

## SEPTEMBER 26, 2012

VIRGINIA: At a regular meeting of the Board of Supervisors for Hanover County held in the Board Room of the Hanover County Administration Building on the 26th day of September, 2012, at 6:00 p.m.

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

### Call to Order

At 6:00 p.m. the Chairman called the meeting to order. All Board Members were present.

#### A. Invocation

Mrs. Kelly-Wiecek gave the invocation.

#### B. Pledge of Allegiance

Mr. Davis led the Pledge of Allegiance.

#### C. Approval of Board of Supervisors' Minutes – August 22, 2012 and September 12, 2012

The Chairman asked if there were any corrections or additions to the minutes. Hearing none, advised the minutes from August 22, 2012 and September 12, 2012, were approved as submitted.

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

Minutes Approved.

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## Consideration of Agenda Amendments

The Chairman asked if there were any agenda amendments. Hearing none, moved on to the next item.

## Citizens' Time

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

## Consent Agenda

Mr. Stanley made a motion to approve the Consent Agenda, seconded by Mr. Peterson.

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

Consent Agenda approved.

## Adoption of Resolution – Acceptance of Streets into the Secondary System of Highways – Davis Place, Section B (Henry Magisterial District) (Consent Agenda)

On a motion by Mr. Stanley, seconded by Mr. Peterson, the Board Adopted the Resolution requesting the Virginia Department of Transportation to accept Lantana Lane and Bobcat Lane in Davis Place, Section B Subdivision into the Secondary System of State Highways.

## RESOLUTION

WHEREAS, the street(s) described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of Hanover County, and

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WHEREAS, the representative for the Virginia Department of Transportation has advised this Board that the street(s) in **Davis Place – Section B**, meet the requirements established by the Virginia Department of Transportation’s Subdivision Street Requirements, and

NOW, THEREFORE, BE IT RESOLVED, the Board requests the Virginia Department of Transportation to add the street(s) described on the attached Additions Form AM-4.3 to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department’s Subdivision Street Requirements, after receiving a copy of this resolution and all outstanding fees and documents required of the developer, whichever occurs last in time, and

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage, and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Area Land Use Engineer for the Virginia Department of Transportation.

The members of the Board of Supervisors voted to approve this Resolution as follows:

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

Resolution Adopted.

**Approval of Donation – “Smokehouse” Building to Hanover Tavern Foundation (Beaverdam Magisterial District) (Consent Agenda)**

On a motion by Mr. Stanley, seconded by Mr. Peterson, the Board Approved the donation of the smokehouse to the Hanover Tavern Foundation.

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

Motion Approved.

**Adoption of Resolution commending Deputy County Attorney A. Lisa Barker (Consent Agenda)**

On a motion by Mr. Stanley, seconded by Mr. Peterson, the Board adopted the resolution.

**RESOLUTION**

WHEREAS A. Lisa Barker began her service to the County of Hanover on May 12, 1980 as Hanover's first Assistant County Attorney; and

WHEREAS from July 1, 1987 to August 31, 1987, Ms. Barker served capably as Acting County Attorney for the County of Hanover; and

WHEREAS on July 1, 1993 Ms. Barker was promoted to the position of Senior Assistant County Attorney; and

WHEREAS on July 1, 2007 Ms. Barker was promoted to the position of Deputy County Attorney; and

WHEREAS, throughout the course of her career with Hanover County, Ms. Barker has provided legal services to the School Board, the Department of Social Services, the Planning Department, the Department of Public Works, the Assessor's Office, the Commissioner of Revenue, the Communications Department, the Office of Economic Development, the Finance Department, the Department of Fire and EMS, the Hanover-Caroline Soil and Water Conservation District, the

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Purchasing Office, the Treasurer, the Clerk of the Circuit Court, the Registrar, the Airport Committee and numerous other departments, agencies and commissions; and

WHEREAS, in the course of providing these services, Ms. Barker has acquired and demonstrated skill and expertise in Planning, Condemnation, Environmental, Employment, Taxation, Finance, Bankruptcy, Education, Constitutional, Administrative, Construction, Contract, Civil Litigation, Real Estate and other substantive areas of legal practice; and

WHEREAS Ms. Barker has acquired a remarkable store of institutional knowledge that has been a continuous benefit to her clients and to her colleagues in the County Attorney's Office; and

WHEREAS Ms. Barker has been a steadfast member of the Local Government Attorneys of Virginia, a consistent participant in its conferences and an active member of numerous LGA committees, and she has also been an active member of the Metropolitan Richmond Women's Bar Association, the Hanover and Richmond Bar Associations, the American Bar Association and the Virginia State Bar; and

WHEREAS A. Lisa Barker will retire from her full-time position on September 30, 2012; and

WHEREAS Ms. Barker's continuous, dedicated and capable service to Hanover County and its residents provides an excellent role model for other Hanover County employees to follow;

NOW, THEREFORE, BE IT RESOLVED by the Hanover County Board of Supervisors that A. Lisa Barker be commended for her many years of dedicated and invaluable service to the County of Hanover and best wishes for a long, healthy and happy retirement be offered to her.

The members of the Board of Supervisors voted to approve this Resolution as follows:

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

Resolution Adopted.

## **Approval of Development Agreement with CFL Ashland, LLC and Virginia Truck Center of Richmond, Inc. and Associated Transfer and Appropriation (Ashland Magisterial District) (Consent Agenda)**

On a motion by Mr. Stanley, seconded by Mr. Peterson, the Board Authorized the County Administrator to execute the Development Agreement, approve the transfer and appropriation of \$460,000 to the Department of Public Utilities Capital Improvements budget, and authorized the County Administrator to take all other actions necessary to implement the terms of the Agreement.

### **COUNTY OF HANOVER, VIRGINIA Budget Transfer Detail - FY13**

#### **Public Utility Fund**

##### Expenditures:

##### Additions to Expenditures

CIP - Project CFL Ashland LLC/VA Truck Center (Vitamin Shoppe)	460,000
Total additions to expenditures	<u>\$ 460,000</u>

##### Additions to Revenues:

Developer Funds	300,000
Prior Year's Balance	160,000
Total additions to revenues	<u>\$ 460,000</u>

Net change to fund

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

Motion Approved.

### **Adoption of Resolution and Authorization to execute agreement with King William County – use of the Hanover County 800 MHz communications system**

*Board Sheet Background: It is mutually beneficial and in the public interest for Hanover County to allow use by King William County service providers of the Hanover County Communications System. King William County would become a subscriber under this arrangement and would pay to Hanover County an annual fee based on its number of radios, currently estimated at 325, and a relative share of the cost to operate the system. The additional 325 radios would have minimal impact on the Hanover County system and its users. The analysis by Motorola indicates a degradation of less than 1%. No additional significant infrastructure is necessary at this time, in order for Hanover to provide this service.*

*Revenue accruing as a result of this Agreement is expected to be approximately \$170,000 for fiscal year 2013 and \$340,000 for fiscal year 2014.*

*This Agreement is authorized by Virginia Code Section 15.2-1300.1, and has been approved as to form by the County Attorney's Office. The statute requires adoption of a resolution authorizing this cooperation.*

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Mr. Curtis Shaffer, Director of Emergency Communications, came forward reviewed this item and advised that Mr. Trenton Funkhouser, County Administrator, King William and Mr. Travis Lindsey, Emergency Manager, King William were also present.

### Summary

This agreement represents

1. Minimal impact to Hanover County users
2. Reduces Hanover's total cost of ownership of the radio system
3. Improves regional interoperability

King William County Board of Supervisors approved the agreement on Monday September 24, 2012.

No questions from the Board. Mr. Peterson made comments in support.

Mr. Peterson made a Motion to adopt the resolution and authorized the County Administrator to execute the agreement with King William County for the provision of radio system communications, seconded by Mr. Hazzard.

### RESOLUTION

WHEREAS Virginia Code Section 15.2-1300.1 authorizes localities to give and receive aid pursuant to resolution of the governing body and provides for authority and immunity of personnel acting outside the locality where they are employed; and

WHEREAS the County Administrator has conducted an assessment of resources and needs related to emergency and administrative communications services and has found that the King William County government and the Hanover County government and residents of both counties would benefit from cooperation and sharing of resources in provision of communications services.

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NOW, THEREFORE, BE IT RESOLVED that the Hanover County Board of Supervisors finds that Hanover County has resources which will aid King William County government in provision of communications services and finds that it is in the public interest for the two counties to cooperate in providing those services, and the County Administrator is authorized and directed to do the following:

1. To enter into an agreement providing more detail related to the nature of the shared services and reimbursement by King William County to Hanover County for the cost of services, and
2. To enter into an agreement to implement this beneficial arrangement, subject to continued availability of resources and subject to lawful annual appropriations, and
3. To take all actions necessary to implement the terms of this resolution and the resulting agreement and to deploy resources, including personnel and expend funds accordingly.

The members of the Board of Supervisors voted to approve this Resolution as follows:

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

Motion Approved.

### **Overview of 2012 Changes in Virginia Election Laws**

#### *Board Sheet Background:*

*The County Attorney will provide a brief overview of significant changes in Virginia laws governing elections, focusing on the new voter identification requirements.*

Mr. Sterling Rives, County Attorney, came forward to present this item and advised these are changes made by the General Assembly this year in Virginia's Election Laws and advised that the Department of Justice has approved voter ID law changes in Virginia.

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### Acceptable Forms of Identification for Voting

- Virginia Voter Registration Card
- Social Security Card
- Valid Virginia Driver's License
- *Concealed Handgun Permit*
- Any identification card issued by an agency of the Commonwealth, a political subdivision of the Commonwealth or the United States
- *Valid student identification card issued by any institution of higher education located in the Commonwealth*
- A valid employee identification card containing a photograph of the voter
- *Current utility bill, bank statement, government check or paycheck showing the name and address of the voter*

### Provisional Ballot

- Used if voter cannot display acceptable ID
- Provisional voter must submit acceptable ID by fax, email, in person or USPS or commercial mail
- ID must be received no later than noon on third day after election
- Electoral Board meetings to consider provisional ballots open only to authorized representatives of candidates, the voter and his representative and staff and counsel for the Electoral Board
- Validity of all provisional ballots must be determined within 7 calendar days from date of election.

### Absentee Voting

- At least 5 days required after person registers to vote before an absentee ballot application can be processed
- Exemption for military and overseas voters
- Registrar may use commercial delivery providers as well as USPS to send absentee ballots
- Voters who return an unused absentee ballot prior to election day may vote only by provisional ballot

### Prohibited Activities at Polls

- Authorized representatives at voter check in tables must respect the area around voters and secrecy of the ballot and may not otherwise interfere with order process of the election

### Voter Registration Records

- State Board must distribute lists of registered voters to Registrars at least 16 days before the election

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- Registrars must process most recent list of convicted felons within 21 to 14 days before election and cancel registration of any voter shown to be a felon

Mrs. Kelly-Wiecek asked Mr. Rives to review make up of Hanover Electoral Board. Mr. Rives advised three members which are nominated by the political parties in Hanover, they supervise the registrar and functions of the registrar's office, participate in and oversee the training of all the election officials who oversee the election at each of the precincts and polling places in Hanover and responsibility for supervising the tally of votes in Hanover County and dealing with any issues that may arise.

Mrs. Kelly-Wiecek mentioned the order by Governor McDonnell that new voter cards be mailed to everyone in the Commonwealth. Mr. Rives advised millions of dollars were spent to ensure that new voter cards were mailed out which is the best id for the polls. Law of unintended consequences to reduce possibility of voter impersonation. Mrs. Kelly-Wiecek and Mr. Rives generally discussed the electronic poll books may prevent double voting. Mr. Rives and Mr. Hazzard generally discussed acceptable forms of ID.

### **Status of Hanover's Petition for Exemption from Preclearance Requirements under Section 5 of Voting Rights Act**

#### *Board Sheet Background:*

*The County Attorney will provide an update on the status of Hanover's preparation of a petition for the County to be exempted from the preclearance requirements of Section 5 of the Voting Rights Act.*

Mr. Rives reviewed this item and advised that the Board discussed this item and voted to direct the County Attorney and Registrar to prepare the information necessary to submit a petition at their June 13, 2012 meeting.

Voting Rights Act

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- Adopted in 1965 and extended in 1970, 1975 and 1982
- Considered most successful piece of civil rights legislation
- Implements 15<sup>th</sup> Amendment guarantee that no person shall be denied the right to vote on account of race or color
- In 1965, only one-third of all African Americans of voting age were registered in six southern states of which Virginia was one of those states
- Case by case litigation inadequate to eliminate persistent discrimination in voting
- Section 5 provided that no voting changes in these states could be implemented until approved by Attorney General or three-judge court in D.C.
- Currently, all or portions of 16 states are subject to preclearance requirements
- The 1982 amendment included provisions for how jurisdictions could terminate coverage of the preclearance requirement

### Bailout Applicant Must Demonstrate that During Past 10 Years

- No test or device used for the purpose or effect of voting discrimination
- All voting changes have been reviewed under Section 5
- No voting change has been objected to by the Attorney General or denied by D.C. District Court
- No adverse judgments and lawsuits alleging voter discrimination
- No consent decrees or agreements to abandon discriminatory voting practices
- No pending lawsuits alleging voter discrimination
- No federal examiners assigned by DOJ

### Bailout Applicant Must Also Demonstrate

- Constructive efforts to eliminate any intimidation and harassment of persons seeking to register and vote
- Expanded opportunities for voter registration and voting
- Appointment of minority officials through the jurisdiction and all levels of the electoral process
- Evidence of minority electoral participation

### Categories of Information to Be Compiled

- Election returns for last 10 years identifying minority candidates
- Voter registration data at the time of each election for the last 10 years and percentage who actually voted
- Poll officials: name, race/ethnicity of each person who worked at the polls in each election
- Names and addresses of local minority leaders
- Methods of election used for all public offices
- Minutes of Board of Supervisors, Town Council and Electoral Board for past 10 years
- Description of voter registration process in Hanover and voter registration drives

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### Meetings Regarding Bailout Petition

- August 2 meeting with 14 minority community leaders was arranged with the help of Mr. Stanley. Mr. Peterson was at that meeting and there was a lengthy discussion and a unanimous feeling from the participants of that meeting that it would be beneficial to have that same discussion in a forum that was open to anyone who cared to come and the 9/8 meeting was advertised.
- Advertised community meeting on September 8 (advertised in the Herald Progress, Mechanicsville Local, Hanover Review (which is mailed to every household in the County) About 70 persons attended the meeting. Staff were present along with Mr. Hazzard and Mr. Peterson.
- Expressed concerns include:
  - BOS decided to initiate petition without community input
  - Questions about applicability of Voting Rights Act after bailout
  - Assurance provided by preclearance requirements outweighs burden
  - Contact information for those at September meeting will be provided to DOJ and used to provide participants with status of petition

### Purposes for Seeking Bailout

- Opportunity to demonstrate history of fair voting practices
- Cost savings from not making preclearance submissions
- Greater flexibility and efficiency in making typically routine voting changes

### Projected Timetable

- Next 45 days consumed with activities related to federal election
- Collection of records and other data in November and December
- Preparation and submission of petition in January
- DOJ review of materials and local interviews; possible decision by DOJ by mid-summer

Mrs. Kelly-Wiecek thanked Mr. Rives for the presentation and history. Perceptions from the September 8, 2012 meeting were unfortunate as changes recommended in terms of polling places were changes to increase accessibility of disabled citizens and the elderly. Intentions there were good and unfortunate that they were perceived as such. Mr. Rives stated his understanding of those comments were that some think the voting practices in Hanover today are fair and wanted continued assurance that voting will always be fair. Concerns were that the current leadership may not always be present and will change as the years go on and take some comfort in the preclearance requirement. Timing is unfortunate due to federal election and due to other states with voter id

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requirements where the courts felt had discriminatory impact and produced skepticism which has been forefront in the news at this time. Mrs. Kelly-Wiecek there was also some confusion that this issue and the voter ID changes made by the State were somehow married together and there was no relationship between the two.

6:49:37 PM Recess

7:01:33 PM Reconvene – All Board Members present.

### **Public Hearings –**

#### **A. Conveyance by Quitclaim of an interest in real estate from Hanover County to Northlake Land Investments, LLC – Public Works (Ashland Magisterial District)**

##### *Board Sheet Background:*

*The Department of Public Works (DPW) received a request for elimination of a 0.391 acre permanent access easement across the property of Northlake Land Investments, LLC. The easement was acquired by Hanover County, Virginia from Dominion Land and Development Partnership dated December 17, 2003, recorded March 3, 2004 in the Clerk's Office of the Circuit Court of Hanover County, Virginia, in Deed Book 2274, page 53 at the request of the owner for a potential access road relocation. A functioning access road is located within another easement on the property; therefore, DPW staff has determined the easement is no longer necessary for County purposes. The quitclaim of this easement will enable the owner to close on the sale of property for a new Department of Game and Inland Fisheries office and site development.*

*The DPW recommends approval of the conveyance by quitclaim deed using the attached draft deed and plat prepared by the County Attorney's Office, or documents substantially similar, and requests authorization for the County Administrator to take all actions necessary to finalize the transaction.*

Mr. Flagg, Director of Public Works, Introduced this request. Advised outside guests present Mr. Larry Hart, Department of Game and Inland Fisheries and Mr. Tom Kitner, North Lake Land Investments. Displayed a map depicting the location will be north of the garage facility on

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Lakeridge Parkway; site layout was displayed with parking. The regional stormwater facility that the County built some years ago in partnership with landowner shown as the pond and there has been some discussion on acting together to enhance that as an amenity as the project moves forward. Map showing the easement was displayed, aerial photo of the area was displayed; sketch of the proposed facility was displayed.

Mr. Hazzard asked if the DGIF will take over the pond. Mr. Flagg advised it has been discussed as a potential partnership.

The Chairman opened the public hearing – no one to address the Board. Public Hearing closed.

Mr. Via made a Motion to approve conveyance by quitclaim deed of a 0.391 acre permanent access easement on the property of Northlake Land Investments, LLC described in the draft deed plat, and to authorize the County Administrator to take all actions necessary to convey the property interest, seconded by Mr. Davis.

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

Motion Approved.

### **B. Ordinance No. 12-10 – Amendments to Grass Cutting Ordinance**

*Board Sheet Background: Ordinance No. 12-10 would amend Chapter 18, Article III, Sections 18-22 through 18-27 of the Hanover County Code to address the substantial increase in "tall grass" complaints received by the County, in large part due to the increase in foreclosed properties and abandoned dwellings. The amendments clarify that the provisions of this Article applicable to the cutting of weeds shall also apply to the cutting of grass. Additionally, the proposed amendments (1) eliminate the requirement that all complaints alleging violations of this Article be in writing, (2) amend the provisions related to notice of a violation of the provisions of this Article, (3) amend the height requirement from fifteen inches to twelve inches and (4) provide for the collection of costs and expenses incurred by the County in the enforcement of this Article. The proposed amendments will also result in the ability to achieve compliance much sooner than the current practice.*

*Attached in the board's packet is the version of the revised ordinance.*

*The reduction in the height requirement was suggested during the public hearing authorization. Staff recommends that the height requirement remain fifteen inches due to staffing requirements to enforce the anticipated additional requests for intervention and related costs. Also, although most County facilities are not residential in nature and therefore not covered by the Ordinance it is the desire that County facilities serve as examples but it would be difficult to ensure the facilities would comply with the twelve inch limit at all times.*

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Mr. Richard Bartell, Chief Building Official, came forward to present this request. The requested change will make it easier for a citizen to report a complaint and for staff to respond to a complaint related to tall grass. Staff is comfortable with the 15 inch height requirement.

Mr. Hazzard most of the issue is related to foreclosures. Mr. Bartell - yes and is a complaint based program. Mr. Peterson this applies only to residentially zoned properties, agricultural properties are not subject to this ordinance. Mr. Bartell only to SSA. Mr. Rives commercial and industrial properties in SSA as well. Mr. Rives - Not agricultural. Mr. Davis stated he supported this due to burdens of Staff related to enforcement issues and there is a time of compliance as well and it is not designed to penalize a property owner who may be away on vacation. Mr. Bartell advised that this has been discussed with the extension office and three inches equals 2-3 weeks of growth. Staff is hoping that by giving 7 days notice, then have the contractor out the next week it will speed up the process that we will not have the five foot tall example that was shown to the board this evening. Mr. Bartell advised 15 inches will be less of a burden and is still a complaint driven process. 12 inches would be hard for staff to respond to these complaints.

The Chairman opened the public hearing. No one to address the Board, public hearing closed.

Mrs. Kelly-Wiecek advised that she worked with Mr. Rives and Mr. Bartell on this issue as it was driven by a number of home situations in the Chickahominy District; this will save the County money; is a more efficient process for the citizens and that it will help improve accountability for absentee owners.

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Mrs. Kelly-Wiecek then made a Motion to Adopt Ordinance No. 12-10, Amending Chapter 18, Article III, Sections 18-22 through 18-27 of the Hanover County Code, with the exception of the change in grass or weed height, which shall remain at 15 inches, seconded by Mr. Hazzard.

### ORDINANCE NO. 12-10

AN ORDINANCE TO AMEND THE HANOVER COUNTY CODE, CHAPTER 18, ARTICLE III, SECTIONS 18-22 THROUGH 18-27, TO CLARIFY THAT THE PROVISIONS OF THIS ARTICLE APPLICABLE TO THE CUTTING OF WEEDS SHALL ALSO APPLY TO THE CUTTING OF GRASS; TO ELIMINATE THE REQUIREMENT THAT ALL COMPLAINTS ALLEGING VIOLATIONS OF THIS ARTICLE BE IN WRITING; AND TO AMEND THE PROVISIONS RELATED TO NOTICE OF A VIOLATION OF THE PROVISIONS OF THIS ARTICLE AND FOR THE COLLECTION OF COSTS AND EXPENSES INCURRED BY THE COUNTY IN THE ENFORCEMENT OF THIS ARTICLE.

WHEREAS Hanover County is authorized by the Code of Virginia to require owners of vacant developed or undeveloped property to cut grass, weeds and other foreign growth at such times as the Board of Supervisors prescribes, to have such grass, weeds or other foreign growth cut by its agents or employees after reasonable notice, and to require that the owner of the subject property pay the costs and expenses of such removal; and

WHEREAS the Board of Supervisors amended the Hanover County Code to create regulations regarding the cutting of weeds in accordance with state law, and now wishes to make certain amendments regarding the provisions which relate to the cutting of weeds and grass;

NOW, THEREFORE, BE IT ORDAINED by the Hanover County Board of Supervisors that the Hanover County Code, Chapter 18, Sections 18-22 through 18-27, shall be amended to read in their entirety as follows:

**Sec. 18-22. Cutting of weeds and grass required within specified areas.**

(a) It shall be unlawful for any owner to permit grass or weeds in excess of fifteen (15) inches in height to remain standing on any vacant developed or undeveloped property that is:

- (1) Zoned for commercial use, zoned for industrial use, or zoned for residential use; and

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- (2) Within the suburban service area as depicted on the phased suburban development plan in the county comprehensive plan.

(b) It shall be unlawful for any owner to permit grass or weeds in excess of fifteen (15) inches in height to remain standing on the grass or lawn area of less than one-half acre on any occupied property that is:

- (1) Zoned for residential use; and
- (2) Within the suburban service area as depicted on the phased suburban development plan in the county comprehensive plan.

(c) The provisions of this section shall not apply to vegetation maintained in accordance with plans approved by duly authorized governmental authorities or located within Chesapeake Bay preservation resource protection areas (RPAs) or on slopes of twenty-five (25) percent or greater.

### **Sec. 18-23. Report of violation.**

Any person aggrieved by the presence of weeds or garbage in violation of the preceding sections may report such violation to the director.

### **Sec. 18-24. Inspection of site of violation; notice to cut.**

Upon receipt of a report as referred to in the preceding section, the director shall cause the site of the reported violation to be inspected. When the director has determined from such reports and inspections or otherwise that a violation in fact exists, the director shall notify the owner of the land upon which the violation exists to correct the violation complained of within one (1) week of the notice being sent to the owner. Such notice shall be in writing, shall be posted at the property and mailed by first-class mail to the last known address of the owner, and shall be complied with by such owner. In the event that the County takes action to abate the violation, such action shall be exclusive of and in addition to any civil penalties which may be imposed.

### **Sec. 18-25. Procedure if owner fails to comply with notice.**

If the violation is not corrected within the required time, the director may, upon a determination that a condition exists detrimental to the public health and general welfare, cause the removal of the garbage or cutting of weeds and the costs and expenses incurred shall be assessed upon the owner of such property. The assessment shall be collected by the county as taxes and levies are collected. Every charge authorized by this section with which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against such property. An invoice will be posted at the property and also provided by first-class mail to the last known address of the property owner. If the invoice remains unpaid after thirty (30) days, a lien shall be placed against the property.

### **Sec. 18-26. Procedure if owner is unknown or cannot be found.**

If the owner of any land which is the site of a violation of this article is unknown or cannot be found, the notice referred to above shall be dispensed with, and the director shall proceed with correction of the violation and imposition of a lien.

### **Sec. 18-27. Penalty for violation of article.**

(a) Except as provided in subsection (c) of this section, any person who violates any provision of this article and any person who fails to comply with a notice as provided in this article shall be subject to a civil penalty, not to exceed fifty dollars (\$50.00) for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations

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not arising from the same set of operative facts within twelve (12) months of the first violation shall not exceed two hundred dollars (\$200.00). Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of three thousand dollars (\$3,000.00) in a twelve-month period.

(b) In the event three (3) civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a twenty-four (24) month period, a subsequent violation shall be a class 3 misdemeanor.

(c) Any person who violates the provisions of subsection (b) of section 18-22 and any person who fails to comply with a notice based upon a violation of subsection (b) of section 18-22 shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00).

2. This ordinance shall be effective on the date of adoption.

The members of the Board of Supervisors voted to approve Ordinance No. 12-10, as follows:

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

Ordinance Adopted.

### **Planning Public Hearings**

Mr. David Maloney, Acting Director of Planning, came forward to present the Planning Public Hearings.

### **Joint Public Hearings – Ordinance Amendment and Rezoning**

Mr. Maloney reviewed the following requests consecutively.

**ORDINANCE 12 - 09  
BEAVERDAM MOTOR COMPANY AND TRI-COUNTY BANK  
OVERLAY HISTORIC PRESERVATION DISTRICT**

## SEPTEMBER 26, 2012

AN ORDINANCE amending the Hanover County Zoning Ordinance, Title I, Article 5A, by adding a Division 13, consisting of Sections 4.75 through 4.80, to create the Beaverdam Motor Company and Tri-County Bank Overlay Historic Preservation District and to provide for certain uses and alternative development standards within the district.

### Executive Summary:

- ❖ The subject property contains 2 historic structures :
  - Tri-County Bank - two-story brick building constructed in the early 20th century and later converted into apartment units
  - Beaverdam Motor Company - one-story wood frame building constructed between 1910 and 1930 and currently being used as a beauty salon and plumbing company
- ❖ The applicants would like to renovate the apartment units; however, apartments are not permitted in the B-3 District
  - The proposed OHP will allow the flexibility to have the apartments
- ❖ The purpose of an OHP District is to “promote the general welfare, education, and recreational pleasure of the public through the perpetuation of the character of those general areas or structures which have been officially designated by the Board as having historic, architectural or cultural significance”
- ❖ The following is the process for placing a site into an OHP District
  1. Amend the Zoning Ordinance by creating an OHP District that is specific to the property (Ord. 12-09)
  2. Rezone the property to establish the boundaries of the OHP District (C-8-12)
- ❖ Within an OHP District, the Board has the flexibility to permit specific uses and development standards that will maintain the historic integrity of the property
- ❖ Examples of permitted uses recommended by staff include the following:
  - Multiple-family dwellings (in Tri-County Bank building only)
  - Farmers market
  - Food and beverage store
  - Restaurant
- ❖ Staff also recommends development standards that allow use of the site without compromising the historic context of the historic structures; examples include the following:
  - No screening required
  - No thoroughfare buffer required
  - An area shall be set aside for parking; however, no surfacing or marking shall be required

### Agency Comments:

- ❖ Historical Commission - the request will not negatively impact the historic structures on site
- ❖ Architectural Review Board (ARB) - the draft ordinance meets the intent of an OHP District
  - Mr. Maloney noted that any exterior improvements to either of the structures on site will require a Certificate of Approval from the ARB

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**C-8-12 DONNA J. AND BRUCE C. FOLKES**, Request to rezone from B-3, General Business District to B-3 (OHP), Overlay Historic Preservation District on GPIN 7826-67-7148, consisting of approximately 1.06 acres, and located on the east line of Beaver Dam Road (State Route 715) approximately 150 feet south of its intersection with Beaverdam School Road (State Route 739) in the **BEAVERDAM MAGISTERIAL DISTRICT**. The subject property is designated on the General Land Use Plan Map as Commercial. The proposed zoning amendment would establish an Overlay Historic Preservation District.

Mr. Maloney displayed the General Parcel Map, Zoning Map

### Executive Summary:

- ❖ The intent of the applicant is to allow for the adaptive reuse of the existing structures
- ❖ As previously stated, rezoning the property to the proposed OHP district will allow the applicant to achieve their objectives for the property, while maintaining the historic character of the structures and surrounding community
- ❖ Photos of the site were displayed of the bank building and motor company.

### Staff Recommendation:

C-8-12

- ❖ **APPROVAL** of C-8-12, Donna J. and Bruce C. Folkes, subject to approval of Ord. 12-09 Ord. 12-09
- ❖ **APPROVAL** of the draft Ordinance 12-09, Beaverdam Motor Company and Tri-County Bank

The Chairman asked if Board Members had any questions for Mr. Maloney. Hearing none, opened the joint public hearings and asked all those in favor or in opposition to come forward.

Seeing no one come forward, the Chairman closed the joint public hearings and asked if Board Members had any questions. There were no questions from the Board.

Mr. Stanley stated he was in the building with his father when it was a bank and at one time there was a Ford dealership and Chevrolet dealership in Beaverdam. Mr. Stanley stated he has worked with Mr. Folkes in the past on a request which was approved and he does good work. Mr. Stanley stated when Mr. Folkes purchased these properties the County said no to some requests for the property and wanted to give credit to David Maloney and Planning Staff for working with Mr.

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Folkes. Mr. Stanley then made a motion to Approve ORDINANCE 12 – 09, seconded by Mr. Peterson.

### ORDINANCE NO. 12-09

#### **AN ORDINANCE AMENDING THE HANOVER COUNTY ZONING ORDINANCE, TITLE I, ARTICLE 5A, SECTION 4 BY ADDING A DIVISION 13, TO ESTABLISH THE BEAVERDAM MOTOR COMPANY AND TRI-COUNTY BANK OVERLAY HISTORIC PRESERVATION (“OHP”) DISTRICT.**

WHEREAS Va. Code § 15.2-2306 enables the governing body of a county to amend existing zoning ordinances to delineate one or more historic districts and provide for an architectural review board to administer such an ordinance; and

WHEREAS the Board of Supervisors has amended the Hanover County Zoning Ordinance to provide for the creation of such districts, to provide for an architectural review board and to encourage property owners to initiate creation of historic districts; and

WHEREAS based upon the application for the creation of the Beaverdam Motor Company and Tri-County Bank OHP District, the Board of Supervisors desires to amend Hanover County's Zoning Ordinance to establish such a district; and

WHEREAS the Board finds that the public necessity, convenience, general welfare and good zoning practice require that the Zoning Ordinance be amended, and that this Ordinance furthers the protection, restoration, preservation, and improvement of the area of the OHP district and that it promotes the purposes of such overlay districts

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

1. That the Hanover County Code, Appendix, Title I, Zoning Ordinance, Article 5A, Section 4, shall be amended by the addition of a the following Overlay Historic Preservation District:

#### ***Division 13 – Beaverdam Motor Company and Tri-County Bank Overlay Historic Preservation District.***

***4.75 Purpose of OHP District.*** The Beaverdam Motor Company and Tri-County Bank OHP is established to encourage the protection, restoration and preservation of the architectural and historical integrity of existing structures; to encourage uses which will lead to the continuance, conservation and improvement of the OHP district; to prevent creation of environmental influences adverse to such purposes; and to assure that structures and uses within the OHP district will be in keeping with the character to be preserved and enhanced.

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**4.76 OHP District boundaries.** There is hereby created an overlay district to be known as the "Beaverdam Motor Company and Tri-County Bank Overlay Historic Preservation District", the boundaries of which are set forth on the official zoning map.

### **4.77 Regulations.**

- (a) *Certificate of Approval required:* No historic landmark, structure, building or improvement, including signs located on any land within the OHP district, shall be erected, reconstructed, substantially altered, moved, razed, destroyed or restored, nor shall land disturbing activities be conducted within the OHP district until the plans for such activity have been approved by the Architectural Review Board (ARB), and a certificate of approval issued. This requirement shall not apply to regular maintenance functions but shall apply to reconstruction, alteration or restoration. The painting of any unpainted masonry or the removal of paint from painted masonry, repainting of any structure, building or portion thereof which results in the change of color of such structure, building or a portion thereof, shall be deemed an alteration and not regular maintenance, and the term "signs" shall be deemed to include those located within a building or structure which are plainly visible from a public street, way or place.
- (b) *Waiver for certain reconstruction or restoration in buildings and for buildings used primarily for agricultural or horticultural purposes:* After reviewing the application in any case involving only reconstruction or restoration, the ARB may waive part or all the requirements of paragraph (a) of this section, upon a written finding that the application involves reconstruction or restoration only, will not materially affect the exterior appearance of the structure and will not have an adverse impact on the character of the historic site. After reviewing the application in any case involving only buildings primarily to be used for agricultural or horticultural purposes, the ARB may waive part or all of the requirements of paragraph (a) of this section upon a written finding that the requested change will not have an adverse impact on the character of this historic site or the OHP district. This decision of waiver shall constitute a final decision of the ARB and shall be appealable to the Hanover County Board of Supervisors.

**4.78 Exceptions.** Certain specific land uses and construction activities which are deemed not to permanently affect the character of the OHP district are exempt from review. Such actions shall include the following and any similar actions which, in the opinion of the ARB, will have no more effect on the character of the OHP district than the following:

1. Addition or deletion of temporary canopies, window air conditioners, or similar appurtenances.
2. Addition or deletion of television or radio antennas, skylights, or solar collectors in locations not visible from a public street.
3. Minor grading for walkways and retaining walls that do not significantly change the site's grade, ramps for the disabled, temporary fencing, small decorative fountains and manufactured ponds, replacement of existing landscape material, which will not

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substantially affect the character of the property and its surroundings.

4. All signs exempted by Article 7, Section 3.2.3 of the Zoning Ordinance shall be exempt from review.
  - a. The wall sign on the Tri-County Bank building may be restored to its original form without ARB review.

**4.79 Permitted uses.** Within the OHP district, a building or land shall be used only for the following purposes:

- (a) Uses permitted by right:
  1. Any use permitted in the RS, Single-Family Residential District.
  2. Antique store.
  3. Appliance repair and maintenance provided that no outside storage of material is permitted.
  4. Arts and crafts store.
  5. Bakery, retail.
  6. Banks and other financial institutions (without drive-through windows).
  7. Bicycle sales and repair shops.
  8. Catering or delicatessen business.
  9. Copy and print store.
  10. Exam preparation and tutoring.
  11. Fabric store.
  12. Farmers market.
  13. Flower shops and greenhouses incidental thereto, provided they are architecturally compatible.
  14. Food and beverage store.
  15. Hardware store.
  16. Health supplement store.
  17. Hobby, toy and game store.
  18. Lawn and garden equipment and supply store provided that no outside storage of equipment is permitted.
  19. Multiple family dwellings, in the Tri-County Bank building only, not to exceed four (4) units.
  20. Musical instrument and supplies store.
  21. Office supply and stationery store.
  22. Offices, business, governmental, medical or professional.
  23. Packaging and mailing services.
  24. Personal and household goods, repair and maintenance, provided that no outside storage of material is permitted.
  25. Personal service establishment.
  26. Pet shop and animal grooming establishment.
  27. Photographic processing or blueprinting.
  28. Printing, publishing and engraving.
  29. Restaurant.

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30. Restaurant, carry out
  31. Reupholstery and furniture repair, provided that no outside storage of material is permitted.
  32. Studio for artists, photographers, sculptors, or musicians, to include instruction.
- (b) Permitted accessory uses.
1. Any accessory use permitted in the RS, Residential Single-Family District.
  2. Storage of supplies, merchandise or material associated with a permitted use, provided that no outside storage of equipment is permitted.
- (c) Permitted conditional uses.
1. Any conditional use permitted in the A-1 Agricultural District.
- (d) Permitted special exceptions.
1. Any special exception permitted in the A-1, Agricultural District.

**4.80 Development standards.** Applicable development standards shall be those of the zoning district in which the OHP district is located, except as modified by this section. Any replacement or reconstruction resulting from partial or complete destruction of the structures shall be subject to the provisions of Article 6:

1. There shall be no screening required.
  2. There shall be no thoroughfare buffer required.
  3. An area shall be set aside for parking spaces; however, no surfacing or marking shall be required.
  4. Lighting shall be limited to 15 feet in height and shall be in accordance with the requirements of Article 7, Section 13.
  5. The wall sign on the Tri-County Bank building may be restored to its original form without a sign permit.
2. That this Ordinance shall be effective on the date of adoption.

The members of the Board of Supervisors voted to approve Ordinance No. 12-09 as follows:

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

Ordinance Adopted.

Mr. Stanley made a motion to Approve C-8-12, seconded by Mr. Hazzard.

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**ORDINANCE C-8-12**

**OWNER OF RECORD:**                     DONNA AND BRUCE FOLKS                    

WHEREAS the Planning Commission of Hanover County has held an advertised public hearing and forwarded this case to the Board of Supervisors with a recommendation of **APPROVAL** of the adoption of the following amendment to the Zoning Ordinance and Zoning District Map of Hanover County; and

WHEREAS the Board of Supervisors has held public hearings on the 26<sup>th</sup> day of September, 2012, and advertised in the *Hanover Herald-Progress* once a week for two successive weeks as required by Virginia Code Section 15.2-2204; and

WHEREAS the Board of Supervisors has determined that the public necessity, convenience, general welfare, and good zoning practices require this amendment.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Hanover County that the Zoning Ordinance and the Zoning District Map of this County are amended by the rezoning of the property described as GPIN 7826-67-7148, consisting of 1.06± acres, located on the east line of Beaver Dam Road (State Route 715), approximately 150 feet south of its intersection with Beaverdam School Road (State Route 739), (a detailed description is filed with the Board's papers) from B-3, General Business District, to B-3 (OHP), Overlay Historic Preservation District.

BE IT FURTHER ORDAINED that this Ordinance is effective on the date of adoption and the Planning Director is hereby directed to designate the boundaries of the foregoing area as rezoned, subject to conditions, on the Zoning District Map of Hanover County.

The members of the Board of Supervisors voted to approve Ordinance C-8-12, Donna and Bruce Folkes, as follows:

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

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Ordinance Adopted.

Mr. Hazzard recognized the Boy Scouts in the audience working on Civic Responsibility.

Mr. Stanley noted three Patrick Henry High School students in the audience.

**Announcements**

None

**Adjournment**

At 7:22:34 PM p.m., the Chairman adjourned the meeting to October 10, 2012, Hanover County Administration Building – 2:00 p.m.

A handwritten signature in black ink, appearing to read "SE Vie, III", written over a horizontal line.

CHAIRMAN