

Board of Supervisors - Draft Minutes – January 22, 2014

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**.

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

Motion approved.

Mr. Stanley made a **MOTION** to amend the Agenda to add Item (C) on 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. Peterson **SECONDED**.

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

Motion approved.

III. Citizens' Time

No one addressed the Board during 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

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

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- 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

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.

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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

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.

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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. Stanley

Mr. Stanley made a **MOTION** to appoint Doug Schuhle to the Roads Committee for a one year term ending February 27, 2015.

Mr. Peterson **SECONDED**.

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

D. Add Item V.(A) - Closed Session

Mr. Davis reminded everyone that the Consent Agenda had been amended.

Mr. Hazzard moved for **APPROVAL**.

Mr. Stanley **SECONDED**.

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

Motion approved.

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 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

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have on-board. The bill calls for the cost to be paid out of the Lottery Proceeds Fund. And 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 construction 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 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.

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Mr. Hazzard asked if our percentage would not 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 and 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.

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

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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 and the study by the Commission on Local Governments is 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 would not be able to be changed and the assessment ration would not be able to be changed. And that could be significant for a place like Hanover where for many years 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, and 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.

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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.

Mr. Rives replied yes sir that is certainly 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 is 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 states 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

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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 asked 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 resident. Meaning they could locate without a special exception or other permit in any 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. As you recall 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 county, 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.

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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 from Ms. Alderman who is legislative aide for Delegate Fowler on this bill. This bill creates an additional classification for personal property that is owned by a business during its first two years of operation and only 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 in their tax plan to provide a lower tax rate for businesses meeting these criteria. The first two years of operation; gross annual revenues less than \$100,000. Delegate Fowler wanted to know if Hanover had a position on this and he told him that this Board had not taken a position on it but that 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 suspected if a small business does not gross more than \$100,000 they could not afford to pay any taxes. He noted this is a good one.

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 they have talked about a couple of times before which 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

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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.

Mr. Rives said this will amend the Virginia Freedom of Information Act, which currently provides that Freedom of Information requests can be made only by residents of the Commonwealth of Virginia. And just in this past year there was litigation on whether that was consistent with the Virginia Constitution in the Commerce clause and the current law was upheld, that local governments and State government in Virginia do not have to respond 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 someone 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 the FOIA and that cost is not fully

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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 but 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.

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.

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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 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 and he did not have time to check this afternoon.

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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 and 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.

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.

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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 who benefits from there being 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.

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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. And that is true. But it is only a small fraction of the 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 **MOVED** 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**.

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

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Motion approved.

The Board Members entered Closed Session at 6:38 P.M. At the conclusion of the Closed Session, the Board Members, Mrs. Kelly-Wiecek and Mr. Wade were absent, 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 **MOVED** 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.

Mr. Stanley **SECONDED**.

	<u>Vote:</u>
W. Canova Peterson	Yes
Sean M. Davis	Yes
Wayne T. Hazzard	Yes
Angela Kelly-Wiecek	Absent
Aubrey M. Stanley	Yes
G.E. Via, III	Yes
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.

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VII – Citizens’ Time

Mr. Davis said although the Agenda was published in accordance with the normal requirements due to the bad weather and folks maybe not being able to get there earlier he would recognize Citizens’ Time and asked if there was anyone present who wished to speak.

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 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 her concerns and suggestions to the Board 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 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

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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 moved to **APPROVE**.

Mr. Hazzard **SECONDED**.

The Hanover County Board of Supervisors voted to **APPROVE** the above-captioned request for a Conditional Use Permit 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:

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.

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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.

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

Motion approved.

Mr. Maloney advised that the next two public hearings are related.

Combined Conditional Use Permit and Special Exception Permit

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. 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.

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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.

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.

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Upon a motion by Mr. Peterson, seconded by Mr. Via, the Hanover County Board of Supervisors voted to **APPROVE CUP-6-13, COMMONWEALTH SOCCER PROGRAMS**, 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.
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.

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

Motion approved.

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Upon a motion by Mr. Peterson, seconded by Mr. Via, the Hanover County Board of Supervisors voted to **APPROVE SE-9-13, COMMONWEALTH SOCCER PROGRAMS** which will permit 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.
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.

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

Motion approved.

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 Menses. What some of the folks might not know is her husband serves our County in Ashland; 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

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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 Meg Menses in his prayers. He knew that it meant a great deal to many folks not only in the Beaverdam District but throughout the County.

VII. Announcements

Mr. Harris announced that the School Superintendent had called and informed him that the schools will be closed tomorrow due to the weather. Staff will report at its normal time. And most importantly 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.