

**King and Queen County
Board of Supervisors Regular Meeting**

Monday, November 16, 2015

6:00 P.M.

**Recessed Meeting
Annual Dinner at “The Tavern”**

Chairman Simpkins called the meeting to order. A motion was made by Ms. Alsop and seconded by Mr. Bailey to recess for the purpose of having dinner at “The Tavern”, hosted by the Museum Council. It is noted that Mr. Milby and Mrs. Morris were not in attendance.

AYES: J. L. SIMPKINS, S. C. ALSOP, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: D. H. MORRIS, J. M. MILBY, JR.

After having a delicious meal at “The Tavern”, a motion was made by Mr. Bailey and seconded by Ms. Alsop to reconvene to the regular meeting.

7:00 P.M.

Regular Meeting of the King and Queen County Board of Supervisors

“Minutes of the Meeting”

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

Chairman Simpkins called the regular meeting to order. Mr. Bailey provided the invocation, followed by the Pledge of Allegiance to the Flag of the United States. It is noted that Mrs. Morris was in attendance at the meeting.

APPROVAL AND SIGNING OF THE OCTOBER 13, 2015 MINUTES

A motion was made by Ms. Alsop and seconded by Mrs. Morris to approve the October 13, 2015 minutes. It was noted that there was no workshop held for the month of September 2015.

AYES: J. L. SIMPKINS, S. C. ALSOP, D. H. MORRIS

NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.,

ABSTAINED: R. F. BAILEY, JR.

APPROVAL AND SIGNING OF THE NOVEMBER 2015 WARRANTS AND APPROPRIATIONS

A motion was made by Mr. Bailey and seconded by Ms. Alsop to approve the warrants and appropriations for the month of November 2015, subject to audit.

AYES: J. L. SIMPKINS, S. C. ALSOP, D. H. MORRIS, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.

King and Queen County School Food Services

The Schools are requesting a lump sum appropriation in the amount of \$100,210 to meet expenses through December 2015.

A motion was made by Mr. Bailey and seconded by Ms. Alsop to approve the request.

AYES: J. L. SIMPKINS, S. C. ALSOP, D. H. MORRIS, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.

King and Queen County Schools Appropriation of September and October Revenue

A motion was made by Mrs. Morris and seconded by Ms. Alsop to approve the schools appropriation of revenue for September and October 2015 in the amount of \$794,941.74.

September	\$393,741.33
October	\$401,200.41
Total	\$794,941.74

AYES: J. L. SIMPKINS, S. C. ALSOP, D. H. MORRIS, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.

PUBLIC COMMENT PERIOD

Chairman Simpkins opened the public comment period, asking that those who wish to speak, to please come forward, stating their name and district that they reside and to limit their comments to 3 minutes.

Walter Via, Buena Vista District, commented that he had questions relating to the rezoning request. Mr. Via was advised that all comments would be heard during the public hearing to be held later in the meeting.

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

PUBLIC HEARING – ZONING TEXT AMENDMENTS ZA15-03, ZA15-04, AND ZA15-05

Chairman Simpkins opened the Public Hearing on Zoning Text Amendments ZA15-03, ZA15-04 and ZA15-05 and verified proof of publication of public hearing.

ZA15-03 – Zoning Text Amendment – Table 4.1, Permitted Use Table – To reinsert Mineral Resource Processing as a permitted use by approved CUP in the Industrial zoning district and clarify “processing necessary to facilitate the hauling of material.”

ZA15-04 – Zoning Text Amendment – Article 5, Section 3-101, Minimum lot sizes and related requirements – To clarify and insert a water frontage minimum frontage for all zoning districts.

ZA15-05 – Zoning Text Amendment – Define Mineral Resource Processing.

ZA15-03 and ZA15-05

County Administrator Thomas Swartzwelder provided background information of something that was left out of the revised zoning ordinance of which was to define an area that was left undefined. Mr. Swartzwelder asked that the Board go to the first page of the zoning table and they would see mineral resource processing. When the Planning Commission revised the Zoning Ordinance five years ago, they left processing out all together. An issue came up and we took it back to the Planning Commission which they indicated that they did not intend to say that people could not process sand, stone, etc. and wanted to reinsert it by Conditional Use, which was how it originally was. A definition was written of processing, which examples were given of a large sand and gravel operation that would be allowed in industrial zoned areas with approved Conditional Use. So the Planning Commission is fixing that.

Chairman Simpkins opened the floor for public comment period. Mr. Simpkins asked that each one come forward stating their name, district that they are from.

A motion was made by Ms. Alsop and seconded by Mr. Bailey to approve ZA15-03 and ZA15-05.

AYES: J. L. SIMPKINS, S. C. ALSOP, D. H. MORRIS, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: J. M. MILBY

ZA15-04 – Zoning Text Amendment

County Administrator Thomas Swartzwelder provided background information, advising that Mrs. Spouse spoke at one of the Board's workshops concerning issues that staff had about this proposal. The Planning Commission was attempting to address a specific issue in commercial properties specifically setting some waterfront limitations for commercial properties and decided that it would be nice to square off lots all over the county and they took all the residential districts and whatever the road frontage requirement was, they recommended making the waterfront requirement the same. As it was discussed, it has been 150 foot in residential and agriculture since the zoning ordinance was adopted in 1970's and the original one in the 1980's. Staff has concerns of reversing that much precedent in people who brought property assuming that if it was 300 feet wide that they had 2 waterfront lots. The Planning Commission recommended squaring off all these lots, and if the Board decides on taking the recommendation of the Planning Commission to take back to the 150 feet, staff can do that, but it will take some time. Residential and Agriculture lots were where the main concern was.

The floor was open for public comment. Ann Marie Voight questioned what exactly was included within water front. Does it include ponds only if they are directly connected to constant flow of tidal wetlands, streams and wetlands?

Mr. Swartzwelder went through the zoning ordinance proposed changes.

After a lengthy discussion and questions of concern the public hearing was closed and a motion was made by Ms. Alsop and seconded by Mr. Bailey to accept the changes proposed by the Planning Commission with 150 feet for the waterfront and residential districts and the Planning Commissions various recommendations for general business and Industrial approved ZA15-04.

AYES: J. L. SIMPKINS, S. C. ALSOP, D. H. MORRIS, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.

SUPERINTENDENT OF SCHOOLS AND SOCIAL SERVICES MONTHLY REPORT

Chairman Simpkins reported that Mrs. Carter, Superintendent of Schools would not be present due to being out of town for the birth of her grandchild; however her report was included within the Board packet.

Director of Social Services, Betty Dougherty provided the following report advising:

- That Broadus Church Missions Day was held on November 7 where 8 members came to the agency and filled the agency food pantry.
- Advised that she was invited to attend the Woodmen of the World Chapter 442 to give a presentation on services offered and the needs of the County on November 9th at Nicks Restaurant. Woodmen of the World members donated several bags of food to the food pantry.

- Advised that the Resource Guide created by the King and Queen Resource Council was not available.
- Advised that the crisis component of the energy program began on November 1 and will run through March 15 for equipment related assistance, security deposits, and emergency shelter. Beginning the first work day in January through March 15, it is also for the purchase of primary heating fuel and payment of primary heat bills.

BUDGET AMENDMENTS

LITTER CONTROL GRANT - \$5,927.00

The Board was advised that \$500.00 was included in the budget as the annual state allocation. A competitive grant application was submitted by Diane Gaber in which \$6,427.00 was received. The additional revenue received was \$5,927.00.

EMERGENCY SERVICES - \$135,234.00

The Board was advised that this is a purchase of multiple SCBA (breathing apparatus) for fire departments and Emergency Services Personnel. Funding sources: Fire Department Reserve Fund (\$96,179) and Department of Fire Programs Aid to Localities Funding (\$39,056).

County Administrator Mr. Swartzwelder advised that late last week he received information from Lower Volunteer Fire and Rescue that they did wish to participate as recommended by the other Chiefs and are not asking for anything additional.

A motion was made by Ms. Alsop and seconded by Mr. Bailey to approve both the Litter Control Grant Budget Amendment in the amount of \$5,927.00 and the Emergency Services budget amendment in the amount of \$135,234.00.

AYES: J. L. SIMPKINS, S. C. ALSOP, D. H. MORRIS, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.

APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

ECONOMIC DEVELOPMENT COMMITTEE/IDA

Stevensville District – TABLED

(To replace Mr. Bill Henley who resigned 12-17-14) Term to expire August 2017.

WETLANDS BOARD

Newtown District – TABLED

(Ms. Alsop expressed that she was open to suggestions if anyone has someone that would like to serve from their districts since it does not have to be done by district.

Alternate Member Per Code – TABLED

(Mr. Robert Gibson's term expired November 9, 2015)

MEMORANDUM OF UNDERTANDING – ESTABLISHING A REGIONAL INTEROPERABLE PUBLIC SAFETY RADIO SYSTEM

County Administrator Thomas Swartzwelder advised that Essex County desires to expand our radio and broadband system into Essex County. In order to apply for the various grants that help with regional radio mostly in subscriber units you have to have some sort of documentation in place and the MOU is the minimum requirement. Grant applications have to be in by the end of December and this cannot be done without a MOU. Essex County Administrator Reese Peck has reviewed the MOU and is fine with the MOU and is taking it before his Board tomorrow. This will be the 1st documented step toward moving towards a regional system.

Mr. Swartzwelder reviewed the MOU with the Board and explained that the MOU is for 5 years and is reviewed annually.

Ms. Alsop commented that she had two problems, one which was addressed where the County Administrator appoints persons to the Planning Board and felt it should be done by the Board of Supervisors and also had problems with number 4 where it states that new members may be admitted to the system on such terms and conditions unanimously agreed upon by the County Administrators of the member localities and felt that should be the Board of Supervisors rather than the County Administrator.

Mr. Simpkins questioned sharing of equipment. Mr. Swartzwelder advised that the only equipment that will be shared would be the two microwave links between the County.

After further discussion, a motion was made by Ms. Alsop and seconded by Mr. Bailey to accept the MOU with the two (2) corrections that she made.

MEMORANDUM OF UNDERSTANDING ESTABLISHING A REGIONAL INTEROPERABLE PUBLIC SAFETY RADIO SYSTEM

This Memorandum of Understanding, dated December 1, 2015, between the County of King and Queen (“King and Queen”) and the County of Essex (“Essex”) is entered to establish the Upper Middle Peninsula Regional Radio System.

INTRODUCTION

In order to support the mission-critical communications needs of each localities individual and collective public safety and public service personnel, the parties to this agreement have or desire to improve certain radio facilities and communications capacity realizing the opportunity to pool these resources and needs will collectively benefit all parties, and agree that this opportunity can be best realized through joint action.

PURPOSE

The purpose of this agreement is to establish a Regional Interoperable Radio System (“the System”) for telecommunication purposes for use by the County of King and Queen, the County of Essex, and the Town of Tappahannock, where such System will be used by the participating localities to communicate between their own locations and with each other.

The System will consist of components including radio and microwave radio devices, fiber-optic cable, conduit, electronic equipment and other necessary equipment for the transportation of voice and data signals, the installation and maintenance of radio and other system equipment, and the technical and administrative functions necessary to develop, operate, and maintain the system.

The system envisioned by this agreement is intended to be a flexible system serving the purpose of improving communications by using technological components that will, at any given time, best accomplish the purpose of improved communications. The parties to the agreement expect that over time the particular components of the System may change as needs and capacities of technology and the users change.

GOVERNANCE

1. Each locality subject to this agreement shall appoint representatives to a Policy Team which shall exercise those duties and responsibilities as set out below. The representative of the Policy Team for each county shall consist of the County Administrator, Sheriff, Emergency Services Chief, and one at large position appointed by each County Administrator. Each locality shall have 4 votes on matters before the policy team. Non-voting members may be added as designated by the County Administrator of the member localities.

- a) The Policy Team shall be responsible for the oversight of policy and fiscal issues related to the system, subject however to authorizations of necessary funds by the governing bodies of the members.
 - b) To allow for timely implementation of standard operating procedures and system policies, to allow for the allocation of frequency and data bandwidths and to provide day to day management and oversight of the system, each member locality shall designate one member from their locality of the policy team, or other employee as appropriate, to act on behalf of the locality as a Locality Manager. The policy team will designate one of the identified locality managers as the system manager.
2. The member of the policy team may enter contractual services with professional experts and consultants as required to protect the interests of the members.
 3. In no event shall members be liable to each other for any indirect, incidental, special, or consequential damages including, without limitation, damages attributed to any malfunction of the system, regardless of the cause of action, arising out of or in connection with a party's performance.
 4. New members may be admitted to the system on such terms and conditions as unanimously agreed upon by the Board of Supervisors of the member localities.
 5. Necessary and periodic updates, software enhancements and emergency technologies will be funded regionally by the members' normal funding process. If the system manager or locality manager determine major system enhancements are required beyond necessary and periodic updates, Policy Team approval will be required subject to funding allocations from each member localities governing board.
 6. The member localities shall individually and collaboratively seek grants to enhance public safety communications network. Matching requirements for collective system grants will be paid by all member localities according to member allocation percentages. Individual localities may also seek independent grants (ex. subscriber equipment or accessories) of which match requirements will be the responsibility of the locality.
 7. Members will be individually responsible for maintaining adequate insurance on equipment and infrastructure owned by their respective jurisdictions.
 8. The policy team may designate committees, subcommittees, and user groups as necessary to develop and operate on the system. Actions of such committees, subcommittees, and user groups are subject to approval of the policy team.

TERMINATION OF MEMBERSHIP

Should any member desire to terminate its participation in the system, such member shall be responsible for all costs associated with its removal from the system and for all capital and operating costs associated with remaining members continuing to operate on the system without degradation through the end of the current fiscal year, subject to appropriations by the governing body of the withdrawing member. For purposes of this paragraph, a fiscal year ends June 30 of any year. Further, all system frequencies shall remain part of the system unless otherwise

authorized by the licensing authority. A member may withdraw from the system and its obligations under this MOU by providing at least one (1) year written notice to other members.

By signing this MOU, the parties hereto agree to improve homeland security and to improve the safety of the citizens within our localities by maintaining and improving our wide area P25 compliant radio communications infrastructure.

This MOU shall remain in effect for five year terms, automatically renewable and subject to appropriations by governing boards of member localities. This MOU shall be reviewed annually by locality managers and any amendments proposed shall be incorporated as amendments subject to unanimous approval by the policy team.

AYES: J. L. SIMPKINS, S. C. ALSOP, D. H. MORRIS, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.

COUNTY ADMINISTRATOR'S COMMENTS

County Administrator Thomas Swartzwelder provided the following comments:

- Commented that he wanted to get the Boards direction on a grant opportunity. There were several items left off when building the administrative building to get within budget and almost all had to do with parking areas or environmental issues dealing with drainage around the building and parking lot drains. DEQ has some grants available that are 50/50 grants and the minimum application is \$200,000, so if we received and accepted the grant the County would be committing them to \$100,000.00. What we would be looking at would be redoing the parking lot and all the storm drainage. The problem in order to apply is that we have to have an engineered plan. They have spoken with Timmons and they estimate about \$4,000 to do that plan.

GRANT APPLICATION – ENGINEERING PLANS – DRAINAGE AND PARKING LOT

A motion was made by Mr. Bailey and seconded by Ms. Alsop to move forward with the engineering plans necessary to apply for the said grant for the drainage and expansion of the parking lot approving a budget amount and expenditure in the amount of \$4,000.00 to come out of the general fund.

AYES: J. L. SIMPKINS, S. C. ALSOP, D. H. MORRIS, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.

- Advised that the new Conflict of Interest Act rules become effective January 1 and forms are due December 15th. The biggest issue is do not take gifts from anyone that may contemplate doing business with the County or have any reason of doing business with the County. The threshold is a \$100.00, but everyone he knows, says do not take the gift. Mr. Swartzwelder further advised that he plans to discuss this at the Boards workshop in January or February with the Board and also the Constitutional Officers.
- Advised that there has been a hitch in the voting machines and the debate on whether we go with the new digital scanning equipment. The present machines are touch screens and the state does not allow you to replace those, you can only repair and maintain and there was much discussion about what we should do. Now the manufacture has come out and said that they can absolutely repair and maintain those machines and has put the state on notice. Most of the registrars are trying to figure out what that means, if anything, but the manufacturer is saying that they will continue to support them. If it cannot be fixed, it cannot be replaced. Mr. Swartzwelder further commented that he would be getting with the Registrar soon to discuss the issue further. At the current time they are recommending digital scanners.
- Advised the Board of the Holiday Schedule of which the Governor has granted, and per instruction by the Board, whatever schedule the Governor approves the County follows:

Thanksgiving: Offices will close at noon on November 25th, 2016
 Thursday and Friday, November 27th and 27th, 2016

Christmas: Offices will be closed Christmas Eve and Christmas Day

- Provided an update on the Schools advising that he has met with the Superintendent of Schools and the Finance Director and that they have a number of things that they want to do with the capital fund of which they are all small things. Mr. Swartzwelder further commented that this is the first Superintendent of the past 4 since we established the capital fund that has wanted to spend it. The School Board last Thursday approved for the Superintendent to come to the Board of Supervisors on several items, one being a water issue from several months ago that got some carpet wet, of which the County started getting parental complaints and we switched it to the School Board and they want to pull that carpet out as it has mold and the cost would be several thousand dollars and wants the Boards support to come out of the Capital Fund. They say they have three bids at \$7,000 and asked what direction the Board wanted to go with this. Mr. Swartzwelder expressed that he had concerns that parents are calling about mold issues and why this is coming to the Board to come out of the capital fund and not their general maintenance fund.

- The next issue is that they want another bus and vehicles this year out of the capital fund. We really need to set parameters for this fund. Mr. Swartzwelder further advised that the new Finance Officer for the Schools advised that Gloucester County has a fund like this and they have a \$50,000 minimum which may be a little high for King and Queen County, but he thinks the Board needs to take up at a workshop and set up some parameters.

Mr. Swartzwelder reminded the Board that the Schools are already looking at a \$1 million in HVAC equipment that is not going to be covered under that ADM contract. There is \$600,000 in the fund and it looks like at the current time that the Schools will be turning in about \$280,000 from last year that the prior Superintendent Jones did not spend and also got the schools accredited.

Mr. Simpkins asked if we knew how the carpet got wet. Mr. Swartzwelder commented that it probably came from the roof that the Board of Supervisors also got fixed, but was not sure.

Mrs. Morris expressed concern that before we start handing out money we need to find out the source of how the carpet got wet.

It was the consensus of the Board that Mr. Swartzwelder contact the Schools and recommends that they address the problem and then the Board will take under consideration on whether they will assist with it once they get more information.

It was also the consensus of the Board that the issues relating to the Capital Fund parameters be discussed at the next workshop.

- Advised that at the December meeting he would present the budget schedule for next year.

BOARD OF SUPERVISORS COMMENTS

Mr. Simpkins had the following comments:

- Mr. Simpkins thanked the museum council for the delicious meal they served
- Advised that he was reading in the VACO news about the Christmas Ornaments and looked on the website and saw that King and Queen County was on there. He was happy to see that it was there.
- Advised that he attended the annual meeting at the Homestead with all counties in attendance except 4 with over 900 in attendance. Mr. Jim Campbell, Executive Director will be retiring in the summer.
- Advised that the most important thing was that Ms. Alsop was elected 2nd Vice-President of VACO.

- Advised that he went to several workshops, especially the Ethics which they had no answers.
- Expressed his appreciation for allowing him to go.

Mr. Bailey had the following comments:

- Thanked everyone for coming out to the meeting
- Expressed his appreciation to the Museum Council for the delicious meal that was provided.
- Thanked everyone for their comments and input and staff as usual are on the ball.
- Everyone be safe going home, as there are plenty of animals out on the highway

Mrs. Morris had the following comments:

- Thanked everyone for coming out
- Expressed her appreciation for all the comments and hopes to see everyone next month.

Ms. Alsop had the following comments:

- Thanked everyone for coming out
- Thanked the Museum Council for the wonderful meal the Board had before the regular meeting. They have a lot of good things going on over there.
- Commented that she was elected as 2nd Vice-President of VACO and that she has great respect for everyone on the Middle Peninsula and Northern Neck as they showed up for her giving support. She was never more pleased and delighted to see them support King and Queen and herself.
- Advised that she attended the EMS Symposium. Volunteers need to attend this as they offer classes and provide information of what other localities are doing. It is worth the time and effort.
- Asked that everyone be safe going home because the deer are out there.

CLOSED SESSION PURSUANT TO SECTION 2.2-3711 A.3 – DISCUSSION OF ACQUISITION OF REAL PROPERTY FOR PUBLIC USE WHERE PUBLIC DISCLOSURE WHERE THE STATUS COULD AFFECT THE COUNTIES NEGOTIATING POSITION.

A motion was made by Mrs. Morris and seconded by Mr. Bailey to go into closed session pursuant to Section 2.2-3711 A. 3 of the Code of Virginia for the purpose of discussing the acquisition of real property of public use where public disclosure could affect the negotiating position.

AYES: J. L. SIMPKINS, D. H. MORRIS, S. C. ALSOP, R. F. BAILEY, JR.
NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.

A motion was made by Mr. Bailey 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, D. H. MORRIS, S. C. ALSOP, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.

NO ACTION WAS TAKEN.

IT IS ORDERED THAT THE BOARD ADJOURN:

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

AYES: J. L. SIMPKINS, D. H. MORRIS, S. C. ALSOP, R. F. BAILEY, JR.

NAYS: NONE

NOT PRESENT: J. M. MILBY, JR.

J. Lawrence Simpkins, Chairman

K. Diane Gaber, Deputy Clerk