

A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEW KENT WAS HELD ON THE SEVENTH DAY OF NOVEMBER IN THE YEAR OF OUR LORD NINETEEN HUNDRED NINETY-FOUR IN THE BOARD ROOM OF THE COUNTY OFFICE BUILDING BEGINNING AT 7:00 P.M. WITH ALL MEMBERS PRESENT. THE MEETING WAS PRECEDED BY AN EXECUTIVE SESSION AT 6:00 P.M. THE INVOCATION WAS OFFERED BY REVEREND HATHAWAY, FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

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IN RE: EXECUTIVE SESSION

Mr. Bradby moved to go into executive session to discuss a personnel matter pursuant to § 2.1-344(a)(1) of the Code of Virginia and for consultation and briefings by legal counsel, consultants, or staff members pertaining to actual or probable litigation or other legal matters requiring the provision of legal advice by counsel pursuant to § 2.1-344(1)(7) of the Code of Virginia.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

Mr. Boroughs moved to return to regular session.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

Mr. Bradby certified that the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under Virginia law, and (ii) only such public business matters as were identified in the motion by which the executive meeting was convened were heard, discussed or considered in the executive meeting.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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IN RE: MINUTES

Mr. Ringley asked to change the name of one speaker from Mr. Bonds to Mr. Raymond Bollinger. Mr. Bradby moved to approve the minutes with the change in name.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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IN RE: FINANCE REPORT

Ms. Alease Christian, Director of Finance gave the report for the month of October. Mr. Boroughs moved to approve the expenditures totaling \$299,215.53 as presented in the monthly expenditure report.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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IN RE:            ELECTED OFFICIALS REPORTS

Ms. Betty Burrell gave the Treasurer's Financial Report as of September 30, 1994. She made special note of closing the E-911 account and depositing those funds in the General Operating Fund. This was done to eliminate additional service charges but it will still be reported separately. The Soil and Erosion Fund will be closed out by the end of this fiscal year when the CD's are complete. Mr. Bradby moved to approve the Treasurer's Report for the month of September 1994 and to authorize the Treasurer to continue to invest County funds in the highest yielding legal investment, subject to audit.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

Mr. Boroughs had asked to have the Black Creek Reservoir overlay study be put on this agenda and since it was not added, he wanted to know what happened. Mr. Burrell said he spoke with Mr. Emerson and felt it won't go on this month's agenda. Mr. Boroughs requested to be put on the December agenda for an overlay study of the reservoir. Mr. Burrell agreed to this.

Mr. Salmon mentioned to the Board the Richmond Regional Metropolitan Planning Organization voted to admit New Kent County into the MPO. He also asked the Planning Commission to look into the zoning issues concerning parcels of 3 acres or more to allow horses.

Mr. Ringley, as the Board's representative on the Social Services Board, said they have requested four different items to bring before VACo, some involve state mandates and funding. These items would be for the General Assembly to look at and he requested these be faxed to Senator Cross and Delegate Grayson for them to review.

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IN RE:            STAFF REPORTS

Mr. Emerson brought before the Board a request to nominate him as their representative to the Middle Peninsula Juvenile Detention Commission. Mr. Hart was the previous representative and at present we don't have any voting rights until someone is appointed. Mr. Boroughs moved to appoint Mr. R. J. Emerson, Jr. to the Middle Peninsula Juvenile Detention Commission.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

Mr. James E. Cornwell, Jr., Special Counsel, explained that we presently have a Courthouse maintenance fee under the County Code, this is part of the fee that is charged for taking out warrants and other actions in the different Courts. The fee at present is \$2.00 and is used towards heating/air conditioning and maintenance of the facility. Since the time of the adoption of this fee, the Code of Virginia has allowed the maintenance fee to be increased by \$2.00 and he asked for the authority to advertise for the increase to be presented at the December meeting. Mr. Boroughs moved to give Special Counsel the authority to increase the Courthouse Maintenance Fee from \$2.00 to \$4.00 to comply with the Code of Virginia.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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IN RE:           RESIDENT ENGINEER'S REPORT

Mr. Riley introduced to the Board the new Area Superintendent, Mr. Hal Godfrey. Mr. Riley said Route 611 will be finished this week. The bids for turn lanes on Route 60 will be received by November 16th. They will receive bids on Route 106 overlay and the work will be done in the spring. They are changing the lights at the corner of Route 60 and Route 249 and you will now have a light to exit the service station and a left-hand turn signal. They have received bids to work on strengthening the Chickahominy bridge and this work should start after the first of the year. All the dirt roads in the County have been graded and most of them have the ditches done. At Mr. Emerson's request they inspected the entrance to the driveway to Mr. Francisco's house. It was reported the signs were blocking the driveway but they did not find any problem.

Mr. Bradby asked about Route 604 and was this still to be paved within the next two years, as he had received a call from Mr. O'Connell. Mr. Riley replied it was to be rebuilt in the next two years. Mr. Burrell received a call from a citizen on Crumps Mill Road about reducing the speed limit and asked Mr. Riley to look into the matter. Mr. Emerson asked if Mr. Riley had been contacted about Route 656 and Mr. Riley said no one had contacted him.

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IN RE:           APPOINTMENTS

Mr. Ringley made an observation of the Airport Advisory Commission, when it was started they had two representatives from each District. He felt it may be a little too large and when speaking with this Commission they felt it may work better by reducing the number of members to one from each District. Mr. Burrell suggested this be placed on the agenda for December.

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IN RE:           COLONIAL DOWNS

Mr. Peter Johns addressed the Board saying they would like to present an update each month to the Board on the progress of Colonial Downs. They did begin work the day after the award was given to New Kent as promised. They haven't submitted the master plan to the Planning Commission as of yet but hope to have some solid information to present by the next meeting. He showed a drawing with the area marked out of the race track and the golf course. The Legends have almost completed grading on the first nine holes of the golf course and have clear cut the property on the remaining nine holes. He showed where the boulevard would be for the track and that some of the timber has been cut for access to the property. The Board had some questions on the widening of Route 155 and Mr. Johns explained part of this expense would be covered by Delmarva and part by Colonial Downs. Mr. Emerson also reminded the Board the

County had agreed to do whatever was necessary to Route 155, he is looking into grant funding and some cooperative funding with VDOT, the other is the 25¢ admission tax.

Mr. Mike Johnson, Project Manager, invited the Board to come out any time to see what and how they were doing. He introduced Mr. Gil Short, Assistant General Manager. They have retained Resource International as their engineering firm. He explained how they have divided the project up into four difference phases and they will retain as many trees as possible. They are hoping to ask for a C.O. on November 1 and a completion date of December 1, 1995.

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IN RE:           RESOLUTION R-28-94

Mr. Burrell read a resolution in appreciation of Mr. Peter Johns for his dedication of time, talents and energies towards developing ideas and plans to help New Kent County become a viable "leisure time center" while staying in the parameters of the County's Comprehensive Plan. The Board asked a copy of this resolution be delivered to the President of the Chesapeake Corporation and the Corporate Officers of Delmarva Properties and be reflected in the minutes of this meeting. Mr. Boroughs moved to approve Resolution R-28-94 as presented. Mr. Burrell commented on the diligence of Pete and how he has carried the load in getting things done and we own him our gratitude for all his hard efforts.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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FOR RESOLUTION R-28-94 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK APPENDIX FIVE AT PAGE 319.

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IN RE:           ROOF BIDS

Mr. Ringley moved to reject the bids received on the roof, as they were in excess of expected costs and return the security bond that was posted by one bidder.

Mr. Boroughs contacted the architect and they will present information to Mr. Emerson on why they felt the costs were running so high which he will forward to the Board. Part of the problem had to do with the type of shingles and the structure it would take because of the weight. Mr. Emerson explained about the alternate bid which used a different type of shingle. He had requested the architect be present but they could not attend because of illness and he will ask them to be present at the December meeting to discuss further the problems with the roof and look at the specs. Mr. Salmon asked about the advertising and was told it was advertised in the Richmond Times and the Daily Press for two weeks. The Board authorized the County Administrator to make the spec changes with the architect and to advertise for new bids. The Board also indicated it would not be necessary for the architect to attend the December meeting or additional information be forwarded.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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IN RE:           REQUEST FOR SURPLUS VEHICLE

Mr. Gallaher, Director of Public Safety explained to the Board a letter was sent out to the Fire Departments, Rescue Squad and the School Board of the availability of a 1989 Chevrolet Caprice. He did receive responses back from the School Board and the Fire Department. He felt the Fire Department had an immediate need, the car they use to respond to medical calls has over 190,000 miles on it and was in bad shape.

Mr. Boroughs moved to give the 1989 Chevrolet Caprice to the New Kent Volunteer Fire Department Station #2.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

Mr. Salmon received a call from the Rescue Squad in reference to the payment of a fax machine they had purchased. They had purchased the fax machine to use in relationship with E-911. Mr. Salmon moved to reimburse the Rescue Squad for the fax machine to be used with the E-911 System.

Mr. Gallaher was asked if he recalled any conversations on this matter. He said he remembered this coming up at one of the quarterly meetings which included the Sheriff, Mr. Jerry Sprouse, the Rescue Squad and the Fire Department, the general consensus was that the fax machine was not of any value. Further discussion between the Board members was made and the Chairman suggested this be tabled until December to look further into the use of this fax. Mr. Bradby moved this item be tabled until December. Mr. Salmon responded that all the information has been gathered and that nothing more will come forward than what is here now and he felt it should be reimbursed even if it saved one life.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	No
E. David Ringley	No
James H. Burrell	Aye

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IN RE:           BINGO PERMIT

The Board considered a Bingo Permit from the New Kent Youth Center. Mr. Boroughs moved to approve the Bingo Permit for the New Kent Youth Center. Mr. Ringley inquired as to an outside group operating these games and was informed it was in the permit that no outside organization could conduct these games. Mr. Ringley made a friendly amendment to have these games conclude by midnight and the permit will expire from one year as of the date of this meeting.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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IN RE:           AIRPORT RFP

Mr. James E. Cornwell, Jr., Special Counsel addressed the Board in reference to the expiration of the lease for the Fixed Base Operator at the New Kent Airport on December 31, 1994. The Airport Advisory Committee has come up with a new request for proposal. A list of requirements for the FBO, a draft lease agreement and a draft minimum standards. Mr. Robert Sulcer, of the Airport Advisory Commission, responded to the Board's request for input from the Airport Advisory Commission. They did a lot of research of other plans and have adopted some of their ideas into their new plan and have felt they are really a part of the process. Mr. Ringley asked Mr. Sulcer about the number of representatives on the Commission and he responded that working with the five or six people they have at present has worked extremely well. It is easier to get that size group together and talk about the issues. Mr. Salmon moved to authorize James E. Cornwell, Jr., Special Counsel to request proposals for Fixed Base Operations at the New Kent County Airport.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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IN RE:            PAYMENT RECYCLING SITE

Mr. Ringley made it public that he would abstain from voting as he has personal interest in this property.

Mr. Emerson explained the former County Administrator had an agreement with Sixty Sixty in allowing the County to place recycling containers on the property in lieu of paying real estate taxes. Mr. Salmon moved to authorize the County Administrator to pay the real estate taxes on Sixty Sixty's property in return for placing recycling containers on the land.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Abstain
James H. Burrell	Aye

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IN RE:            APPROVAL OF REASSESSMENT CONTRACT

Mr. James E. Cornwell, Jr., Special Counsel reviewed the contract submitted by Wingate Associates for the reassessment of the real estate property in the County and advised Mr. Wingate has posted a bond. Motion was made by Mr. Bradby to authorize the County Administrator to sign the contract.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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IN RE:            RESOLUTION R-29-94

The Board considered Resolution R-29-94 supporting Redesignation of the Richmond Area Metropolitan Planning Organization to include New Kent County and Charles City to its voting membership. Mr. Salmon moved to approve Resolution R-29-94 for Redesignation of the Richmond Area Metropolitan Planning Organization.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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FOR RESOLUTION R-29-94 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK APPENDIX FIVE AT PAGE 321.

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IN RE:            APPROPRIATIONS

Mr. Burrell read the requests for appropriations and said they would vote on these as a group instead of individually. I move to approve the amount of \$3,922.90 for the VPI Extension Office for fringes due the State; I move to approve the amount of \$56,863.00 for the Comprehensive Service Act; I move to approve the amount of \$460.00 and \$1,785.00 for the Department of Social Services, all State funds and \$1,874.00 State and local funds; I move to approve the amount of \$8,361.00 for the Department of Social Services, all Federal funds and I move to approve the amount of \$205,784.68 for the Division of Schools, all Federal funds for the Food Program. Mr. Boroughs move to approve all of the above.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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IN RE:            APPROVAL ON WATER BILL ADJUSTMENTS

Mr. Bradby mentioned he had received a call from Mrs. David Gordinier in reference to a bad water meter and she felt she had not received a satisfactory answer to an adjustment. Mr. Gallaher explained to the Board they had received a list of names from Ms. Christian of complaints on water bills. His department checked them out and those that were found to be inaccurate were replaced. Ms. Christian told the Board she went back four billing periods to get an average water bill and when a meter was found defective she could determine the adjustment from the average bill and the contested bill. Mr. Bradby suggested the Gordinier be tabled until further research could be done.

Mr. Bradby moved to adjust the water bills to Andre Thompson for \$421.25, Hawthorne Davis \$20.25 and Brian Wright \$163.75. I move not to adjust any monies on the water bills to George Cossitt, G. E. Rudolph and Larry Southward. Mr. Ringley added a friendly amendment not to dismiss the penalty and interest to William Johnson of \$3.30. Mr. Salmon suggested they just write-off the \$3.30 for late payment.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye

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IN RE:            FIRE APPARATUS NEEDS ASSESSMENT AND EQUIPMENT SPECIFICATION  
PARAMETERS STUDY

Mr. Gallaher, Director of Public Safety addressed the Board of Supervisors in reference to the needs of the fire departments. They began the study in 1992 and realized the fire departments could not raise enough money to buy the new trucks they needed. By doing this study it became apparent they were in dire need of three tank trucks that were completely worn out. They have been rebuilt but are again in need of replacing. They can seldom make it to a fire without breaking down, either on the way or on the way back. The price for a pumper tanker would be approximately \$140,000 and a custom truck would be approximately \$215,000.

Mr. Boroughs mentioned he has visited all three stations numerous times and has been following this since he came on the Board in 1984. Last week he stopped at Station #3 and you can see a steady stream of water leaking from the truck. He feels very comfortable with this proposal.

Mr. Burrell spoke about the need of this equipment but this amounts to about a half of million dollars and felt it should be tabled until December and give the citizens time to contact the Board members and voice their opinions. Mr. Bradby said he was not prepared to vote tonight to spend this money until he had a chance to study the report. Mr. Salmon said he was 100% in favor of this project but wanted to hear what the citizens had to say and was in favor of starting the process of finding funding so there would be no further delay. By consensus of the Board, Mr. Emerson is to look into funding and he said the funding would incorporate the fire trucks and the athletic facility.

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IN RE:           MEETING SCHEDULE

The regular meeting of the Board of Supervisors will be held on Monday, December 12, 1994 at 7:00 P.M. The Planning Commission will meet on Monday, December 19, 1994 at 7:30 P.M.

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IN RE:           CITIZENS COMMENTS

Reverend Milton Hathaway congratulated Joe Emerson on his appointment to County Administrator, as he has worked with Mr. Emerson and he is a very able administrator and he is happy to have him in that position. However, he expressed his dismay at the process. The urgency of the appointment process escapes me and raises much more serious questions that need to be answered. By having a more open process, by which clearly the best person is selected, would serve New Kent well. I think it is not inconceivable that Mr. Emerson would not have been the most qualified applicant. I expressed to the Chairman there was considerable interest in the community to have a search committee of Board members and citizens soliciting and interviewing applicants for this position. He is very disappointed that the Board would seek again to be very exclusive as opposed to being inclusive. He would respectfully request a committee of Board members and citizens be involved to fill the remaining vacant positions of Director of Planning/Assistant County Administrator and County Attorney.

Kornell Davis is an environmental health specialist with the State of Virginia but lives in New Kent. At the present time the County has only one person assigned to do all the inspections and asked the Board to consider getting a second person hired especially with the future growth of the County.

Mr. Ringley moved to request the Hanover Health Board consider having an additional health inspector in New Kent County. Mr. Boroughs added a friendly amendment to also send a copy of this to Senator Cross and Delegate Grayson.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye



James H. Burrell            Aye

Mr. Kurt Gran passed his time since Item #13 has been tabled for 30 days.

Mr. David Pitts also passed his time since Item #13 has been tabled for 30 days.

Mr. Wilbur Tate, of the Fire Department #3, addressed the specs on the fire trucks of custom vs. commercial. If custom chassis could not be purchased they would like to look at a commercial chassis that they could submit to the County.

Mr. Jeff Sullard passed his time since Item #13 has been tabled.

Mrs. Sam Snyder also expressed her concern over the manner Mr. Emerson was appointed County Administrator. I don't have anything against Mr. Emerson and he may be the best qualified person for the job but how could you know that without interviewing other applicants. Isn't one of the qualifications of the County Administrator to have a master's degree? Does Mr. Emerson have such degree? Why wasn't the job advertised, why did you make the decision to hire Mr. Emerson in a Work Session instead of waiting for a regular meeting session? I assume you will fill the position of County Attorney, I hope you will advertise as do other counties instead of putting in friends or friends of staff. Also as you interview applicants for the Assistant Administrator/Director of Planning, the citizens would like to be apprised of who they are and what qualifications they have. I want to thank Mr. Burrell for explaining what is discussed in Executive Session but you did not do that tonight and I hope you will continue with this practice.

Mr. Burrell apologized and will direct his answer at the end of the meeting.

Mr. Ed Gran explained why he first got involved with coming to meetings, which was the letter from Mr. Hart on the Black Creek Reservoir and some citizens felt the Board knew what was going on. Also, there has been no comment made on Mr. Hart's resignation by anyone on the Board. If there is going to be an appointment on the County Attorney's position, there has also been no comment. I think the general perception is there is a good old boy system in place and the citizens don't have the opportunity to comment on some of these items prior to what goes on. What adds fuel to this fire is the ruling that is allowed to have personnel in private meetings, I do understand and agree the Board should have the capability to meet in private session, comments I hear is there must be an awful lot of personnel problems. I think Mr. Emerson's appointment was incorrect, it should have been advertised and I feel the same with the job of County Attorney.

Ms. Diana Abbs requested the Chairman of the Board contact the Commonwealth Attorney's office to inquire about the legality of appointing in lieu of advertising the position of County Administrator, is this a possible violation of Title 7 of the 1964 Civil Rights Act, Equal Opportunity Employment. I further request from Administrator Emerson, under the Freedom of Information Act, copies of all the EEO #1 reports from 1986 through the tenure of Administrator Hart. I also request instead of spending our tax dollars to pay a contract attorney \$85.00 to get this opinion, I first suggest you contact the Commonwealth Attorney office and if that isn't suitable I'd like you to contact the State Attorney General's office.

Mr. Burrell remarked, the past couple of times we have been in Executive Session we have informed the public of what we are working on. We do have a personnel matter we are working on, we have not resolved it at this point. The litigation part has to do with the airport and that is what we worked on in Executive Session tonight.

Mr. Ringley mentioned he understood the questions about all the Executive Sessions but as a businessman you don't want to discuss a personnel problem in public, the person has a right to his/her privacy.

Mr. Salmon said he didn't want any staff member working on anything that doesn't come under the Freedom of Information Act.

Mr. Boroughs mentioned he had one person from his District who felt Mr. Emerson should not have been put in the position of County Administrator, but had numerous calls congratulating them on putting him in the job. My reason for putting Mr. Emerson in there is simple; 1.) many activities going on in this County; 2.) he is familiar with what is going on in the County; 3.) saved the County thousands of dollars by knowing what is going on; 4.) Mr. Emerson sends the Board a package each week of information coming into the County so that they are kept informed. This is why I voted for him and the citizens from my District, except one, are in approval.

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IN RE:           ADJOURNMENT

Mr. Bradby moved to adjourn the meeting.

Marvin D. Bradby	Aye
Robert A. Boroughs	Aye
Michael D. Salmon	Aye
E. David Ringley	Aye
James H. Burrell	Aye