King and Queen County
Board of Supervisors Meeting

Monday, May 9, 2011

King and Queen County Courts and Administration Building
General District Courtroom

7:00 P. M.

"Minutes of the Meeting"

INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES

Chairman Simpkins called the regular meeting to order and provided the invocation, followed by the Pledge of Allegiance to the Flag of the United States.

APPROVAL AND SIGNING OF THE MARCH 28, 2011 AND APRIL 11, 2011 MINUTES OF THE BOARD

A motion was made by Ms. Alsop and seconded by Mr. Milby to approve the minutes as presented.

AYES: J. L. SIMPKINS, S. C. ALSOP, J. M. MILBY, JR., M. W. MCDUFF, D. H. MORRIS
NAYS: NONE

APPROVAL AND SIGNING OF THE MAY 2011 WARRANTS AND APPROPRIATIONS

A motion was made by Ms. Alsop and seconded by Mr. McDuff to approve the May 2011 warrants and appropriations, subject to audit.

AYES: J. L. SIMPKINS, S. C. ALSOP, J. M. MILBY, JR., M. W. MCDUFF, D. H. MORRIS
NAYS: NONE

BUDGET AMENDMENTS/TRANSFERS

A motion was made by Ms. Alsop and seconded by Mr. McDuff to approve the following budget transfers and amendments.

(1) Animal Control $1,300 (maintenance on veh. Transferred)

(2) General District	$3,500 (court appointed attorneys)
(3) Risk Management	$4,755.43 (unemployment tax)
(4) General Properties	$8,000.00 (Circuit Ct. boiler)
(5) General Reassessment	$37,100.00 (1st portion of reassessment)
(6) Radio System	$2,373,600.00
(7) Sheriff	$1,399.45 (court security)

Total transfers: $ 54,655.43
Total amendments: $2,374,999.45

AYES: J. L. SIMPKINS, S. C. ALSOP, J. M. MILBY, JR., M. W. MCDUFF, D. H. MORRIS
AYES: NONE

PUBLIC COMMENT PERIOD

Chairman Simpkins opened the public comment period, asking that only items not listed on the agenda be made, with each one advising of their name, district that they are from and to limit their comments for three (3) minutes.

After hearing no comments, the public comment period was closed.

DEPARTMENT HEADS AND SCHOOL BOARD REPORTS

Treasurer Irene Longest was present advising that her report has been included in the Board's packet and was there to answer any questions. Ms. Longest further commented that her office participated in the career fair at the high school on April 8th, and will be participating in the student shadowing on Wednesday and Thursday of this week.

Commissioner of the Revenue Helen Longest advised those citizens present that the personal property filing deadline was May 1st, and that there were still a lot that have not filed. Mrs. Longest further commented on the following:

- that there are some volunteer fire and rescue members that have not filed for exemption of a county decal.
- Advised that if you have high mileage on your vehicles that a form needs to be filled out
- Advised that her office is now working on the Personal Property assessments.
- Reported that her office received 103 elderly credit applications, with 96 qualifying – totaling $26,280.00
- Reported that the assessors are making good progress doing the reassessment
- Advised that her office also participated in career day at the school and will be participating in the shadowing this week.

Sheriff Charboneau provided the following report:

- Advised that his office has a couple of large investigations
- Commended King and Queen Rescue Squad at Newtown on how they handled their parade and traffic
- Advised that there were 16 arrest last month, consisting of DUI's, break ins and sexual assault.
- Advised that his office was quite busy in making long transports.

Commonwealth's Attorney Charles Adkins provided the following report:

- Advised that his office also participated in career day and will also be participating in the shadowing event on Wednesday and Thursday.
- Advised that the government classes came and attended a court session, with the Judge speaking with them, after which he met with the students explaining what he does.
- Advised that there are several big investigations going on and will be a busy summer
- Reported that he went to Essex last week and handled some cases and will be going back in August.

Superintendent of Schools Charles Clare was present providing the following:

- Advised that the current daily membership in March is 739 students. The average calculation for the month of April was 725.16.
- Reported that last Saturday evening the Prom was held in West Point at the Boougard Center with the students behavior being very nice.
- Advised that Central High School's graduation will be held on June 17th and that there would be reserved seating for the Board.
- Reported of an incident at Lawson Marriott relating to a student bringing a BB gun to school and that the Sheriffs office was contacted, and that it will be handled by the School Board.
- Advised that SOL testing will begin on May 17th at King and Queen Elementary and Lawson and at Central High School at the end of the month.
- Thanked the Board for their continued support

Social Services Director – Betty Dougherty provided the following:

- Advised that her office also participated in Career Day at Central
- Reported that the 1st King and Queen Resource Meeting was held on May 4th with a very good turn out and decided to schedule their meetings on the 1st Wednesday of each month at 2:30 P.M., for 2 months and then there will be an evening meeting to give an opportunity to those that work during the day to attend, of which will be held every 3rd month.
- Advised that May is adult Abuse Prevention Month and Foster Care Month, reading a certification of recognition from the Governor pertaining to Foster Care, and asked that the Board help get the word out by providing them with a tote bag with the agency name and phone number.

VDOT PUBLIC HEARING –PROPOSED SECONDARY SIX-YEAR PLAN FOR FY 2012 – 2017 AND FY 2011-2012 SECONDARY SYSTEM CONSTRUCTION BUDGET AND WORKSESSION

Residency Engineer Sean Tripani with the Virginia Department of Transportation was present for the purpose of holding a work session with the Board and to hold a public hearing on the proposed Secondary Six-Year Plan for FY 2012-2017 and FY 2011-2012 Secondary System Construction Budget. The Six Year Plan is based on the priorities set last year.

Mr. Tripani explained that basically the plan is an unpaved road plan and can carry on the existing proprieties. Total budget of $24,145 for 2011/2012 and grand total projected is $124,515 for the six year time frame. Included in the plan are 636 Minter Lane and Rt. 664 Peach Grove Road.

The floor was open for public comment. After hearing no comments, the public hearing was closed.

A motion was made by Mr. McDuff and seconded by Ms. Alsop to approve the following Resolution

RESOLUTION

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan,

WHEREAS, this Board had previously agreed to assist in the preparation of this Plan, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Plan (2012 through 2017) as well as the Construction Priority List (2012) on May 9, 2011 after duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List,

WHEREAS, Sean P. Trapani, Residency Administrator , Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan and budget for Secondary Roads (2012 through 2017) and the Construction Priority List (2012) for King And Queen County,

NOW, THEREFORE, BE IT RESOLVED that since said Plan and budget appears to be in the best interests of the Secondary Road System in King And Queen County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (2012 through 2017) and Construction Priority List (2012) are hereby approved as presented at the public hearing.

AYES: J. L. SIMPKINS, S. C. ALSOP, J. M. MILBY, JR., M. W. MCDUFF, D. H. MORRIS
NAYS: NONE

Mr. Trapani further questioned two resolutions relating to Rural Rustic Roads for Mantapike Landing Road and Peach Grove Road. Mr. Swartzwelder advised the Board that because the resolutions were not received until after the Boards packets went out, that they were not included for discussion.

Mr. Swartzwelder further commented that he felt the Board needs to discuss the proposed resolutions, as they would affect what can be done on the roads. The matter was tabled for further discussion.

Mr. Trapani further advised of maintenance that is presently going on:

- Advised that work has begun on the West Point Creek and that there would be some interruptions in the traffic flow. Mr. Trapani further advised that they hope completion will be done by Summer or the fall.
- Reported that the lights have been repaired on the Lord Delaware Bridge
- Advised that they intend to start mowing in the next week, working South to North on the primary roads.
- Advised that they are working on Minter Lane and hopes to have it complete by July

PUBLIC HEARING – PROPOSED BUSINESS LICENCE TAX ORDINANCE, ARTICLE VII OF THE KING AND QUEEN COUNTY CODE

Chairman Lawrence Simpkins opened a Public Hearing on a Proposed Business License Ordinance, Article VII of the King and Queen County Code.

County Administrator Thomas Swartzwelder verified proof of publication and provided background information advising that the Board has discussed for several years the issue of a Business Tax, with more of a focus being a business license than a business tax. This proposed Ordinance is not a BPOL tax. This will be a flat fee and what is proposed is $50.00 annually and

a $25.00 administrative fee to provide support for the Commissioner of Revenue's Office in processing. The proposed ordinance was drafted in such a way to have a minimal financial impact so that the Board can set the taxes as low as they wish, but to allow the data to be collected by the Commissioner's Office and the County. Mr. Swartzwelder further advised that there are a number of businesses that would be exempt which include public service corporations, common carriers, agricultural businesses, printing, manufacturers of certain goods and wears, timber and wholesale types of businesses, merchants would be exempt as they are subject to merchants capital tax of which is an amendment to what is before the Board. Mr. Swartzwelder suggested adding a Section R that would state that on any retailer or merchant that are subject to merchants capital pursuant to Section 58.1 -3905.

Mr. Swartzwelder advised that he has had an in depth conversation with the Commissioner and Deputy Commissioner and they have expressed concerns about workload and whether they can handle the workload with current staffing and if they are provided additional staffing they are not sure they can institute this very promptly as it would require some training. The Treasurer also questioned whether any new tax would be appropriate in the economy.

This in essence this would be a zoning, planning and economic development planning tool.

Chairman Simpkins clarified that even though the ones mentioned in the proposed ordinance were exempt from the tax, they would still need to get a license filing as a business in King and Queen.

The floor was open for public comment. Mr. Simpkins asked that those who would like to speak come forward, stating their name and district where they reside and to limit their comments to 3 minutes.

Betty Jo Seal, Mattaponi in the Buena Vista District, commented that she and her husband own a business in King and Queen, questioning the exempt portion of the ordinance and those that pay the merchant fee. Mrs. Seal asked for clarification, that those that do pay the merchants capital tax will be exempt from the business license tax. Mr. Swartzwelder confirmed that if you are a merchant paying merchants capital tax you are exempt from the business license tax, however, you would still need to file for a business license and would not be subject to the second tax.

Susan Balderson, Deputy Commissioner of the Revenue, was present and expressed that she feels we need to take our time with this, having some work sessions. Ms. Balderson further commented that she would have to learn the computer system before she would be able to train someone. With the reassessment and other things she does not know how they would have the time right now.

After hearing no further comments, the public hearing was closed and referred to the Board.

Mr. McDuff commented that the Board has been discussing this issue for quite awhile and that the way it is written, he felt it probably accomplishes what the Board is looking at, with minimal impact on the County and did not feel it was a terrible burden and would allow the County some

control on the businesses coming into the County and knowing that they are there. When we decide to pass it and impose it is something to talk about.

Ms. Alsop expressed that she understands where Ms. Balderson is coming from and did not feel that the County would capture all the businesses on the first run anyway, but it will be a starting point for the County. Ms. Alsop commented that she was in agreement with Mr. McDuff, that we have to start somewhere and that this seems to a good starting point.

Mr. Milby expressed that he was in agreement with Mr. McDuff and Ms. Alsop. It is a good place to start.

Mr. Simpkins questioned if there were some that were doing mechanic work, and what that means to them, if they are not zoned correctly.

Mr. Swartzwelder advised that he felt this was an area that has created some confusion. Home businesses are separate of the zoning ordinance and that in King and Queen you are allowed to have any home occupation or home business that is service based and requires no separate zoning and would not be impacted by this. Mr. Swartzwelder further commented that the Zoning Ordinance does not allow for you to sell retail (open a store) out of your house.

Mr. Simpkins further commented that we do need it, but is concerned about the work load for the Commissioner's Office, and in his opinion this cannot be done without additional staff. Mr. Simpkins further expressed that we need to pass it, but is this year the time to do it. In his opinion the County will not make anything off of the tax.

Mr. McDuff expressed that it appears that the Board is all for it, however, the question is when to implement it.

Mr. Milby expressed that he thought when he read it, that this would not start until May of next year. We could implement it now, but the actual begin date would not be until May of 2012.

After further discussion a motion was made by Mr. McDuff and seconded by Mr. Milby to accept the ordinance as written, with implementation effective May 2012 with amendment relating to merchants.

AYES: J. L. SIMPKINS, S. C. ALSOP, J. M. MILBY, JR., M. W. MCDUFF, D. H. MORRIS
NAYS: NONE

LICENSE TAX ORDINANCE

ARTICLE VII. License Tax Ordinance

Sec.	30-196—30-199.	Reserved.

***State law references:** License taxes generally, Code of Virginia, § 58.1-3700 et seq.

Sec. 30-200. Short title.

This article shall be known and may be cited as the "License Tax Ordinance of the County of King & Queen County, Virginia," or simply as the "License Tax Ordinance."

Sec. 30-201. Definitions

The following words, terms and phrases, when used within this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business:

(1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or

(2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Business service means any service rendered for compensation to any business, trade, occupation, or governmental agency, unless the service is specifically provided for under another section of these guidelines.

Categories of businesses or trades subject to license taxes means the various businesses, trades, professions, occupations, and callings which are subject to County license taxes as set out in this article shall mean any person who engages in the particular business, trade, profession, occupation, or calling as defined in chapter 37 of title 58.1 of the Code of Virginia (Code of Virginia, § 58.1-3700 et seq.), and to the guidelines defining and explaining local businesses, professional, and occupational license taxes distributed by the state department of taxation as required by Code of Virginia, § 58.1-3701.

Collecting office or collecting official means the County Treasurer.

Contractor means as prescribed in Code of Virginia, § 58.1-3714(D), whether such work is done or offered to be done by day labor, general contract or subcontract.

Dealer means (for the purposes of this article) any person engaged in the business of buying and/or selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

Definite place of business means an office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise, obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

Financial services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments.

License year means the calendar year for which a license is issued for the privilege of engaging in business.

Personal services means the rendering for compensation either upon or for persons, animals or personal effects any repair, personal, business or other services not specifically classified as "financial, real estate, or professional service" under this article, or rendered in any other business or occupation not specifically classified in this article unless exempted from local license tax by Code of Virginia, title 58.1.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences and dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state department of taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The department

shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The term "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Real estate services means providing a service for compensation as lessor, buyer, seller, agent, or broker and providing a service with respect to the purchase, sale, lease, rental or appraisal of real property, unless the service is otherwise specifically provided for in this article, and such services include, but are not limited to, the following:

(1) Appraisers of real estate.

(2) Escrow agents, real estate.

(3) Fiduciaries, real estate.

(4) Lessors of real property.

(5) Real estate agents, brokers, and managers.

(6) Real estate selling agents.

(7) Rental agents for real estate.

Repair service means the repairing, renovating, cleaning or servicing of some article or item of personal property for compensation, unless the service is specifically provided for under another section of these guidelines.

Retailer or *retail merchant* means any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial, and industrial users.

Security shall (for the purposes of this article) have the same meaning as in the Securities Act (Code of Virginia, § 13.1-501 et seq.), or in similar laws of the United States regulating the sale of securities. Those engaged in rendering financial services include, but are not limited to, the following:

(1) Buying installment receivables.

(2) Chattel mortgage financing.

(3) Consumer financing.

(4) Credit card services.

(5) Credit unions.

(6) Factors.

(7) Financing accounts receivable.

(8) Industrial loan companies.

(9) Installment financing.

(10) Inventory financing.

(11) Loan or mortgage brokers.

(12) Loan or mortgage companies.

(13) Safety deposit box companies.

(14) Security and commodity brokers and services.

(15) Stockbrokers.

(16) Working capital financing.

Any person other than a national bank or bank or trust company organized under the laws of this state or a duly licensed and practicing attorney-at-law that engages in the business of buying or selling for others, on commission or for other compensation, shares in any corporation, bonds, notes or other evidences of debt is a stockbroker. The fact that orders are taken subject to approval by a main office does not relieve the broker from local license taxation. Also, an insurance company engaged in selling mutual funds is a broker as to that portion of its business.

Services mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

Wholesaler or wholesale merchant means any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares, and merchandise

will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government, and industrial users, which because of the quantity, price, or other terms indicate that they are consistent with sales at wholesale.

State law references: Similar provisions, Code of Virginia, § 58.1-3700.1.

Sec. 30-202. Annual license taxes levied; purposes.

An annual license tax is hereby imposed and levied, and shall be collected for each calendar year, beginning January 1 and expiring on December 31, on all persons conducting or engaged in the businesses, occupations, or professional employments in the County set forth in this article.

Sec. 30-203. Doing business without required license and payment of license tax prohibited; other taxes.

(a) It shall be unlawful for any person to do any business, carry on any trade or calling, practice any profession, or do any act for which a license is required or upon which a license tax is imposed by this article, or to open an office for a place of business or, by the use of signs or in any other manner to advertise any trade, business, profession, or activity within the County for which a license is required or upon which a license tax is imposed by this article without first having applied for and obtained such required license and without having paid the license fee & tax so imposed.

(b) No business license required by this article shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, real estate and personal property taxes owed by the business have been paid in full.

(c) No business license required by this article shall be issued if any person or property owner is currently in violation of any building code, zoning ordinance, state regulation or county ordinance.

(d) Any person who engages in a business without obtaining the required local license, or after being refused a license, shall not be relieved of the tax imposed by this ordinance.

State law references: Doing business without required state license, Code of Virginia, § 58.1-3700.

Sec. 30-204. Application for and issuance of license; payment of license tax, required certificates, if any.

Any person proposing to prosecute any business, employment or profession, or to do anything for which a license is required or for which a license fee is imposed by this article shall make application for such license, in writing, to the Commissioner of the Revenue, the date of beginning and nature of the business, employment or profession, or thing to be done, the address or place in this County where it is proposed to be prosecuted and such other information as may be required, and such statement shall be made under oath. The Commissioner of the Revenue shall assess such applicant, or other person of whom a license is required, with the license tax required by law, and shall issue a license, signed by him, to the applicant to prosecute the business, employment, profession or thing to be done therein named, which license shall not be valid or effective unless and until the tax required shall be paid to the Treasurer, as collector of County taxes and levies, and such payment shall be shown on the license.

Sec. 30-205. Duty of Commissioner's Office to ascertain zoning/approval of property.

(a) It shall be the duty of the Commissioner's Office each year to have the Zoning Department review each application for a business license to determine if the location for the conducting of such business, trade or occupation is properly zoned and has the necessary use permit before making application for such business license as may be required.

(b) The Commissioner of the Revenue in any case where he or she knows the location is no longer properly zoned for the type of business, trade or occupation applying for such business license, shall refuse to issue such business license until approval is received by the Zoning Department stating that the location has been properly zoned and/or the necessary use permit, if any, has been granted.

(c) The Commissioner of the Revenue shall keep and maintain annual records of all business license applications for those licensed to conduct business within the County. Said records shall clearly distinguish between those businesses physically located within the County and those located without but conducting business within the County.

Sec. 30-206. Rules of construction and collection of license taxes.

As to all questions in regard to the duty of conduct of officers of the County in collecting and enforcing the license fee imposed in this article, and in regard to questions of construction and for definitions of terms used in this article, and the rules and regulations applicable to implementing the provisions of this article, reference is hereby made to chapter 37 of title 58.1 of the Code of Virginia (Code of Virginia, § 58.1-3700 et seq.), for the assessment, levy, and collection of taxes for the current license year, and for fixing their powers, right, duties, and obligations, the provisions of chapter 37 of title 58.1 of the Code of Virginia (Code of Virginia, § 58.1-3700 et seq.), so far as applicable, are hereby adopted, without being specifically quoted in this section.

Sec. 30-207. Fee for issuing license; exceptions.

(1) The annual business license "flat rate" tax shall be $50.00. Any such person shall be required to apply for the license and pay an administrative fee of $25.00 for such license.

(2) Any person engaged in the business of designing, developing, or other creation of computer software for lease, sale, or license shall be exempt from the license tax described in this article, but shall pay the administrative fee upon application for the license, as described in subsection (1) of this section.

(3) The County shall not impose a license fee or levy any license tax on the following however, licensing is still required pursuant to the terms herein:

a. On any public service corporation or any motor carrier, common carrier, or other carrier of passengers or property formerly certified by the Interstate Commerce Commission or presently registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, except as provided in Code of Virginia, § 58.1-3731 or as permitted by other provisions of law.

b. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of the County, provided that such products are grown or produced by the person offering them for sale.

c. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three

months, provided the publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service.

d. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture.

e. On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in Code of Virginia, §§ 58.1-3712_ and 58.1-3713.

f. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in the County. This subsection shall not be construed as prohibiting the County from imposing a local license tax on a peddler at wholesale pursuant to Code of Virginia, § 58.1-3718.

g. Upon any person for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, lodging houses, campground parks, rooming houses and boardinghouses.

h. On or measured by receipts for management, accounting, or administrative services provided on a group basis under a nonprofit cost- sharing agreement by a corporation which is an agricultural cooperative association under the provisions of Code of Virginia, § 13.1-312 et seq., or a member or subsidiary or affiliated association thereof, to other members of the same group. This exemption shall not exempt any such corporation from such license or other tax measured by receipts from outside the group.

i. On or measured by receipts or purchases by an entity which is a member of an affiliated group of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated entities from such license or other tax measured by receipts or purchases from outside the affiliated group. This exclusion also shall not preclude a locality from levying a wholesale merchant's license tax on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the fact that the wholesale merchant's license tax would be based upon purchases from an affiliated entity. Such tax shall be based on the purchase price of the goods sold to the nonaffiliated entity. As used in this subsection, the term "sales by the affiliated entity to a nonaffiliated entity" means sales by the affiliated entity to

a nonaffiliated entity where goods sold by the affiliated entity or its agent are manufactured or stored in the commonwealth prior to their delivery to the nonaffiliated entity.

j. On any insurance company subject to taxation under Code of Virginia, § 58.1-2500 et seq. or on any agent of such company.

k. On any bank or trust company subject to taxation in Code of Virginia, § 58.1-1200 et seq.

l. Upon a taxicab driver, if the locality has imposed a license tax upon the taxicab company for which the taxicab driver operates.

m. On any blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the blind and vision impaired, or a nominee of the department, as set forth in Code of Virginia, § 51.5-98.

n. On an accredited religious practitioner in the practice of the religious tenets of any church or religious denomination. The term "accredited religious practitioner" shall be defined as one who is engaged solely in praying for others upon accreditation by such church or religious denomination.

o. Charitable nonprofit organization. For the purpose of this subsection, the term "charitable nonprofit organization" means an organization which is described in Internal Revenue Code 501 (c) (3) and to which contributions are deductible by the contributor under Internal Revenue Code 170, except that educational institutions shall be limited to schools, colleges and other similar institutions of learning.

p. On total assessments paid by condominium unit owners for common expenses. "Common expenses" and "unit owner" have the same meanings as in § 55-79.41; or

q. Qualifying transportation facility directly or indirectly owned or title to which is held by the Commonwealth or any political subdivision thereof or by the United States as described in § 58.1-3606.1 and developed and/or operated pursuant to a concession under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or similar federal law.

r. On any Retailer or Merchant. Retailers/Merchants are subject to merchants capital tax pursuant to § 58.1-3509 et seq.

State law references: Similar provisions, Code of Virginia, § 58.1-3703.

Sec. 30-208. License requirement.

Every person shall apply for a license for each business or profession when engaging in a business in the County if the person has a definite place of business in the County; there is no definite place of business anywhere and the person resides in the County; or there is no definite place of business in the County but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor, subject to Code of Virginia, § 58.1-3715, or public service corporation. A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:

(1) Each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law.

(2) All of the businesses or professions are subject to the same flat rate license tax rate.

(3) The taxpayer agrees to supply such information as the assessor may require concerning the nature of several businesses.

Sec. 30-209. Due dates and penalties.

(a) Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in the County on or before January 1 of the license year, or no later than March 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the Commissioner of the Revenue.

(b) The tax and the administrative fee shall be paid with the submission of any application. If the business or profession is exempt from licensure, the administrative fee only shall be paid.

(c) A penalty of ten percent of the license fee shall be imposed for failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. If the failure to pay or file was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that failure was due to events beyond his control. The term "acted responsibly" shall mean that the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business, and the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed, or the failure discovered. The term "events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(e) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of an additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. No interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

Sec. 30-210--30-245. Reserved.

Sec. 30-246. Display of license.

Every person required to pay a business license fee under the provisions of this article shall post/display the license in a prominent location visible to the public.

Sec. 30-247. License assignable.

(a) The Commissioner of the Revenue shall keep a record of each such assignment, and he or she shall notify the Treasurer and Zoning Department thereof as each assignment is made.

(b) It shall be unlawful for any person to assign any license except in conformity with the provisions of this section.

Sec. 30-248. Subjects of taxation not mentioned in this article.

Nothing contained in this article shall be construed to repeal any fee and/or tax imposed by any other provision of this Code or other ordinance of the County upon motor vehicles, persons, property, admissions, charges for utility services, or any subject not mentioned in this article, unless otherwise specified.

Sec. 30-249. No tax imposed where prohibited by federal or state tax law.

Nothing in this article contained shall be construed as imposing any license tax on any business, occupation, profession, employment or activity, or on any part thereof, that federal or state law prohibits the County from imposing.

Sec. 30-250. Failure to file required statement; false statements.

It shall be unlawful for any person subject to the payment of a license tax required under this article to fail or refuse to file any statement required by this article, or to knowingly make any false statement in any affidavit required by this article.

Sec. 30-251. Certain administrative and enforcement duties of the Commissioner of the Revenue; disposition of license fees and fines collected.

(a) It shall be the duty of the Commissioner of the Revenue to require all persons prosecuting any business, employment, profession, or activity for which a license is provided to procure such and pay the fee there for; and should there be any license fee not paid, it shall be his or her duty to report any and all delinquents to the County Attorney & Treasurer for prosecution and/or collections.

(b) The Commissioner of the Revenue shall report monthly to the Treasurer the aggregate amount of licenses.

(c) All licenses and fines collected under this article shall be paid to the Treasurer of this County to be deposited in the general fund.

Sec. 30-252. Suspension and revocation of licenses.

Any license issued pursuant to this article may be suspended or revoked by the Commissioner of the Revenue or the Board of Supervisors for any of the following reasons:

(1) Suspension or revocation by the state of a similar state license.

(2) Any reason which would have denied the issuance of the license.

(3) Any violation of this article or any violation of a condition stated in the license.

(4) Conviction of a felony.

(5) Any person who is delinquent in the payment of any local tax on personal, machinery, or real property within King & Queen County.

(6) Any person currently in violation of any building code, zoning ordinance, state regulation or county ordinance.

Sec. 30-253. Violations and Penalties

Violations of the provisions of this ordinance shall be subject to all rights and remedies available to the County under Virginia law, both civil and criminal.

SHERIFF'S DEPARTMENT – REQUEST FOR ADDITIONAL FUNDING FY 10/11 – FUEL

Sheriff Charboneau was present requesting $16,000 additional fund to cover the cost of fuel for Sheriffs vehicles for the FY10/11. Sheriff Charboneau commented that one reason that the cost has increased is because his office now handles animal control calls and that the number has more than doubled since last year. The cost factor is transporting of inmates.

Sheriff Charboneau advised that he has asked the deputies to be as conservative as they can. Sheriff Charboneau further commented that the Finance Director has recommended to postpone the purchase of new in-car computers, and put this money toward the cost of Fuel. DMV has mandated to do all filings on computers and that he felt that having the computers would save the officer from having to drive back and forth to the office to do their reports, etc.

For the record Chairman Simpkins commented that the Sheriff's fuel budget for fiscal year 2010-2011 was budgeted at $50,000.00.

Mr. Mibly questioned if the transports are the ones that were accommodated by the Regional Jail. Sheriff Charboneau responded that the majority were.

After further discussion, a motion was made by Mr. McDuff and seconded by Ms. Alsop to approve the $16,000.00 request for fuel, to come out of budget contingencies.

AYES: J. L. SIMPKINS, S. C. ALSOP, J. M. MILBY, JR., M. W. MCDUFF, D. H. MORRIS
NAYS: NONE

MIDDLE PENINSULA DISABILITY SERVICES BOARD – RESOLUTION TO TERMINATE AND DISSOLVE

Vice-Chair Sherrin Alsop advised the Board that the Disability Services Board was not funded in the state budget this year. About a month ago, they chose to disband as there were no funds available.

County Administrator Thomas Swartzwelder advised that because the creation of the Disability Services Board was done by resolution, a resolution to dissolve would be necessary.

A motion was made by Ms. Alsop and seconded by Mr. Milby to adopt the following resolution terminating and dissolving the Middle Peninsula Disability Services Board.

RESOLUTION TO

TERMINATE AND DISSOLVE THE

MIDDLE PENINSULA

DISABILITY SERVICES BOARD

WHEREAS, on March 8, 1993 the Board of Supervisors of King and Queen County, Virginia adopted a Resolution forming a regional Disability Services Board under authority granted to it by Va. Code § 51.5-47; and

WHEREAS, the Counties of Essex, Gloucester, King and Queen, King William, Mathews, and Middlesex, Virginia, and the Middle Peninsula Planning District Commission joined in forming such a regional entity; and

WHEREAS, pursuant to the Resolution, the Chairman of the King and Queen County Board of Supervisors was authorized to sign on behalf of the Board of Supervisors an agreement, titled "Joint Exercise of Powers Agreement Creating the Middle Peninsula Disability Services Board" (the "Agreement"); and

WHEREAS, the Agreement was duly signed; and

WHEREAS, the Middle Peninsula Disability Services Board has been continuously operating from its inception in 1993 to the present with the administrative support of the Middle Peninsula Planning District Commission; and

WHEREAS, Va. Code § 51.5-47 has been repealed by 2011 Acts of Assembly, Ch. 41, and after June 30, 2011, the Middle Peninsula Disability Services Board will have no statutory purpose; and

WHEREAS, pursuant to the terms of the Agreement, Sections I and VII, the Middle Peninsula Disability Services Board can be dissolved by an affirmative vote of each member local government.

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of King and Queen County, Virginia, approves the termination and dissolution of the Middle Peninsula Disability Services Board on June 13, 2011.

AND NOW THEREFORE BE IT FURTHER RESOLVED, that all debts be paid and the remaining assets and property of the Middle Peninsula Disability Services Board be disbursed as provided in Section VII of the Agreement no later than August 31, 2011.

AYES: J. L. SIMPKINS, S. C. ALSOP, J. M. MILBY, JR., M. W. MCDUFF, D. H. MORRIS
NAYS: NONE

INDOOR PLUMBING REHABILITATION PROGRAM 2012 Subrecipient Designation

Chairman Simpkins advised the Board that the current administrator is Bay Aging and per the letter received from the Department of Housing and Community Development no action is required unless the Board wishes to change the administrator.

Mr. Simpkins further advised that there is approximately $6,472,730 available that is spread statewide for over 50 localities and is provided on a first-come first-served basis. The amount obligated by Bay Aging as of April 19, 2011 was $104,940.00.

Ms. Alsop expressed that every year she has a problem with Bay Aging and definitely this year since they cannot pass an audit due to several irregularities. Unfortunately, the Board does not have much choice. Ms. Alsop further expressed that she would like for the County Administrator to contact DHCD to find out what the standing is on this, as she has problems understanding how they could keep an organization that cannot pass their audits.

Mr. Swartzwelder advised that the deadline is July 1st, and asked if the Board would like for him to speak with Bay Aging as well.

It was the consensus of the Board to table until the June meeting.

DIRECT ADVERTISEMENT FOR PUBLIC HEARING ON "AN ORDINANCE TO AMEND AND RE-ENACT AN ORDINANCE ESTABLISHING AN ANNUAL SALARY OF $4,000 FOR THE BOARD OF SUPERVISORS FOR FY 11/12

A motion was made by Mr. McDuff and seconded by Mr. Milby to hold a public hearing on the above stated ordinance at the June 13, 2011 regular meeting of the Board at 7:00 P.M.

AYES: J. L. SIMPKINS, S, C. ALSOP, J. M. MILBY,JR., M. W. MCDUFF, D. H. MORRIS
NAYS: NONE

APPOINTMENTS/REAPPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

Planning Commission – Stevensville District (to replace Mr. Litchfield) TABLED

CMPT Parent Representative – to replace the Kimlicks - TABLED

Planning District Commission – Citizen Member

Chairman Simpkins advised that current citizen member Wallicia Gaines term expires May 10, 2011. Ms. Alsop advised that the County Administrator has been serving on the Board and his term will expire in a couple of months and felt that it was important that he remain on the Commission since the Commission is making so many changes, one being the Executive Director has left and also they are looking at what the PDC does and what the focus is.

Ms. Alsop asked that this appointment be tabled for approximately three months (December) and revisit until Mr. Swartzwelder's term expires and then take action appointing Mr. Swartzwelder as citizen member, as he a citizen of the County.

COUNTY ADMINISTRATOR'S COMMENTS

County Administrator Thomas Swartzwelder had the following Comments:

(1) Advised the Board that there has been a change in leadership at West Point Fire and Rescue as the Chief and his family which make up the core of the Rescue Squad resigned last week. Most are changing over to Lowers new squad and may have a different party that the County deals with on the paid services. Lower Rescue may need the Boards moral as well as financial support, if West Point finds they can no longer run calls in King and Queen County.

(2) Advised that the High School students will be coming around for the second time to shadow county offices, with all county departments participating with exception of the Sheriff's Department and Social Services. Mr. Swartzwelder further commented that he was pleased to speak before two government classes of which were very unique and that he learned a lot about the school and how it runs as well.

BOARD OF SUPERVISORS COMMENTS

Mr. McDuff had the following comments:

- Commented that he has been going through some serious health problems lately and that most were under control.
- Expressed his appreciation for those that attended the meeting

- Advised that the Board will continue to work to do what is needed for the County and that the Board has discussed for a long time about a business license tax of which he felt would help gain control on what is needed in the county.

Ms. Alsop had the following comments:

- Thanked those present for coming out to the meeting.
- Thanked those that came out to the Upper King and Queen Rescue Squad fund raiser and advised that they are looking at building a facility to house the ambulances as they will not fit in the bays in the existing building.
- Expressed her appreciation to the Rescue Squad for doing such a good job as they are celebrating their 45th year.
- Commented on the advertisement of the Salaries of the Board, as citizens think the Board is making $4,000 a month when it is actually $4,000 a year.
- Advised that she attended a meeting in Wise County and learned what they have and do and what small counties do.
- Advised that if the citizens did miss the Rescue Squad annual parade and its activities, they missed her dancing
- Expressed that she was glad that the citizens came out to the meeting and looks forward to seeing each one next month.

Mrs. Morris had the following comment:

- Thanked everyone for coming out and was sorry she missed Ms. Alsop dancing
- Wished everyone a safe trip home

Mr. Milby had the following comments:

- Thanked everyone for coming out to the meeting
- Advised that he will not be seeking re-election in November
- Hoped everyone will have a safe trip home.

Mr. Simpkins had the following comments:

- Expressed his appreciation for all the comments that were made and reminded all the Board Members to make up their minds on whether they are running again, as if they are not, we need to find some good candidates to run. The deadline for filing has been moved back from June to August.
- Commented that as we hear about state funding and what a great job our delegates and senators are doing, we need to look at how they are passing the buck down to the localities referring to the Sheriff's comments relating to transportation of inmates, the cut back on VDOT funding. The tax money that we have, we do the best that we can.

CLOSED SESSION PURSUANT TO SECTIONS 2.2-3711 (A) 1 RELATING TO PERSONNEL MATTERS AND PURSUANT TO SECTION 2.2-3711 (A) 7 LEGAL MATTERS

A motion was made by Ms. Alsop and seconded by Mr. McDuff to enter into closed session pursuant to Sections 2.2-3711 (A) 1 and 2.2-3711 (A) 7 of the Code of Virginia for the purpose of discussing personnel and legal matters.

AYES: J. L. SIMPKINS, S. C. ALSOP, J. M. MILBY, JR., M. W. MCDUFF, D. H. MORRIS
NAYS: NONE

A motion was made by Mr. McDuff and seconded by Ms. Alsop to come out of closed session with each member certifying by individual vote that only those public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act were heard discussed or considered in closed session.

AYES: J. L. SIMPKINS, S. C. ALSOP, J. M. MILBY, JR., M. W. MCDUFF, D. H. MORRIS
NAYS: NONE

ADJOURN:

A motion was made by Ms. Alsop and seconded by Mr. McDuff to adjourn the meeting.

AYES: J. L. SIMPKINS, S. C. ALSOP, J. M. MILBY, JR., M. W. MCDUFF, D. H. MORRIS
NAYS: NONE

IT IS ORDERED THAT THE BOARD ADJOURN:

_____
J. Lawrence Simpkins, Chairman

_____
Thomas J. Swartzwelder, Clerk