

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 26TH DAY OF OCTOBER IN THE YEAR TWO THOUSAND ELEVEN OF OUR LORD IN THE COURTROOM OF THE HISTORIC COURTHOUSE IN NEW KENT, VIRGINIA, AT 3:00 P.M.

IN RE: CALL TO ORDER

Chairman Evelyn called the meeting to order.

IN RE: ROLL CALL

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| Thomas W. Evelyn | Present |
| David M. Sparks | Present |
| James H. Burrell | Present |
| Stran L. Trout | Present |
| W. R. Davis, Jr. | Present |

All members were present.

IN RE: CLOSED SESSION, 1 OF 2

Mr. Sparks moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving performance, and for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia about actual or probable litigation. The members were polled:

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| David M. Sparks | Aye |
| James H. Burrell | Aye |
| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| Thomas W. Evelyn | Aye |

The motion carried. The Board went into Closed Session.

Mr. Sparks moved to return to Open Session. The members were polled:

| | |
|------------------|-----|
| James H. Burrell | Aye |
| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| David M. Sparks | Aye |
| Thomas W. Evelyn | Aye |

The motion carried.

Mr. Sparks made the following certification:

Whereas, the New Kent County Board of Supervisors has convened in a Closed Session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by the Board that such Closed Session was conducted in conformity with Virginia law;

Now there be it resolved that the Board hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from Open Session requirements by Virginia law were discussed in Closed Session to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the Closed Session were heard, discussed or considered by the Board.

The members were polled on the certification:

| | |
|------------------|-----|
| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| David M. Sparks | Aye |
| James H. Burrell | Aye |
| Thomas W. Evelyn | Aye |

The motion carried.

IN RE: PROPOSED AMENDMENT OF THE FARMS OF NEW KENT COMMUNITY
DEVELOPMENT AUTHORITY ORDINANCE

The Board met jointly with the Farms of New Kent Community Development Authority to review proposed amendments to the CDA ordinance and Memorandum of Understanding (MOU).

Authority Chairman Alan Files called the meeting of the Authority to order. Other members present were Vice Chair Steve Miles and W. R. Davis, Jr.

Also in attendance were Bond Counsel for the Authority Dan Siegel, Financial Advisor Ted Cole, Farms of New Kent Bond Counsel Bonnie France, County Treasurer Herb Jones, Jr., and Commissioner of Revenue Laura Ecimovic.

It was reviewed that a proposed restructuring of the bond payments had been under negotiation between the developers and the bondholders since some time in 2010. The Special Assessment due on December 5, 2010 had not been paid, and since those funds were not available to make the bond payments due in March and September of 2011, those payments were made from the Debt Reserve Fund (DRF). It was explained that part of the discussions between the developers and the bondholders was a restructuring of the use of the DRF.

Ms. France indicated that it was proposed by the developer to pay the delinquent 2010 Special Assessment in full in two installments, thereby putting approximately \$2.2 million back into the DSF to be used to cover the bond payments that would be due in March and September of 2012, with the remainder being used to pay administrative expenses. She advised that the total Special Assessment amount reflected in the recently distributed Term Sheet was the maximum that would be due, suggesting that the actual amount due could be less if lots were sold. She indicated that a proposed amendment to the existing MOU would allow the two installment payments, one in December 2011 and the other in June 2011. She confirmed that the delinquent Special Assessment would continue to accrue penalties and interest until paid.

It was clarified that this delinquency and payment proposal only applied to special assessments and not to the real estate taxes and that none of the requested changes represented a loss to the County.

She advised that the Board would be asked to amend the CDA ordinance to shorten the foreclosure waiting period on delinquent special assessments from two years to one year, a change that had been requested by the bondholders.

Mr. Cole pointed out that originally there was \$8 million in the DRF and, with the restructuring proposal, the DSF would not get back to that level, which had been agreed to by the bondholders.

It was explained that if the Treasurer agreed to the payment plan for the Special Assessments, then the amount that was due on December 2010 would no longer be considered delinquent and would not trigger the foreclosure waiting period; however, if the payment was not made by December 5, 2011, then none of the restructuring would take place and the foreclosure period would start to run, and possibly be retroactive to the original due date of the Special Assessment payment. Ms. France advised that the Board would also need to approve the proposed changes in the MOU that would allow for the payment plan.

It was clarified that if the changes were approved, it would be possible but not mandatory for the Treasurer to proceed with foreclosure one year after delinquency.

It was noted that the changes had to be approved by not only the Board of Supervisors, but by the Authority, the bondholders, the Treasurer, the Commissioner of Revenue, and the landowners. Ms. France confirmed that there were some small bondholders who had not been identified and had not yet been able to approve the changes, but a sum of money sufficient to cover their interests would be set aside and held by the Trustee. She explained that although she had not yet received anything in writing, the bondholders had been an integral part of the negotiation process over the last year and had given their verbal commitment.

There was discussion as to whether the Board should wait to take action until after written agreement had been received from the bondholders. Mr. Siegel explained that the Board would not take action until after its November 9 public hearing, and that the Authority would be meeting on November 7 to consider the actions required by that body to approve the restructuring.

Board members asked if the changes would result in any costs or extra work on the part of the County. Mr. Jones advised that he did not anticipate that the Treasurer's Office would incur any costs but they would keep track of how much extra time was spent and submit that information to the Authority for reimbursement. Both he and Ms. Ecimovic confirmed that they had no objections to the requested changes.

None of the Board members expressed any objection to moving forward with the public hearing on November 9.

Mr. Files adjourned the Authority meeting at 3:59 p.m.

IN RE: WEBSITE REDESIGN AND CONTENT MANAGEMENT SYSTEM / GRANICUS
GOVERNMENT TRANSPARENCY AND AGENDA WORKFLOW SOLUTIONS

Under consideration by the Board were requests for appropriations from the Computer Replacement fund balance for website redesign and a content management system as well as funds to implement government transparency and agenda workflow solutions from

Granicus, requests initially made at the September 28 work session, at which time action was deferred so that additional information could be provided to the Board.

IT Director Jonathan Stanger reported that the upgrade would result in a County website that was more functional, had better integration, and was more user-friendly. He explained that this was not merely a redesign, but would provide the software to manage the site, and that all County websites would be brought under one site, which would provide more consistency and some cost savings.

He indicated that the Granicus package would enable the County to stream meetings or any video through its website and that the project had previously been in the Capital Improvements Plan but had been removed because it was anticipated that it could be paid for out of the Computer Replacement fund balance.

It was reported that each department budgeted for computer replacements and any funds left over after purchase were transferred to the Computer Replacement fund balance, which Mr. Stanger advised had a little over \$60,000 in it.

There was discussion regarding the need for these items. Mr. Davis commented that he did not think Mr. Stanger would bring these requests if they were not needed. Mr. Sparks commented that they were "nice things to have" but he felt that it would be more appropriate to wait until budgets were not quite so challenging. Mr. Evelyn indicated that he could support the website upgrade but not the Granicus package and he did not want to deplete the Computer Replacement fund balance. Mr. Trout suggested that the Granicus package could be reconsidered at budget time.

Mr. Burrell moved to appropriate \$31,153 from the Computer Replacement fund balance to facilitate the website redesign and content management system. The members were polled:

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| W. R. Davis, Jr. | Aye |
| David M. Sparks | Aye |
| James H. Burrell | Aye |
| Stran L. Trout | Aye |
| Thomas W. Evelyn | Aye |

The motion carried.

Mr. Sparks moved to deny the request to appropriate \$14,375 from the Computer Replacement fund balance to implement government transparency and agenda workflow solutions from Granicus. The members were polled:

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| David M. Sparks | Aye |
| James H. Burrell | Aye |
| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| Thomas W. Evelyn | Aye |

The motion carried.

IN RE: APPOINTMENTS

Mr. Burrell explained that he would need to leave the meeting early and requested that he be allowed to make some appointments before his departure.

Mr. Burrell moved to appoint Sheriff F. W. Howard, Jr. and Lester Wingrove as New Kent County representatives to the Colonial Community Criminal Justice Board to serve four-year terms beginning January 1, 2012 and ending December 31, 2015. The members were polled:

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| James H. Burrell | Aye |
| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| David M. Sparks | Aye |
| Thomas W. Evelyn | Aye |

The motion carried.

Mr. Trout moved to appoint James H. Burrell as New Kent County's Board of Supervisor's representative to the Colonial Community Criminal Justice Board to serve a four-year term beginning January 1, 2012 and ending December 31, 2015. The members were polled:

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| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| David M. Sparks | Aye |
| James H. Burrell | Abstain |
| Thomas W. Evelyn | Aye |

The motion carried.

IN RE: COLLEGE BOARD'S ANNUAL AP[®] HONOR ROLL

School Superintendent Robert Richardson, Jr. announced that New Kent County Public Schools was one of less than 400 school districts in the nation being honored by the College Board with a place on the Annual AP[®] Honor Roll for simultaneously increasing access to Advanced Placement coursework while maintaining or increasing the percentage of students earning scores of 3 or higher on AP exams. He indicated that since 2009, New Kent County Public Schools had increased the number of students participating in AP from 28 to 74, and at the same time had improved the percentage of students scoring 3 or higher on AP exams from 57% to 77%. He explained that most colleges and universities granted college credit or advanced placement for a score of 3 or higher, and gave admissions priority to those students.

IN RE: REGIONAL CAREER AND TECHNICAL CENTER

Dr. Richardson updated the Board on the proposed regional career and technical center project proposed to be located in the science wing in the South Building on the Historic School campus, by five school divisions who made up the Bridging Communities Consortium.

He reported that the Consortium had agreed on an official name for the center - the *Bridging Communities Regional Technical Center* - and that resolutions of support from the

elected governing boards from the four other participating localities should be received prior to November 9, the date that the New Kent Board would have a public hearing to consider funding necessary renovations to the science wing.

He indicated that the Consortium had met with "delighted" Department of Education officials, who had reported that this was the first request for a new technical center received in 18 years. Dr. Richardson advised that Bridging Communities had been invited to apply for two Science Technology Engineering Mathematics (S.T.E.M.) academic grants, which would increase to four the number of possible grants to help cover start-up costs.

He reported that the Consortium had developed operating budgets for the Center's first two years and the list of course offerings. He advised that student surveys had been completed in all school divisions, with over 1,000 being received, and the programs planned were S.T.E.M., health science, heating/ventilation/air conditioning, computer modeling, culinary arts, diesel mechanics, and criminal justice, with five of the seven being dual-enrollment programs with local community colleges, and all seven carrying industry credentials. He indicated that the Consortium continued to believe that the Center would be ready to open in September 2012 since "all critical decisions" had been made.

The Board was advised that the only thing needed from New Kent was the appropriation of funds for the renovations of the building. Dr. Richardson explained that each of the school systems had funding in their respective budgets to cover the tuition of the students who would attend the Center. He advised that it had been determined that tuition for Year One would be \$3,200 per student and \$2,600 per student for Year Two, when more classes and more students were anticipated. He reported that New Kent currently spent \$3,600 per student at Richmond Technical Center, and he projected that it would be a cost savings for all five school divisions and an increase in the quality of programming offered to the students.

Dr. Richardson explained that the cost to each locality would be prorated based on high school enrollment, and 132 students were anticipated the first year, with 39% of those being from New Kent. He confirmed that the operating budgets would cover all costs including instructors, materials, utilities, and a set amount to repay New Kent for the building renovations. He added that the only thing that might "engender a request" for additional funds would be an increased demand for slots by New Kent students.

Mr. Sparks asked about the timetable for offering evening classes at the Center. Dr. Richardson projected that could take place by the beginning of Year Three, adding that the diesel mechanics instructors had expressed their hopes that those classes could start sooner.

He indicated that participating students would attend classes at the Center for half a day, and spend the remainder of their day at their home high school.

Dr. Richardson advised that he and others would be available to answer any questions about the project at the Public Hearing scheduled for on November 9 to amend the budget to fund the renovations.

IN RE: LOCAL EMERGENCY MANAGEMENT PERFORMANCE GRANT

Under consideration by the Board was a request for an appropriation from the General Fund grant contingency for the local match for a 2011 Local Emergency Management

Performance Grant (LEMPG), a request initially made at the Board's October 11 business meeting, at which time action was deferred so that additional information could be provided.

Fire Chief E. Thomas Hicks explained that regardless of whether New Kent accepted the grant, the County would still be required to report out on multiple areas of emergency management, that there was a waiting list for LEMPG funds, and in the event New Kent decided not to accept the grant, it theoretically would no longer be eligible, as the funds would be distributed elsewhere this year and in future years. He advised that grant funds received in prior years had been used for training and education, development and updates of policies and processes, meeting unfunded mandates, and purchases including radio equipment, shelter items, Emergency Operations Center improvements, a mobile command unit, and chain saws. He indicated that if the grant was accepted, then the funds would be used for corrective actions to address failures that would be identified in the After Action Report on Hurricane Irene.

He confirmed that the Fire-Rescue budget did not have the funds to meet the local match, and the County could not accept anything less than the entire amount offered. He indicated that he needed to advise the State of the Board's decision by early the following morning.

Mr. Trout moved to approve the funding of \$27,932 from the General Fund grant contingency line item 4-1-91020-4 for the 2011 Local Emergency Management Performance Grant. The members were polled:

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| W. R. Davis, Jr. | Nay |
| David M. Sparks | Nay |
| James H. Burrell | Aye |
| Stran L. Trout | Aye |
| Thomas W. Evelyn | Nay |

The motion failed.

Mr. Trout commented on the response by New Kent's public safety staff to the recent tornado that struck areas of the County, advising that they were "heroes" to some of the residents of Woodhaven Shores. Chief Hicks advised that he had met with Red Cross officials and was anticipating some help from that organization with tree and debris cleanup. Other Board members reported receiving positive comments about County response from their constituents as well.

IN RE: COUNTY CODE CHAPTER 98 AMENDMENT: OFF-STREET PARKING,
DRIVEWAYS AND LOADING AREAS

Assistant County Administrator Rodney Hathaway and Planner Matthew Ebinger reviewed with the Board a proposal to amend Chapter 98 of the New Kent County Code regarding off-street parking, driveways and loading areas. It was reported that the draft ordinance presented to the Board at its June 13, 2011 meeting had been significantly revised and subsequently reviewed by the Planning Commission, and was now ready for consideration by the Board.

Mr. Hathaway explained that staff's goal had been to review the existing parking space requirements in the New Kent County Code to see if there could be some flexibility to make decisions based on the specifics of an application. He admitted that the earlier draft presented in June had been "overreaching" as it had accomplished those goals but some other things as well that the County "wasn't ready for" and the Board "wasn't comfortable

with". He indicated that staff had pared down the proposed amendment to focus more on the goals, using models from sources that included the American Planning Association and other localities. He advised that the major change in the proposed amendment was a reduction in the number of parking spaces required for retail and office-type uses, but an increase for parking at public assembly places.

Mr. Hathaway reviewed the concerns received from members of the New Kent County Economic Development Authority (EDA), one of which was that approval should be required of the County and not necessarily the County Attorney. That prompted discussion regarding inconsistencies in the County Code regarding the position of Zoning Administrator.

It was confirmed that the proposed amendments, if adopted, would only apply to new applications and not existing uses.

Mr. Hathaway advised that another concern from the EDA was the proposed requirement that parking areas needed to be within 750 feet from the building entrance. He suggested that the language could be amended to read "within a reasonable distance". Another suggestion from the EDA was that required parking spaces for apartment buildings should be 2 per unit, and not 1.7, which he indicated seemed reasonable.

The last EDA concern he spoke about was basing the number of required parking spaces on the number of employees. He explained that was "how we have always done it", that the number of employees was required to be noted on site plans, and if that number was not correct, it would be considered a violation.

There were comments regarding the number of parking spaces required at marinas and libraries.

Mr. Hathaway advised that the current County Code did not allow any room to modify the requirements, and the proposed amendments would provide that flexibility.

Mr. Ebinger reported that the Planning Commission had reviewed the latest version at its September meeting and forwarded it with a favorable recommendation.

Mr. Evelyn asked that staff work with the EDA to make sure it was comfortable with the suggestions made to address their concerns.

It was agreed to schedule a public hearing on the proposed amendments for the December meeting.

IN RE: TOURISM COORDINATOR POSITION

Before the Board for consideration was a request to create a part-time Tourism Coordinator position for the Economic Development department.

Mr. Hathaway explained that since he moved to the County Administration Office, he had been working on a plan to make sure there was coverage at the Visitors Center, with a goal of having two staff members there at all times, and that the addition of this part-time position would help with that, as well as assist with promoting tourism and events in the County. He explained that the County currently had four part-time seasonal staff who worked at the Visitors Center from Memorial Day through Labor Day, along with one full-time staff there year round. He indicated that two of the part-time staff were college

students with limited availability. He pointed out that the person in the new position would need to have some specialized skills and would work three days per week, being paid from the salary savings in the existing Economic Development department budget.

Mr. Sparks commented on whether continuing to use the facility as a visitor center “made economic sense” and whether the position was warranted. There was discussion regarding the safety of staff and the actual amount of activity at the Visitors Center.

Mr. Evelyn suggested that perhaps the EDA could help with funding the position. Mr. Hathaway reminded that the EDA did not have a continuing source of revenue. Mr. Trout agreed, stating that the person in this position would be filling the tourism duties previously performed by Mr. Hathaway prior to his becoming Assistant County Administrator.

Mr. Hathaway advised that he envisioned that the person in this position would put tourism packages together, work with State Tourism officials, and maintain the tourism website and community calendar.

Mr. Sparks asked if that work could be done from the County complex, and again spoke about how the Visitors Center was not being used as a true visitor center. County Administrator Cabell Lawton advised that the County could do things to make it more of a visitor center but it would require someone with some expertise in the field to do it well.

Mr. Sparks commented that he did not think that approval of this request was a “sound business decision to spend taxpayer money”, and doubted whether there would be much activity there during the winter months. Mr. Hathaway advised that visitor numbers were kept and submitted to the Board as part of the EDA’s Annual Report.

There was discussion regarding the necessity to keep the Visitors Center open in the winter months. Mr. Trout reminded that this request was not about having sufficient staff at the Visitors Center but was about the need to have someone with experience to cover the tourism duties that Mr. Hathaway no longer had time to do in his new position.

There was discussion regarding other possible uses for the building. Ms. Gowdy reminded that the building had been a proffer and had to be used as either a visitor center or a fire station.

Staff was instructed to bring some more options back for the Board’s consideration.

IN RE: TIMBERING ON PROPERTIES ZONED FOR COMMERCIAL USES

Before the Board for consideration was Resolution R-42-11 sponsoring a Zoning Ordinance amendment to permit timbering on properties zoned for commercial land uses.

Mr. Hathaway advised that the County had received several recent requests from property owners to timber property that was zoned *Economic Opportunity*, which was currently not permitted. He indicated that the proposed resolution would send the issue to the Planning Commission to consider a change in the Table of Land Uses to permit timbering on parcels zoned *Business, Economic Opportunity, and Industrial*. He advised that staff would work with the Planning Commission on whether or not timbering should be permitted by right or with a use permit, explaining that it was probably not allowed originally because of aesthetics, with much of this land being very visible. He explained that allowing timbering with a conditional use permit would enable the Board to look at each application and apply conditions where warranted.

There was discussion regarding how this was an unintended consequence of the recent comprehensive rezoning. Mr. Hathaway advised that before that rezoning, timbering on commercially zoned property was allowed if the owner had an approved site plan, an approved subdivision plan, or an approved reforestation plan.

There was discussion whether timbering should be allowed by right or by permit, and there was consensus to send it to the Planning Commission for its recommendations.

Ms. Gowdy advised that there were some inconsistencies in the Table of Land Uses that also needed to be addressed and suggested that the Board ask the Planning Commission to look at those as well.

Mr. Sparks moved to adopt Resolution R-42-11 to sponsor an amendment to the Zoning Ordinance and to transmit it to the Planning Commission for review and recommendation, and in addition to look at all of the other elements of the Table of Land Uses.

The members were polled:

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| David M. Sparks | Aye |
| James H. Burrell | Aye |
| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| Thomas W. Evelyn | Aye |

The motion carried.

Mr. Hathaway was asked to also review the proposal with the EDA members.

IN RE: HISTORIC SCHOOL PROJECT

Before the Board for consideration was a request to advertise a public hearing for December 12, 2011, to amend the FY12 Budget to include funding for renovations of portions of the Historic School campus.

Mr. Lawton advised that \$3 million seemed a "safe number" for the project and that the Board needed to approve funding before the project could move forward.

Mr. Burrell moved to authorize the advertising of a public hearing on December 12, to amend the FY12 budget to include the anticipated cost of \$3 million to renovate portions of the Historic School campus, including the 1930s school, the front portion of the south building, and the courtyard. The members were polled:

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| James H. Burrell | Aye |
| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| David M. Sparks | Aye |
| Thomas W. Evelyn | Aye |

The motion carried.

IN RE: HUNTER REID WADE, EAGLE SCOUT

Mr. Trout distributed a proposed proclamation recognizing Eagle Scout Hunter Reid Wade, which needed Board approval. He suggested that the proclamation could be used as a template for scout recognitions in the future.

Mr. Davis moved to approve the proposed Proclamation for Eagle Scout Hunter Reid Wade. The members were polled:

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| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| David M. Sparks | Aye |
| James H. Burrell | Aye |
| Thomas W. Evelyn | Aye |

The motion carried.

Mr. Burrell left the meeting at 5:27 p.m.

IN RE: CLOSED SESSION, 2 OF 2

Mr. Sparks moved to go into Closed Session for discussions relating to real property pursuant to Section 2.2-3711A.3 of the Code of Virginia involving acquisition of real property for public purpose. The members were polled:

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| W. R. Davis, Jr. | Aye |
| David M. Sparks | Aye |
| James H. Burrell | Absent |
| Stran L. Trout | Aye |
| Thomas W. Evelyn | Aye |

The motion carried. The Board went into Closed Session.

Mr. Sparks moved to return to Open Session. The members were polled:

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|------------------|--------|
| David M. Sparks | Aye |
| James H. Burrell | Absent |
| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| Thomas W. Evelyn | Aye |

The motion carried.

Mr. Trout made the following certification:

Whereas, the New Kent County Board of Supervisors has convened in a Closed Session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by the Board that such Closed Session was conducted in conformity with Virginia law;

Now there be it resolved that the Board hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from Open Session requirements by Virginia law were discussed in closed session to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the Closed Session were heard, discussed or considered by the Board.

The members were polled on the certification:

| | |
|------------------|--------|
| James H. Burrell | Absent |
| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| David M. Sparks | Aye |
| Thomas W. Evelyn | Aye |

The motion carried.

IN RE: ADJOURNMENT

Mr. Sparks moved to adjourn the meeting. The members were polled:

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|------------------|--------|
| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| David M. Sparks | Aye |
| James H. Burrell | Absent |
| Thomas W. Evelyn | Aye |

The motion carried.

The meeting was adjourned at 5:39 p.m.