidewater, and the Northern Virginia areas but keep it the same for the other areas which would obviously dilute the rural representation on the CTB. We have not had the opportunity to evaluate all of these bills. In the past the RRPDC has done a good job of evaluating the alternatives and how that might benefit or work to the detriment of the Richmond area. They will monitor these bills and talk with the RRPDC staff to see if there is one that they think is more advantageous to the Richmond Region than others.

Mrs. Kelly-Wiecek said as a reminder at their last meeting the Board added to the legislative agenda a resolution that would require any bill with local financial impacts to be submitted with an impact study, no later than the first day of session and she was curious as to whether they got any information on whether or not there is support for that.

Mr. Rives replied he did not have an answer to that question but would give them a report back as soon as he does.

Mrs. Kelly-Wiecek said thank you.

Mr. Davis asked if anyone one else had a question. There was none. He thanked Mr. Rives for his report.

X. Proposed Revisions to the Human Resources Policy Manual – Mrs. Lawson

Board Sheet Background: The attached proposed policy changes are designed to represent best practices and to provide clarification of the policies. These proposed changes have been reviewed by the County Attorney's Office and are listed on the attached summary and in more depth in the attached policy (filed with Board's papers).

Mrs. Lawson, Director of Human Resources, presented several proposed revisions to the HR Policy Manual. Each year the HR Team reviews the policy manual to determine if revisions are warranted. Primary reasons for making revisions include changes in practices, implementing best practices, or to clarify based on questions or calls that they receive from staff. In addition,

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anytime there are changes to laws or regulations they also make changes to the policy to ensure compliance. These proposed revisions are all based on clarifying existing policies and have been reviewed by County Administration, Department Heads and the County Attorney's Office.

1. **1.6 Definitions:** Revised "Transfer" as a move to another position in the same pay grade, with optional Conditional Status

Currently the transfer policy states that an employees' movement from one position to another of the same position title or class and same pay grade. Following in a transfer for the employee is not required to serve a probationary or conditional period of employment status.

Proposed revision – a definition of a transfer is just a change from one position to another in the same pay grade. Also, making the conditional status an option verses a requirement.

2. **3.7 Intern Program:** Provided guidelines to determine if an intern should be paid vs. non-paid.

Each year many departments utilize interns throughout the year there is always some confusion whether the intern should be paid or unpaid. Several years ago the Department of Labor established six factors that are required for the private sector to determine if an intern is paid or unpaid. Although not required to follow these factors we do see them as a means to provide consistency and they have been used as guidelines in the past. So, they added them to the policy to help our department heads in making that decision.

3. **5.7.A Probation and Conditional Status:** Clarified Conditional Status option relative to a transfer

With the proposed change to our transfer policy they also made a revision to the probation and conditional status indicating that an employee who transfers may be placed in a conditional status.

4. **5.8 Re-employment and Reinstatement:** clarifies service date and benefits

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This is where an employee separates from the County employment but returns and there are two different definitions here. So, they added language to better clarify what happens under both scenarios to the employee's service and State benefits. A re-employment is where a former employee returns to employment with Hanover County and if they are re-employed after 90 days of separation, they are treated as a new hire. However, those rehired within one year of separation receive credit for prior service which is applied to their annual leave accruals as well as any service award recognition.

Reinstated employees are those who are rehired after 90 days of separation. Their original service date is retained and their leave benefits are reinstated to their previous accrual rate. If the employee returns before their leave payout has been processed then their leave balances are retained.

5. **6.3 D Transfer:** clarifies definition of transfer as move to another position in the same pay grade

They are clarifying that a transfer is a move from one position to another in the same pay grade but not necessarily the same title. They have also added language that allows for a salary increase with a transfer only with approval by the Department Head and the Director of Human Resources.

6. **6.4.G Compensatory Leave and Overtime Pay:** change in employment status from non-exempt to exempt now requires payout of compensatory leave balance.

This requires that an employee who moves from a non-exempt position to an exempt position and has a balance in their compensatory leave has that balance paid out at the time of their re-appointment. They have found in the past that there were employees who were at high levels who were not eligible to accrue compensatory leave that had a balance. So, they are trying to make sure that does not happen going forward. Currently it is an option.

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7. **6.12 Workers' Compensation:** clarifies payment of time off due to WC during first 90 days (at 100%) and payment after 90 days (at 66 2/3%)

From their last revision they updated our Workers' Compensation policy to be more aligned with our peers. This included changing our payment of workers comp benefits at 100% for the duration of an employee's lost time from work to 100% for the first 90 days and then reduced to 66 2/3% after 90 days. However, we again have experienced a lot of calls and questions clarifying how payments are processed and there are two different processes. What we have clarified in the policy manual is that for employees who are out the first 90 days receive 100% of their salary processed through payroll; however, employees that are out greater than 90 days receive their payment directly from the insurance carrier at the reduced rate of 66 2/3%.

8. **8.5 Extended Sick Leave:** requires minimum balance of 20 hours to qualify

This is a benefit offered to employees who are out for a long period of time and will exhaust all of their sick leave balances, they can request to "borrow" up to 75% of their available balance at the time that they go out on approved leave and they recently received a request for someone who had 17 hours available and they realized it was not worth the time to process that, so they proposed adding in a requirement that the employee must have a minimum balance of 20 hours before they are eligible to request extended sick leave.

9. **15.3.B.2 Drug Free Workplace and Substance Abuse Testing:** added preference for employees tested under reasonable suspicion to be transported in a County vehicle; and changed reporting requirement for reasonable suspicion and post-accident testing from two hours to one hour

Two changes being proposed. The first is an addition to better clarify the transportation of employee who is requested to submit to a test based on reasonable suspicion. The intent of the policy has always been that we provide transportation to the employee; however, recent

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review reveals that we need to better clarify that we prefer that the employee be transported in a County vehicle if possible.

The second change that has been made currently an employee who is requested to submit to a test for reasonable suspicion or post-accident has two hours to submit to a test before they are found to be insubordinate and based on the location of our occupational health provider they believe that one hour is sufficient time for the employee to submit to a test. So, the recommended change is from two hours to one hour.

Mrs. Lawson stated that if the Board approves these changes then her staff recommended that they be approved to be in effect tomorrow.

Mr. Davis thanked Mrs. Lawson for her presentation. He asked if Mr. Harris wished to say anything.

Mr. Harris said they recommended approval.

Mrs. Kelly-Wiecek made a **MOTION** to recommend approval of the changes to the Human Resources Policy Manual.

Mr. Hazzard **SECONDED**.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

XI. Recess

The Chairman declared recess at 4:31 P.M.

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Reconvened

The Chairman called the meeting back to order at 7:00 P.M. All members were present.

XII. Citizens' Time

Mr. Davis advised that he had one card from a citizen who wished to speak. He asked if there was anyone else who wished to speak during Citizens' Time. There was no one.

Mrs. Patty Thomas, a Mechanicsville District resident, expressed concern with the proposed development at the intersection of Pole Green and Bell Creek roads. Knowing this development will have a direct impact on her property, she presented proffers she wished for the applicant to agree to which she believed would help to protect her land, home, pond, as well as the downstream waterways (she gave a handout, which is filed with the Board's papers).

Mr. Davis closed citizens' time.

XIII. Presentation of Proclamation – Eagle Scout Hunter Prince, Chickahominy Magisterial District, Boy Scout Troop 500

Mrs. Kelly-Wiecek presented the following proclamation:

VIRGINIA: At a regular meeting of the Board of Supervisors for Hanover County held in the Board Room of the Hanover County Administration Building on the 11th day of December, 2013, at 2:00 p.m.

Present: Mr. W. Canova Peterson, Chairman
Mr. Sean M. Davis, Vice-Chairman
Mr. Wayne T. Hazzard
Mrs. Angela Kelly-Wiecek
Mr. Aubrey M. Stanley
Mr. G. E. "Ed" Via, III
Mr. Elton J. Wade, Sr.
Mr. Cecil R. Harris, Jr., County Administrator
Mr. Sterling E. Rives, III, County Attorney

WHEREAS the Boy Scouts of America was incorporated by Mr. William D. Boyce on February 8, 1910; and

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WHEREAS the Boy Scouts of America was founded to promote citizenship, training, personal development and fitness of individuals; and

WHEREAS Hunter Prince is a resident of the Chickahominy Magisterial District in Hanover County, Virginia, and in the eighth grade at Oak Knoll Middle School; and

WHEREAS on the 21st day of October, 2013, Hunter Prince attained the rank of Eagle Scout, the highest award granted by the Boy Scouts of America; and

WHEREAS to achieve this high honor Hunter Prince carried out a community project by constructing three (3) handicap picnic tables for the Hanover County Department of Parks and Recreation; and

WHEREAS Hunter Prince of Boy Scout Troop 500 which meets at Chamberlayne Heights United Methodist Church has accomplished those high standards of commitment and has reached the long-sought goal of Eagle Scout; and

WHEREAS the Hanover County Board of Supervisors fully supports the programs of the Boy Scouts of America and recognizes the important service they provide to the youth of our Country.

NOW, THEREFORE, BE IT RESOLVED that the Hanover County Board of Supervisors hereby extends its congratulations to Hunter Prince and acknowledges the good fortune of the County to have such an outstanding young man as one of its citizens.

On motion of Mrs. Kelly-Wiecek, seconded by Mr. Via, members of the Board of Supervisors voted to adopt this Proclamation.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

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XIV. Planning Public Hearings – Mr. Maloney

CONDITIONAL USE PERMIT

CUP-7-13 UNIVERSAL ENVIRONMENTAL SERVICES, L.L.C., Requests a Conditional Use Permit in accordance with Section 26-183.9 of the Hanover County Zoning Ordinance to permit petroleum storage on GPIN 7788-73-8048, consisting of approximately 3.324 acres, zoned M-3, Heavy Industrial District, and located on the south line of Air Park Road (State Route 809) approximately 350 feet east of its intersection with Progress Road (State Route 1259) in the **ASHLAND MAGISTERIAL DISTRICT**. The subject property is designated on the General Land Use Plan Map as Industrial. (PUBLIC HEARING)

Mr. Maloney presented this request for a conditional use permit which would permit the installation of a petroleum storage tanks for recyclable materials. Being proposed is a 20,000 gallon tank and a 6,000 gallon tank. The property is located on the south line of Air Park Road. The property is zoned M-3, Heavy Industrial District and contains 3.324 acres and is shown on the General Land Use Plan Map for Industrial. He reviewed the GPIN and zoning maps. The site will serve as storage and transfer facility for used materials such as oil, antifreeze, and petroleum and water mixtures from generators. All of the actual recycling activities will occur offsite. He reviewed the sketch plan. There will be a six foot gated fence. No other changes are proposed for the site. The applicant has provided detailed information to Hanover County Fire/EMS regarding the materials to be stored and the supplemental information was satisfactory to our Public Safety folks. Both the Planning Commission and staff recommended approval subject to the conditions. (A copy of the Staff Report and Schedule of Notification is filed with the Board's papers.)

Mr. Davis opened the public hearing and asked if anyone wished to speak in favor of or in opposition to this request. Seeing no one come forward, he closed the public hearing.

Mr. Via felt this is a good location where these used materials can be recycled, and he believed it to be a good fit for the Hanover Industrial Park.

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Mr. Via made a **MOTION** to approve CUP-7-13, Universal Environmental Services, L.L.C. subject to conditions as outlined in the staff report.

Mr. Peterson **SECONDED**.

RESOLUTION

WHEREAS after a public hearing held on this 8th day of January, 2014, as advertised in the Herald-Progress once a week for two successive weeks as required by Virginia Code, Section 15.1-431 and the Hanover County Code.

NOW, THEREFORE, BE IT RESOLVED that Universal Environmental Services, L.L.C., is granted a Conditional Use Permit in accordance with Section 26-183.9 of the Hanover County Zoning Ordinance to permit petroleum storage on GPIN 7788-73-8048, consisting of 3.324 acres (the area of the Conditional Use Permit will be limited to 3.324 acres), zoned M-3, Heavy Industrial District and located on the south line of the Air Park Road (State Route 809) approximately 350 feet east of its intersection with Progress Road (State Route 1259) in the Ashland Magisterial District, subject to the following conditions:

1. All requirements of the Fire/EMS Department and Building Inspectors' Office shall be met.
2. The Owner shall provide the Fire/EMS Department with a key or key code for the lockbox at the facility gate for access to the petroleum storage tank area in case of emergency.
3. All development and use of the Property shall comply with all federal, State and local statutes, ordinances and regulations.

The Conditional Use Permit shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which the Conditional Use was approved.

Prior to initiating the new use on this property, site plan approval must be obtained.

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	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

SPECIAL EXCEPTIONS

SE-12-13 **DEBORAH S. AND CHARLES W. NUTTYCOMBE, JR.**, Request a Special Exception Permit in accordance with Section 26-36.26 of the Hanover County Zoning Ordinance to allow an accessory family housing unit on GPIN 7831-13-3431, consisting of approximately 7.5 acres, zoned AR-6(c), Agricultural Residential District with conditions, and located at the terminus of Sir Walker Drive (private road) approximately 1,700 feet northeast of its intersection with Mountain Road (U.S. Route 33) in the **SOUTH ANNA MAGISTERIAL DISTRICT**. (PUBLIC HEARING)

Mr. Maloney presented this request for a special exception which would permit an accessory family housing unit located on the second floor of an existing structure. The property is located at the terminus of Sir Walker Drive and is zoned AR-6, Agricultural Residential District and contains 7.5 acres. It is shown for agricultural use on the General Land Use Plan Map. He reviewed the GPIN and zoning maps. The family unit complies with ordinance requirements. There will be one accessory unit with one bedroom and the entrance will be located in the rear yard. The applicant has provided the additional parking spaces and the applicants will be the residents of the primary structure. Staff recommended approval subject to the conditions outlined in the staff report, and the applicant has provided a sketch plan. (A copy of the Staff Report and Schedule of Notification is filed with the Board's papers.)

Mr. Davis opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the request. Seeing no one come forward, he closed the public hearing.

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Mr. Hazzard stated this is for a family member to move into the rear residence.

Mr. Hazzard made a **MOTION** to approve SE-12-13, Charles W. Nuttycombe, Jr.

Mr. Stanley **SECONDED**.

RESOLUTION

WHEREAS the Board finds that, in its opinion, as a matter of fact, such exception will not substantially affect adversely the uses of adjacent and neighboring property.

NOW, THEREFORE, BE IT RESOLVED that Deborah S. and Charles W. Nuttycombe, Jr., are granted a Special Exception Permit in accordance with Section 26-36.26 of the Hanover County Zoning Ordinance to allow an accessory family housing unit on GPIN 7831-13-3431, consisting of 7.5 acres, zoned AR-6(c), Agricultural Residential District with conditions, and located at the terminus of Sir Walker Drive (private road), approximately 1,700 feet northeast of its intersection with Mountain Road (U. S. Route 33) in the South Anna Magisterial District, subject to the following conditions:

1. The accessory housing unit shall be developed on the property in conformity with the sketch plan titled “Sketch Plan Showing Improvements on Lot 5, Waltons Tavern Estates,” prepared by Charles Nuttycombe, and dated November 13, 2013. The accessory housing unit shall have a layout generally as shown on the floor plan submitted with the application, showing that the unit shall have no more than 850 square feet, which is 13.5% of the area of the 6,280 square foot primary residence.
2. This Special Exception Permit shall be valid for three (3) years following the date of approval, or until the family member no longer resides within the accessory housing unit, whichever occurs first. The permit shall then be void unless the Director of Planning approves an extension beyond that time pursuant to written application. If approved, all original conditions of approval shall continue in effect, unless modified by the Director. If disapproved, or when the family member is no longer a resident of the accessory housing unit, the stove shall be removed from the kitchen and use of the garage as an accessory housing unit shall cease. The applicants shall notify the Hanover County Planning Office if this occurs, and, upon request of the County, shall provide evidence of continued compliance.
3. All requirements of the Building Inspector’s Office and the Hanover County Health Department shall be met.

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4. All development and use of the Property shall comply with all federal, State, and local statutes, ordinances, and regulations.

The Special Exception Permit shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which the Exception was approved.

	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

SE-25-05, AM. 1-13 **FRENCH VENTURES, L.L.C.**, Requests an amendment to a Special Exception Permit in accordance with Section 26-111.8 of the Hanover County Zoning Ordinance to expand a child day care facility on GPIN 8715-67-4697, consisting of approximately 3.6 acres, zoned B-1(c), Neighborhood Business District with conditions, and located on the north line of Pole Green Road (State Route 627) approximately 700 feet west of its intersection with Verdi Lane (State Route 710) in the **CHICKAHOMINY MAGISTERIAL DISTRICT**. (PUBLIC HEARING)

Mr. Maloney presented this request for a special exception which would permit the expansion of an existing child care facility located on Pole Green Road. The property is zoned B-1(c), Neighborhood Business District and has 3.6 acres. It is shown on the General Land Use Plan Map for Business Park. He reviewed the GPIN and zoning maps. This request is to provide a 625 foot expansion. This will allow for a computer lab and a math and science learning center. The materials proposed with the expansion are consistent with the existing structure. He reviewed the sketch plan. The staff report had an incorrect reference to a date, and staff has distributed updated copies of the conditions correcting that date. Staff recommended approval subject to the conditions as revised and distributed this evening. (A copy of the Staff Report and Schedule of Notification is filed with the Board's papers.)

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Mr. Davis opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the request. Seeing no one come forward, he closed the public hearing.

Mrs. Kelly-Wiecek stated that the daycare centers are a viable community resource. She made a **MOTION** to approve SE-25-05, AM. 1-13, French Ventures, L.L.C.

Mr. Via **SECONDED**.

RESOLUTION

WHEREAS the Board finds that, in its opinion, as a matter of fact, such exception will not substantially affect adversely the uses of adjacent and neighboring property.

NOW, THEREFORE, BE IT RESOLVED that French Ventures, L.L.C., is granted an amendment to a Special Exception Permit in accordance with Section 26-111.8 of the Hanover County Zoning Ordinance to amend the sketch plan and conditions to allow an expansion of the residential structure that is used as an after school activity facility on GPIN 8715-67-4697, consisting of 3.595 acres, zoned B-1(c), Neighborhood Business District with conditions, and located on the north line of Pole Green Road (State Route 627) approximately 700 feet west of its intersection with Verdi Lane (State Route 710) in the Chickahominy Magisterial District, subject to the following conditions, which incorporate all of the applicable conditions from previous amendments:

1. The property shall be used only for a daycare facility and shall be developed in substantial conformity to the sketch plan titled, “French Ventures, L.L.C., The Learning Connection Child Development Center, Hanover County, Virginia,” prepared by Resource International, Ltd, dated November 19, 2013.
2. Any expansion of the square footage of the facility approved by this Special Exception will require an amendment of this permit.
3. Day care activities shall be limited to the hours of 6:30 a.m. to 6:00 p.m. with the exception of special events (such as children’s sleepovers, or Christmas or holiday programs), which may operate after 6:00 p.m. or on weekends. These special events shall be limited to no more than twelve (12) per calendar year.

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4. The outdoor recreation area shall be fenced to prevent children from leaving the play area. The fence shall be at least six (6) feet in height around the play area.
5. Within 30 days of the commencement of operation of the childcare center, the applicant shall report statistics to the Hanover County Director of Communications and to the Hazardous Materials Coordinator, identifying the number of children to be cared for during normal day hours for emergency planning purposes.
6. Any freestanding signage shall be the monument style.
7. All Virginia Department of Transportation requirements, including a commercial entrance permit onto Pole Green Road shall be met and shall be designed generally as shown on the sketch plan, but ultimate design shall be determined during site plan review. This entrance shall have a right turn lane with a minimum of a 150-foot taper and 200 feet of storage.
8. All requirements of the Hanover County Department of Public Works shall be met. The design of the cross access road through the property of Atlee Community Church shall be designed and located generally as shown on the sketch plan, but not obstruct drainage on this site and to the pond on this property.
9. The property shall connect to public water and sewer, and systems shall be designed in accordance with the requirements of the Public Utilities Department. In addition, should the Department determine that utility extensions are necessary to adjoining properties when this project goes to site plan review, the applicant shall provide them such easements.
10. All requirements of the Hanover County Health Department, Fire Department (Haz-Mat), and Sheriff's Department shall be met.
11. All requirements of the Building Inspector's Office shall be met, including a Certificate of Occupancy for use of the structure as a daycare facility prior to use of the structure.
12. All necessary State permits shall be obtained, and copies shall be provided to the Planning Office for the County's files.
13. All development and use of the Property shall comply with all federal, State and local statutes, ordinances and regulations.

The Special Exception Permit shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which the Exception was approved.

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	<u>Vote:</u>
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

XV. Public Hearing – Consideration of a Resolution Authorizing the Acquisition by Condemnation of Certain Specified Temporary and Permanent Property Interests on GPIN 8706-11-6771 for the Purpose of Constructing an Additional Turn Lane and Other Improvements (Chickahominy Magisterial District) – Mr. Flagg

Mr. Flagg advised that Mr. Vidunas would make this presentation.

Mr. Vidunas advised that the project is the Atlee Road additional turn lane project. It is located on Atlee Road east of the intersection of U.S. Route 301. The improvements include the construction of a left turn lane, a receiving lane in the opposite direction, drainage improvements, and some improvements to utilities. There are a total of eleven properties that are impacted by the project. To date the County has settled with nine (9) of these property owners and reached a tentative agreement with another property owner. The remaining property is the subject of the hearing this evening. He gave a brief overview of the project and the subject parcel. Looking at the maps he reviewed the subject parcel, and the proposed new pavement area on the roadway. There is some widening that is taking place with this project.

The proposed improvements meet the standards for public use and public necessity. Atlee Road is part of the VDOT secondary road highway system. It is identified on the Major Thoroughfare Plan as a four lane minor arterial roadway. VDOT initiated these improvements to improve the traffic flow at the intersection of Atlee Road and U.S. Route 301.

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In terms of public necessity, the roadway improvements are necessary to permit the efficient operation of the secondary road system and to minimize air quality impacts as a result of traffic through that intersection. This project is specifically intended to address traffic congestion during peak periods as well as projected traffic impacts in the future. Various property interests including the interests that are being described here must be obtained for the construction and future maintenance of the roadway, and they must enter onto the property to begin construction of the improvements.

The property interests that are proposed to be required, is an area of fee simple right-of-way of 863 square feet, a permanent drainage easement of 930 square feet, and a temporary construction easement of 710 square feet. In addition they will need to acquire a Virginia Power Easement in 253 square feet, and a Verizon easement totaling 1,003 square feet.

The County has made a reasonable but ineffective effort to acquire the property. The initial offer was made on April 25, 2013 in the amount of \$13,728; on July 26, 2013 the property owner made a counter offer in the amount of \$40,000, on November 15, 2013 the County responded with a settlement offer of \$21,315 and on December 3, 2013 the County's offer was rejected.

The action that the Board is being asked to take this evening is intended to protect the owner. To date they have made an effort to try to come to an agreement, unfortunately they have not been able to do that but this process should result ultimately in a determination of just compensation, while at the same time allowing the process to move forward.

Mr. Davis asked if there were any questions.

Mr. Hazzard said the Verizon right-of-way looks like it is in the same right-of-way they are going to use. He asked if it is under the area that they are using.

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Mr. Vidunas answered that it actually overlaps almost exactly with the permanent drainage easement, but it is outside of the right-of-way.

Mr. Hazzard asked if it is an additional part of the property.

Mr. Vidunas replied yes sir.

Mr. Davis opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the request. Seeing no one come forward, he closed the public hearing.

Mrs. Kelly-Wiecek advised that this is the last parcel from which the County needs to obtain the right-of-way and easements necessary to begin the project. The staff in consultation with the Board has made a diligent and good faith effort to purchase the property interest but has not been successful. It is necessary to move forward with the construction of this project.

On motion of Mrs. Kelly-Wiecek, seconded by Mr. Hazzard, the members of the Board of Supervisors voted to approve the following Resolution:

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACQUISITION BY CONDEMNATION OF CERTAIN SPECIFIED TEMPORARY AND PERMANENT PROPERTY INTERESTS ON A PORTION OF GPIN 8706-11-6771, FOR THE PURPOSE OF CONSTRUCTING AN ADDITIONAL TURN LANE AND OTHER IMPROVEMENTS, IN ACCORDANCE WITH THE VIRGINIA DEPARTMENT OF TRANSPORTATION'S SIX-YEAR IMPROVEMENT PROGRAM AND HANOVER COUNTY'S CAPITAL IMPROVEMENT PLAN AND MAJOR THOROUGHFARE PLAN, AND TO ENTER UPON THE PROPERTY TO BE ACQUIRED AND INITIATE CONSTRUCTION BEFORE THE CONCLUSION OF THE CONDEMNATION PROCEEDINGS PURSUANT TO VIRGINIA CODE SECTIONS 15.2-1904 AND 15.2-1905(C) AND CHAPTER 3 OF TITLE 25.1 (SECTIONS 25.1-300 *ET SEQ.*)

WHEREAS the Virginia Department of Transportation (“VDOT”), has proposed certain roadway improvements in the Chickahominy District as part of the Atlee Road Additional Turn Lane Project in order to improve traffic flow through the Atlee Road-Route 301 intersection; and

WHEREAS the Atlee Road Additional Turn Lane Project is a component of VDOT's Six-Year Improvement Program and Hanover County's Capital Improvement Plan, and Atlee

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Road is shown as a 4-lane Minor Arterial Road on Hanover County’s Major Thoroughfare Plan; and

WHEREAS the Atlee Road Additional Turn Lane Project is necessary to the public health, safety, peace, good order, comfort, convenience, and welfare of the County; and

WHEREAS the project design for the Atlee Road Additional Turn Lane Project requires acquisition of certain right-of-way and easement interests for the construction of an additional turn lane and other improvements and utility relocation required as a result of the proposed improvements; and

WHEREAS the County has reviewed the acquisition for purposes of complying with Section 1-219.1 of the Virginia Code and has certified that the acquisition is for the possession, ownership, occupation, and enjoyment of the property by the public, for the purposes of construction and maintenance of public facilities including public roads, drainage facilities, and other improvements; and

WHEREAS the County has made a bona fide but ineffectual effort to purchase the necessary right-of-way and easements for public road, drainage, and utility purposes at fair market value as determined by a licensed appraiser, and the County and land owner have been unable to reach an agreement because the County and land owner cannot agree on the compensation to be paid; and

WHEREAS it is now necessary to enter upon the property to install the facilities and improvements prior to the completion of condemnation proceedings;

NOW, THEREFORE, BE IT RESOLVED BY THE HANOVER COUNTY BOARD OF SUPERVISORS:

1. That the property is to be acquired for construction and maintenance of public roadway improvements and other related improvements, including an additional turn lane for the purpose of improving traffic flow through the Atlee Road-Route 301 intersection.
2. That the Board approves the proposed public use of the property.
3. That acquisition of the right-of-way and easements, as shown on the attached plats entitled “Plat Showing Proposed R/W and Easements on the Property of David R. Dagenhart,” located in the Chickahominy District, Hanover County, Virginia, dated March 25, 2013 and prepared by NXL (“Exhibit A”), “Plat to Accompany Right-of-Way Agreement,” dated October 1, 2012, prepared by Dominion Virginia Power (“Exhibit B”), and “Site Plan Reference: Sheet 3 Dated March 14, 2012, Atlee Road, Route 638, Additional Turn Lanes, Mechanicsville, VA 23116, Hanover County Roadway Improvement Project,” dated March 14, 2012 and prepared by Verizon Virginia, LLC (“Exhibit C”), the terms and conditions of which are described in the attached Deed Road Project form (“Exhibit D”), Dominion Right of Way Agreement form (“Exhibit E”), and Verizon Deed of Easement form (“Exhibit F”), for the public roadway and related

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facilities is declared to be necessary for a public use and an authorized public undertaking pursuant to Virginia Code Sections 15.2-2109 and Chapter 19 of Title 15.2 (15.2-1900 *et seq.*) of the Code of Virginia (1950), as amended.

4. That it is necessary to enter upon the property to begin construction of the roadway and drainage facilities and other improvements prior to the completion of condemnation proceedings in order to adhere to the project schedule.
5. That Hanover County shall, upon the deposit of compensation in the amount of the County's appraisals and in compliance with all statutory requirements, including the recordation of a certificate of take with the Clerk of the Circuit Court of Hanover County, enter upon the property of the land owner named herein and take possession of the property prior to the conclusion of condemnation proceedings.
6. That, based upon appraisals by a licensed appraiser, Hanover County has determined that the fair value due to the land owner for the property interests to be acquired for public purposes is as follows:

Land Owner	GPIN	Property Interests to be Acquired	Appraised Value Including Damage
David G. Dagenhart	8706-11-6771	Fee simple right of way; Permanent drainage easement; Permanent Verizon easement; Permanent Dominion Virginia Power Easement; Temporary Construction Easement	\$13,728 (includes \$7,587 in damage)

7. That the ownership of the property interests to be acquired is as stated in paragraph 6 herein.
8. That the County Administrator or his designee shall deposit with the Clerk of the Circuit Court of Hanover County, to the credit of the land owner named above, the applicable appraised fair value of the property interests, as listed in paragraph 6 herein and simultaneously record a certificate of take with the Clerk of the Circuit Court of Hanover County.
9. That the County Administrator or his designee shall mail a certified copy of this resolution to the land owner.
10. That the County Attorney or his designee is authorized and directed to acquire the property interests for public use by condemnation or other means, and to institute and conduct condemnation proceedings to acquire the property interests from the land owner named herein in the manner authorized and provided by Chapter 19 of Title 15.2 (Sections 15.2-1900 *et seq.*), and Chapters 2 and 3 of Title 25.1 (Sections 25.1-200 *et seq.* and 25.1-300 *et seq.*) of the Code of Virginia (1950) as amended.

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11. That the County Administrator or his designee may also continue to negotiate acquisition of the property interests, subject to approval by the Board of Supervisors.

	<u>Vote:</u>
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. “Ed” Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved

XVI. Announcements

None.

XVII. Adjournment – January 22, 2014 – Hanover County Administration Building – 6:00 p.m.

The Chairman adjourned the meeting at 7:24 P.M. The next meeting is January 22, 2014.

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VIRGINIA: At a Regular Meeting of the Hanover County Board of Supervisors in the Board Auditorium of the Hanover County Government Building, Hanover County, Virginia, on Wednesday, January 22, 2014 at 6:00 p.m.

Present: Mr. W. Canova Peterson, Chairman
Mr. Sean M. Davis, Vice-Chairman
Mr. Wayne T. Hazzard
Mr. Aubrey M. Stanley
Mr. G.E. Via, III
Mr. Cecil R. Harris, Jr., County Administrator
Mr. Sterling E. Rives, III, County Attorney

Absent: Mrs. Angela Kelly-Wiecek
Mr. J. Elton Wade, Sr.

I. Call to Order

A. Invocation

The invocation was given by Mr. Stanley.

B. Pledge of Allegiance

The Pledge of Allegiance was led by Mr. Via.

Mr. Davis announced that Mr. Wade and Mrs. Kelly-Wiecek were absent.

II. Consideration of Agenda Amendments

Mr. Hazzard made a motion to amend the Agenda to add Item V. (A) a Closed Session, pursuant to Section 2.2-3711 (a) (3) of the Code of Virginia – consultation with Legal Counsel regarding acquisition of real property – acquisition of temporary and permanent easements for road widening on GPIN’s 8706-12-7167 and 8706-12-8045, also known as Patriots Corner. Mr. Stanley seconded.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. “Ed” Via, III	Aye
Angela Kelly-Wiecek	Absent
Elton J. Wade, Sr.	Absent

Motion approved.

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III. Citizens' Time

The Chairman opened citizens' time and offered to anyone who wanted to address the Board of Supervisors for up to five minutes on any matter within the scope of the Board's authority that is not on the agenda for that meeting to come forward. Seeing no one come forward, closed citizens' time.

Mr. Hazzard acknowledged that there were students present from Atlee High School for their Government class. Board members thanked them for being present.

IV. Consent Agenda

Mr. Stanley asked that Item (C) be added to the consent agenda: appointment of Doug Schuhle to the Roads Committee. Mr. Hyland Fowler, Jr. was elected as our Delegate and Mr. Schuhle has agreed to take his place.

Mr. Stanley made a motion to approve the amended consent agenda. Mr. Peterson seconded.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. "Ed" Via, III	Aye
Angela Kelly-Wiecek	Absent
Elton J. Wade, Sr.	Absent

Motion approved.

A. **Emergency Communications Department – Rockville Tower – Amendment to Lease with New Cingular Wireless PCS, LLC**

Board Background Sheet:

The County entered into a lease on August 26, 2009 with New Cingular Wireless PCS, LLC for use of the Rockville Tower. New Cingular Wireless PCS, LLC agreed to pay an annual rent of \$30,000 with escalation of 3% annually after the base rental period applied at time of renewal. This lease amendment provides for the 4G upgrade of the original equipment located at 235ft. Rental terms remain as set forth in the original lease. The amendment would also allow substitution of equipment or changes in equipment within the leased area without Board approval, but with prior written approval of the Director of Emergency Communications.

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The Emergency Communications Department recommends approval of the attached lease amendment and requests authorization for the County Administrator to finalize the lease amendment and administer the lease.

Recommendation:

Motion to approve the attached lease amendment between Hanover County and New Cingular Wireless PCS, LLC to upgrade existing equipment and allow certain future equipment changes if approved in writing by the Director, Emergency Communications, and authorize the County Administrator to take all actions necessary to enter into and administer the lease including the amendment.

(A copy of the amendment to lease is filed with the Board papers.)

B. Adoption of Proclamations – Eagle Scouts

1. Bradley R. Carroll, Jr., Cold Harbor Magisterial District

PROCLAMATION

WHEREAS the Boy Scouts of America was incorporated by Mr. William D. Boyce on February 8, 1910; and

WHEREAS the Boy Scouts of America was founded to promote citizenship, training, personal development and fitness of individuals; and

WHEREAS Bradley R. Carroll, Jr., is a resident of the Cold Harbor Magisterial District in Hanover County, Virginia, a 2013 graduate of Lee-Davis High School and attends Virginia Commonwealth University in Richmond, Virginia; and

WHEREAS on the 31st day of July, 2013, Bradley R. Carroll, Jr., attained the rank of Eagle Scout, the highest award granted by the Boy Scouts of America; and

WHEREAS to achieve this high honor Bradley R. Carroll, Jr., carried out a community project at Cool Spring Baptist Church by organizing a work crew, removing the weeds and replacing the mulch in the parking lot islands and at the back of the Church as well as trimming the low tree branches growing over parking spaces; and

WHEREAS Bradley R. Carroll, Jr., of Boy Scout Troop 544 which meets at Shady Grove United Methodist Church has accomplished those high standards of commitment and has reached the long-sought goal of Eagle Scout; and

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WHEREAS the Hanover County Board of Supervisors fully supports the programs of the Boy Scouts of America and recognizes the important service they provide to the youth of our Country.

NOW, THEREFORE, BE IT RESOLVED that the Hanover County Board of Supervisors hereby extends its congratulations to Bradley R. Carroll, Jr., and acknowledges the good fortune of the County to have such an outstanding young man as one of its citizens.

On motion of Mr. Hazzard, seconded by Mr. Stanley, members of the Board of Supervisors voted to adopt this proclamation as follows:

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. "Ed" Via, III	Aye
Angela Kelly-Wiecek	Absent
Elton J. Wade, Sr.	Absent

2. **Brandon Mathew Cary, Cold Harbor Magisterial District**

PROCLAMATION

WHEREAS the Boy Scouts of America was incorporated by Mr. William D. Boyce on February 8, 1910; and

WHEREAS the Boy Scouts of America was founded to promote citizenship, training, personal development and fitness of individuals; and

WHEREAS Brandon Mathew Cary is a resident of the Cold Harbor Magisterial District in Hanover County, Virginia, and a senior at Lee-Davis High School; and

WHEREAS on the 15th day of October, 2013, Brandon Mathew Cary attained the rank of Eagle Scout, the highest award granted by the Boy Scouts of America; and

WHEREAS to achieve this high honor Brandon Mathew Cary carried out a community project in Ashland, Virginia, by building a nature trail foot bridge over Mechumps Creek; and

WHEREAS Brandon Mathew Cary of Boy Scout Troop 503 which meets at Church of the Redeemer has accomplished those high standards of commitment and has reached the long-sought goal of Eagle Scout; and

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WHEREAS the Hanover County Board of Supervisors fully supports the programs of the Boy Scouts of America and recognizes the important service they provide to the youth of our Country.

NOW, THEREFORE, BE IT RESOLVED that the Hanover County Board of Supervisors hereby extends its congratulations to Brandon Mathew Cary and acknowledges the good fortune of the County to have such an outstanding young man as one of its citizens.

On motion of Mr. Hazzard, seconded by Mr. Stanley, members of the Board of Supervisors voted to adopt this proclamation as follows:

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. “Ed” Via, III	Aye
Angela Kelly-Wiecek	Absent
Elton J. Wade, Sr.	Absent

C. Appointment of Mr. Douglas Schuhle to the Roads Committee

Mr. Doug Schuhle was appointed to the Roads Committee until the end of the current term (ending 2/28/15).

V. Legislative Update – Mr. Rives

HB 0035 School Calendar

Patron: Kaye Kory

Makes local school boards responsible for setting the school and determining the opening day of the school year and eliminates the post-Labor Day opening requirement and “good cause” scenarios for which the Board of Education may grant waivers of this requirement. The bill contains technical amendments.

Mr. Rives advised that there are four school calendar bills, each of which would give local school boards the authority to determine when they are going to open the school year, instead of the current requirement that they wait until Labor Day unless they have an exception granted by the State. Each of these bills is in the House. In past years these bills and similar types of bills tend to move through the House fairly easily but are stopped in the Senate. All of these bills have been referred to

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the House Education Subcommittee for elementary and secondary schools but have not yet been put on the docket.

HB 0066 School resource officers; local school board to place officer in each public school.

Patron: David I. Ramadan

Requires each local school board to place a school resource officer in each public elementary and secondary school. All costs resulting from the requirement shall be paid from the Lottery Proceeds Fund.

Mr. Rives said the Board discussed this bill about two weeks ago and it would require each School Board to have a School Resource Officer in all public elementary and secondary schools. That will be a substantial increase in the number of School Resource Officers that Hanover would have to have on-board. The bill calls for the cost to be paid out of the Lottery Proceeds Fund. Accordingly, the House Education Subcommittee that was hearing this bill today recommended that it be referred to House appropriations.

HB 0067 Composition of Commonwealth Transportation Board

Patron: David I. Ramadan

Increases the total membership of Commonwealth Transportation Board to 22 members by doubling the representation for the Richmond, Hampton Roads, and Northern Virginia highway constructions districts.

Mr. Rives advised that this bill is a topic that has been of interest to the Board in past years because of the impact of the composition of this Board on the funding that is available for the Richmond Construction District. There are four bills that would change the composition of the Commonwealth Transportation Board (CTB). This bill from Delegate Ramadan would increase the number of members of the CTB by doubling the representation for Northern Virginia, Hampton Roads, and Richmond, which obviously would give greater weight to the more urban areas of the State. So, we can expect that this will be opposed by the rural areas of the State.

There are two bills that would base their representation on CTB on congressional districts and it is the consensus of those in the Richmond area that this would not be favorable to the Richmond District because congressional districts do not have the same boundaries as the construction districts. There is another bill that would add six members to CTB from the General Assembly; three from the House and three from the Senate. In each case two would be from the majority party and one from the minority party. He did not know what they will do with the Senate as it currently appears it will be

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equally divided but it is not clear that adding elected officials might make those decisions more political than they are already. The RRPDC has not taken a position on any of these bills but he thought it was the consensus around the Richmond District that of the four this one is the one that would produce better representation for the Richmond District.

Mr. Hazzard asked if our percentage would change. If Northern Virginia and Hampton Roads double their representation, we are still way behind.

Mr. Rives replied that our percentage would not change relative to those two districts but it would change relative to the composition of the CTB as a whole due to the at-large members in the areas from the rural districts. So, if the Richmond area representation is doubled, our percentage of the total would increase. That currently is the case. Everything would depend on alliances. So, if northern Virginia and Hampton Roads join together they will have pretty close to 50 percent of the votes. So it is really hard to tell how it would play out and it really depends on the issue.

HB 0178 Virginia Retirement System; assumed rate of return on investments.

Patron: Peter F. Farrell

Provides that if the General Assembly adopts an assumed rate of return on investments that is different from the rate used by the Board of the Virginia Retirement System (VRS) in determining employer contribution rates for contributions to VRS, the Board shall recalculate the employer contribution rate for each employer to incorporate the assumed rate of return adopted by the General Assembly. The Board is required to provide each employer with its adjusted employer contribution rate as soon as possible.

Mr. Rives said they had talked about the VRS at the last meeting and if the General Assembly adopts an assumed rate of return that basically that will be applicable to all participants in the VRS. This has been referred to the House Appropriations and it is in subcommittee but has not been on the docket yet.

HB 0199 Legislation affecting local government expenditures or reductions.

Patron: R. Steven Landes

Requires the Division of Legislative Services to identify and forward to the Commission on Local Government (Commission) joint resolutions introduced calling for a study of local government expenditures or revenues. The bill also authorizes the Department of Planning and Budget and the Department of Taxation to forward to the Commission bills introduced requiring additional local government expenditures or a reduction in local government revenues.

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Mr. Rives stated that this bill is interesting because it will require legislative services to refer to the Commission on local government any resolution calling for a study of local government expenditures or revenues, and it would also authorize the Planning Department, Budget and Taxation to forward to the Commission on Local Government bills that require additional local government expenditures or a reduction in local government revenues. He felt from the local government perspective, any provision that guarantees that such legislation or studies get better scrutiny and more attention will be a good thing.

HB 0431 State and local tax reform; study; report.

Patron: James M. LeMunyon

Creates a joint legislative subcommittee to perform a two-year study on reforming state and local taxes. The joint subcommittee will assume the tasks of the Joint subcommittee will assume the tasks of the Joint Subcommittee to Evaluate Tax Preferences, which the bill dissolves.

Mr. Rives said this bill would create a joint legislative subcommittee to perform a two year study on State and local taxes. There have been various proposals over the years to try to change taxes, particularly local taxes, like the Business and Professional Occupational License Tax and the Machinery and Tools Tax and their concerns about impact on local government. So, if this resolution is adopted that is a legislative subcommittee that they are going to want to watch carefully.

HB 0434 Machinery and tools, merchants' capital and BPOL taxes; maximum rates established.

Patron: James M. LeMunyon

Prohibits a locality from increasing its business machinery and tools tax, merchants' capital tax, and local license (BPOL) fees and taxes above the locality's rates in effect as of January 1, 2014.

Mr. Rives said not only would the rates be capped at whatever they are now and the rate on machinery and tools and the assessment ration would not be able to be changed. That could be significant. For many years Hanover has had an extremely generous assessment on machinery and tools where day one the taxable value of the machinery and tools goes down to 10 percent of the original purchase cost. Depending on how that is interpreted or what might happen in the future with the value of that type of machinery, that might be a ratio that could be revisited at some point in the future and this legislation would prevent revisiting that ratio.

Mr. Peterson asked if he saw this is an effort to make a partial step toward eliminating the machinery and tools and the BPOL taxes.

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Mr. Rives replied that is his assumption. This is the same Delegate that proposed that study (HB 0431) we talked about a moment ago. He believed step one is being proposed to cap the taxes where they are and step two will be to look at ways to eliminate them.

Mr. Hazzard said with the taxes being capped at January's rates, if there is no BPOL tax in the County, that would mean one could not be implemented.

Mr. Rives replied that is correct.

HB 0513 Removal of certain local government appointees.

Patron: Rick L. Morris

Provides that any appointee of a local governing body to a local board, commission, or committee, whether pursuant to § 15.2-1411 or any other provision of the Code, shall serve at the pleasure of the local governing body and may be removed at any time.

Mr. Rives advised that this would provide that any appointee of a local governing body to a local board, commission or committee serves at the pleasure of the Board and may be removed at any time. This would be a substantial change from the existing law. This bill is in subcommittee one but has not been placed on any docket.

Mr. Davis asked if this would constitute Parks & Recreation, Community Services Board, School Board, Roads Committees, and Planning Commission.

Mr. Rives stated that it applies to any appointee.

Mr. Via asked what the criteria would be to do that.

Mr. Rives replied there would be no criteria.

HB 0527 Group homes; zoning.

Patron: Brenda L. Pogge

Provides that for purposes of zoning, a residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons, shall be considered a residential occupancy by a single family. Currently, such facilities are required to have one or more resident counselors or other staff persons to qualify for this zoning designation.

Mr. Rives advised that several years ago the General Assembly passed legislation that provided any residential facility with no more than eight individuals that have mental illness, intellectual disabilities or developmental disabilities must be treated under local zoning ordinances the same as a single family residence. Meaning they could locate without a special exception or other permit in any

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residential district. One of the stipulations in current law is that there has to be a resident counselor or other staff person residing on the premises. This bill would eliminate that requirement.

This bill passed out of the House with no opposition either in committee or on the floor.

HB 0597 Richmond Metropolitan Authority; name; composition of Board of Directors; powers.

Patron: G. Manoli Loupassi

Renames the Authority as the Richmond Regional Transportation Authority and equalizes Board representation among the City of Richmond, Chesterfield County, and Henrico County. The bill requires that certain actions of the Authority related to construction or acquisition of limited access highways or acquisition of rights to operate existing toll roads receive approval from the local governing bodies. Local approval also is required for the issuance of bonds by the Authority. The bill allows the governing body of each locality to appoint one of its own members as a member of the Board of the Authority, clarifies the appointment process for the three Richmond representatives on the Board, and prohibits Board members from their service on the Board.

Mr. Rives said the Board has taken a position on this. Delegate Loupassi proposes not only to change the representation on the RMA but also to rename it as the Richmond Regional Transportation Authority. He has communicated with each member of counties, cities, and towns, and subcommittee one, which is where this is currently located and he expressed to them this Board's opposition and the reasons why.

Mr. Peterson asked if that is on their agenda yet.

Mr. Rives answered no it has not been placed on a docket yet. He said they are monitoring it and he will go down and speak to it when it does come up.

HB 0617 Personal property tax; classification.

Patron: Glen R. Davis-Elect

Creates a classification for personal property tax rate purposes of property owned by a business during its first two years of operation, if the business's annual gross revenues do not exceed \$100,000. A locality may impose a rate of tax on such property that is lower than the rate on the general class of tangible personal property.

Mr. Rives received a call today on this bill from Ms. Alderman, who is legislative aide for Delegate Fowler. This bill creates an additional classification for personal property owned by a business during its first two years of operation if the business annual gross revenues do not exceed \$100,000. This is optional, so it is an additional classification that local governing bodies could adopt

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in their tax plan to provide a lower tax rate for businesses meeting these criteria. Delegate Fowler wanted to know if Hanover had a position on this and he told him that this Board had not taken a position but generally the Board did favor legislation that provided options for local governments. For example if there is a small start-up business that met these criteria this Board or any local government might want to adopt a lower personal property tax rate for those first two years as an incentive for start-up businesses. He said he told them there was no opposition from Hanover to this bill.

Mr. Hazzard stated that, if a small business does not gross more than \$100,000, they could not afford to pay any taxes. He supports this bill.

HB 0633 Local fiscal impact bills; first day introduction:

Patron: Terry G. Kilgore

Requires local fiscal impact bills to be introduced no later than the first day of session.

Mr. Rives advised this is a bill that would require any bill in the General Assembly with a local fiscal impact to be introduced no later than the first day of the session which gives time for it to be identified, time for it to be referred to the right committees and studied and for the fiscal impact to be analyzed. That used to be the rule until several years ago, so this would reinstitute that rule. Delegate Kilgore introduced this bill and it has been referred to House Rules Committee but it has not yet been placed on a docket.

HB 0697 Local implementation of Stormwater Management Program.

Patron: Charles D. Poindexter

Delays the date that local governments will have to assume responsibility for administering the Stormwater Management Program from July 1, 2014 to July 1, 2015.

Mr. Rives stated that there are three or four bills similar bills to HB 0697 that would delay the date by which local governments in Virginia have to undertake the management of the stormwater management program from the State. The Board added this item to its legislative agenda, even though Hanover does not opt to delay the implementation of the local enforcement of this program. All four of these bills have been referred to the House Agriculture Committee but have not yet been put on a docket.

HB 0788 Virginia Freedom of Information Act; out-of-state requests for records.

Patron: James M. LeMunyon

Sets out the process for public bodies to respond to record requests made by out-of-state requesters.

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Mr. Rives said this will amend the Virginia Freedom of Information Act, which currently provides that FOIA requests can be made only by residents of the Commonwealth of Virginia. Just in this past year there was litigation on whether that was consistent with the Virginia Constitution in the Commerce clause. The current law was upheld, that local governments and State government in Virginia do not have to respond to FOIA requests that come from people who are not residents of the Commonwealth and therefore do not pay taxes here. This would change that. Hanover and other local governments do get requests from out of state from time to time typically by some commercial enterprise that is trying to get information they can use for their commercial purposes, whether it is some tax purpose or recovery of loans. The Treasurer's Office gets these most frequently and there is a cost to complying with FOIA and that cost is not fully recoverable by which the requester can be billed. There is a lot of staff time that goes into complying with these requests that the County is not reimbursed for.

HB 1088 Capital Regional Airport Commission.

Patron: Riley E. Ingram

Updates the police power provision of the Commission.

Mr. Rives said the Board voted to support this bill, which updates the State Code provisions for the Capital Regional Airport Commission and has been assigned to counties, cities, and towns. In the House it is in subcommittee one and not yet on a docket, we will send an email to each member of the subcommittee when it appears on the docket advising them of Hanover's support for the legislation.

HB 1127 Voting equipment; DREs; Voting Equipment Grant Program and Fund.

Patron: David I. Ramadan

Prohibits the use of direct recording electronic machines (DREs) and requires that use of ballot scanning systems in all elections beginning January 1, 2019. The bill establishes the Voting Equipment Grant Program and Fund, through which the governing body of a county or city may apply for a grant for an amount equal to 50 percent of the cost of the new ballot scanning systems purchased, leased, or otherwise acquired by the governing body in the period of time beginning July 1, 2014, and ending December 31, 2018.

Mr. Rives said this bill will prohibit the use of direct recording electronic machines for voting beginning in 2019. As of 2007, no locality can buy more of those and now there is a proposal to say if you have them you have to stop using them by 2019. The electronic machines do not provide any type of method that can be used to recount votes if needed.

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HB 1230 Line of Duty Act; funding and review.

Patron: Mark D. Sickles

Creates a Line of Duty Death and Health Benefits Fund and provides for the funding of Line of Duty claims. The bill also establishes an advisory review board to assist the Comptroller in the review of claims involving a claimant who has not received a disability determination from the Virginia Retirement System, Social Security Administration, Workers' Compensation Commission, or any recognized retirement system or who is, as of the time the claim for benefits had been filed, working in an alternative position.

Mr. Rives stated that there is some proposed legislation that would take this back by the State and create a Line of Duty Death and Health Benefits Fund and provide that the Line of Duty claims would be handled by the State. The bad part is that they will take funding dollars out of the communications tax. So, they will take it back from us but then they are going to take the revenue to fund it out of another local revenue source. So, it may not be a net positive for us.

HJ 040 Study; JLARC; Medicaid-funded transportation services in the Commonwealth; report.

Patron: David B. Albo

Directs the Joint Legislative Audit and Review Commission (JLARC) to review the Commonwealth's contract with Logisticare for Medicaid-funded transportation services, identify remedies and alternatives available to the Commonwealth to resolve the issues surrounding Logisticare's questionable performance, and review the Department of Medical Assistance Service's oversight of the Commonwealth's contract with Logisticare. The resolution not be renewed or extended prior to the completion of this study. The resolution requests that JLARC report its findings no later than the first day of the 2015 Regular Session.

Mr. Rives said the Board has endorsed the House Joint Resolution 040 which calls for a JLARC study of Medicaid funded transportation services in the Commonwealth. That has been referred in the House to the Rules Committee but it is not yet on a docket. He will express our support for this study when it is put on a docket.

SB 0048 Prohibition on oil and gas drilling.

Patron: Richard H. Stuart

Prohibits the drilling for oil and gas in the Eastern Virginia Groundwater Management Area. When the General Assembly enacted the Groundwater Management Act in 1973, it declared that the continued, unrestricted usage of groundwater is contributing and will contribute to pollution and the

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shortage of groundwater, thereby jeopardizing the public welfare, safety, and health. The Act recognized that the state has the right to the reasonable control of all groundwater resources in order to conserve, protect, and beneficially utilize the groundwater of the Commonwealth. The bill would apply to groundwater and the associated aquifers in the coastal plain of Virginia. The bill would also require the Department of Environmental Quality to adopt regulations protecting surface and ground water resources before the Department of Mines, Minerals and Energy issues a drilling permit in those areas of Tidewater where such activity is allowed.

Mr. Rives said to his knowledge there has been no action on this yet.

SB 523 local fiscal impact bills; first day introduction.

Patron: Frank M. Ruff, Jr.

Requires local fiscal impact bills to be introduced no later than the first day of the session.

Mr. Rives stated that in the Senate there's another first day introduction requirement for local fiscal impact bills. That has been referred to Senate Rules and Senator McDougle is chair of that committee. Senator Stosch is also on that committee. Even though this has not appeared on a docket, because they are members of our delegation, they sent emails today to both of those senators expressing Hanover's support for first day requirement and they will follow up with emails to all members of the committee and if possible go down and testify in support of the bill.

HB 0519 Zoning; attorney fees.

Patron: Rick L. Morris

Provides that a court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in the zoning action brought against it or that successfully challenge the validity of a zoning ordinance.

Mr. Rives said this is one of approximately seven or eight bills that are in this year that would provide for attorney's fees for those who contest a local government action of some type. In Virginia the presumption is that each party in litigation bears its own attorney's fees. In the last several years there have been a number of efforts to require that local governments pay the attorney's fees of the other party if the other party prevails in litigation. We are monitoring those.

Mr. Via said on each of the House or Senate bills there is the name of the patron but he wished to know where they are from and asked Mr. Rives if it would be possible to add beside each name.

Mr. Rives advised he would be happy to do so going forward.

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Mr. Via asked for an explanation of the “Kings Dominion” law and the reason that the Legislature is so against not allowing school systems to open until after Labor Day. He said is there a reason for that.

Mr. Rives explained that there are a number of reasons given on both sides. First it is by no means just about Kings Dominion. It’s about the entire tourist industry across the Commonwealth that benefits from uniformity in the school schedule. Across the State when schools start after Labor Day. That provides families with the opportunity for the traditional end of summer, long weekend vacation that they tend not to take if the children are already back in school. Virginia Beach and across the State, people who are in the hotel industry and the tourism industry who have the theme parks or the beach resorts all prefer that there be a uniform starting date for schools so that people can take those vacations. The Chambers of Commerce are all strongly supportive of maintaining existing law that provides that, unless there is an exception schools cannot open before Labor Day. Some school divisions, particularly in the western part of the State where they have a lot of inclement weather days and a lot of school closures they like to be able to start early and there is a mechanism in existing law that allows them to do that if they come in and submit documentation and they get approval from State Board of Education.

There are other school divisions that do not have the inclement weather issue or any other compelling reason. They just would like to have the flexibility to start earlier if they want to, and most typically the reason is standardized testing like advance placement exams take place on a set series of days in the spring and it is the same in Virginia as it is in other states. And if Virginia students cannot start to school until after Labor Day they are at a competitive disadvantage verses students in other states who may be starting to school earlier. That is the arguments that both sides have been making for about a decade or longer.

Mr. Via said and every year they do it.

Mr. Rives stated yes. For the last five or six years every year the bill that would change that law “sails” through the House with a majority but it gets stopped in the Senate Education Committee.

Mr. Via asked if the legislature wants the people in the far western part of the State to start after Labor Day or do they want us to begin before Labor Day.

Mr. Rives replied that most people in the far western part of the State have their exemptions. The people arguing with doing away with the existing law say a majority of the school divisions already have an exemption from this requirement, which is true. But it is only a small fraction of the

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total number of students. So, it may be a larger percentage of the school districts but it is only 20 or 25 percent of the actual school students in divisions that have that exception. Henrico County, Richmond and maybe Chesterfield County routinely support legislation that would give them the authority to open earlier.

Mr. Davis stated that this has been referred to in the media as a “Kings Dominion” law but it’s not, nor is it Williamsburg or Virginia Beach. It is something that is specific to our state which we see as a large issue.

Mr. Rives noted that Delegate Morris represents Prince George, part of Newport News, Sussex, Surry, Franklin and Suffolk.

V.A Closed Session - Section 2.2-3711(A)(3) of the Code of Virginia – Consultation with Legal Counsel regarding acquisition of real property – acquisition of temporary and permanent easements for road widening on GPIN’s 8706-12-7167 and 8706-12-8045, also known as Patriots Corner.

Mr. Hazzard made a motion that the Board of Supervisors move the meeting into Closed Session pursuant to the items of the Virginia Code Section listed under Item V.(A) as amended.

Mr. Stanley seconded.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. “Ed” Via, III	Aye
Angela Kelly-Wiecek	Absent
Elton J. Wade, Sr.	Absent

Motion approved.

The Board Members entered Closed Session at 6:38 P.M. At the conclusion of the Closed Session, the Board Members, returned to the Board Room, and the Chairman called the regular meeting back to order at 6:51 P.M.

Certification of Closed Session

Mr. Hazzard made a motion that the Board of Supervisors certify that during the Closed Session only public business matters lawfully exempted from the open meeting requirement of the Freedom of Information Act and only such public business matters as were identified in the motion for the Closed Session were discussed.

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Mr. Stanley seconded.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. “Ed” Via, III	Aye
Angela Kelly-Wiecek	Absent
Elton J. Wade, Sr.	Absent

Motion approved.

VI. Recess

The Board recessed at 6:52 P.M.

Reconvened

The Board reconvened at 7:00 P.M. All Board Members were present except Mr. Wade and Mrs. Kelly-Wiecek.

VII – Citizens’ Time

The Chairman opened citizens’ time and offered to anyone who wanted to address the Board of Supervisors for up to five minutes on any matter within the scope of the Board’s authority that is not on the agenda for that meeting to come forward.

Ms. Patty Thomas, Mechanicsville District resident, thanked the Chairman and Board members for giving her the opportunity to speak. She expressed concern with the proposed development at Bell Creek and Pole Green Roads. She said she is working with the developer and sharing her concerns regarding the impact the proposed development will have on her pond. She hoped that they will be able to come to a satisfactory agreement that will benefit all parties. However, at this time she has not seen the new plan and she has been diligent in presenting the Board with her concerns and suggestions of items that will aid in preserving her land and pond.

Mr. Davis closed Citizens’ Time.

VIII. Planning Public Hearings – Mr. Maloney

Conditional Use Permit

CUP-8-13 **BROOKS INVESTMENTS III COMPANY, L.L.C.**, Requests a Conditional Use Permit in accordance with Section 26-174.1 of the Hanover County Zoning Ordinance

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to permit a wastewater pump station on GPIN 7881-29-3011, consisting of approximately 157.6 acres. The area of the Conditional Use Permit will be limited to approximately 3.65 acres. The property is zoned M-2(c), Light Industrial District with conditions and located on the north line of Hickory Hill Road (State Route 646) at its intersection with Elletts Crossing Road (State Route 641) in the **BEAVERDAM MAGISTERIAL DISTRICT**. The subject property is designated on the General Land Use Plan Map as Destination Commerce and Industrial. (PUBLIC HEARING)

Mr. Maloney presented this request for a conditional use permit to permit a wastewater pump station located on Hickory Hill Road. The property is zoned M-2(c), Light Industrial. The applicant plans to construct the pump station and dedicate it to the Public Utilities Department. The pump station is necessary to provide sewer service to develop this property. The pump station is consistent with the Public Utility Map, which was amended by the Board on November 26, 2013. He reviewed the sketch plan, GPIN and Zoning Maps. The Planning Commission and staff recommended approval subject to the conditions outlined in the staff report.

Mr. Davis opened the public hearing and asked if anyone wished to speak in favor of or in opposition to this request. Seeing no one come forward, he closed the public hearing.

Mr. Stanley stated that this was rezoned in 1997 and he would like to see this project move forward.

Mr. Stanley made a motion to approve CUP-8-13 Brooks Investments III Company, L.L.C. subject to conditions as outlined in the staff report. Mr. Hazzard seconded the motion.

RESOLUTION

WHEREAS after a public hearing held on this 22nd day of January, 2014, as advertised in the Herald-Progress once a week for two successive weeks as required by Virginia Code, Section 15.1-431 and the Hanover County Code.

NOW, THEREFORE, BE IT RESOLVED that Brooks Investments III Company, L.L.C., is granted a Conditional Use Permit in accordance with Section 26-174.1 of the Hanover County Zoning Ordinance to permit a wastewater pump station on GPIN 7881-29-3011, consisting of 157.6 acres (the area of the Conditional Use Permit will be limited to 3.65 acres), zoned M-2(c), Light Industrial District with conditions, subject to the following conditions:

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1. Any change to the limits of Conditional Use Permit (CUP) area as shown on the sketch plan shall require an amendment to this CUP.
2. All requirements of the Department of Public Works shall be met for construction of utilities.
3. The subject property shall connect to public water when available to the property line.
4. All requirements of the Virginia Department of Transportation shall be met.
5. No entrance shall be blocked by construction for longer than 2 hours without provisions for temporary access.
6. The Conditional Use Permit shall be valid for four (4) years from the date of Board of Supervisors approval, and thereafter shall become null and void unless construction or use is substantially underway. An extension may be granted by the Board of Supervisors, for good cause shown, before the four-year expiration date.
7. All requirements of the Department of Public Utilities shall be met, including, but not limited to, the submittal of plans prepared by a professional engineer, dedication of all required easements and property to Hanover County for the facility, and entering into a Utility Service Agreement.
8. All development and use of the Property shall comply with all federal, State, and local statutes, ordinances and regulations.

Prior to initiating the new use on this property site plan approval must be obtained.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. "Ed" Via, III	Aye
Angela Kelly-Wiecek	Absent
Elton J. Wade, Sr.	Absent

Motion approved.

Combined Conditional Use Permit and Special Exception Permit (Mr. Maloney advised that the next two public hearings are related.)

CUP-6-13 COMMONWEALTH SOCCER PROGRAMS, Request a Conditional Use Permit in accordance with Section 26-110.24 of the Hanover County Zoning Ordinance to permit a recreation facility on GPIN 8704-82-1673, consisting of approximately 9.16 acres.

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The area of the Conditional Use Permit will be limited to approximately 2.47 acres.

The property is zoned B-3(c), General Business District with conditions, and is located on the south line of Mechanicsville Turnpike (U.S. Route 360) approximately 400 feet west of its intersection with Elm Drive (State Route 1108) in the **MECHANICSVILLE MAGISTERIAL DISTRICT**. The subject property is designated on the General Land Use Plan Map as Commercial. (PUBLIC HEARING)

Mr. Maloney presented this request for a conditional use permit which would permit a commercial recreation facility. The property is located on Mechanicsville Turnpike and is zoned B-3(c), General Business District. The site contains approximately 2.47 acres and is shown for commercial on the General Land Use Plan. The recreation facility will operate from 8:00 a.m. to 9:00 p.m., seven days a week. The Planning Commission recommended approval subject to the conditions outlined in the staff report.

SE-9-12 COMMONWEALTH SOCCER PROGRAMS, Requests a Special Exception Permit in accordance with Section 26-131.3 of the Hanover County Zoning Ordinance to permit a child day care center on GPIN 8704-82-1673, consisting of approximately 9.16 acres, zoned B-3(c), General Business District with conditions, and located on the south line of Mechanicsville Turnpike (U.S. Route 360) approximately 400 feet west of its intersection with Elm Drive (State Route 1108) in the **MECHANICSVILLE MAGISTERIAL DISTRICT**. (PUBLIC HEARING)

Mr. Maloney stated that the applicant is requesting a special exception, which will permit a daycare program within an existing structure. The area of the special exception is expanded beyond the conditional use boundary. All activities for the recreational facility will take place inside the existing building. An outdoor area has been designated for the daycare use and the parking on-site is sufficient to serve both uses. The daycare after school program shall not overlap with the hours of the recreation facility. The hours of operation are 8:00 a.m. to 6:30 p.m. Monday through Friday. He reviewed the Zoning Map. Staff recommended approval subject to the conditions as outlined in the staff report.

Mr. Davis opened the public hearing for both requests and asked if anyone wished to speak in favor of or in opposition to these requests. Seeing no one come forward, he closed the public hearing.

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Mr. Peterson advised that he was very happy to support these requests tonight. He noted that Mr. Martin was present if anybody had any questions of him. He said he visited the operation and was very impressed with his staff and the facilities and he liked the fact that they are helping to strengthen children both in their bodies and their minds, which is too often not the case these days. He toured the facility and did not believe it will disturb anybody near the facility. He mentioned that Mr. Whittaker had even talked to some of the parents of the children that attend and there was nothing but positive reports. The thing that really impressed him was he was there they came in with a band with a number of children and every one of them was laughing, smiling and happy to be there. So, he believes this is a very positive addition to the community.

Mr. Peterson made a motion to approve CUP-6-13 Commonwealth Soccer Programs, subject to conditions as outlined in the staff report. Mr. Hazzard seconded the motion.

RESOLUTION

WHEREAS after a public hearing held on this 22nd day of January, 2014, as advertised in the Herald-Progress once a week for two successive weeks as required by Virginia Code, Section 15.1-431 and the Hanover County Code.

NOW, THEREFORE, BE IT RESOLVED that Commonwealth Soccer Programs Commonwealth Soccer Programs, is granted a Conditional Use Permit in accordance with Section 26-110.24 of the Hanover County Zoning Ordinance, which will permit a commercially-operated recreation facility on GPIN 8704-82-1673, consisting of 9.16 acres (the area of the Conditional Use Permit will be limited to 2.47 acres), zoned B-3(c), General Business with conditions, subject to the following conditions:

1. The Property shall only be used as a commercially operated indoor recreation facility and for its separate approved use as a child daycare center for children through the eighth grade (SE-9-13).
2. Any expansion of the use, including structures, features or activities, not shown on the sketch plan or approved with this CUP request shall not be permitted without an amendment to the CUP.

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3. The hours of operation shall be limited to 8:00 am to 9:00 pm, seven (7) days a week. However, the hours of operation for the recreational facility shall not overlap with use of the property as a daycare/after-school facility.
4. The site plan shall be amended within 60 days of CUP approval.
5. All development and use of the Property shall comply with all federal, state and local statutes, ordinances and regulations.

The Conditional Use Permit shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which the Conditional Use was approved.

Prior to initiating the new use on this property site plan approval must be obtained.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. "Ed" Via, III	Aye
Angela Kelly-Wiecek	Absent
Elton J. Wade, Sr.	Absent

Motion approved.

Mr. Peterson made a motion to approve SE 9-12, Commonwealth Soccer Programs, subject to conditions as outlined in the staff report. Mr. Via seconded the motion.

RESOLUTION

WHEREAS the Board finds that, in its opinion, as a matter of fact, such exception will not substantially affect adversely the uses of adjacent and neighboring property.

NOW, THEREFORE, BE IT RESOLVED that Commonwealth Soccer Programs,, are granted a Special Exception Permit in accordance with Section 26-131.3 of the Hanover County Zoning Ordinance to allow a child day care center on GPIN 8704-82-1673, consisting of 9.16 acres, zoned B-3(c), General Business District with conditions, subject to the following conditions:

1. Any expansion of the use, including structures, features or activities, not shown on the sketch plan or approved with this SE request shall not be permitted without an amendment to the SE.

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2. The hours of operation shall be limited to 8:00 am to 6:30 pm, Monday through Friday. However, the hours of operation for the daycare/after-school facility shall not overlap with use of the property as a recreational facility.
3. The site plan shall be amended within 60 days of SE approval.
4. All development and use of the Property shall comply with all federal, state and local statutes, ordinances and regulations.

The Special Exception Permit shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which the Exception was approved.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. "Ed" Via, III	Aye
Angela Kelly-Wiecek	Absent
Elton J. Wade, Sr.	Absent

Motion approved.

VII. Announcements

Mr. Davis said as Mr. Stanley mentioned in his prayer at the beginning of our meeting, there was a tragedy in our community this past week. Many folks knew Meg Menzies. What some of the folks might not know is her husband serves our County in Ashland and her mother serves our County in the schools. Meg was a substitute teacher, and while this was tragic and we recognize some of the poor choices that cause some of these things, one of the things that we have seen is that Hanover showed a tremendous amount of strength and resolve this past week that will carry on to include things that were seen around the world. He had spoken with a number of Board members and they have seen some very tragic things and have seen the worst side of people in the news recently. It was very uplifting in this deeply, deeply sad time to see folks come around and for Hanover to show exactly what it is to have love, compassion and community support for our neighbors and to love our neighbors as ourselves. He thanked Mr. Stanley for his mention of Mrs. Menzies in his prayers. He knew that it meant a great deal to many folks, not only in the Beaverdam District, but throughout the County.

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Mr. Harris announced that the School Superintendent had informed him that the schools will be closed tomorrow due to the weather. Staff will report at its normal time. The School Board meeting will be on for tomorrow night.

Mr. Davis thanked the County staff for coming in and working and asked that everyone be careful going home.

VIII. Adjournment – February 12, 2014, Hanover County Administration Building – 2:00 p.m.

The Chairman adjourned the meeting at 7:11 P.M.

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VIRGINIA: At a regular meeting of the Board of Supervisors for Hanover County held in the Board Room of the Hanover County Administration Building on the 12th day of February, 2014, at 2:00 p.m.

Present: Mr. Sean M. Davis, Chairman
Mr. Wayne T. Hazzard, Vice-Chairman
Mrs. Angela Kelly-Wiecek
Mr. W. Canova Peterson
Mr. Aubrey M. Stanley
Mr. G.E. “Ed” Via, III
Mr. Elton J. Wade, Sr.
Mr. Cecil R. Harris, Jr., County Administrator
Mr. Sterling E. Rives, III County Attorney

I. Call to Order

At 2:00 p.m., the Chairman called the meeting to order. All Board members were present.

A. Invocation

The invocation was given by Mrs. Kelly-Wiecek.

B. Pledge of Allegiance

The Pledge of Allegiance was led by Mr. Peterson.

II. Consideration of Agenda Amendments

The Chairman asked if there were any agenda amendments. Hearing none, moved to citizens’ time.

III. Citizens’ Time

The Chairman opened citizens’ time and offered to anyone who wanted to address the Board of Supervisors for up to five minutes on any matter within the scope of the Board’s authority that is not on the agenda for that meeting to come forward.

Mr. Dan Johnson from the South Anna District thanked the Chairman and the Board on financial matters. He spoke on fiscal responsibility and the county’s current, better budgetary status.

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Mr. Johnson spoke on public safety and providing the resources for staff that provides public safety for the citizens of Hanover County. He requested approval of the entire budget.

Mr. Peterson thanked Mr. Johnson for his comments and noted the importance of recognizing that Board accomplishments result from a team effort of Board members, staff and citizens.

Seeing no others come forward, the Chairman closed citizens' time.

IV. Consent Agenda

The Chairman asked if there were any recommendations to amend the consent agenda. Mrs. Kelly-Wiecek asked that item IV-C be removed from the consent agenda for a separate vote.

On a motion by Mr. Stanley, seconded by Mr. Hazzard, the amended consent agenda was approved.

Vote:

Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion Approved.

A. Emergency Communications Department – Beaverdam Tower – Amendment to Lease with New Cingular Wireless PCS, LLC

Board Sheet Background:

The County entered into a lease on August 26, 2009 with New Cingular Wireless PCS, LLC for use of the Beaverdam Tower. New Cingular Wireless PCS, LLC agreed to pay an annual rent of \$27,500 with escalation of 3% annually after the base rental period applied at time of renewal. This lease amendment provides for the 4G upgrade of the original equipment located at 240 ft. Rental terms remain as set forth in the original lease. The amendment would also allow substitution of equipment or changes in equipment within the leased area without Board approval, but with prior written approval of the Director of Emergency Communications.

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Recommendation:

Motion to approve the lease amendment between Hanover County and New Cingular Wireless PCS, LLC to upgrade existing equipment and allow certain future equipment changes if approved in writing by the Director of Emergency Communications, and authorize the County Administrator to take all actions necessary to enter into and administer the lease, including the amendment.

B. Approval of Updated Memorandum of Understanding – Department of Public Works – Agreement between Hanover County and Hanover County School Board, Municipal Separate Storm Sewer System (MS4) Permit

Board Sheet Background:

Approval of Updated Memorandum of Understanding – Department of Public Works - Agreement between Hanover County and Hanover County School Board, Municipal Separate Storm Sewer System (MS4) Permit

Recommendation:

Motion to approve the updated Memorandum of Understanding between Hanover County and the Hanover County School Board and authorize the County Administrator to take all actions necessary to implement the agreement.

A copy of the Memorandum of Understanding is filed with the Board Papers.

D. Authorization to Advertise Public Hearing – Commissioner of Revenue – Ordinance No. 14-02, Amendment to Hanover County Code Section 22-43 regarding deadline for final disposition of applications for relief from reassessment with the Board of Equalization

Board Sheet Background:

Virginia Code Section 58.13331 has been amended to require written notice to a taxpayer appealing a tax assessment to be given at least 45 days prior to the hearing on the taxpayer's appeal for all applicable assessments after January 1, 2012. The deadlines set forth in Hanover County Code Section 22-43 (application for relief from reassessment must be filed by March 15; applications must be finally disposed of by April 3) do not allow sufficient time to meet the statutory notice requirements.

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The Commissioner of Revenue and County Attorney’s Office propose revision of Hanover County Code Section 22-43 by changing April 3 to June 1 in order to provide sufficient time to meet statutory notice requirements.

Recommendation:

Motion to advertise a public hearing to be held March 12, 2014 at 7:00 p.m. on Ordinance No. 14-02, Amendment to Hanover County Code Section 22-43 regarding deadline for final disposition of applications for relief from reassessment with the Board of Equalization.

C. Approval and Authorization to Advertise a Change in the Meeting Time of the Hanover County Board of Supervisors’ Meeting on February 26, 2014 (removed from consent agenda)

Board Sheet Background:

It is requested that the Board of Supervisors approve and authorize advertisement of a change in their February 26, 2014 meeting time to begin at 2:00 p.m. instead of 6:00 p.m., as previously advertised.

Mrs. Kelly-Wiecek stated that the request to change the meeting start time to 2:00 p.m. was so that the Board will have more time to receive input and feedback from departments on their needs as they relate to the overall budget.

Mrs. Kelly-Wiecek made a motion to approve and authorize advertisement of a change in the February 26, 2014 meeting time to begin at 2:00 p.m. instead of 6:00 p.m., seconded by Mr. Hazzard.

Vote:

Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion Approved.

V. Introduction of Chief of Animal Control

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Mr. Jim Taylor, Deputy County Administrator, began by thanking the Hanover County Sheriff's Department for their assistance in overseeing the Animal Control Department. In attendance were Major Davidson and Major Woody. Mr. Taylor stated he also wanted to recognize Captain Farmer and Lieutenant Schaeffer for their countless hours working with Animal Control.

Mr. Taylor introduced Mr. Jeff Parker as the new Chief of Animal Control. He explained that Mr. Parker has been serving as the Acting Chief of Animal Control since September and has been with the County since 2006.

Mr. Parker addressed the Board and thanked them for the opportunity to serve Hanover County as the Chief of Animal Control. He stated that the department's main goal is providing great customer service. He updated the Board on upcoming events.

Mr. Davis, on behalf of the Board, congratulated Mr. Parker and thanked him for his service.

VI. Presentation of Quarterly Financial Reports

Board Sheet Background:

In accordance with the County Financial Policies, the financial report for the County's General Fund for the six months ended December 31, 2013, and a projection for the twelve months ended June 30, 2014 is given. Additionally, financial reports and projections for the Public Utilities and the School Division for the same periods are provided.

Ms. Karen Tancredi, Accounting Division Director, updated the Board on revenues, expenditures and changes in fund balance/net position for the General Fund, the Public Utilities Department and the School Division Operating Fund.

Highlights of the General Fund's Financial Performance:

Ms. Tancredi reported that year-to-date revenues total approximately \$90.3 million, approximately 45% of expected total year revenues which is consistent with the prior year. General property taxes, fines and forfeitures and revenues from the Federal government declined from the prior year by approximately \$435,000, \$9,000 and \$166,000, respectively. These decreases are more than offset by increases in other revenue sources such as other local taxes (\$419,000), charges for services (\$274,000), recovered costs (\$440,000) and revenue from the

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Commonwealth (\$218,000). The increases and decreases in the various line items net to a total increase of approximately \$1.2 million over the prior year.

Total year revenues are projected to be approximately \$203.1 million or approximately \$4.0 million higher than the appropriated budget. General property taxes are projected to increase from the prior year by approximately \$540,000 and to be favorable to budget by approximately \$1.6 million. This includes an increase of approximately \$500,000 for real property taxes due to a change in reassessment from 0.5% to 2.07% and an increased base last year. Additionally, personal property taxes are expected to be approximately \$1.0 million higher than budget. Other local taxes are projected to increase from the prior year and to be favorable to budget by approximately \$1.1 million. This favorability is primarily due to an increase in the estimates for sales tax and recordation tax of approximately \$800,000 and \$400,000, respectively.

Year-to-date expenditures and transfers total approximately \$100.8 million or 48% of the appropriated budget. Except for the timing of debt service payments and transfers, this is consistent with the prior year. Total year expenditures and transfers are projected to be approximately \$202.3 million or 97% of the appropriated budget as compared to 96% in the prior year. Personnel savings are estimated to be approximately \$1.4 million and operating savings are estimated to be approximately \$2.4 million with a return from the School Board of approximately \$2.8 million.

The total projected operating balance is approximately \$10.5 million which is primarily planned for use in the FY 2015 County and School budgets.

Of the total projected year-end fund balance of \$43.8 million, the unassigned fund balance is expected to be approximately \$25.4 million or 12.6% of projected revenues. Assignments are expected to total approximately \$17.5 million and are subject to change based on final year end results.

As of December 31, 2013, year-to-date reserve for contingencies budget transfers totaled \$156,774 and the remaining balance was \$986,742. Year-to-date transfers represent requests for the General District Court, Court Services and Treasurer.

Highlights of the Public Utilities Department's Financial Performance:

Ms. Tancredi reported that year to date revenues total \$15.2 million, approximately 50% of projected revenues. Projected revenues are expected to be \$30.6 million or approximately \$4.2

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million higher than the appropriated budget. This favorable variance is primarily the result of increased capacity fee revenue and donated assets. Water and sewer capacity fee revenues are expected to be 156% of appropriated budget, an increase of \$1.6 million. Donated assets, although not part of the appropriated budget, are included in total revenue. Donated assets are expected to reach \$3.5 million this fiscal year. The capital budget includes \$911,000 in grant funds. \$150,000 of grant revenue will be received during the current year. Water and sewer user fees are expected to be \$300,000 below budget.

Year to date expenses total \$9.2 million, approximately 49% of appropriated budget. Total expenses for the year are projected to be \$17.8 million which is 94% of the appropriated budget. Personnel costs are estimated to be \$283,000 below budget. Contract services, including long term water and sewer contracts, are expected to be \$296,000 below budget. Other charges are projected to be \$634,000 below budget, half of which is attributed to lower power costs.

The budgeted change in net position is the net effect of total operations, including non-cash transactions. The total balance in net position, excluding depreciation, is projected to increase by \$12.8 million which is \$5.4 million above budget. The increase includes \$3.5 million in donated assets.

Highlights of the School Division Operating Fund Financial Performance:

Ms. Tancredi reported that at this point in the year, the School Division anticipates an unspent appropriation of approximately \$2.8 million that will be returned to the County's General Fund.

FY 2014 appropriated revenues of \$163.0 million have decreased by \$18.2 million compared with appropriated revenues in the prior year of \$181.2 million. This is attributable primarily to the creation of the debt service fund of \$15.7 million, reduction of staffing in the fiscal year 2014 budget of approximately \$2.0 million and consolidation of services with the County of approximately \$400,000. FY 2014 appropriated expenditures of \$165.2 million have decreased by \$18.5 million compared with appropriated expenditures in the prior year of \$183.7 million. The factors affecting the reduction are substantially the same as noted for revenues.

Actual revenues continue to accrue as anticipated in FY 2014 compared to the appropriated budget, however, there are two offsetting state revenue items to monitor. With the introduction of the Governor's Caboose Bill in December, it appears that sales tax could be

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slightly over budgeted. As an offset, however, actual student enrollment this year is higher than anticipated by the State and the basic aid and other related state dollars should be more than sufficient to cover that potential shortfall.

The net change in fund balance is anticipated to be approximately \$2.8 million. This includes expenditure savings that are primarily the result of utility savings from continued energy containment efforts (and a mild climate so far this year) and attrition savings from employee turnover. These savings will likely increase as the year progresses.

Mr. Davis thanked Ms. Tancredi for the presentation. Mr. Hazzard complemented Ms. Tancredi on the positive report.

VII. Board of Supervisors Proposed Fiscal Year 2015 Initiatives – Mr. Harris

Mr. Harris reported that the County conducted a Citizens Survey in 2005, 2008 and 2011. As it has been done on a three year cycle, it is recommended that a Citizen Survey be conducted in 2014. The County has been able to use National Citizens Survey, which allows us to benchmark ourselves against other localities across the country. The survey is used to determine how the citizens feel about the services provided by the County and to then compare that to results from other localities. It is expected that the survey will be mailed in late summer to early fall.

The next initiative recommended was to update the Economic Development Strategic Plan. This is updated every five years as part of the numerous visioning and strategic planning tools used. Staff will be working with the business community. A number of forums will be held to receive feedback. The proposed budget includes funds to begin the process of meeting the program's requirements over the next 10 years, using a combination of existing funds, grant money and some general fund money over time.

The next issue brought before the Board is the Chesapeake Bay Stormwater Management Mandate. The County recently received a \$417,000 state grant from DEQ that will be matched with other funds and used to begin implementing our strategy. Mr. Harris informed the Board that he will be reporting back to the Board soon on approval of that grant agreement and budget transfer. The implementation plan will need approval by the state before the end of the next calendar year.

Mr. Harris reported on the new courthouse facility, stating that the project team is currently working on the schematic design that will be used in the construction documents. The

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CUP that was approved for this project in 2009 will need to be extended and we would expect to submit that application later this spring. The hope is to complete the documents required to advertise for bids at the end of this year and award a construction contract in 2015, with construction hopefully to begin later that year. The construction is expected to take about 18 months.

Mr. Harris reported on the initiative to provide a merit pay increase to county and school employees. He stated that county and school employees who have helped the County through the recession are deserving of a compensation increase. His recommendation is that this is made a priority initiative in the upcoming FY 2015 budget.

Mr. Davis thanked Mr. Harris for the presentation and stated that comments and recommendations are welcome. He stated that the Board is in agreement that pay increases be based on merit.

VIII. Presentation of the County Website Redesign Project – Mr. Nelson

Mr. Nelson addressed the Board to begin the presentation of the redesign for the County website. He stated that there are many staff and citizens who have worked very hard on the project. He further stated that once the website goes live it will continue to be an ongoing process as staff looks for ways to further provide improvement.

Mr. Craig Williams, Applications Director for the Application Team, thanked the Board for the assistance of Mrs. Kelly-Wiecek and stated that she has been very helpful in ensuring that there was input from the public side as the project has progressed.

Mr. Williams explained that the reason for the redesign is to help citizens get the services they need. The current website is antiquated and the content is very cluttered. It is expensive to maintain and is not mobile friendly.

The Governance Team has worked very hard to determine the best changes. The new site is planned to go live on March 31st.

Ms. Trish Garman gave a presentation of the new website to the Board. Examples of improvements were explained. The new site is designed for the citizen/resident, has service oriented navigation, provides menus for all highly used services and consolidates related information. The site will provide greatly improved search and filtering options, is mobile-ready and contains improved maps/directions, pictures and graphics. The information is easy to find, with multiple paths to the same content and services and there are feedback forms on every page.

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Mr. Hazzard complimented the team on making a site that is very easy to navigate. Mr. Peterson stated he is very impressed with the site. He asked what the process will be to keep content up to date. Mr. Williams replied that the Governance Team has created a web standards document to provide guidelines on an annual review of each page on the site. The software is also capable of recognizing expiration dates for content that is only intended to be on the site for a certain amount of time.

Mr. Peterson asked if there are ways for users who cannot locate the information they need to request the content be provided. Mr. Williams explained numerous ways that this could be accomplished.

Mrs. Kelly-Wiecek stated that she has been very interested in this project from its start. She stressed the efficiency of the new site. She is very impressed with the motivation of the whole team in terms of making information available to citizens. This was done in a very efficient way and a very aggressive timeframe. She wanted to take this opportunity to thank each member of the team. She encouraged each Board member to invite others to visit the new site.

IX. Legislative Update – Mr. Rives

Mr. Davis announced that there will be a number of expanded topics that will be discussed by the Board and thanked Mr. Rives, County Attorney, for adding this expanded content and for his history of presenting the legislative reports in a very comprehensive manner.

Mr. Rives began his presentation by introducing Mr. Michael Kessner, who is interning with the County Attorney's office. Mr. Davis welcomed Mr. Kessner and thanked him for his service to the County.

Mr. Rives reported on the status of the following bills: HB 333, HB 66, HB 67, HB 178, GB 199, HB 431, GB 434, HB 513, HB 527, HB 597, HB 617, HB 633, HB 697, HB 1173, HB 788, HB 1088, HB 1127, HB 1230, HJ 40 Study, SB 48, SB 523, HB 519, HB 1089, HB 268 and HB 1084. There were comments and/or questions by the Board on the following bills:

House Bill 333 eliminates the post-Labor Day opening requirement for local schools. This is inconsistent with the Board's traditional and current position on post-Labor Day opening. It has passed out of the House and will go over to Senate Education.

HB 199 has passed out of the House. It would require the Division of Legislative Services to identify and forward to the Commission on Local Government (Commission) joint resolutions introduced calling for a study of local government expenditures or revenues. The bill

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also authorizes, but does not require, the Department of Planning and Budget and the Department of Taxation to forward to the Commission bills introduced requiring additional local government expenditures or a reduction in local government revenue. This applies to legislative bills and not budget bills.

Mrs. Kelly-Wiecek stated that it will be good to have this information so that the Board members can call it to our local legislators' attention when necessary.

HB 527 provides that for purposes of zoning, a residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff members, shall be considered a residential occupancy by a single family. Currently, such facilities are required to have one or more resident counselors or other staff persons to qualify for this zoning designation.

Mr. Davis asked if this bill means that there can now be individuals with intellectual or developmental disabilities in a facility without a staff person there. Mr. Rives explained that the bill means that now there does not need to be a staff member residing there. Mrs. Kelly-Wiecek asked what the motivation for this bill was. Mr. Davis stated that his concern was that the residing staff was originally required and this can now cause some concern in the community. Mr. Rives stated that the level of care will still be decided at the state level but there will no longer be a requirement that the care giver reside.

Mr. Peterson asked if these were considered single family residences and was informed that they are (for up to eight people). Mr. Via asked if these facilities need Board approval and was informed that they do not. Mr. Stanley asked for clarification as to whether this will mean that there is still 24 hour care for the residents, just not by someone who resides in the home. Mr. Rives replied that this will depend upon the needs of the individuals that reside in the facility and will be based on state regulations.

House Bill 597 will change the composition of the Richmond Metropolitan Authority (RMA). Renames the Authority as the Richmond Regional Transportation Authority and equalizes Board representation among the City of Richmond, Chesterfield County, and Henrico County. The bill requires that certain actions of the Authority related to construction or acquisition of limited access highways or acquisition of rights to operate existing toll roads receive approval from the local governing bodies. Local approval is also required for the issuance of bonds by the Authority. The bill allows the governing body of each locality to appoint one of its own members as a member of the Board of the Authority, clarifies the

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appointment process for the three Richmond representatives on the Board, and prohibits Board members from receiving health insurance or other benefits for their service on the Board.

Mr. Peterson stated that the RMA has done an excellent job over the years. The Board has been in support of the RMA until the proposed name change to Richmond Regional Transportation Authority. Mr. Peterson has discussed the County's opposition to the name change with the patron of the bill. Mr. Peterson was told that due to the opposition, the name would instead be changed to the Richmond Metropolitan Transportation Authority.

Mrs. Kelly-Wiecek explained that, while this bill concerned members of the Richmond Regional Planning District Commission, Planning District Commission 15 took no official position on the bill. It was conveyed that Hanover County believes strongly that there should be no taxation without representation. The Commission is pleased with the outcome.

Mr. Peterson asked that Mr. Rives continue to track this bill for any potential changes.

HB 1173 allows any locality that does not operate a municipal separate storm sewer system (MS4) to opt out of establishing Virginia Stormwater Management Programs. Localities that notify the Department of Environmental Quality (DEQ) of their decision to opt out shall have their stormwater programs managed by the DEQ.

Mrs. Kelly-Wiecek asked that a summary of the report on HB 1173 be forwarded to her office.

Mr. Peterson left the room at 3:45:47 p.m.

Mr. Peterson returned at 3:46:56 p.m.

HB 1084 provides that any applicant aggrieved by the grant or denial by a locality of any approval or permit, however described or delineated, where such grant included or denial was based upon an unconstitutional condition pursuant to the United States Constitution or Constitution of Virginia, shall be entitled to an award of damages, reasonable attorney fees, and court costs and to an order remanding the matter to the locality with a direction to grant or issue such permits or approvals without such conditions. The bill also provides that once an unconstitutional condition has been proven by the aggrieved applicant to have been a factor in the grant or denial of the approval or permit, the court shall presume, absent clear and convincing evidence to the contrary, that such applicant's acceptance of or refusal to accept the unconstitutional condition was the controlling basis for such impermissible grant or denial.

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Mr. Rives updated the Board on the history of this bill and the implications it could have on the County. He described the process for issuance of certain permits and approvals in the County. Mr. Davis asked if Mr. Rives believed that in Hanover County there is a comprehensive approach that balanced the needs of the community as well as the legitimate business needs. Mr. Rives responded that this balance is precisely what the process ensures. There are often competing interests between developers versus concerns of the community. The job of a local body is to balance those concerns and work towards a resolution.

Mr. Davis stated that this could have an overbearing effect on local government to deal with development and land use issues. Mrs. Kelly-Wiecek stated one issue of concern is that, the vast majority of land use decisions are balancing an individual's property rights against another individual's property rights. She is concerned that this has gone as far as it has and believes it damages the County's ability to protect the taxpayers from having to pay for lawsuits that could come. The cost to a locality could be staggering. It is important to note that the applicant need not even notify the locality of the objection. They can agree to it and later decide that they would like to take the issue to court and then the taxpayers would have to pay for those legal fees. It is very important that the Board relays to the legislators what a vital role the County plays in advocating for the individual citizens and businesses.

Mr. Hazzard asked if property owners who have *not* been denied a permit themselves, but have adjoining property and are displeased by a decision, would be able to seek payment of legal fees or court costs if they pursue litigation related to a permit. Mr. Rives responded that the bill applies only to aggrieved applicants. Mr. Hazzard asked for guidance on offering advice to constituents once this bill goes into effect. Mr. Rives will provide information as guidelines are determined.

Mrs. Kelly-Wiecek stated she has spoken to Senator Obenshain about suggested changes to some of the language in the bill and will be following up with the Senator on those suggestions.

Mr. Davis stated that he firmly believes that the discussion at this meeting and references to this bill will be reviewed at a later date regarding our opposition. This is going to be a much larger issue. In Hanover County, Hickory Hill was the largest single piece of property from Maine to Key West on the eastern shore that was developed as a single piece of property for years. To have it rezoned and developed, with the historic significance that it had and the work done by the Board, staff and particularly Mr. Stanley, who had community meetings, meetings in

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citizens' homes and worked it out to where the project went forward, is important to note. By the final public hearing there were very few people present to voice opposition. The point made there is that all of the work the County, the Board, Planning staff, Mr. Stanley and his district did to move a project forward where everyone felt it was a good project certainly could preclude issues arising in the future. We have a good track record of trying to work with people and balance those needs.

X. 4:11:19 p.m. - Recess

7:00:13 - Reconvene

Mr. Wade was not present.

XI. Citizens' Time

The Chairman opened citizens' time and offered to anyone who wanted to address the Board of Supervisors for up to five minutes on any matter within the scope of the Board's authority that is not on the agenda for that meeting to come forward.

Mr. Randy Sherrod, Chickahominy District, spoke on behalf of Friends of Hanover Schools. Mr. Sherrod expressed concerns about the five-year Capital Improvement Plan, technology and low teacher morale. They ask that the Board find a way to provide what the schools need. There has been an 11% drop in staffing. Morale is low, attrition is growing and instructional staff does not have time to meet individual needs of students. Workloads are unmanageable. Henrico and Chesterfield high school teachers instruct fewer blocks.

Seeing no one else come forward, the Chairman closed Citizens' Time.

XII. Public Hearings

A. Public Hearing –Department of Public Works – Ordinance Numbers 13-09, 13-10, and 13-12, Amendment of Erosion and Sediment Control and Chesapeake Bay Preservation Ordinances and Adoption of Stormwater Management Ordinance

Mr. Flagg, Director of Public Works, came forward to present this ordinance. He noted that minor changes have been made to ESC 13-9 to address Mr. Peterson's previous concern. Mr. Peterson indicated the change satisfies the concern he had.

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Summary:

Effective July 1, 2013, the State Water Control Law (Virginia Code § 62.1-44.2 et seq.) incorporated the Chesapeake Bay Preservation Act (Virginia Code § 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (Virginia Code § 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (Virginia Code § 62.1-44.15:24 et seq.), and placed all of these under the jurisdiction of the State Water Control Board.

The Virginia Stormwater Management Act (the “Stormwater Act”) and Virginia Stormwater Management Program Regulations (the “Stormwater Regulations”) require localities to adopt local stormwater management programs and ordinances that incorporate specific components of the Stormwater Act and Stormwater Regulations, including a stormwater management ordinance to become effective July 1, 2014.

Public Works Analysis:

The Department of Public Works (DPW) and County Attorney’s Office have drafted a proposed Stormwater Management Ordinance to be added to Chapter 10 of the Hanover County Code as Article V. The proposed ordinance is based upon the Stormwater Management Model Ordinance and fulfills statutory and regulatory requirements. The draft ordinance has been revised to reflect regulatory changes made by the State Water Control Board in December 2013. Attached is a black-lined draft ordinance showing revisions to the October 2013 draft ordinance. An overview is provided in the attached stormwater executive summary.

The Stormwater Act and Stormwater Regulations also require a locality’s erosion and sediment control program and Chesapeake Bay ordinance to be integrated with its Virginia Stormwater Management Program. To accomplish this, the DPW and County Attorney’s Office have proposed amendments to Chapter 10, Articles I and II in order to conform to these changes in statutory and regulatory requirements.

These ordinances were authorized for public hearing on October 9, 2013. At this time the DPW has received no comments concerning the proposed ordinances. Summaries of the ordinance amendments are included with the attached draft ordinances.

Recommendation:

Approve Ordinance Numbers 13-09, 13-10, and 13-12, Amendment of Erosion and Sediment Control and Chesapeake Bay Preservation Ordinances and Adoption of Stormwater Management Ordinance.

Mr. Davis asked if Board Members had any questions. Hearing none, he

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opened the public hearing and asked that anyone wishing to speak for or against the ordinance come forward. Seeing no one come forward, Mr. Davis closed the public hearing.

On motion of Mr. Peterson, seconded by Mr. Via, the members of the Board of Supervisors voted to approve Ordinance No. 13-09.

ORDINANCE 13-09

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE I, OF THE HANOVER COUNTY CODE PURSUANT TO TITLE 62.1, CHAPTER 3.1, ARTICLE 2.4 (§ 62.1-44.15:51 ET SEQ.) OF THE CODE OF VIRGINIA TO CONFORM TO CHANGES IN STATE LAW AND NEW REGULATORY REQUIREMENTS

WHEREAS effective July 1, 2013, the State Water Control Law (Virginia Code § 62.1-44.2 et seq.) incorporated the Chesapeake Bay Preservation Act (Virginia Code § 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (Virginia Code § 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (Virginia Code § 62.1-44.15:24 et seq.), and placed all of these under the jurisdiction of the State Water Control Board; and

WHEREAS the Virginia Stormwater Management Act (the “Stormwater Act”) and Virginia Stormwater Management Program Regulations (the “Stormwater Regulations”) require localities to adopt local ordinances that incorporate specific components of the Stormwater Act and Stormwater Regulations, including a stormwater management ordinance to become effective July 1, 2014; and

WHEREAS the Stormwater Act and Stormwater Regulations require a locality’s erosion and sediment control program to be integrated with its Virginia Stormwater Management Program; and

WHEREAS the Department of Public Works and County Attorney’s Office have recommended changes to Chapter 10, Article I, in order to conform to these changes in statutory and regulatory requirements; and

WHEREAS staff has recommended other minor changes to correct and clarify the language of Chapter 10, Article I; and

WHEREAS the Board of Supervisors has decided to implement these recommendations;

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NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Hanover County:

1. That the Hanover County Code, Chapter 10, Article I, Erosion and Sediment Control, shall be amended to read in its entirety as follows:

ARTICLE I. - EROSION AND SEDIMENT CONTROL

Sec. 10-1. - Purpose.

The purpose of this article is to conserve the land, water, air, natural resources and general environment of the county, and to promote the public health and welfare by establishing minimum standards and procedures for the enforcement and administration of an overall program regulating land-disturbing activities in order to minimize the harm that may be caused by erosion and sediment deposits resulting from such activities. The program established pursuant to this article may be referred to as the Hanover County Erosion and Sediment Control Program. This article is adopted pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia and associated regulations ("erosion and sediment control law").

Sec. 10-2. - Definitions.

Unless otherwise clearly indicated, the following words, terms, and phrases when used in this article, shall have the following meanings:

Agreement in lieu of a plan: A contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence.

Applicant: Any person submitting an erosion and sediment control plan or an agreement in lieu of a plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

Clearing: Any activity which removes the vegetative ground cover including, but not limited to, root mat removal or topsoil removal. *Development:* A tract or parcel of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three (3) or more residential dwelling units. Land disturbance and the resulting landform associated with the construction of

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residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

Development: A tract or parcel of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three (3) or more residential dwelling units. Land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

Director: The county's director of public works or designee, who shall be certified or otherwise qualified pursuant to the Virginia Code as a certified program administrator, and who, as agent of the board of supervisors, shall be the plan-approving authority for purposes of this article. The director shall be the erosion and sediment control program administrator, and shall provide for administration and enforcement of the program by properly certified inspectors and plan reviewers and by issuance of regulations approved by the county administrator pertaining to details of administration and enforcement, including permit application requirements.

District or soil and water conservation district: A political subdivision of the commonwealth organized in accordance with the provisions of Title 10.1 of the Code of Virginia.

Erosion and sediment control plan: A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion impact area: An area of land not associated with current land disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of ten thousand (10,000) square feet or less used for residential purposes.

Excavating: Any digging, scooping or other methods of removing earth materials.

Filling: Any depositing or stockpiling of earth materials.

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Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Land-disturbing activity: Any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- (1) Minor land-disturbing activities, such as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (4) Septic tank lines or drainage fields disturbing less than ten thousand (10,000) square feet (two thousand five hundred (2,500) square feet in a Chesapeake Bay Preservation Area), unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1 of the Code of Virginia;
- (6) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Water Control Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsection B of Section 10.1-1163 of the Code of Virginia.
- (7) Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2 (§ 10.1-604 et seq.) of Chapter 6 of Title 10.1 of the Code

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of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;

(8) Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

(9) Disturbed land areas of less than ten thousand (10,000) square feet in size (or two thousand five hundred (2,500) square feet in size in all areas subject to Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia;

(10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

(11) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this chapter;

(12) Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the director.

Land disturbance permit: Document issued by the county to permit a legal land-disturbing activity. Its issuance signifies that a plan-narrative statement has been approved, adequate bonding is in effect, a program administration fee has been paid, and proper implementation or maintenance of erosion and sediment control provisions have occurred where applicable.

Owner: The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Permittee: The person to whom the local permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

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Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

Plan-approving authority: The director of public works.

Post-development: The conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

Pre-development: The conditions existing at the time the erosion and sediment control plan is submitted to the director. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish predevelopment conditions.

Program administrator: The director of public works, or designee, who is responsible for administering and enforcing the Hanover County Erosion and Sediment Control Program.

Responsible land disturber: An individual holding a certificate of competence issued by the Virginia State Water Control Board, who shall be in charge of and responsible for carrying out a land-disturbing activity.

Stabilized: Land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

State waters: All waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdiction.

Subdivision: The division of a parcel of land into three (3) or more lots or parcels of land any of which is less than ten (10) acres, for the purpose of transfer of ownership or building development, including any parcel previously separated by the owner or prior owner of such land for such purpose.

Transporting: Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

Sec. 10-3. - Erosion and sediment control plans, permits, when required.

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(a) Except as provided in this section, no person may engage in any land-disturbing activity, nor shall the owner of the land permit any land-disturbing activity thereon, until:

- (1) An erosion and sediment control plan ("plan") for such land-disturbing activity has been approved by the director;
- (2) Bond or other security is given as provided in this article; and
- (3) A land disturbance permit has been issued by the director, certifying plan approval.

No land disturbance permit shall be issued unless the applicant has submitted evidence satisfactory to the director that the applicant or owner has complied with the requirements of this article and all other applicable local, state and federal requirements.

(b) If the land-disturbing activity is for the construction of a single-family residence, the director may accept an agreement in lieu of a plan, and no permit shall be required. The person responsible for carrying out the agreement shall provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities. Failure to provide the name of an individual holding a certificate of competence may result in termination of the agreement by the director, and the director may require a plan and pursue other enforcement action. The agreement, in a form prescribed by the director, shall include a requirement to comply with the conservation standards of this article and any reasonable requirements determined to be necessary by the director to provide adequate control of erosion and sedimentation resulting from the land-disturbing activity. The director or designee may, however, require a plan for such individual lots if the director determines that severe topography, erodible soils, resource protection areas or other environmentally sensitive features are present on the lot.

(c) If any area of land is determined by the director to be an erosion impact area, a certified letter, return receipt requested, shall be sent to the owner of the land advising him that he must submit a plan for such area or agreement in lieu of a plan, if applicable, for approval by the director, and security as provided in this article within thirty (30) days of receipt of the letter. The plan contents, review and approval, of any land-disturbing activity shall conform to the requirements of this article.

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(d) The requirements of this section shall not apply to state agencies, nor to electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies.

Sec. 10-4. - Permit application and plan submission.

(a) Except as provided in section 10-3(b), any person proposing to undertake any land-disturbing activity shall submit to the director a properly executed application for land disturbance permit with the plan attached. The plan must indicate the type, magnitude and location of the activity, anticipated conservation problems and proposed methods of insuring compliance with this article. Final plans should be drawn at a scale of not less than 1:50 on a topographical map with a contour interval of not greater than two (2) feet. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, the plan may, at the option of the applicant, be submitted to the state soil and water conservation board for review and approval rather than to each jurisdiction concerned.

When land disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

(b) The person responsible for carrying out the plan shall certify that he or she will properly perform the erosion and sediment control measures included in the plan and will comply with the provisions of erosion and sediment control law. In addition, as a prerequisite to engaging in the land-disturbing activities depicted on the approved plan, the person responsible for carrying out the plan shall provide the name of a responsible land-disturber.

(c) All plans and applications, as well as the land-disturbing activities and the performance of erosion and sediment control measures shall, at a minimum, meet the requirements of the erosion and sediment control law, the Virginia Erosion and Sediment Control Handbook, the Hanover County Drainage Design Handbook, and all applicable federal, state and local statutes, regulations and ordinances.

(d) In order to prevent further erosion, the Director may require approval of a plan for any land identified as an erosion impact area.

Sec. 10-5. - Plan contents.

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- (a) The erosion and sediment control plan shall detail those methods and techniques to be used in controlling erosion and sedimentation. At a minimum, the plan shall comply with the standards prescribed by the Virginia Erosion and Sediment Control Regulations, The Virginia Erosion and Sediment Control Handbook, and The Hanover County Drainage Design Handbook, each as amended and in force at the time the plan is submitted.
- (b) The erosion and sediment control plan shall include:
 - (1) A narrative report with plan details as may be necessary to describe the project and give the purposes, schedule of phasing of major construction activities and a schedule of application of control methods;
 - (2) A map or maps depicting the topography of the area, the existing trees, the limits for clearing and grading, other proposed alterations of the area; and
 - (3) A description of all control measures and facilities.

Sec. 10-6. - Review and inspection fee; validity of permits.

- (a) The board of supervisors may establish plan review and inspection fees by ordinance. The applicant shall pay such fees at the time of submittal of a plan, at the time of building permit application, at the time of permit renewal, or as otherwise specified by the board of supervisors. A copy of the adopted fee schedule shall be maintained in the office of the director.
- (b) Permits shall be valid only for the time periods prescribed in this article and only upon compliance with all requirements including payment of applicable fees. Land disturbing activity conducted without a valid permit or following expiration of a permit is prohibited and shall be subject to penalties and enforcement actions prescribed in this article.

Sec. 10-7. - Approval or disapproval of plans; revocation.

- (a) The director shall review erosion and sediment control plans and agreements in lieu of plan and grant written approval within forty-five (45) days of the receipt of the plan or agreement if it determines that the plan or agreement meets state and local requirements.
- (b) When a plan or agreement is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty-five (45) days of receipt of the plan or agreement. The notice shall specify the modifications, terms, and conditions required for approval of the plan or agreement. If no action is taken by

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the director within the time specified in Section 10-7(a), the plan or agreement shall be deemed approved and the person authorized to proceed with the proposed activity.

(c) Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activity may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this chapter.

(d) Variances: Upon request, the director may approve a variance waiving or modifying standards or approving alternative standards, as long as the alternative standards achieve an equal or higher level of water quality protection, in the judgment of director, as existing standards. Variance requests must be in writing and must explain the reason(s) for the request. Variances approved by the director shall be documented in the erosion and sediment control plan for the property. A variance may be requested by either an applicant or a person responsible for implementing the approved plan. An applicant may request a variance at the time of plan submission. The person responsible for implementing the approved plan may request a variance during construction. The director shall respond in writing to each variance request within 10 days by either approving or denying the request or requesting additional information. If denied, the applicant may resubmit a variance request with additional documentation. If a variance request or resubmitted variance request is denied by the director, the work must comply with all applicable standards.

Sec. 10-8. - Permits by other officials.

Officials, departments, agencies or authorities authorized under any other law to issue grading, building, or other permits (with the exception of permits required for plan approval) for activities involving land-disturbing activities may not issue any such permit until a land disturbance permit has been issued and the applicant certifies that the plan or agreement will be implemented.

Sec. 10-9. - Bond or other security.

All applicants for permits shall provide to the county a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the county attorney, to ensure that measures could be taken by the county at the applicant's expense should the applicant fail within the time specified to initiate or maintain appropriate conservation measures required as a result of his

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land-disturbing activity. Should it be necessary for the county to take such conservation action, the county may collect from the applicant any costs in excess of the amount of the surety held. Within sixty (60) days of the completion of the land-disturbing activity and adequate stabilization of the land, as determined by the director, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based on the percentage of stabilization accomplished in the project or project section.

No bond shall be required where an agreement in lieu of plan is permitted by this article or where the estimated value of the control measure does not exceed one hundred dollars (\$100.00).

Sec. 10-10. - Amendment of approved plan or agreement.

Any plan or agreement which has been previously approved may be changed by the director where:

- (1) Inspection has revealed that the plan or agreement is inadequate to satisfy applicable regulations; or
- (2) The person responsible for carrying out the approved plan or agreement finds that because of changed circumstances, or for other reasons the approved plan or agreement cannot be effectively carried out, and proposed amendments to the plan or agreement, consistent with the requirements of erosion and sediment control law, are agreed to by the director and the person responsible for carrying out the plan.

Sec. 10-11. - Notice required prior to beginning land-disturbing activity.

The permittee shall, in writing, notify the director when the land-disturbing activity will begin, how long the temporary erosion control measures will be in place, when the permanent erosion control measures will be installed, and when the land-disturbing activity will be terminated and ground surface stabilized by planting of vegetation, or other measures. If circumstances cause the commencement of the land-disturbing activity to take place more than five (5) days before or after the date indicated, the director shall be so notified in writing at least five (5) days in advance of the date when such work will begin.

Sec. 10-12. - Time limit for implementation; validity of permits.

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- (a) The permittee shall have six (6) months after plan or agreement approval to initiate work under the approved plan. Failure to do so shall make the approval null and void. The director may, upon written request from the permittee, grant an extension of this time limit.
- (b) Permits and agreements approved under this article shall be subject to fees and duration periods established by the Board.

Sec. 10-13. - Inspection and enforcement; notice to comply.

(a) The director shall be responsible for enforcement of this article. The director shall ensure that periodic inspections of the land-disturbing activity occur and the director may require monitoring and reports from the person responsible for carrying out the plan or agreement, to ensure compliance with the plan or agreement and to determine whether measures required in the plan or agreement are effective in controlling erosion and sediment. The owner, permittee or person responsible for carrying out the plan or agreement shall be given notice of the inspection.

If the director determines that there is a failure to comply with the plan or agreement, then the director shall serve a notice to comply upon the owner, permittee or person responsible for carrying out the plan or agreement by either:

- (1) Registered or certified mail to the address specified by the owner or permittee in his applications; or
- (2) Delivery at the site of the land-disturbing activity to the agent or owner or permittee supervising such activities.

A copy of each notice to comply shall also be sent to the chief building inspector when no land disturbance permit is issued, e.g., where an agreement in lieu of a plan is submitted for single-family residences. The notice shall specify the measures that must be taken to comply with the plan or agreement and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article, and shall be subject to the penalties provided by [section 10-15](#).

(b) If the measures required by the plan or agreement are determined by the director not to be effective or are not completely constructed or, if constructed, fail through overload or inadequate maintenance, then the county may, in the event the owner or permittee does not,

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install ground cover or other ground stabilizing devices or material to the extent necessary to achieve erosion and sediment control equal to that which would have been furnished by the permanent cover shown on the approved plans or agreement, or as directed by the director. Such action shall be taken only upon failure to comply with a notice to comply in the time specified or issuance of a stop work order in accordance with this section and [section 10-14](#) respectively. The costs of any such measures taken by the county shall be borne by the owner or permittee and shall be a charge against the bond or other security of the owner or permittee. The remedies in this paragraph shall not preclude any other legal remedies.

Sec. 10-14. - Adherence to approved plans and specification; stop work order.

(a) Upon receipt of a sworn complaint of a violation of this article from the director, the county administrator or his designee may, in conjunction with or subsequent to a notice to comply described in [section 10-13](#), issue a stop work order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken or, if land-disturbing activities have commenced without an approved plan or agreement in lieu of plan as provided in [section 10-3](#), requiring that all land-disturbing activities be stopped until an approved plan or any required permits are obtained. Where the alleged noncompliance is causing harmful erosion of lands or depositing of sediment in waters within the watersheds of the commonwealth, or where land-disturbing activities have commenced without an approved plan, agreement in lieu of plan or any required permits or approval, such an order may be issued without regard to whether the owner, permittee or person responsible for carrying out the plan or agreement has been issued a notice to comply. Otherwise, a stop work order may be issued only after the owner, permittee or person responsible for carrying out the plan or agreement has failed to comply with a notice to comply. The stop work order shall be served in the same manner as a notice to comply.

(b) The order shall remain in effect for a period of seven (7) days from the date of service, pending application by the director, owner or permittee for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. If the alleged violator has not obtained an approved plan or agreement in lieu of plan or any required permits within seven (7) days from the date of service of the order, the county administrator or his designee may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan or agreement in lieu of plan and any

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required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the locality in which the site is located. The owner may appeal the issuance of an order to the Hanover County Circuit Court. Any person violating or failing, neglecting or refusing to obey an order issued by the county administrator or his designee may be compelled in a proceeding instituted in the Hanover County Circuit Court to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion of the corrective action or obtaining an approved plan or any required permits or approvals, the stop work order shall immediately be lifted. Nothing in this section shall prevent the county administrator or his designee or the director from taking additional enforcement action permitted by this article and by state law.

Sec. 10-15. - Penalties, injunctions and other legal actions.

- (a) A civil penalty shall apply to any person who violates:
 - (1) Any condition of a land disturbance permit; or
 - (2) Any provision of this article, any provision of erosion and sediment control law, any provision of the Hanover County Erosion and Sediment Control Program, or any stop work order issued pursuant to this article.
- The civil penalty for any one violation shall be not less than one hundred dollars (\$100.00) per day nor more than one thousand dollars (\$1,000.00) per day.
- (b) Each day during which the violation is found to have existed shall constitute a separate offense.
 - (c) In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00).
 - (d) The director may issue a summons for collection of the civil penalty. The director may also bring a civil action for such violations or failure, and take all other enforcement actions authorized by the erosion and sediment control law.
 - (e) In addition to any other available remedies, the county may apply to the circuit court to enjoin a violation or threatened violation of this article without the necessity of showing that an adequate remedy at law does not exist.

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- (f) In addition to any civil penalties provided under this article, any person who violates any provision of this section may be liable to the county in a civil action for damages.
- (g) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation. The county may bring a civil action for such violation or failure in the general district or circuit court of the county, as appropriate.
- (h) Any person who has violated or failed, neglected or refused to obey any condition of a permit or any provision of this article or any provision of erosion and sediment control law may enter into a consent order with the director providing for the payment of civil charges for violation in specific sums, not to exceed two thousand dollars (\$2,000). Such civil charges shall be instead of any civil penalty which could be imposed.
- (i) Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

Sec. 10-16. - Reserved.

Sec. 10-17. - Appeals.

- (a) Final decisions of the director shall be subject to review by the county administrator, who shall act on behalf of the board of supervisors, upon the filing of an appeal, by an aggrieved person within fourteen (14) calendar days of the date of the decision being appealed. The appeal shall be filed in a form and with information prescribed by the director. In reviewing the director's decision, the county administrator shall consider evidence and opinion presented by the aggrieved person and the director. After considering such evidence and opinion, the county administrator may affirm, reverse or modify the decision. Final decisions of the county administrator shall be provided in writing to the aggrieved person.
- (b) Final decisions of the county board of supervisors shall be subject to review by the Hanover County Circuit Court, provided an appeal is filed within thirty (30) days from the date of any written decision adversely affecting the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

Secs. 10-18—10-31. - Reserved.

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2. That this Ordinance shall be effective on July 1, 2014.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion Approved.

On motion of Mr. Peterson, seconded by Mr. Via, the members of the Board of Supervisors voted to approve Ordinance No. 13-10.

ORDINANCE 13-10

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE II, OF THE HANOVER COUNTY CODE PURSUANT TO TITLE 62.1, CHAPTER 3.1, ARTICLE 2.5 (§ 62.1-44.15:67 ET SEQ.) OF THE CODE OF VIRGINIA TO CONFORM TO CHANGES IN STATE LAW AND NEW REGULATORY REQUIREMENTS

WHEREAS effective July 1, 2013, the State Water Control Law (Virginia Code § 62.1-44.2 et seq.) incorporated the Chesapeake Bay Preservation Act (Virginia Code § 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (Virginia Code § 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (Virginia Code § 62.1-44.15:24 et seq.), and placed all of these under the jurisdiction of the State Water Control Board; and

WHEREAS the Virginia Stormwater Management Act (the “Stormwater Act”) and Virginia Stormwater Management Program Regulations (the “Stormwater Regulations”) require localities to adopt local ordinances that incorporate specific components of the Stormwater Act and Stormwater Regulations, including a stormwater management ordinance to become effective July 1, 2014; and

WHEREAS the Stormwater Act and Stormwater Regulations require a locality’s Chesapeake Bay ordinance to be integrated with its Virginia Stormwater Management Program;

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and

WHEREAS the Department of Public Works and County Attorney’s Office have recommended changes to Chapter 10, Article II, in order to conform to these changes in statutory and regulatory requirements; and

WHEREAS staff has recommended other minor changes to correct and clarify the language of Chapter 10, Article II; and

WHEREAS the Board of Supervisors has decided to implement these recommendations;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Hanover County:

1. That the Hanover County Code, Chapter 10, Article II, Chesapeake Bay Preservation, shall be amended to read in its entirety as follows:

ARTICLE II. - CHESAPEAKE BAY PRESERVATION

DIVISION 1. - GENERAL PROVISIONS AND DEVELOPMENT CRITERIA

Sec. 10-32. - Purpose.

The purpose of this article is to protect and improve the water quality of the Chesapeake Bay, its tributaries, and other state waters by minimizing the effects of human activity upon these waters. This article is adopted pursuant to Article 2.5 (§62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia (the Chesapeake Bay Preservation Act) and associated regulations. The Chesapeake Bay Preservation Act provides for the definition and protection of certain lands called Chesapeake Bay Preservation Areas, which if improperly used or developed may result in substantial damage to the water quality of the Chesapeake Bay and its tributaries. This article establishes the criteria used by Hanover County in granting, denying or modifying requests to use and develop land in Chesapeake Bay Preservation areas within Hanover County.

Sec. 10-33. - Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

Act. The Chesapeake Bay Preservation Act found in Chapter 3.1 (§ 62.1-44.15:67 et seq.) of Title 62.1 of the Code of Virginia. .

Agricultural activities. Activities including crop production, pasture, and dairy and feedlot operations, horticulture, floriculture, or raising of poultry and/or livestock.

Applicant. Any individual, one (1) or more individuals, corporation, partnership, association, or any governmental agency or unit desiring to engage in land disturbance activities,

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develop, or redevelop any land.

Best management practices or BMPs. A practice, or combination of practices, determined by the director to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Buffer area. An area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

Chesapeake Bay Preservation Area or CBPA. Any land designated by the county in accordance with criteria established pursuant to Section 62.1-44.15:72 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area (RPA) and a Resource Management Area (RMA).

Construction footprint. The area of all impervious surface, including but not limited to, buildings, roads and drives, parking areas, and sidewalks, the area necessary for construction of such improvements, and septic tank and primary drain field locations.

Development. The construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures, or initiation of any change in land use requiring a building permit, site plan or subdivision approval.

Director. The Hanover County Director of Public Works, who shall administer, interpret and enforce the provisions of this article.

Dripline. The imaginary perpendicular line extending downward from the outermost tips of the tree branches to the ground.

Floodplain. Any land that would be inundated by floodwater as a result of a storm event of a one hundred-year return interval.

Highly erodible soils. Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight (8). The erodibility index for any soil is defined as the product of the formula $RKLS/T$, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils. Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six (6) inches of water movement per hour in any part of the soil profile to a depth of seventy-two (72) inches (permeability groups "rapid" and "very rapid") as found in the latest

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edition of the "National Soil Survey Handbook" of November, 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture, Natural Resources Soil Conservation Service.

Impervious cover. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Land disturbance or land disturbing activity. Any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- (1) Minor land-disturbing activities, such as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (4) Septic tank lines or drainage fields disturbing less than two thousand five hundred (2,500) square feet unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1 of the Code of Virginia;
- (6) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Virginia State Water Control Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsection B of Section 10.1-1163 of the Code of Virginia.
- (7) Agricultural engineering operations, including but not limited to the construction of

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terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2 (§ 10.1-604 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;

(8) Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

(9) Disturbed land areas of less than two thousand five hundred (2,500) square feet in size in all areas subject to Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia;

(10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

(11) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this chapter;

(12) Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the director.

Nonpoint source pollution. Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

Nontidal wetlands. Those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the Clean Water Act.

Noxious weeds. Weeds that are difficult to control effectively, such as Johnson grass, kudzu, and multiflora rose.

Public road. A publicly-owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the state department

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of transportation, including regulations promulgated pursuant to (i) the Virginia Erosion and Sediment Control Law and (ii) the Virginia Stormwater Management Act. This definition includes those roads where the state department of transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by the county.

Qualified professional. A person practicing within the appropriate area of competence and licensed to engage in the practice of architecture, engineering, land surveying, geology, soil science or landscape architecture pursuant to Chapter 4 of Title 54.1 of the Code of Virginia.

Redevelopment. The process of developing land that is or has been previously developed.

Regulations. Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act.

Resource management area or RMA. That component of the Chesapeake Bay Preservation Area that is not classified as the resource protection area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.

Resource protection area or RPA. That component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

Silvicultural activities. Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to the Virginia Code and are located on property defined as real estate devoted to forest use under the land use taxation provisions of the Virginia Code.

Substantial alteration. Expansion or modification of a building or development that would result in a disturbance of land exceeding an area of two thousand five hundred (2,500) square feet in the resource management area only.

Tidal shore. Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Tidal wetlands. Vegetated and nonvegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.

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Water-dependent facility. A development of land that cannot exist outside of a resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to:

- (1) Ports;
- (2) The intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers;
- (3) Marinas and other boat docking structures;
- (4) Beaches and other public water-oriented recreation areas; and
- (5) Fisheries or other marine resources facilities.

Wetlands. Tidal and nontidal wetlands.

Sec. 10-34. - Applicability.

The requirements of this article shall apply to development and redevelopment involving land disturbance, the creation of a construction footprint or a change in an existing construction footprint. Agricultural activities and silvicultural activities are subject to the specific provisions applicable to those activities, set out below.

Sec. 10-35. - Chesapeake Bay Resource Protection Area (RPA) boundaries.

RPAs shall consist of:

- (1) Tidal wetlands;
- (2) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
- (3) Tidal shores;
- (4) A vegetated buffer area not less than one hundred (100) feet in width located adjacent to and landward of the components listed above, and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the RPA notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with this article.

Sec. 10-36. - Chesapeake Bay Resource Management Area (RMA) boundaries.

(a) The RMA shall be provided contiguous to the entire inland boundary of the RPA and shall include the features listed below, when such features are directly contiguous to the RPA as indicated by mapping resources, or site-specific determinations:

- (1) Floodplains;
- (2) Highly erodible soils, including steep slopes;

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- (3) Highly permeable soils;
- (4) Nontidal wetlands not included in RPAs.

(b) If none of the features listed above are contiguous to the RPA, or if the features are less than a total of one hundred fifty (150) feet in width, the RMA shall consist of an area one hundred fifty (150) feet in width located contiguous to and landward of the RPA.

Sec. 10-37. - Chesapeake Bay Preservation Area maps to be maintained; site-specific delineation.

The director shall maintain maps generally locating identified CBPAs. Those maps are not conclusive evidence of inclusion or exclusion. Each applicant shall provide either the certification referred to below, or a reliable, site-specific evaluation and delineation prepared by a qualified professional and acceptable to the director, including all information requested by the director, with the application for approval of construction plans, land disturbance permit, building permit, site plan or subdivision plat, or with the water quality assessment. The evaluation shall include a determination as to whether water bodies on or adjacent to the development site have perennial flow and shall, at a minimum, determine the location of all CBPA features on the site.

Sec. 10-38. - General performance criteria for Chesapeake Bay Preservation Areas.

Any use, development or redevelopment of land within the Chesapeake Bay Preservation Area (CBPA) shall meet the following performance criteria:

- (1) No more land shall be disturbed than is necessary to provide for the proposed use or development.
 - a. The limits of land disturbance, development or redevelopment, including clearing or grading, shall be strictly defined by the construction footprint shown on the building permit, site plan, subdivision plat or water quality impact assessment. These limits and all CBPAs shall be clearly shown on all plans and physically marked on the development site prior to any clearing or grading on the site.
 - b. Ingress and egress to any site within the CBPA during construction shall be limited to one (1) access point, unless otherwise approved by the director.
- (2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed.
 - a. Existing trees over six (6) inches in diameter measured outside the bark at a point four and one-half (4.5) feet above the ground shall be preserved outside the

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construction footprint. Diseased trees or trees weakened by age, storm, fire or other injury may be removed.

b. Clearing shall be allowed only to provide necessary access, construction of improvements, positive site drainage, water quality best management practices, and the installation of utilities, as approved by the director.

c. Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected five (5) feet outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

(3) Land development shall minimize impervious cover consistent with the use or development proposed.

(4) Notwithstanding any other provisions of this article or exceptions or exemptions, any land disturbing activity within a CBPA exceeding two thousand five hundred (2,500) square feet, including construction of all single-family houses, septic tanks and drain fields, shall comply with the erosion and sediment control requirements of state law and with this chapter. Any such proposed development shall be the subject of a land disturbance permit, certification, building permit, site plan, subdivision plat or water quality impact assessment found by the director to be consistent with this article.

(5) On-site sewage treatment systems in a CBPA not requiring a Virginia Pollutant Discharge Elimination System permit shall comply with the following:

a. Systems shall be pumped out at least once every five (5) years, unless the owner submits documentation, certified by a sewage handler permitted by the state department of health, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it. As an alternative to the mandatory pump-out or documentation, a plastic filter approved by the health department may be installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent.

b. A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided on each lot or parcel proposed for new construction. This reserve sewage disposal site requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if the lot or parcel is not sufficient in

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capacity to accommodate a reserve sewage disposal site, as determined by the local health department.

c. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites until the development is served by public sewer or an on-site sewage treatment system which operates under a permit issued by the state water control board.

Sec. 10-39. - Agricultural activities, silvicultural activities, and wetlands permits.

(a) Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, shall have a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides, and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with the Chesapeake Bay Preservation Act and associated regulations.

(1). Recommendations for additional conservation practices need address only those conservation issues applicable to the tract or field being assessed. Any soil and water quality conservation practices that are recommended as a result of such an assessment and are subsequently implemented with financial assistance from federal or state cost-share programs must be designed, consistent with cost-share practice standards effective in January 1999 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service or the June 2000 edition of the "Virginia Agricultural BMP Manual" of the Virginia Department of Conservation and Recreation, respectively. Unless otherwise specified in this section, general standards pertaining to the various agricultural conservation practices being assessed shall be as follows:

a. For erosion and sediment control recommendations, the goal shall be, where feasible, to prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. However, in no case shall erosion exceed the soil loss consistent with an Alternative Conservation System, referred to as an "ACS", as defined in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service.

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b. For nutrient management, whenever nutrient management plans are developed, the operator or landowner must provide soil test information, consistent with the Virginia Nutrient Management Training and Certification Regulations.

c. For pest chemical control, referrals shall be made to the local cooperative extension agent or an Integrated Pest Management Specialist of the Virginia Cooperative Extension Service. Recommendations shall include copies of applicable information from the "Virginia Pest Management Guide" or other Extension materials related to pest control.

(2) A higher priority shall be placed on conducting assessments of agricultural fields and tracts adjacent to Resource Protection Areas. However, if the landowner or operator of such a tract also has Resource Management Area fields or tracts in his operation, the assessment for that landowner or operator may be conducted for all fields or tracts in the operation. When such an expanded assessment is completed, priority must return to Resource Protection Area fields and tracts.

(3) The findings and recommendations of such assessments and any resulting soil and water quality conservation plans will be submitted to the Hanover-Caroline Soil and Water Conservation District Board.

(b) Silvicultural activities in Chesapeake Bay Preservation Areas are exempt from this article provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the January 1997 edition of "Forestry Best Management Practices for Water Quality in Virginia Technical Guide." The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas.

(c) Applicants shall provide evidence of all wetlands permits required by law prior to the commencement of grading or other on-site activities.

Sec. 10-40. - Development criteria for resource protection areas (RPAs).

(a) *Restriction.* Land development within an RPA may be allowed only if the proposed development conforms with the general performance criteria set out above, with the provisions of this chapter and with all other applicable federal, state and local laws and regulations and is water-dependent, constitutes redevelopment, is a new use established pursuant to a permitted encroachment, or is a road or driveway crossing, or a flood control or stormwater management facility satisfying the conditions set forth below.

(1) A water quality impact assessment demonstrating compliance with applicable

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requirements shall be required for any proposed land disturbance within an RPA.

- (2) A new or expanded water-dependent facility may be allowed within an RPA only if:
 - a. The development of the facility does not conflict with the county comprehensive plan;
 - b. The development complies with the performance criteria of this article;
 - c. Any non-water-dependent component is located outside of RPAs; and
 - d. Access to the water-dependent facility will be provided with minimum disturbance necessary. Where practicable, a single point of access will be provided.
- (3) Redevelopment shall be permitted in the RPA only if there is no increase in the amount of impervious cover and no further encroachment within the RPA, and shall conform to all applicable federal, state and county erosion and sediment control and stormwater management laws and regulations.
- (4) Roads and driveways not exempt under the regulations and this article and which, therefore, must comply with the provisions of this article, may be constructed in or across RPAs if each of the following conditions is met:
 - a. The director finds that there are no reasonable alternatives to aligning the road or driveway in or across the RPA;
 - b. The proposed alignment, design and construction of the road or driveway are optimized, consistent with other applicable requirements, to minimize:
 1. Encroachment in the RPA; and
 2. Adverse effects on water quality;
 - c. The design and construction of the road or driveway conform to all applicable criteria of this article, including submission of a water quality impact assessment; and
 - d. The director reviews the plan for the road or driveway proposed in or across the RPA in coordination with construction plan, land disturbance, site plan, subdivision or building permit approvals, and finds that the plan is consistent with this article and the regulations.
- (5) Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in RPAs provided such facilities are allowed and constructed in accordance with the Stormwater Management Act (§62.1-44.15:24 et seq. of the Code of Virginia) and its associated regulations, and provided that:

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- a. The director has conclusively established that location of the facility within the RPA is the optimum location;
- b. The size of the facility is the minimum necessary to provide necessary flood control or stormwater treatment, or both;
- c. The facility is consistent with a comprehensive stormwater management plan developed and approved in accordance with the Virginia Stormwater Management Program (VSMP) Permit regulations;
- d. All applicable permits for construction in state or federal waters have been obtained from the appropriate state and federal agencies, such as the U.S. Army Corps of Engineers, the state department of environmental quality, and the state marine resources commission;
- e. Approval has been received from the director prior to construction; and
- f. Maintenance agreements in a form and with content acceptable to the director have been executed, to allow the county to perform routine maintenance on such facilities to assure that they continue to function as designed.

It is not the intent of this subdivision to allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located within an RPA.

(b) *Buffer area requirements.*

(1) The one hundred-foot wide buffer area shall be the landward component of the RPA. Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in this article, the one hundred-foot wide buffer area shall not be reduced in width. To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a one hundred-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution shall be retained if present and established where it does not exist.

- a. The one hundred-foot wide buffer area shall be deemed to achieve a seventy-five (75) percent reduction of sediments and a forty (40) percent reduction of nutrients.
- b. Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full one hundred-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the required

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buffer functions.

(2) Permitted encroachments into the buffer area:

a. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, encroachments into the buffer area may be allowed by the director in accordance with the following criteria:

1. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel;
3. In no case shall the encroachment extend beyond the landward fifty (50) feet of the buffer.

b. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and December 31, 2003, encroachments into the buffer area may be allowed by the director in accordance with the following criteria:

1. The lot or parcel was created as a result of a legal process conducted in conformity with the subdivision ordinance;
2. Conditions or mitigation measures imposed through a previously approved exception shall be met;
3. If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required; and
4. The three (3) criteria set out in subsection (2) (a) above for other permitted encroachments shall also be met.

(3) Permitted modifications of the buffer area:

a. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed if approved by the director pursuant to an application and a plan submitted to the director, including all information required by the director, only to

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provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:

1. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
 2. Any path shall be constructed and surfaced so as to effectively control erosion.
 3. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu and multiflora rose) may be removed and thinning of trees may be allowed by the director pursuant to sound horticultural practices approved by the director.
 4. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
- b. For agricultural activities, the agricultural buffer area shall be managed in a manner approved by the staff of the soil and water conservation district board to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:
1. Agricultural activities may encroach into the landward fifty (50) feet of the one hundred-foot wide buffer area when at least one (1) agricultural best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land - erosion control or nutrient management - is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the one hundred-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan,

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including soil tests, must be developed consistent with the Virginia Nutrient Management Training and Certification Regulations.

2. Agricultural activities may encroach within the landward seventy-five (75) feet of the one hundred-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the Virginia Nutrient Management Training and Certification Regulations. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the one hundred-foot wide buffer area.

3. The buffer area is not required to be designated adjacent to agricultural drainage ditches if at least one (1) best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land - either erosion control or nutrient management - is being implemented on the adjacent land.

DIVISION 2. - REVIEW PROCEDURES AND COMPLIANCE

Sec. 10-41. - Certification by director.

(a) Any applicant proposing to construct a single-family dwelling or accessory building or structure may request that the director make a determination that the construction as represented in a plan submitted with the building permit application is in conformance with the requirements of this chapter, if the proposed construction meets the following criteria:

- (1) The development of the lot as represented in the building permit does not require subdivision approval; and
- (2) The area of any land disturbance is located at least one hundred (100) feet from any water body with perennial flow, drainage feature or area of concentrated surface water flow, wetlands, and floodplain; and
- (3) All land disturbances within an RMA in excess of two thousand five hundred (2,500)

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square feet meets all requirements of this chapter relating to erosion and sediment control and any other requirements relating to development within an RMA.

(b) Any applicant proposing development resulting in land disturbance of less than two thousand five hundred (2,500) square feet may request a site-specific determination by the director, of compliance with this article.

(c) Application for a determination by the director shall be made in a form and with information required by the director. If the director is unable to determine the boundaries of CBPAs from consulting available maps and resources, or if the director determines that the proposed construction does not conform to the criteria set out in this section, the director shall require that the applicant provide a certification, a water quality impact assessment, or otherwise comply with the requirements of this article.

Sec. 10-42. - Certification submitted by applicant.

Any applicant desiring to develop or redevelop any land within the county so that the proposed development will not result in land disturbance of any nature within an RPA or exceeding two thousand five hundred (2,500) square feet within any RMA shall submit a statement of a qualified professional so certifying. The certification shall also state that no drainage structure will be placed within a CBPA and that there will be no concentrated flows into a CBPA from a disturbed area of more than two thousand five hundred (2,500) square feet to be located anywhere on the property. The statement shall be made in a form acceptable to the director and shall be submitted at the time of application for land disturbance permit, building permit, site plan, preliminary or final subdivision approval. If multiple applications for approval are required for a development, the certification shall be submitted with the first application filed. The director shall review the certification and approve or disapprove the certification. If any applicant does not submit such a certification or if the certification is not approved by the director, the applicant shall submit a water quality impact assessment (WQIA).

Sec. 10-43. - Water quality impact assessment (WQIA).

(a) A water quality impact assessment (WQIA) prepared by a qualified professional shall be submitted to, and approved by, the director for:

- (1) Any proposed development or redevelopment within an RPA;
- (2) Any proposed development or redevelopment which will result in land disturbance within an RMA in excess of two thousand five hundred (2,500) square feet;
- (3) Any development within a CBPA not approved by the director pursuant to a

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certification; and

(4) The placement of a drainage structure within a CBPA or discharge of concentrated flows into a CBPA resulting from land disturbance in excess of two thousand five hundred (2,500) square feet anywhere on the property included in the construction plans, site plan, subdivision plat, building permit application or land disturbance permit application.

Such water quality impact assessment shall identify the impact of the proposed development or buffer area modification or encroachment on water quality and on lands in RPAs and demonstrate compliance with the requirements of this article.

(b) If the director determines that potential impacts created by the proposal are not mitigated as required by this article, the director may require additional mitigation measures as a condition of approval. If the proposed development or redevelopment does not comply with the requirements of this article, in the opinion of the director, the director shall disapprove the proposal as inconsistent with the purpose and intent of this article. Any person aggrieved by a decision of the director concerning a water quality impact assessment may appeal such decision in accordance with the procedures provided in this article.

(c) There shall be two (2) levels of water quality impact assessments: A minor assessment and a major assessment. The information required shall in each case be supplemented by the applicant if the director finds that additional information is necessary for evaluation of the impact of the development on water quality. All WQIAs shall include a site-specific evaluation performed in accordance with standards approved by the director, identifying the location of CPBA features. Designations shall be based on that site-specific information.

(1) *Minor water quality impact assessment.*

a. A minor water quality impact assessment is required for proposed development or redevelopment under the following circumstances:

1. Where land disturbance within an RMA will exceed two thousand five hundred (2,500) square feet but not fifty thousand (50,000) square feet in area. In this case, the WQIA must demonstrate that the rate and pollutant loading of post development runoff will meet general performance criteria for CBPAs set out above.

2. Where the placement of a drainage structure within a CBPA is proposed or where concentrated flows into a CBPA from a disturbed area greater than two thousand five hundred (2,500) square feet anywhere on the property will result.

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In this case, the WQIA must demonstrate that the proposed development meets the general performance criteria for CBPAs set out above.

b. A minor assessment shall include a site drawing to scale which shows the following:

1. Delineation of all components of the CBPA, based on a site-specific evaluation;
2. The construction footprint;
3. Wetlands delineations, which shall be performed in accordance with the procedures specified in the current regulations of the federal government pursuant to section 404 of the Clean Water Act;
4. Location and nature of the proposed encroachment into the CBPA including: type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drain field sites;
5. Type and location of proposed best management practices to mitigate the effect of the proposed development or redevelopment within the CBPA.

(2) *Major water quality impact assessment.* A major water quality impact assessment shall be required for any proposed development or redevelopment within a CBPA which (i) exceeds fifty thousand (50,000) square feet of land disturbance; or (ii) disturbs any portion of the RPA.

The following elements shall be included in the major water quality assessment:

- a. All of the information required in a minor water quality impact assessment;
- b. A hydrogeological element that:
 1. Describes the existing topography, soils, hydrology of the site and adjacent lands.
 2. Describes the impacts of the proposed development on topography, soils, hydrology on the site and adjacent lands.
 3. Indicates the following:
 - i. Any disturbance or destruction of wetlands and justification for such action;
 - ii. Any disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;

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- iii. Any disruptions to existing hydrology including wetland and stream circulation patterns;
 - iv. Source location and description of proposed fill material;
 - v. Location of dredge material and location of dumping area for such material;
 - vi. Estimation of pre- and post-development pollutant loads in runoff;
 - vii. Calculation of impervious surface on site and type(s) of surfacing materials used;
 - viii. Limits of disturbance;
 - ix. Anticipated duration and phasing schedule of construction project; and
 - x. Listing of all requisite permits from all applicable agencies necessary to develop project.
4. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures include:
- i. Proposed erosion and sediment control plan;
 - ii. Proposed stormwater management consistent with Article V. STORMWATER MANAGEMENT of Chapter 10 of the Hanover County Code;
 - iii. Creation of wetlands to replace those lost;
 - iv. Minimizing cut and fill.
- c. A landscape element that:
- 1. Identifies and delineates the location of all existing and proposed significant plant material, including all trees in CBPAs six (6) inches or greater in diameter measured outside the bark at a point four and one-half (4.5) feet above the ground. Where there are groups of trees, stands may be outlined.
 - 2. Describes the impacts the development or use will have on the existing vegetation. Information shall include:
 - i. General limits of clearing, based on all anticipated improvements, including buildings, drives, and utilities;
 - ii. Clear delineation of all trees or stands of trees which will be removed, including a description of the horticultural practice being followed in any removal;

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- iii. If additional vegetation is required in the buffer, a landscape plan showing location, type and size of landscaping, ground cover and trees to be used.
 3. Describes the potential measures for mitigation. Possible mitigation measures include:
 - i. Replanting schedule for trees and other significant vegetation removed for construction, including a list of possible plants and trees to be used.
 - ii. Demonstration that the design of the plan will preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation.
 - iii. Demonstration that indigenous plants are to be used to the greatest extent possible.
 - iv. Demonstration that landscaping, ground cover and trees to be used in the buffer or areas of development are of the appropriate species and are to be planted in a manner so as to maintain water quality.
 - d. A wastewater element, where applicable, that:
 1. Includes calculations and locations of anticipated drain field or wastewater irrigation areas;
 2. Provides justification for sewer line locations in environmentally-sensitive areas, where applicable, and describes construction techniques and standards;
 3. Describes any proposed on-site collection and treatment systems, treatment levels, and impacts on receiving watercourses, including proposed mitigative measures.
- (3) *WQIA submission and review requirements.*
- a. Copies of all drawings, plats, and other applicable information shall be submitted to the director for review, in accordance with procedures established by the director, fees shall be paid, and application for review shall be made on forms approved by the director.
 - b. All information required by the WQIA shall be certified as complete and accurate by a qualified professional.
 - c. The WQIA shall be submitted with the application for a land disturbance permit,

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building permit, or with the application for site plan, or preliminary or final subdivision approval. If multiple applications for approval are required for a development, the WQIA for the property shall be submitted with the first application filed.

d. As part of any WQIA submittal, the director may require review by the Department of Environmental Quality (DEQ). Upon receipt of a WQIA, the director will determine if such review is warranted and may request DEQ to review the assessment and respond with written comments. Any comments by DEQ will be incorporated into the final review by the director provided that such comments are provided by DEQ within the period required by statute or ordinance for application review and approval by the county.

(4) *Evaluation procedure.*

a. Upon the completed review of a WQIA, the director will determine if the proposed development is consistent with the regulations and with the purpose and intent of this article and make a finding based upon the following criteria:

1. Within any RPA, the proposed development is water-dependent, redevelopment or otherwise conforms to the requirements of this article;
2. The disturbance of wetlands will be minimized;
3. The development will not result in significant disruption of the hydrology of the site;
4. The development will not result in significant degradation to aquatic vegetation or life;
5. The development will not result in unnecessary destruction of plant materials on site;
6. Proposed erosion and sediment control concepts are adequate to achieve the required reductions in runoff and prevent off-site sedimentation;
7. Proposed stormwater management is consistent with Article V. STORMWATER MANAGEMENT of Chapter 10 of the Hanover County Code;
8. Proposed revegetation of disturbed areas will provide optimum erosion and sediment control benefits;
9. The design and location of any proposed drain field will be in accordance with the requirements of this chapter;

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10. The development, as proposed, is consistent with the purpose and intent of this article;

11. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

b. The director shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the director based on the criteria listed above.

c. The director shall find the proposal to be inconsistent with the purpose and intent of this article when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the director based on the criteria listed above.

Sec. 10-44. - Development to be in accordance with approved certification or water quality impact assessment; prerequisite to issuance of building permit and certificate of occupancy.

(a) It shall be unlawful for any person to violate any of the requirements of this article, or to develop, redevelop, change or improve any land or construct, erect or structurally alter any building or structure for which a certification or WQIA is required or to fail to maintain the land or improvements except in accordance with an approved certification or WQIA.

(b) No construction plans, land disturbance permit, building permit, site plan, preliminary or final subdivision plat, or certificate of occupancy shall be approved or issued for any development or redevelopment subject to the provisions of this article until the applicant has submitted required documents and otherwise has complied with this article. The installation and completion of all features represented in the WQIA shall be required for issuance of a certificate of occupancy except that, in lieu of installation of landscaping by the applicant prior to occupancy, the director may accept a performance agreement requiring installation within one (1) year with adequate security. All other required measures, including stormwater management facilities, shall be completed prior to issuance of any occupancy permit, or, in the case of subdivision, shall be secured and completed in accordance with requirements of the subdivision ordinance.

(c) The director shall require evidence of all wetlands and other permits required by law prior to authorizing grading or other on-site activities to begin.

(d) The director shall require that applicants include notations as to the requirements for

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maintenance of the RPA buffer area, restrictions on development in the RPA, and requirements for provision of reserve sewage disposal sites, on all construction plans, land disturbance permits, building permits, site plans, and subdivision plats, when applicable. The director shall also require that those plans, permits and plats include delineation of buildable areas allowed on each lot, based on the requirements of this article, zoning requirements and any other relevant easements or limitations regarding lot coverage.

Sec. 10-45. - Exemptions.

(a) Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Virginia Erosion and Sediment Control Law and the Virginia Stormwater Management Act, (ii) an erosion and sediment control plan and a stormwater management plan approved by the state department of conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements will be deemed to constitute compliance with this article. The exemption of public roads is further conditioned on the optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize (i) encroachment in the resource protection area and (ii) adverse effects on water quality. Appurtenant structures include but are not limited to bridges, culverts, guard rails, drainage facilities, lighting, traffic control devices, fences and berms.

(b) Construction, installation, and maintenance of water, sewer, natural gas, fiber-optic and underground telecommunications and cable television lines owned, permitted or both, by the county, shall be exempt from the requirements of this article provided that the director determines, after review of construction plans or other information required by the director, that:

- (1) To the degree possible, the location of such utilities and facilities is outside the RPA;
- (2) No more land will be disturbed than is necessary to provide for the proposed utility installation;
- (3) All such construction, installation, and maintenance of such utilities and facilities are in compliance with all other applicable federal, state and local requirements and permits and designed and conducted in a manner that protects water quality; and,
- (4) Any land disturbance within a CBPA exceeding an area of two thousand five hundred (2,500) square feet complies with all erosion and sediment control requirements of this chapter.

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(c) Silvicultural activities are exempt from the requirements of this article provided that such activities adhere to water quality protection procedures prescribed by the department of forestry in its "Forestry Best Management Practices for Water Quality in Virginia."

(d) The following land disturbances in RPAs shall be exempted by the director from the requirements of this article; provided, that any land disturbance exceeding two thousand five hundred (2,500) square feet shall comply with the erosion and sediment control requirements of this chapter:

(1) Water wells and passive recreation facilities such as boardwalks, trails, and pathways, provided that the applicant submits a WQIA or other information deemed necessary by the director demonstrating that the intended use will not significantly deteriorate water quality; and

(2) Historic preservation and archaeological activities, provided that the applicant submits a WQIA or other information deemed necessary by the director demonstrating that:

a. Any required permits, except those to which this exemption specifically applies, shall have been issued; and

b. The intended activity will not significantly degrade water quality.

Sec. 10-46. - Exceptions.

(a) An application may be made to the director for an exception to the requirements of the general performance criteria applicable to CBPAs or to the development criteria applicable to RPAs for intended uses which are essential to the reasonable use of a property.

(b) Applications for exceptions to the development criteria applicable to RPAs, except those exceptions for which the director has approval authority, shall be forwarded to the planning commission. Prior to approval by the planning commission there shall be a public hearing following notice in conformance with Va. Code § 15.2-2204. The planning commission shall review the request for an exception and the water quality impact assessment, and may grant the exception only if the planning commission makes the required findings applicable to exceptions set out in subsection 10-46(c) and imposes reasonable and appropriate conditions that will prevent the allowed activity from causing a degradation of water quality.

The decision of the planning commission shall be final and shall not be appealable.

(c) An exception to requirements other than the development criteria applicable to RPAs may be granted by the director with such conditions as are deemed necessary to further the purpose and intent of this article and to prevent the degradation of water quality, if:

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- (1) The requested exception is the minimum necessary to afford relief;
- (2) Granting the request will not confer upon the applicant special privileges that are denied to other property owners who are subject to the performance criteria applicable to CBPAs and who are similarly situated;
- (3) The exception is in harmony with the purpose and intent of this article and is not of substantial detriment to water quality;
- (4) The exception request is not based on conditions or circumstances that are self-created or self-imposed;
- (5) The exception is essential to allow reasonable use of the property;
- (6) There is compliance with all requirements of this chapter other than those for which an exception is granted; and
- (7) Water quality shall be preserved to the maximum extent practicable.

Sec. 10-47. - Nonconforming uses and vested rights.

- (a) The lawful use of a building or structure which existed or which was under construction on December 31, 2003, or in which rights had vested as of that date and which is not in conformity with the provisions of this article may be continued. This article shall not prevent the reconstruction of structures existing prior to December 31, 2003, in the event of casualty loss, subject to the requirements of other provisions of the Hanover County Code and Appendix and of this section, provided that the director finds that the application conforms to the requirements of subsection 10-46(c) above.
- (b) Change, expansion, or reconstruction of a legally nonconforming use or structure shall not be allowed without a waiver. A waiver allowing change, expansion or reconstruction of a principal structure, but not an accessory structure, may be granted by the director in accordance with the following provisions:
 - (1) The director may grant a nonconforming use and development waiver of requirements of this article, for the expansion, modification or reconstruction of legally nonconforming principal structure or buildings, provided that:
 - a. There will be no increase in nonpoint source runoff pollution loadings, as demonstrated by a WQIA, submitted by the applicant in accordance with this article;
 - b. Any development or land disturbance exceeding an area of two thousand five hundred (2,500) square feet complies with all erosion and sediment control requirements of this chapter;

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- c. Additions shall be built outside RPAs where possible; and
- d. No waiver shall be granted by the director unless the director makes the findings required for an exception, set out in subsection 10-46(c) above.

(2) A nonconforming use and development waiver shall be null and void twelve (12) months from the date issued if no substantial work has commenced.

(c) The provisions of this chapter shall not affect vested rights of any landowner under existing law. The director shall require that any applicant determined by the director to have a vested right in a development shall conform to all requirements of this chapter, to the extent that the requirements do not impair the vested development rights. The director shall make a determination as to the vested status of any development or redevelopment when requested to do so by an applicant. The request shall be made on forms supplied by the director and the applicant shall provide the information deemed necessary by the director.

Sec. 10-48. - Applications for exceptions and waivers.

An application for a nonconforming use and development waiver or an exception shall be made to the director, on forms prescribed by the director, and shall include a WQIA, all information required by the director, and the following:

- (1) Name and address of applicant and property owner;
- (2) Legal description of the property and type of proposed use and development;
- (3) A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the RPA and RMA, if applicable;
- (4) Location and description of any existing private water supply or sewage system; and
- (5) Date of initiation of the use or completion of the structure, with documentation evidencing conformance with all requirements applicable at the time of completion.

Sec. 10-49. - Appeal procedures.

An applicant aggrieved by a decision of the director may appeal the decision to the county administrator, within fifteen (15) calendar days of the date of the decision. The appeal shall be filed on forms provided by the director. In considering an appeal to the administrative decision, the county administrator shall consider whether the applicant's plan is in accordance with all applicable ordinances and includes necessary elements to mitigate any detrimental impact on water quality and whether such plan meets the performance standards of this article. If the county administrator finds that the applicant's submittal to the director does not meet those requirements, the county administrator shall affirm the administrative decision. If the county

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administrator finds that the submittal does meet the requirements, the county administrator may reverse or modify the decision. The decision of the county administrator shall be final and shall not be appealable.

Sec. 10-50. - Administration; penalty and enforcement.

- (a) The provisions of this article shall be administered and enforced by the director.
- (b) Any person who: (i) violates any provision of this article or (ii) violates or fails, neglects, or refuses to obey any final notice, order, rule, regulation, or variance or permit condition authorized under this article shall, upon, such finding by the circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court, be directed to be paid into the treasury of the county for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas within the county.
- (c) With the consent of any person who (i) violates any provision of this article or (ii) violates or fails, neglects, or refuses to obey any notice, order, rule, regulation, or variance or permit condition authorized under this article, the director may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas within the county. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subsection (c). Civil charges may be in addition to the cost of any restoration required or ordered by the director.

Sec. 10-51. - Fees.

Fees may be charged for review of any submittals required by this article, in accordance with a fee schedule adopted by the board of supervisors by resolution.

Sec. 10-52. - Supplemental regulations; more restrictive apply.

The regulations of this article shall serve as a supplement to applicable federal, state and local laws and regulations, including the zoning and subdivision ordinances. In the event there is a conflict, the more restrictive requirements shall apply.

Secs. 10-53 – 10-59. - Reserved.

2. That this Ordinance shall be effective on July 1, 2014.

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	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion Approved.

On motion of Mr. Peterson, seconded by Mr. Via, the members of the Board of Supervisors voted to approve Ordinance No. 13-12.

ORDINANCE 13-12

AN ORDINANCE ADOPTING ARTICLE V OF CHAPTER 10 OF THE HANOVER COUNTY CODE PURSUANT TO TITLE 62.1, CHAPTER 3.1, ARTICLE 2.3 (§ 62.1-44.15:24 ET SEQ.) OF THE CODE OF VIRGINIA TO CONFORM TO CHANGES IN STATE LAW AND NEW REGULATORY REQUIREMENTS

WHEREAS effective July 1, 2013, the State Water Control Law (Virginia Code § 62.1-44.2 et seq.) incorporated the Chesapeake Bay Preservation Act (Virginia Code § 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (Virginia Code § 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (Virginia Code § 62.1-44.15:24 et seq.), and placed all of these under the jurisdiction of the State Water Control Board; and

WHEREAS the Virginia Stormwater Management Act (the “Stormwater Act”) and Virginia Stormwater Management Program Regulations (the “Stormwater Regulations”) require localities to adopt local ordinances that incorporate specific components of the Stormwater Act and Stormwater Regulations, including a stormwater management ordinance to become effective July 1, 2014; and

WHEREAS the Department of Conservation and Recreation developed a guidance document containing a Stormwater Management Model Ordinance consistent with the Stormwater Act and Stormwater Regulations; and

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WHEREAS the Department of Public Works and County Attorney’s Office have drafted a Stormwater Management Ordinance to be added to Chapter 10 as Article V, based upon the Stormwater Management Model Ordinance, in order to conform to statutory and regulatory requirements; and

WHEREAS the Board of Supervisors has decided to adopt the proposed ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Hanover County:

1. That Chapter 10 of the Hanover County Code shall be amended by adding Article V, Stormwater Management, as follows:

ARTICLE V. STORMWATER MANAGEMENT

Pursuant to § 62.1-44.15:27 of the Code of Virginia, this article is adopted as part of an initiative to integrate the county’s stormwater management requirements with its erosion and sediment control (Hanover County Code Sec. 10-1 et seq.), floodplain management (Hanover County Code, Chapter 12), and Chesapeake Bay Preservation Act (Hanover County Code Sec. 10-32 et seq.) requirements into a unified stormwater program. The unified stormwater program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the county and those responsible for compliance with these programs.

10-77. PURPOSE AND AUTHORITY.

- (a) The purpose of this article is to promote the public health, safety, and welfare, and to protect property, stream channels, other natural resources, and the quality and quantity of state waters from the potential harm of unmanaged stormwater.
- (b) This article is adopted pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia; Chapter 870 of Title 9 of the Virginia Administrative Code (Section 25-870-10 et seq.); and Chapter 880 of Title 9 of the Virginia Administrative Code (Section 25-880-1 et seq.).

10-78. DEFINITIONS.

In addition to the definitions set forth in the Virginia Stormwater Management Program Regulations, Section 25-870-10 of Title 9 of the Virginia Administrative Code, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this article have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

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"*Applicant*" means any person submitting an application for a permit or requesting issuance of a permit under this article.

"*Best management practice*" or "BMP" means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

"*Chesapeake Bay Preservation Act land-disturbing activity*" means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal or greater than 2,500 square feet and less than one acre in all areas of Hanover County designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation Act, § 62.1-44.15:67 et seq. of the Code of Virginia.

"*Common plan of development or sale*" means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

"*Control measure*" means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

"*Clean Water Act*" or "*CWA*" means the federal Clean Water Act (33 U.S.C §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

"*Department*" means the Department of Environmental Quality.

"*Development*" means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility

"*Director*" means the Director of the Department of Public Works, who is responsible for administering the VSMP on behalf of the county, or any authorized agent of the director.

"*General permit*" means the permit titled GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Chapter 880 of Title 9 of the Virginia Administrative Code (Section 25-880-1 et seq.) of the Regulations, as amended, authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

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"Land disturbance" or *"land-disturbing activity"* means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in Section 10-79(c) of this article.

"Layout" means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

"Minor modification" means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

"Owner" or *"Operator"* means the owner or operator of any facility or activity subject to regulation under this article.

"Permit" or *"Land Disturbance Permit"* means a permit to conduct a land-disturbing activity issued by the Director for the initiation of a land-disturbing activity, in accordance with this article, and which may only be issued after evidence of general permit coverage has been provided by the Department.

"Permittee" means the person to whom the land disturbance permit is issued.

"Person" means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.

"Regulations" means the Virginia Stormwater Management Program (VSMP) Regulations, Section 25-870-10 et seq. of Title 9 of the Virginia Administrative Code, as amended.

"Site" means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

"State" means the Commonwealth of Virginia.

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"State Board" means the Virginia State Water Control Board.

"State Water Control Law" means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater management plan" means a document containing material describing methods for complying with the requirements of Section 10-82 of this article.

"Stormwater Pollution Prevention Plan" or *"SWPPP"* means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this article. In addition the document shall identify and require the implementation of control measures, and shall include or incorporate by reference an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

"Subdivision" means the same as defined in Section 25-4 of Hanover County's Subdivision Ordinance.

"Total maximum daily load" or *"TMDL"* means the sum of the individual waste load allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Virginia Stormwater Management Act" or *"Act"* means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

"Virginia Stormwater BMP Clearinghouse website" means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

"Virginia Stormwater Management Program" or *"VSMP"* means a program approved by the State Board after September 13, 2011, that has been established by a locality to manage

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the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

"Virginia Stormwater Management Program authority" or "VSMP authority" means an authority approved by the State Board after September 13, 2011, to operate a Virginia Stormwater Management Program.

Sec. 10-79. - STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a land disturbance permit has been issued by the Director in accordance with the provisions of this article and Article I.
- (b) A Chesapeake Bay Preservation Act Land-Disturbing Activity shall be subject to an erosion and sediment control plan consistent with the requirements of the Erosion and Sediment Control Ordinance, Hanover County Code Sec. 10-1 et seq., a stormwater management plan pursuant to Section 10-82, the technical criteria and administrative requirements for land-disturbing activities pursuant to Section 10-85, and the requirements for long-term maintenance of control measures pursuant to Section 10-86.
- (c) No person may engage in any land-disturbing activity until a complete and accurate general permit registration has been submitted to the Director in accordance with Section 25-880-1 et seq. of Chapter 9 of the Virginia Administrative Code, if such registration is required pursuant to Section 25-880-50 of Title 9 of the Virginia Administrative Code.
 - (1) New construction activities. Any operator proposing a new stormwater discharge associated with the construction of a single-family residence separately built, disturbing less than one acre and part of a larger common plan of development or sale is authorized to discharge under the general permit and is not required to submit a registration statement, provided that the stormwater management plan for the larger common plan of development or sale provides permanent control measures (i.e. stormwater management facilities) encompassing the single family residence.
 - (2) Existing construction activities. Any operator with an existing stormwater discharge associated with the construction of a single-family residence separately built, disturbing less than one acre and part of a larger common plan of development or sale, and who

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intends to continue coverage under the general permit, is authorized to discharge under the general permit and is not required to submit a registration statement provided that:

a. The stormwater management plan for the larger common plan of development or sale provides permanent control measures (i.e. stormwater management facilities) encompassing the single-family residence; and

b. The operator updates their stormwater pollution prevention plan to comply with the requirements of the general permit no later than 60 days after the date of coverage under the general permit.

(d) Notwithstanding any other provisions of this article, the following activities are exempt, unless otherwise required by federal law:

(1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;

(2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

(3) Single-family residences separately built and disturbing less than one acre of land outside of an area designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;

(4) Single-family residences separately built and disturbing less than 2,500 square feet of land in an area designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations and not part of a larger common plan of

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- development or sale, including additions or modifications to existing single-family detached residential structures;
- (5) Land disturbing activities that disturb less than one acre of land outside of an area designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations except for activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;
 - (6) Land disturbing activities that disturb less than 2,500 square feet inside of an area designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations except for activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;
 - (7) Discharges to a sanitary sewer or a combined sewer system;
 - (8) Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use;
 - (9) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this Subsection; and
 - (10) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Director shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of Subsection (a) is required within 30 days of commencing the land-disturbing activity.

Sec. 10-80. - STORMWATER MANAGEMENT PROGRAM ESTABLISHED; SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS.

- (a) Pursuant to § 62.1-44.15:27 of the Code of Virginia, Hanover County hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in Section 10-77 of this article. The county hereby designates the director of the Department of Public Works as the person who is responsible for administering the county's Virginia stormwater management program.

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- (b) No land disturbance permit shall be issued by the Director, until the following items have been submitted to and approved by the Director as prescribed herein:
 - (1) A permit application that includes a general permit registration statement, unless such registration statement is not required pursuant to Section 25-880-50 of Title 9 of the Virginia Administrative Code;
 - (2) An erosion and sediment control plan approved in accordance with the Hanover County Erosion and Sediment Control Ordinance (Hanover County Code, Section 10-1 et seq.); and
 - (3) A stormwater management plan that meets the requirements of Section 10-82 of this article, except that the construction record drawing required by Section 10-82(d) shall be required prior to closure of the land disturbance permit.
- (c) No land disturbance permit shall be issued until evidence of state fee payment in accordance with the Regulations and general permit coverage is obtained, if general permit coverage is required.
- (d) No land disturbance permit shall be issued until the fees required to be paid to the Director are received, and a reasonable performance bond required pursuant to Section 10-92 of this article has been submitted.
- (e) No land disturbance permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
- (f) No grading, building or other local permit shall be issued for a property with land disturbing activity subject to the requirements of this article unless a land disturbance permit has been issued by the Director.

Sec. 10-81. - STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

- (a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 25-870-54 of Title 9 of the Virginia Administrative Code and must also comply with the requirements and general information of the general permit, set forth in Section 25-880-70 of Title 9 of the Virginia Administrative Code, Part II.

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- (b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
- (c) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with the general permit, either electronically or in hard copy.

Sec. 10-82. - STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.

- (a) The Stormwater Management Plan, required by Section 25-870-55 of Title 9 of the Virginia Administrative Code and Section 10-80 of this article, must apply the stormwater management technical criteria set forth in Section 10-85 of this article to the entire land-disturbing activity and consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land disturbing activities. A complete Stormwater Management Plan shall include the following elements:
 - (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters and the predevelopment and post development drainage areas;
 - (2) Contact information including the name, address, and telephone number of the owner/operator and the parcel number of the property or properties affected;
 - (3) A narrative that includes a description of current site conditions and final site conditions;
 - (4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
 - (5) Information on the proposed stormwater management facilities, including:
 - (i) The type of facilities;
 - (ii) Location, including geographic coordinates;
 - (iii) Acres treated; and
 - (iv) The surface waters into which the facility will discharge.
 - (6) Hydrologic and hydraulic computations, including runoff characteristics;

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- (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of Section 10-85 of this article; and
- (8) A map or maps of the site that depicts the topography of the site and includes:
- (i) All contributing drainage areas;
 - (ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
 - (iii) Soil types, forest cover, and other vegetative areas;
 - (iv) Current land use including existing structures, roads, and locations of known utilities and easements;
 - (v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
 - (vi) The limits of clearing and grading, and the proposed drainage patterns on the site;
 - (vii) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
 - (viii) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.
- (b) If an operator intends to meet the water quality and/or quantity requirements set forth in Section 10-85 of this article through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.
- (c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (d) A construction record drawing for permanent stormwater management facilities shall be submitted to the Director. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

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Sec. 10-83. – POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

- (a) A Pollution Prevention Plan, required by Section 25-870-56 of Title 9 of the Virginia Administrative Code, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
 - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
 - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- (b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges:
- (1) Wastewater from washout of concrete, unless managed by an appropriate control;
 - (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
 - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 - (4) Soaps or solvents used in vehicle and equipment washing.
- (c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

Sec. 10-84. - REVIEW OF STORMWATER MANAGEMENT PLAN.

- (a) The Director shall review stormwater management plans and shall approve or deny approval of a stormwater management plan according to the following:
- (1) The Director shall determine the completeness of a plan in accordance with Section 10-82 of this article, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.

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- (2) The Director shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subdivision (1), then the plan shall be deemed complete and the Director shall have 60 calendar days from the date of submission to review the plan.
 - (3) The Director shall review any plan that has been previously denied approval, within 45 calendar days of the date of resubmission.
 - (4) During the review period, the approval decision shall be communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons shall be provided in writing. Approval shall be based on the plan's compliance with the requirements of this article.
 - (5) If a plan meeting all requirements of this article is submitted and no action is taken within the time provided above in subdivision (2) for review, the plan shall be deemed approved.
- (b) Approved stormwater plans may be modified as follows:
- (1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Director. The Director shall have 60 calendar days to respond in writing either approving or disapproving such request.
 - (2) The Director may require that an approved stormwater management plan be amended, within a time prescribed by the Director, to address any deficiencies noted during inspection.
- (c) The Director shall require the submission of a construction record drawing for permanent stormwater management facilities. The Director may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 10-86(b).

Sec. 10-85 - TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES.

- (a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the county hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, Section 25-870-62 of Title 9 of the Virginia Administrative Code, as

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amended, which shall apply to all land-disturbing activities regulated pursuant to this article, except as expressly set forth in Subsection (b) of this Section.

- (b) Until June 30, 2019, the grandfathering provisions of Section 25-870-48 of Title 9 of the Virginia Administrative Code may apply, along with technical criteria set forth in Part II C of the Regulations.
- (c) The Director may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this article are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this article.
 - (1) The Director shall not grant exceptions to the land disturbance permit requirement, nor shall the Director approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse website or any other control measure not duly approved by the Director of the Department of Environmental Quality.
 - (2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to Section 25-870-69 of Title 9 of the Virginia Administrative Code have been considered and found not available.
- (d) Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.

Sec. 10-86 - LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES

- (a) The Director shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the Director and shall at a minimum:
 - (1) Be submitted to the Director for review and approval prior to the approval of the stormwater management plan;
 - (2) Be stated to run with the land;

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- (3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
 - (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Director; and
 - (5) Be enforceable by all appropriate governmental parties.
- (b) At the discretion of the Director, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the Director that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Director.
- (c) If a recorded instrument is not required pursuant to Subsection 10-86(b), the Director may develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the Director.

Sec. 10-87. - MONITORING AND INSPECTIONS.

- (a) The Director shall inspect the land-disturbing activity during construction for:
- (1) Compliance with the approved erosion and sediment control plan;
 - (2) Compliance with the approved stormwater management plan;
 - (3) Compliance with conditions of the general permit, if general permit required;
 - (4) Development, updating, and implementation of a pollution prevention plan; and
 - (5) Development and implementation of any additional control measures necessary to address a TMDL.
- (b) The Director may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.
- (c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Director may also enter any establishment or upon any property, public or private, for the purpose of

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initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

- (d) Pursuant to § 62.1-44.15:40 of the Code of Virginia, the Director may require every land disturbance permit applicant or permittee, or any such person subject to land disturbance permit requirements under this article, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article.
- (e) Post-construction inspections of stormwater management facilities required by the provisions of this article shall be conducted by the Director pursuant to the county's adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in Section 10-86.

Sec. 10-88. – HEARINGS

- (a) Any permit applicant or permittee, or person subject to article requirements, aggrieved by any action of the county taken without a formal hearing, or by inaction of the county, may demand in writing a formal hearing before the Hanover County Administrator or his designee concerning such grievance, provided a petition requesting such hearing is filed with the Director within 30 days after notice of such action is given by the Director.
- (b) The hearings held under this Section shall be conducted by the Hanover County Administrator or his designee.
- (c) A verbatim record of the proceedings of such hearings shall be taken and filed with the County Administrator. Depositions may be taken and read as in actions at law.
- (d) The Hanover County Administrator shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the County Administrator, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

Sec. 10-89. - APPEALS.

Any permittee or party aggrieved by a land disturbance permit or enforcement decision of the Director is entitled to judicial review thereof by the Hanover County Circuit Court.

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Sec. 10-90. - ENFORCEMENT

- (a) If the Director determines that there is a failure to comply with the conditions of the land disturbance permit or general permit, if general permit coverage is required, or determines there is an unauthorized discharge, notice shall be delivered to the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings, inspection reports, and notices to comply. Notices to comply shall be sent by certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.
- (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (a)(2) or the permit may be revoked by the Director.
- (2) If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Director may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Director. However, if the Director finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Director may institute a proceeding for an

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- injunction, mandamus, or other appropriate remedy in accordance with Subsection 10-90(c).
- (b) In addition to any other remedy provided by this article, if the Director or his designee determines that there is a failure to comply with the provisions of this article, they may initiate informal and/or formal administrative enforcement procedures.
- (c) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Director or general permit condition, if general permit coverage is required, may be compelled in a proceeding instituted in Hanover County Circuit Court by the County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (d) Any person who violates any provision of this article or who fails, neglects, or refuses to comply with any order of the Director, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.
- (1) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:
- (i) No general permit registration statement, if general permit registration statement is required;
 - (ii) No SWPPP;
 - (iii) Incomplete SWPPP;
 - (iv) SWPPP not available for review;
 - (v) No approved erosion and sediment control plan;
 - (vi) Failure to install stormwater BMPs or erosion and sediment controls;
 - (vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
 - (viii) Operational deficiencies;
 - (ix) Failure to conduct required inspections;
 - (x) Incomplete, improper, or missed inspections; and
 - (xi) Failure to comply with the requirements of the general permit, Section 25-880-70 of Title 9 of the Virginia Administrative Code, if general permit coverage is.

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- (2) The Director may issue a summons for collection of the civil penalty and the action may be prosecuted in the Hanover County General District Court.
- (3) In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
- (4) Any civil penalties assessed by a court as a result of a summons issued by the Director shall be paid into the treasury of Hanover County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein.
- (e) Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this article, any order of the Director, any condition of a land disturbance or general permit, if general permit coverage is required, or any order of a court shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

10-91. Fees

Fees to cover costs associated with plan review, inspection, and implementation of Hanover County's VSMP shall be imposed by Hanover County pursuant to Hanover County Code section 10-6. State program fees are imposed by the state pursuant to the Regulations.

10-92. Performance Bond

Prior to issuance of any permit, the Applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the county attorney, to ensure that measures could be taken by the county at the Applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If the county takes such action upon such failure by the Applicant, the county may collect from the Applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Following the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other

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legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the Applicant or terminated.

2. That this Ordinance shall be effective on July 1, 2014.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion Approved.

B. Public Hearing –Department of Public Works - Ordinance No. 13-16 – Hanover County Drainage Design Handbook

A copy of the handbook is on file with the Board papers.

Mr. Flagg, Director of Public Works, came forward to present this ordinance.

Summary:

The Drainage Design Handbook was first adopted in 1988 and minor revisions were approved in 2008. In January 2011, the manual was revised significantly to adapt to changes in regulatory standards, design standards, County ordinances, and County policies concerning drainage improvements. The Handbook was originally drafted by a citizen committee and has served Hanover County well for over 25 years.

Virginia Stormwater Regulations require Virginia Stormwater Management Program authorities such as Hanover County to adopt either the methodology set forth in the regulations for stream channel protection (“Energy Balance”), or an alternative methodology that is demonstrated to achieve equivalent results to the Energy Balance methodology. The Department of Public Works (DPW) retained Williamsburg Environmental Group, Inc. to perform a study comparing the Energy Balance methodology with the County’s proposed alternative methodology (“Permissible Velocity”) (Study Attached). The study demonstrated that the Permissible Velocity approach achieves equivalent results to the Energy Balance methodology, and in some cases is even more protective of stream channels encountered in Hanover County. DPW proposes the revisions to the Drainage Design Handbook to establish the Permissible Velocity methodology as the stream protection criteria for Hanover County’s

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Stormwater Program. The criteria must be approved by the Virginia Water Control Board upon adoption. A black-lined edit of the changes to the Handbook is attached.

The development community has been informed that the DPW plans to update the Handbook through the County's Quarterly Development Community meetings. In addition the DPW has contacted a number of local firms to solicit their comment on the proposal. At this time, feedback has been favorable. Two added changes are noted in the black-line draft since the ordinance was advertised. This includes clarification on the extent of channel analysis (end of section IX. B.) and an edit to correct table references to Appendix B.

Recommendation:

Motion to adopt Ordinance 13-16 – Amendments to the Hanover County Drainage Design Handbook, effective July 1, 2014.

Mr. Davis asked if Board Members had any questions. Hearing none, he opened the public hearing and asked that anyone wishing to speak for or against the ordinance come forward. Seeing no one come forward, Mr. Davis closed the public hearing.

On motion of Mr. Via, seconded by Mrs. Kelly-Wiecek, the members of the Board of Supervisors voted to approve Ordinance No. 13-16.

ORDINANCE NO. 13-16

AN ORDINANCE AMENDING THE HANOVER COUNTY DRAINAGE DESIGN HANDBOOK DATED JANUARY 12, 2011 AND ADOPTING THE REVISED DRAINAGE DESIGN HANDBOOK INCLUDING CHANGES IN REQUIREMENTS FOR OPEN MANMADE AND NATURAL CHANNELS AND STORMWATER MANAGEMENT. THE HANDBOOK INCLUDES SPECIFICATIONS FOR CONSTRUCTION MATERIALS, MAINTENANCE AGREEMENT REQUIREMENTS AND DETAILS FOR DESIGN OF CURB AND GUTTER, STORM SEWER, OPEN CHANNELS, LOT GRADING, IMPOUNDMENTS AND EMBANKMENTS.

WHEREAS the Board of Supervisors finds that it is proper to amend the Hanover County Drainage Design Handbook first adopted in 1988 and last amended in 2011, and to adopt the revised Drainage Design Handbook to better provide for administration of matters related to stormwater management, floodplain, grading and drainage control facilities; and

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WHEREAS the Board finds that in order to properly provide for improvements associated with development in the County and protect the public health, safety and welfare it is necessary to adopt requirements and standards detailed in the Drainage Design Handbook.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Hanover County that the Drainage Design Handbook first adopted October 25, 1988 and last revised in 211 shall be amended and the revised Handbook shall be adopted as follows:

1. **The Hanover County DRAINAGE DESIGN HANDBOOK attached to this Ordinance shall be adopted. Copies of the Handbook shall be maintained in the offices of the Public Works and Planning departments for reference.**

2. That this ordinance shall be effective on the date of adoption.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion Approved.

XIII. Planning Public Hearings – Mr. Maloney

Special Exception Permit SE-15-11 (AM. 1-14) CANDY AND MARK EUBANK, Request an amendment to a Special Exception Permit in accordance with Sections 26-21.18 and 26-336 of the Hanover County Zoning Ordinance to allow a contractor’s equipment yard to be screened with a fence taller than permitted on GPIN 7872-94-1422, consisting of approximately 13.9 acres, zoned A-1, Agricultural District and located on the east line of Breedens Road (State Route 694) approximately 400 feet north of its intersection with Old Ridge Road (State Route 738) in the BEAVERDAM MAGISTERIAL DISTRICT.

Mr. Maloney came forward to present this Special Exemption Permit.

Executive Summary:

The applicants obtained a Special Exception in 2011 to permit a contractor’s equipment storage yard. The equipment storage yard was to be screened with landscaping. The applicant is

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now requesting to amend the conditions of approval to allow screening with a fence and to allow a fence that is taller than permitted in the front yard.

Staff Recommendation:

APPROVAL subject to the conditions as outlined in the staff report.

Mr. Davis asked if Board Members had any questions. Mr. Via asked about the height of the fence and was informed that it will be 6' tall. A copy of SE – 15, AM 1-14 is on file with the Board papers.

Hearing no other questions, he opened the public hearing and asked that anyone wishing to speak for or against the ordinance come forward. Seeing no one come forward, Mr. Davis closed the public hearing.

Mr. Stanley made a motion to approve SE-15-11 (AM. 1-14) Candy and Mark Eubank, subject to the conditions as outlined in the staff report, seconded by Mr. Hazzard.

RESOLUTION

WHEREAS the Board finds that, in its opinion, as a matter of fact, such exception will not substantially affect adversely the uses of adjacent and neighboring property.

NOW, THEREFORE, BE IT RESOLVED that Candy and Mark Eubank, are granted a Special Exception Permit in accordance with Sections 26-21.18 and 26-336 of the Hanover County Zoning Ordinance to allow a contractor's equipment yard to be screened with a fence taller than permitted on GPIN 7872-94-1422, consisting of 13.9 acres, zoned A-1, Agricultural District, subject to the following conditions, which incorporate all of the applicable conditions from previous amendments:

1. There shall be no storage of construction debris or trash on site.
2. All commercial vehicles and/or equipment must be stored within the limits of the designated equipment storage area as shown on the sketch plan.
3. The storage yard shall only be accessory to a business office for construction contractors and operated as a home occupation.
4. The property owner shall install a six (6) foot screening fence along Breedens Road within two (2) months of SE approval, as shown on the sketch plan, in accordance with Section 26-263.
5. The SE shall be valid for two (2) years following the date of approval, after which time the permit shall be reviewed by the Director of Planning for continued compliance with the conditions of approval. The permit may be extended

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indefinitely from two (2) years upon request of the applicants and approval by the Director of Planning. At the time of renewal, the County shall have the right to inspect the property to insure it is in compliance with zoning regulations.

6. All development and use of the property shall comply with all federal, state, and local statutes, ordinances, and regulations.

The Special Exception Permit shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which the Exception was approved.

	Vote:
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
W. Canova Peterson	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion Approved.

XIV. Announcements

There were no announcements.

XV. Adjournment

At 7:16 p.m., the Chairman adjourned the meeting to February 26, 2014 - Hanover County Administration Building – 2:00 p.m.