

BOARD OF SUPERVISORS

STAFFORD, VIRGINIA

MINUTES

Regular Meeting

September 19, 2017

Call to Order A regular meeting of the Stafford County Board of Supervisors was called to order by Paul V. Milde, III, Chairman, at 3:00 p.m., on Tuesday, September 19, 2017, in the Board Chambers, George L. Gordon, Jr., Government Center, 1300 Courthouse Road, Stafford, VA.

Roll Call The following members were present: Paul V. Milde, III, Chairman; Meg Bohmke, Vice Chairman; Jack R. Cavalier; Wendy E. Maurer; Laura A. Sellers; Gary F. Snellings, and Robert "Bob" Thomas, Jr.

Also in attendance were: Thomas C. Foley, County Administrator; Charles Shumate, County Attorney; Marcia C. Hollenberger, Chief Deputy Clerk; Cheryl D. Giles, Deputy Clerk; associated staff and other interested parties.

Mr. Milde spoke about emergency preparedness and enforcement of signs placed illegally in the County rights-of-way.

The proclamation recognizing Constitution Week (September 17-23, 2017) was cancelled as Ms. Alicia Hillmer was unable to attend the meeting. It was sent via U.S. Mail to the Daughters of the American Revolution.

Mr. Cavalier and Mr. Milde presented a proclamation to Mr. Sam Hess recognizing 19 years of service on the County's Wetlands Board. Mr. Hess thanked the Board for acknowledging his years of volunteer service to the County.

Ms. Janel Donahue, Rappahannock United Way (RUW), gave a presentation on ALICE (*Asset Limited, Income Constrained, Employed*). Ms. Sellers asked if the RUW worked with Head Start on child care issues. Ms. Donahue replied that RUW worked with Smart Beginnings and the YMCA on subsidized child care based on need not income whenever possible. Head Start has a huge waiting list. Ms. Bohmke thanked Ms. Donahue noting that she gave the same presentation to members of the George Washington Regional Commission (GWRC) the previous evening.

Mr. Milde asked for any additions or deletions to the agenda.

Mrs. Maurer motioned, seconded by Ms. Bohmke, to adopt the regular agenda.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Maurer, Milde, Sellers, Snellings, Thomas  
 Nay: (0)

Presentations by the Public The following persons indicated a desire to address the Board:

Gregory Gavan - Spoke against the proposed lighting ordinance; showed slides demonstrating light levels at Wal-Mart and an example of a type of security light.

Melissa Delio - The Board should make a decision and consider erecting signs that the government has taken a statement against hatred and the Confederate flag.

Jennifer Knee - Shirley Heim Middle School parent; prays every time she has to pick up her child at school. A traffic light is needed at the intersection of Route 1 and Telegraph Road. VDOT approved a light several years ago but no light has been installed. The Sheriff deemed the intersection dangerous and even though a temporary light was costly, it should be installed to save the lives of anyone traveling through that area.

Amy Bancroft - Shirley Heim Middle School and Widewater Elementary School parent and student-athlete that plays at Patawomeck Park; 5:00 p.m., there is no median for merging traffic; School buses now go north towards Marine Corps Base Quantico gate and it adds 30 minutes onto the commute. Holly Hazard and Scott Horan with the Schools Division both agreed that the intersection was dangerous. A light was installed at Route 17 and Washington Avenue but none at the Route 1/Telegraph Road intersection. Colonial Forge HS got a light in one year's time, why not Route 1 and Telegraph Road?

Lydia Leap - Shirley Heim Middle School parent; emphasized the previous speaker's thoughts saying that she had the right to feel safe and secure and that did not happen when she traveled in the area of Route 1 and Telegraph/Woodstock Road. Her son's bus commute went from 3.1 miles to 6.5 miles one way and the bus has to deal with southbound traffic on Route 1 and with people bailing off I-95. She is glad that Colonial Forge HS got its traffic light but asked that the Board not forget the east side of the County and put a traffic light at the dangerous intersection of Route 1 and Telegraph (and) Woodstock Roads.

Bill Johnson-Miles - The statement on the County's website has rolled down and will probably be gone entirely in a few days. There were 3394 slaves in Stafford County according to the 1860 Census, which was 39% of the then population of the County. The Board should apologize and denounce slavery and the Confederate Flag along with the detainment of the Japanese and what was done to American Indians. Pointed out a "Love Conquers Hate" sign...

Kim Wyman - Spotsylvania resident who said she is losing business because of the message the flag sends to travelers through the County; she believes in free speech but the flag is a symbol of hatred not heritage. It's an economic issue; people won't spend money in a County where hate is the motto. "Do something!"

Mr. Milde noted that Delegate and former Board member, Mark Dudenhefer, was in the Board Chambers and welcomed him.

Clayton Mill - Read from 2014 Washington Times racist creed published by the owner of the land on which the Confederate flag is located. Said that the flag represents discrimination and he did not spend 46 years in the military to defend the Confederate flag. He comes from a long line of relatives with military service. “The only intent of the flag was to flip off blacks under the guise of heritage when it’s really hatred.” He said that the private property owner is leasing space to the Flaggers to fly the flag.

Debbie Lockett - Spoke about the Preamble to the Constitution; talked about ancestors being shackled together and given no dignity and being shown no respect while working in the cotton fields, and being denied education and the right to worship; the Confederate flag was infringing on her First Amendment rights.

Keith Lockett - Thanked those opposing the battle flag saying those who support it have no heart and undermine the rights of the First Amendment; the Pledge of Allegiance to the flag of the United States is this Country’s core values; “One Nation, Under God” and “With Liberty and Justice for All” are the values, not those of the Confederate flag. Ancestors were kidnapped and enslaved and denied the American dream. Spent 26 years in the military and the Confederate flag does not stand for the values of the United States. Only the Board can pass a law to get rid of the flag adjacent to I-95 by enacting restrictive covenants; he did not want to hear what the Board cannot do but what they can do to get rid of the flag.

Aftabjan Kahn - President of the American All Muslim Association, established in the County since 1989; has a cemetery on Brooke Road and hoped to build another place of worship and cemetery on property it bought on Garrisonville Road. Shortly after it purchased the property, the County enacted legislation where the County’s Cemetery Ordinance exceeds the regulations of State legislation and prohibits them from utilizing their property after being told, prior to the purchase, that a cemetery was a by-right use. Asked that the Board refer the Cemetery Ordinance back to the Planning Commission for review and reconsideration of the 900’ setback regulation. Mr. Milde said that he would be speaking more about this later in the meeting under New Business.

Mary Ann Kane - Hartwood resident who is angry, sad, and embarrassed with what is happening in the County about the flag, which she was told could have nothing done about it because it was on private property. She said that the Board and the County attorney were responsible for finding a way to do something as the flag did not represent the views of the County but rather the reprehensible views of the owner of the property and the flag. “Do something.”

Steve Aycock - Hartwood resident that appreciates all the Board has done to remember the Civil War including the Civil War Park, the mural, etc. The flag does not represent Stafford County and the Board should do something to limit its height and size. Family was among first settlers in Jamestown and he had ancestors that fought on both sides of the “great unpleasantness” in the 1860’s. The flag causes pain and symbolizes hate; it is not the flag of the Confederate states but a battle flag that goes back to the days of Strom Thurmond in South Carolina, and Brown vs. the Board of Education; it is now a symbol of white supremacy and not what Stafford County is about; it sends the wrong message to travelers and the Board was encouraged to “Do something.”

Gene Sellers - Noted that his daughter, Laura Sellers, Garrisonville District Supervisor, was the youngest person ever elected to the Board of Supervisors and the youngest woman, and she worked hard on a day-to-day basis at fulfilling her responsibilities to her constituents. He did not envy the Board as the flag was an issue that would not go away. He suggested that the permit be reconsidered and submitted as commercial not personal property use. The Flaggers pay the property owner to put up the flag (so it should be considered a commercial use) even though it’s not like a Target or Walmart.

Patricia Joshi - Rock Hill resident; the permit holder of the flag is not the property owner; talked about a ruling of the Fourth Circuit Court of Appeals and the American Legion vs. the City of Durham, NC. Would love to see a 90’ Black Lives Matter or a 90’ Rainbow flag; the Chesapeake sign ordinance was implemented without violating free speech as the flag is not a matter of free speech; as County leaders it is incumbent upon the Board to take action to remove the flag; ask the County Attorney to find a way to lower the flag; thanked Laura Sellers for doing her job and hopes she is re-elected.

Judy Love - Spoke about an emotional civil war in a sharply divided nation; appalled at the reluctance to let go of the 1860’s Civil War; horrified at the white supremacist mind set and shocked that her beautiful Virginia now has a national reputation from the shameful Charlottesville catastrophe. She said that the Board must take strong steps to change the so-called “historical heritage” of shame. She was involved in politics in California and Washington state legislatures and was a Washington State jail inspector and wrote the Revised Code of Washington. Asked the Board to take action and to change the laws if necessary as that inanimate object defiles the Constitution’s right of free speech, it screams white supremacy and supports slavery and racism. Thanked the Board of all that it has done and for what it will choose to do in the future.

Pam Lightfoot - Moved here from New Orleans and is used to Confederate statues, David Duke, etc., the flag is a symbol of terrible pain; she does not want school-aged children to see the flag adjacent to I-95 and think that is what Stafford County stands for. She encouraged the Board to look at the ruling mentioned by another speaker re. the Fourth Circuit Court of Appeals. She is a member of the NAACP and encouraged the Board to look at all its legal options and to be leaders for the State and other localities inflicted with Confederate flags.

Sarah McClelland - Accompanied by her daughter, Molly – told the Board to be courageous in fighting the flag, which she said was disingenuously hiding behind the First Amendment; said that people are entitled to their southern heritage and the right to free speech but as a parent she had to explain the symbol of hate. She added that Mr. Milde spoke of being proud of his southern heritage but he sold the County down the river just like mothers used to sell their children down the river to avoid slavery and Jim Crow laws; the flag (she said) was not a free speech issue, it was a way for the Board to hide behind the First Amendment.

Susan Cozier - George Washington resident who drove around her district looking for and finding five Confederate flags, estimating that there were 30 +/- people in the George Washington District espousing hatred and hiding behind heritage. The 2010 Census showed approximately 1600 African-Americans living in her district and living with the symbol of bigotry, intimidation and fear. Four members of the Board are up for election and she encouraged citizens to “get out the vote.” She said she would be back in two weeks...

Jason Pelt - Thanked Mr. Snellings for his kind words at the last Board meeting and for working to correct the bricks in time for a Veteran’s Day rededication. He said he supports the Constitution and its First Amendment rights but also defends the right to display whatever flag the property owner wants saying that it’s not about the message but about the ability of the citizen to exercise his right to free speech. He added that there was compelling government interest in the United States vs. Eckman regarding the 1989 flag burning law, which the Government struck down as an attempt to regulate free speech; that while it may be deeply offensive, it is not prohibited. The First Amendment protects the Constitution and freedom of speech.

Rachel Campbell - Asked Board members to look within themselves and why they are members of an elected body... was it to flaunt their resumes; to make the County a better place; to not rewrite but to correct wrongs being raised before schools were segregated? Judge Scott had a Confederate flag flying in his courtroom but it was removed. Lower the flag, correct the error made when the permit was granted; the flag is offensive and the County had to know “every little detail” when the permit was granted and should have done something then to prevent it. Stafford is a progressive county, “Do something.”

Visha Wright - Opposes slavery; the flag is a symbol of white hatred; she loves everyone as she was taught to do and she knows that she is not worthless as that flag would indicate to anyone who saw it flying in the County. In other, less confident people, it may decrease their confidence even more. Citing the example of recent hurricanes, she said that all peoples of all colors and races were affected and everyone is bonding together to help everyone out, and bonding together. Everyone is a homo sapien, all part of one humanity, one species. Take down the flag or lower it as it causes anxiety and does not belong here.

Gregory Bundrick - Asked how the symbol of hatred appeared in the County; the Board says the Pledge of Allegiance to the Flag of the United States of America, not to the Confederate flag; the Flag of the United States appears on the uniforms of military and public safety personnel, not the Confederate flag. It causes pain and suffering and is not a credit to

Stafford County. Mr. Milde spoke earlier in the meeting about illegal signs cluttering the County's rights-of-way and an effort to remove those signs and fining the owners; isn't the Confederate flag cluttering the view shed of the County? He said he was grieved that a multi-cultural coalition was not followed up on by the Board; there has to be accountability to find out how this happened in the first place and to ensure that it does not happen again.

Martha Newton - The County was built on history; the Courthouse was burned down during the War but all genealogy records were recreated; the County cannot erase its history by taking down one flag; "it is just a flag." She added that everyone was entitled to their own opinion.

Board Member Presentations Board members spoke on related topics and asked that items as identified be removed from the Consent Agenda for discussion and separate vote:

Ms. Bohmke - Attended a joint legislative meeting with members of the School Board, Ms. Sellers, Mrs. Maurer, and Mr. Thomas; attended the RCASA gala fund-raiser to support domestic violence prevention; a meeting regarding Hot Lanes is coming up on September 25<sup>th</sup> at Stafford High School; attended the Fredericksburg Area Metropolitan Planning Organization (FAMPO) meeting; the Commonwealth Transportation Board (CTB) was changing the way it ranked Smart Scale projects, which was not pleasing and FAMPO is sending a letter to the CTB. There were \$909 billion in requests for \$1 billion in funding; more information is to come on this.

Mr. Cavalier - Attended Oktoberfest at Quantico Corporate Center, which was a great success with more than 2000 people attending; attended the ribbon cutting for the Imaging Center for Women.

Mrs. Maurer - Attended the Tech Fusion Center grand opening; attended the joint legislative meeting that Ms. Bohmke mentioned; School Board legislative issues will help during budget deliberations and with Shared Services consideration. She met with the County Auditor; attended the Leadership Prayer Breakfast, which was a great event with a wonderful message; attended the Ahmadiyya Muslim Community gathering with Ms. Bohmke, the group is dedicated to promoting peace at the state and local level. Meetings are noted on the group's Facebook page. Ms. Maurer gave an update on the Finance, Audit, and Budget (FAB) meeting saying that the committee unanimously approved the FY2019 budget calendar, which was on the Consent Agenda for approval. The added work sessions would help with the financial model used to finance public schools, revenue, and cost-sharing stabilization; and give time for discussion prior to budget adoption; the public was encouraged to participate and to understand how the Board formulates its annual budgets; there would also be a five-year budget model detailing future costs and their impact on future year budgeting.

Mr. Milde - Attended FAMPO as well as VRE and PRTC; attended the Friends of the Rappahannock annual crab feast/fund-raiser, which has helped with a bipartisan effort at keeping the Rappahannock River pristine and beautiful. He also attended the annual RCASA fund raiser to promote efforts against domestic violence. Mr. Milde said that he was proud of his southern heritage and did not prescribe hatred to it.

Ms. Sellers - Attended the Quantico Innovations Committee (QuIC) meeting; the Director was let go and a search for a new executive director was underway; Mr. Cavalier was acting as Interim Director. She attended FAMPO and GWRC where member, Mr. Matt Kelly with the City of Fredericksburg, again brought up the idea of a regional transportation authority (RTA); this will be discussed by the Board at its October 3<sup>rd</sup> meeting. The Public Service Committee (PSC) met and received updates from the Sheriff and Fire Chief who reported on increasingly good relations with the County's volunteer firefighters, whereas last year there was a much more contentious relationship between career staff and volunteers. She clarified for the public speakers that the traffic signal in front of Colonial Forge HS did not just appear; it took several years with staff and VDOT working together. Ms. Sellers asked that Item #9 be pulled from the Consent Agenda.

Mr. Snellings - Stated that he is a lifelong resident of Stafford County and was greatly disturbed by the inaccuracy of the history being stated by a presenter during public presentations at a previous meeting. He offered to meet with that speaker to set straight the historic record about who fought in and for Stafford County; his phone number was available on the website and he wished to set straight allegations that were not true. Mr. Snellings asked to pull Item #8 from the Consent Agenda.

Mr. Thomas - Met with the Farm Bureau and wanted everyone to know that farming was alive and well in Stafford County and asked motorists to please share the road with tractors and farming equipment. He attended the VRE meeting; they are in preliminary budget deliberations and have a \$1.2 million deficit that will be worked out. Congratulated Ms. Susan Spears for doing an outstanding job as President of the Fredericksburg Area Chamber of Commerce; he attended their Civility in the Workplace event, which encouraged conversation and only touched the tip of the iceberg. Mr. Thomas and Ms. Bohmke met with members of the Multi-Coalition (he would discuss that more during the presentation of Item #18). Attended the Yankees in Falmouth event; talked about Civil War signs leading to the Moncure-Conway House. Mr. Moncure helped 31 of his father's slaves escape to freedom in Ohio. Everyone was encouraged to see the exhibits and visit the Moncure-Conway house.

Report of the County Attorney – Mr. Shumate deferred his report.

Report of the County Administrator – Chief Financial Officer, Ms. Maria Perrotte gave a report on preliminary FY2017 year-end results. Ms. Perrotte noted that FY2017 was another year of positive results of operation (PRO) where revenues exceed the budget, expenditures were below

the budget, and funds were available in the Capital Projects Reserve. Permitting fees remained strong while ambulance transport fees were below budget due a slight decrease in transports and a new vendor billing system. The Juvenile Detention Center had a true up of an additional \$498,598, which was the result of the number of Stafford residents and the days they were housed. Ms. Sellers asked who represented the County on the Juvenile Detention Commission. Mr. Foley promised to get the answer to Ms. Sellers. The Sheriff's Office had a savings of \$352,780, which following completion of the audit, would be carried forward for one-time expenditures, replacement vehicles, and start-up costs for new FY2018 positions. The Children's Services Act (CSA) exceeded its FY2017 budget by \$1,506,368. Overtime for the Department of Fire, Rescue, and Emergency Services exceeded its budget, which was offset with underspending in other personnel lines. PRO were anticipated to be just above 1% of the budget. Departments identified one-time needs that could be funded by PRO funds. 3% of the general fund revenues were used to cash fund capital projects. Utilities revenues came in higher than the budget, user fees were slightly above the projection and availability fees were strong; the County is in full compliance with all bond covenants and financial policies. Transportation revenue was slightly higher than the budget; the Gas Tax was \$408,645 above budget and Recordation Tax was \$234,337 above budget, which resulted in the Transportation Fund having a small positive fund balance. Mr. Milde noted that that was a relative statement since there was practically no money for transportation projects. Schools are finalizing year-end numbers in accordance with the audit schedule. A long-term financial plan is being developed and will be shared with the Board in November and December; the joint CIP process is underway and presented to the Oversight Committee also in November or December. The audit is underway; audit results and final number will be presented to the Board at the conclusion of the audit.

Mr. Chris Rapp reported on transportation projects in the County. Questions were asked about grading and a gravel base for the roads and tree clearing at the Garrison. Mr. Rapp responded that no grading permit was issued yet. In response to a question about construction of the Belmont Ferry Farm Trail, Phase 4, Mr. Rapp said the bids would be back in November and construction was to begin in the spring. Mr. Rapp said that construction of the Mine Road sidewalk was ahead of schedule. In response to a question about turn lanes at Courthouse Road and Route 1 (and Hope Road), Mr. Rapp replied that staff was awaiting VDOT approval of the final design plans.

#### APPROVAL OF THE CONSENT AGENDA

Ms. Bohmke motioned, seconded by Mrs. Maurer, to accept the Consent Agenda pulling the following: Ms. Sellers asked that Item #9 be pulled for discussion; Mr. Snellings asked that Item #8 be pulled.

The Voting Board tally was:

Yea:	(7)	Bohmke, Cavalier, Maurer, Milde, Sellers, Snellings, Thomas
Nay:	(0)	

Item 4. Legislative; Approve the Minutes of the September 5, 2017 Board Meeting



Item 5. Finance and Budget; Approve the Expenditure Listing

Resolution R17-251 reads as follows:

A RESOLUTION TO APPROVE EXPENDITURE LISTING (EL)  
 DATED SEPTEMBER 05, 2017 THROUGH SEPTEMBER 18, 2017

WHEREAS, the Board appropriated funds to be expended for the purchase of goods and services in accordance with an approved budget; and

WHEREAS, the payments appearing on the above-referenced Listing of Expenditures represent payment of \$100,000 and greater for the purchase of goods and/or services which are within the appropriated amounts;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of September, 2017 that the above-mentioned EL be and hereby is approved.

Item 6. Finance and Budget; Adopt the FY2019 Budget Calendar

Resolution R17-253 reads as follows:

A RESOLUTION ADOPTING THE FY2019 BUDGET CALENDAR

WHEREAS, the Budget Calendar includes new processes for the Board and County staff; and

WHEREAS, the Board and the School Board have adopted a Joint Capital Improvement Program (CIP); and

WHEREAS, staff is preparing a Long Term Financial Projection to be presented to the Board in November, and is scheduling follow up work sessions;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of September, 2017, that it be and hereby does adopt the FY2019 Budget Calendar as follows:

**August**

Friday, August 11, 2017 All requests for County CIP projects due (bond funded projects)

Thursday, August 31, 2017 Schools submit CIP conformation/adjustments based on final review by the School Board

**September**

Tuesday, September 19, 2017 Present FY2017 year-end projections to the Board

**October**

Monday, October 2, 2017 CIP Technical Review Committee (TRC) meeting – Receives Projects

Tuesday, October 10, 2017 CIP TRC meeting – Initial projects review

Tuesday, October 17, 2017 1<sup>st</sup> Quarter Review (FY2018 and preliminary FY2019 overview/FAB meeting)

Monday, October 23, 2017 CIP TRC meeting to rank projects

**November**

Date TBD	CIP Oversight Committee (OSC) Meeting #1 (Project overviews/reviews)
Date TBD	CIP OSC Meeting #2 (Revenues, Affordability, and Final Recommendations)
Tuesday, November 21, 2017	Present Long Term Financial Projection to the Board
Tuesday, November 21, 2017	Long Term Financial Projection (work session during Board meeting/dinner break – General Fund revenue and expenditure assumptions)
Tuesday, November 21, 2017	Debt Capacity Report prepared
<b><u>December</u></b>	
Date TBD	CIP OCS Meeting #3 (Finalize recommended CIP)
Tuesday, December 5, 2017	Long Term Financial Projection (work session continuation (2:00 p.m. to 4:00 p.m.) Transportation and Utilities)
Tuesday, December 19, 2017	FY2017 Presentation of the CARF and Audit Results Tuesday,
December 19, 2017	Presentation of the OSC recommended CIP to the Board and School Board
Tuesday, December 19, 2017	Presentation of Debt Capacity to the Board
<b><u>January</u></b>	
Tuesday, January 23, 2018	FY2018 Mid-Year Review to the Board
Mid to Late January	Work session Long Term Financial Projection @ the Board’s annual retreat
<b><u>March</u></b>	
Tuesday, March 6, 2018	Presentation of the proposed FY2019 Budget to the Board
March dates TBD	Budget work sessions (scheduled as needed)
Tuesday, March 13, 2018	Budget work session – General Fund revenue and expenditures
Tuesday, March 20, 2018	Joint budget work session with the School Board
Tuesday, March 20, 2018	Board authorizes budget public hearing
Tuesday, March 27, 2018	Budget work session – debt, financial policy limitations/affordability, CIP
<b><u>April</u></b>	
April dates TBD	Budget work sessions (scheduled as needed)
Tuesday, April 3, 2018	Budget public hearings – CIP, Tax rate, etc.
Tuesday, April 17, 2018	FY2018 Third Quarter Review to the Board
Tuesday, April 17, 2018	Adopt FY2019 Budget, CIP, and CY2018 Tax Rates

**Item 7. Public Works; Petition VDOT to Include Chesapeake Drive and Sketcher Road into the Secondary System of State Highways**

**Resolution R17-232 reads as follows:**

A RESOLUTION TO PETITION THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO INCLUDE CHESAPEAKE DRIVE AND SKETCHER ROAD, LOCATED WITHIN THE RESERVE IN THE AQUIA ELECTION DISTRICT, INTO THE SECONDARY SYSTEM OF STATE HIGHWAYS

WHEREAS, pursuant to Virginia Code § 33.2-705, the Board desires to petition the Virginia Department of Transportation (VDOT) to include Chesapeake Drive and Sketcher Road within The Reserve, located off Courthouse Road (SR-630) approximately 0.37 mile from Black Hawk Drive (SR-1344), into the Secondary System of State Highways; and

WHEREAS, VDOT inspected Chesapeake Drive and Sketcher Road, and found them satisfactory for acceptance into the Secondary System of State Highways;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of September, 2017, that the Virginia Department of Transportation (VDOT) be and it hereby is petitioned to include the following streets within The Reserve, into the Secondary System of State Highways:

Street Name/ Route Number	Station	Length
Chesapeake Drive (SR-2242)	From: Intersection with Courthouse Road (SR-630) To: Intersection with Sketcher Road (SR-2243)	0.18 mi. ROW 50'
Chesapeake Drive (SR-2242)	From: Intersection with Sketcher Road (SR-2243) To: 0.41 mi. SW from intersection of Sketcher Road (SR-2243)	0.41 mi. ROW 50'
Sketcher Road (SR-2243)	From: Intersection with Chesapeake Drive (SR-2242) To: 0.05 mi. W of Intersection with Chesapeake Drive (SR-2242)	0.05 mi. ROW 50'

An unrestricted right-of-way, as indicated above, for these streets with necessary easements for cuts, fills, and drainage is guaranteed, as evidenced by Plat of Record entitled, The Reserve, recorded among the Land Records of Stafford County, Virginia as Plat Map Number PM080000072, with Instrument Number LR080006721 on April 14, 2008; and

BE IT STILL FURTHER RESOLVED that the County Administrator, or his designee, shall forward a copy of this Resolution to the developer, and to the VDOT Transportation and Land Use Director, Fredericksburg District.

Item 8. Public Works; Transfer Transportation Alternatives Program (TAP) Funding from the Courthouse Streetscape Project to Belmont Ferry-Farm Trail, Phase 6 Mr. Snellings asked that this item be pulled from the Consent Agenda and asked about reapplying for TAP funds if the request to transfer funds was granted, and why were the funds requests so far in advance of the work on the project. Mr. Rapp responded that funds would be available again and that funding was applied for prior to the redesign of the I-95 interchange and Courthouse Road widening projects were in the works. The Courthouse Streetscape had to be a separate project.

Mr. Snellings motioned, seconded by Mr. Milde, to adopt proposed Resolution R17-241.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Maurer, Milde, Sellers, Snellings, Thomas  
Nay: (0)

Resolution R17-241 reads as follows:

A RESOLUTION TO REQUEST THE COMMONWEALTH  
TRANSPORTATION BOARD TO TRANSFER TRANSPORTATION

ALTERNATIVES PROGRAM FUNDS FROM THE COURTHOUSE  
STREETSCAPE PROJECT TO THE BELMONT-FERRY FARM TRAIL,  
PHASE 6

WHEREAS, the Virginia Department of Transportation (VDOT) advised that \$500,000 in Transportation Alternatives Program (TAP) funding awarded to the Courthouse Streetscape project is at risk of being deallocated in October 2017, due to inactivity; and

WHEREAS, further efforts to complete Streetscape improvements have been deferred until completion of the road improvements in the Courthouse area; and

WHEREAS, the Board may request the Commonwealth Transportation Board (CTB) to transfer these funds to another TAP funded project; and

WHEREAS, Phase 6 of the Belmont-Ferry Farm Trail has been awarded TAP funding previously, and will require additional funding for construction;

NOW, THEREFORE, BE IT RESOLVED, by the Stafford County Board of Supervisors, on this the 19<sup>th</sup> day of September, 2017, that it be and hereby does request the Commonwealth Transportation Board to reallocate and transfer Five Hundred Thousand (\$500,000) in unspent Transportation Alternatives Program (TAP) funds awarded to the Courthouse Streetscape project to Belmont-Ferry Farm Trail, Phase 6; and

BE IT STILL FURTHER RESOLVED that the County Administrator, or his designee, shall provide a copy of this Resolution to VDOT’s Central Office.

Item 9. Public Works; Authorize the County Administrator to Advertise a Public Hearing to Consider a Sidewalk – Flatford Road to Walpole Road Ms. Sellers asked that this item be pulled from the Consent Agenda. She said that it was a short area connecting the Rock Hill and Garrisonville Districts. Mrs. Maurer thanked Mr. Rapp for his efforts saying that there was an actual path in the grass where the sidewalk would go.

Mr. Sellers motioned, seconded by Mrs. Maurer, to adopt proposed Resolution R17-249.

The Voting Board tally was:

- Yea: (7) Bohmke, Cavalier, Maurer, Milde, Sellers, Snellings, Thomas
- Nay: (0)

Resolution R17-249 reads as follows:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO ADVERTISE A PUBLIC HEARING TO CONSIDER REQUESTING FUNDING FROM THE FY2019 VDOT TRANSPORTATION ALTERNATIVES FUND SET-ASIDE PROGRAM (TAP) FOR A PROPOSED SIDEWALK ALONG FLATFORD ROAD, LOCATED IN THE GARRISONVILLE AND ROCK HILL ELECTION DISTRICTS

WHEREAS, the Transportation Alternatives Set-Aside Program (TAP) is a part of the *Moving Ahead for Progress in the 21<sup>st</sup> Century Act* (MAP-21), which became effective on October 1, 2012 and replaced the Transportation Enhancement (TE) Program; and

WHEREAS, the Virginia Department of Transportation (VDOT) is accepting TAP applications established by MAP-21, and will select applications to forward to the Fredericksburg Area Metropolitan Planning Organization (FAMPO) and to the Commonwealth Transportation Board (CTB) for project selection; and

WHEREAS, qualifying activities include, but are not limited to, infrastructure projects such as sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools; and

WHEREAS, VDOT, FAMPO, and the CTB will only consider projects for FY2019 appropriation that have held a public hearing prior to submission of an application; and

WHEREAS, the Flatford Road sidewalk project (Project) would extend the sidewalk from the terminus of Parkway Boulevard to the terminus of Walpole Street near its intersection with Winding Creek Road, and provide safer pedestrian access to public facilities including Rodney Thompson Middle School, Park Ridge Elementary School, and John M. Porter Library; and

WHEREAS, the Project is eligible for TAP funding and the Board desires to hold a public hearing to consider this Project;

NOW, THEREFORE, BE IT RESOLVED, by the Stafford County Board of Supervisors, on this the 19<sup>th</sup> day of September, 2017, that the County Administrator be and he hereby is authorized to advertise a public hearing to be held on October 17, 2017, to receive public comment regarding the construction of a sidewalk adjacent to Flatford Road (SR-709).

Item 10. Parks, Recreation, and Community Facilities; Authorize the County Administrator to Execute a Contract for a Replacement Back-Up Generator for the George L. Gordon, Jr. Government Center

Resolution R17-246 reads as follows:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A CONTRACT WITH SOUTHERN AIR, INCORPORATED FOR A BACKUP GENERATOR FOR THE GEORGE L. GORDON, JR., GOVERNMENT CENTER

WHEREAS, the two generators for the George L. Gordon, Jr., Government Center and Information Technology Department (IT) are in excess of their useful life and are in need of replacement; and

WHEREAS, the current generator for the Government Center provides emergency exit power only and a second generator provides back-up power for IT solely; and

WHEREAS, the new generator would provide complete power for both the Government Center and IT;

WHEREAS, the County may cooperatively procure the generator from Southern Air, Incorporated through James Madison University’s contract through the Virginia Association of State College and University Purchasing Professionals (VASCUPP), contract number UCPJMU4492; and

WHEREAS, staff determined that the proposed quote from Southern Air, Incorporated for \$488,374 is reasonable for the scope of services desires; and

WHEREAS, funds are available in the FY2018 Cash Capital Infrastructure budget;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19th day of September, 2017, that the County Administrator be and he hereby is authorized to execute a contract with Southern Air, Incorporated for the purchase and installation of a generator at the George L. Gordon, Jr., Government Center, in an amount not to exceed Four Hundred Eighty-eight Thousand, Three Hundred Seventy Four Dollars (\$488,374), unless amended by a duly-executed contract amendment.

Item 11. Planning and Zoning; Refer to the Planning Commission an Amendment to the Zoning Ordinance regarding Parking Standards for Manufacturing Uses

Resolution R17-254 reads as follows:

A RESOLUTION TO REFER TO THE PLANNING COMMISSION AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE CHAPTER 28, TABLE 7.1 “REQUIRED PARKING SPACES”

WHEREAS, the Stafford County Code (Code) specifies the minimum number of parking spaces required for land uses; and

WHEREAS, the Code requires 2.25 parking spaces per 1,000 square feet of building area for manufacturing uses; and

WHEREAS, the Board desires to send the proposed amendments, pursuant to proposed Ordinance O17-39, to the Planning Commission for its review and recommendations;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of September 2017, that proposed amendments to Stafford County Code Chapter 28, Table 7.1 “Required Parking Spaces,” pursuant to proposed Ordinance O17-39, be and they hereby are referred to the Planning Commission for a public hearing and its recommendations; and

BE IT FURTHER RESOLVED that the Planning Commission may make modifications to the proposed Ordinance as it deems necessary and proper.

Item 12. Planning and Zoning; Request that the Planning Commission Provide its Recommended Changes to Uses Permitted in the A-1, Agricultural Zoning District

Resolution R17-255 reads as follows:

A RESOLUTION REQUESTING THAT THE PLANNING COMMISSION PROVIDE RECOMMENDED CHANGES TO THE USES PERMITTED IN

A-1, AGRICULTURAL, ZONING DISTRICT TO THE BOARD OF SUPERVISORS

WHEREAS, the A-1, Agricultural, Zoning District allows for a variety of uses; and

WHEREAS, members of the Board of Zoning Appeals have raised questions concerning the compatibility of the permitted uses in the A-1 Zoning District with traditional agricultural activities; and

WHEREAS, the Board desires to request the Planning Commission to draft a proposed ordinance amendment regarding uses permitted in the A-1 Zoning District and provide the same to the Board in advance of holding a public hearing;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of September 2017, that the Planning Commission be and it hereby is requested to prepare a proposed zoning ordinance amendment to address uses permitted in the A-1, Agricultural, Zoning District and report the same to the Board in advance of conducting any public hearings.

Item 13. Public Information/Human Services; Proclamation Recognizing Boy Scout Patrick Griffin for his Assistance with the Recent Mass Care Exercise

Proclamation P17-31 reads as follows:

A PROCLAMATION RECOGNIZING BOY SCOUT PATRICK GRIFFIN  
FOR HIS ASSISTANCE IN THE STAFFORD COUNTY MASS CARE  
EXERCISE

WHEREAS, Patrick Griffin is 16 years old, he is a local Eagle Scout candidate in Boy Scout Troop 850, and a student at Colonial Forge High School; and

WHEREAS, Patrick used Stafford’s July 26, 2017, Mass Care Exercise as an opportunity to volunteer and help earn his Eagle Scout rank; and

WHEREAS, Patrick was one of more than 200 volunteers who aided the County in simulating reaction to an EF3 tornado strike in Stafford County to help practice emergency management skills; and

WHEREAS, Patrick recruited 64 Boy Scouts and their families to help him portray the “survivors” in the mass care exercise and directed and organized them; the Boy Scouts earned their Emergency Preparedness, Citizenship in the Community and Communications merit badges; and

NOW, THEREFORE, BE IT PROCLAIMED by the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of September, 2017, that it be and hereby does recognize and commend Patrick Griffin for his assistance in Stafford’s Mass Care Exercise.

Item 14. Public Information; Proclamation Recognizing Mr. Sam Hess for 19 Years Service on the Stafford County Wetlands Board

Proclamation P17-26 reads as follows:

**A PROCLAMATION RECOGNIZING SAM HESS FOR HIS SERVICE ON THE WETLANDS BOARD, CHESAPEAKE BAY BOARD, AND THE COASTAL PRIMARY SAND DUNES BOARD**

WHEREAS, Sam Hess is a long-time resident of Aquia Harbour and joined the Aquia Harbour Host Lions Club in 1981. Since that time he has held numerous positions including President, Vice President, and Chairman of the Club's many activities. Most notable was the Bland Chairman for the past 13 years; and

WHEREAS, over the past 30 years, Mr. Hess has helped the Lions with a variety of community service projects including Christmas Tree sales, White House ornament sales, mulch sales, Football Mania, Fourth of July and Oktoberfest events, and many more; and

WHEREAS, Mr. Hess was named a Melvin Jones Fellow, the highest honor given by the Lions Clubs International Foundation and truly lives the Lions motto: WE SERVE; and

WHEREAS, Mr. Hess has faithfully served on the Wetlands Board for 19 years; and

WHEREAS, in 2009 when the Coastal Primary Sand Dunes Board was formed, and in 2014 when the Chesapeake Bay Board was formed, Mr. Hess did not hesitate to volunteer to serve on those Boards as well; and

WHEREAS, the work of Mr. Hess and others on the Wetlands Board, the Coastal Primary Sand Dunes Board, and the Chesapeake Bay Board has helped preserve and protect Stafford's tidal wetlands and beaches and has been integral to the safeguarding and conservation of some of Stafford's greatest resources, its abundant bodies of water; and

NOW, THEREFORE, BE IT PROCLAIMED by the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of September, 2017, that it be and hereby does recognize, commend, and gratefully acknowledge Mr. Sam Hess for his many years of service on the Chesapeake Bay Board, the Coastal Primary Sand Dunes Board, and the Wetlands Board.

**UNFINISHED BUSINESS**

Item 15. Planning and Zoning: Amend Stafford County Code to Establish a Maximum Light Level at the Property Line of a Single-Family Home Mr. Jeff Harvey, Director of Planning and Zoning, gave a presentation and noted that the public hearing was originally held at the Board's August 15, 2017 meeting; a vote was deferred to September 19, 2017. Ms. Sellers asked how the timing of seven or fifteen minutes was chosen and could it go lower. Mr. Harvey said it was staff's attempt at a compromise but that the Board could set any times it desired in the proposed Ordinance. Mr. Snellings said that he met with the Sheriff and staff. Mr. Harvey said that the times were agreed to by the Crime Prevention Unit; and a motion sensor helped to prevent crime. Mr. Snellings said that the Sheriff was adamant about not reducing the times.

Ms. Bohmke asked if staff had checked any comparative localities. Mr. Harvey said that was done when the draft lighting standards were prepared. Mr. Thomas said that it covered residential but there was no mention of other zoning categories, particularly the A-1 Zone. Mr. Harvey said that it applied to that category as well. Mr. Thomas said that a one-minute time concerned farmers for the safety of their livestock and property.



Ms. Sellers asked about grandfathering. Mr. Harvey said the new regulations would apply to everyone and that lighting fixtures would be looked at during site plan review to ensure compliance. Ms. Sellers asked about homeowner's associations. Mr. Harvey said that HOA requirements could be more restrictive.

Mr. Snellings motioned, seconded by Mrs. Maurer, to adopt proposed Ordinance O17-13.

Mr. Thomas said he wished for 15 minutes but would go with seven, but it may come back for reconsideration at another time. Mr. Milde spoke to Mr. Gavan, who gave a presentation that afternoon saying that he appreciated the time that Mr. Gavan took in researching this items and that his opinion and concerns were taken very seriously.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Maurer, Milde, Sellers, Snellings, Thomas  
Nay: (0)

Ordinance O17-13 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE SEC. 28-87, "OUTDOOR LIGHTING STANDARDS"

WHEREAS, the Stafford County Code (Code) includes standards for design and location of lighting; and

WHEREAS, the Board desires to amend the lighting standards within the Code to more fully address residential lighting; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission and staff, and the testimony, if any, received at the public hearing; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practices require adoption of such an ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of September, 2017, that Stafford County Code Sec. 28-87, "Outdoor lighting standards," be and it hereby is amended and reordained as follows, all other portions remaining unchanged:

Sec. 28-87. - Outdoor lighting standards.

(c) *General outdoor lighting standards.*

(6) Lighting levels shall not exceed five-tenths (0.5) foot candles at any property line adjacent to a residential or agricultural zoned property except for lighting levels produced by pedestrian street lights.

(j) *Exemptions.* The following shall be exempt from the provisions of chapter 28:

(5) Security lighting on single-family residences that is controlled and activated by motion sensor devices for a duration of ~~fifteen (15)~~ seven (7) minutes or less and is not aimed at any point outside of the property boundary.

; and

BE IT FURTHER ORDAINED that this Ordinance shall become effective 30 days after its adoption.

**CLOSED MEETING**

At 5:23 p.m., Ms. Bohmke motioned, seconded by Mr. Thomas, to adopt proposed Resolution CM 17-15.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Maurer, Milde, Sellers, Snellings, Thomas

Nay: (0)

Resolution CM-15 reads as follows:

**A RESOLUTION TO AUTHORIZE CLOSED MEETING**

WHEREAS, the Board desires to hold a Closed Meeting for (1) consultation with legal counsel employed by the County regarding three specific legal matters requiring the provision of legal advice by such counsel; (2) discussion and consideration of the disciplining of a specific public officer of the County; and (3) consultation with legal counsel and briefings by staff members pertaining to actual litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board; and

WHEREAS, pursuant to Virginia Code § 2.2-3711(A)(5), (7) and (8) such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of September, 2017, does hereby authorize discussion of the above matters in Closed Meeting.

Closed Meeting Certification. At 6:54 p.m., Ms. Bohmke motioned, seconded by Mr. Thomas, to adopt proposed Resolution CM 17-15(a).

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Maurer, Milde, Sellers, Snellings, Thomas

Nay: (0)

Resolution CM-15(a) reads as follows:

**A RESOLUTION TO CERTIFY THE ACTIONS OF THE STAFFORD COUNTY BOARD OF SUPERVISORS IN A CLOSED MEETING ON SEPTEMBER 19, 2017**

WHEREAS, the Board has, on this the 19<sup>th</sup> day of September, 2017, adjourned into a Closed Meeting in accordance with a formal vote of the Board and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Virginia Freedom of Information Act, as it became effective July 1, 1989, provides for certification that such Closed Meeting was conducted in conformity with law;

NOW, THEREFORE, BE IT RESOLVED that the Stafford County Board of Supervisors does hereby certify, on this the 19<sup>th</sup> day of September, 2017, that to the best of each member's knowledge: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were discussed in the Closed Meeting to which this certification applies; and (2) only such public business matters as were identified in the Motion by which the said Closed Meeting was convened, were heard, discussed, or considered by the Board.

**NEW BUSINESS**

Item 16. Discuss the County's Cemetery Ordinance Mr. Milde requested that this item be placed on the agenda for discussion. He asked that it be sent down to the Planning Commission to address concerns stated by Mr. Kahn during public presentations. No vote was taken but the Board agreed verbally to send this item to the Planning Commission.

Item 17. Discuss the Traffic Light at Telegraph Road/Woodstock & Jefferson Davis Highway Mr. Cavalier asked that this item be placed on the agenda. Mr. Cavalier noted that there was a terrible accident at the intersection involving a Stafford Middle School teacher. Included in the Board's add-on folder was a list of accidents at this location compiled by the Sheriff. Mr. Cavalier said that 15 years ago he asked VDOT to install a light there at that southern intersection. VDOT installed a light at the northern intersection of Telegraph Road and Route 1.

Mr. Cavalier said there was no safe way to enter Route 1 going left and proposed Resolution R17-262 requested that VDOT consider the installation of a temporary traffic signal at the southern intersection of Telegraph road and Route 1 and/or Woodstock lane and Route 1. Note: Woodstock Lane was included in the proposed resolution following discussion about options in that area. Mrs. Maurer said that she would support waiving the Board's Bylaws as it was a safety issue and she knew that Mr. Cavalier had worked tirelessly to get a traffic light in that area.

Mr. Thomas motioned, seconded by Mrs. Maurer, to suspend the Board's Bylaws.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Maurer, Milde, Sellers, Snellings, Thomas

Nay: (0)

Mr. Milde inquired about the cost of erecting a temporary vs. permanent traffic signal. Deputy County Administrator, Mr. Michael Smith, responded that a temporary signal cost approximately \$100,000 whereas a permanent fixture would cost \$300,000 to \$350,000. Mr. Milde said that if all the warrants were met, why VDOT would not installed a permanent signal. Mr. Smith talked about funding issues and possibly using SSYP funding as there were no funds available in the County's Transportation Fund to pay for the signal. They were looking at using

unused funds from the now defunct Widewater Service District and possibly Smart Scale funding as well. He said it would be two to three years until the permanent signal was in place. Mr. Cavalier said that VDOT should erect the signal at no expense to the County.

Sheriff Decatur addressed the Board and spoke about the car crash the week before and 22 reportable incidents with \$1500 or more in damage and/or injuries or loss of life. Mr. Milde asked if access to Telegraph Road would be limited if VDOT chose to put in a signal at Woodstock Lane and Route 1. Mr. Cavalier said that traffic would naturally go where the light was; it was unsafe as it was then and discussions were all very preliminary. He said that Mr. Milde's concerns were getting ahead of the game.

Mrs. Maurer spoke about the Route 1/Route 610 intersection improvements and how quickly they were done, She asked if that was because the County ran that project. Mr. Smith clarified that the County did the turn lanes; VDOT did the work on the traffic lights. Mr. Smith said that the County would work closely with VDOT's on-call engineers on the Telegraph Road issues.

Mr. Cavalier motioned, seconded by Mrs. Maurer, to adopt proposed Resolution R17-262.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Maurer, Milde, Sellers, Snellings, Thomas  
Nay: (0)

Resolution R17-262 reads as follows:

A RESOLUTION REQUESTING THAT THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) CONSIDER THE INSTALLATION OF A TEMPORARY TRAFFIC SIGNAL AT THE SOUTHERN INTERSECTION OF TELEGRAPH ROAD AND U.S. ROUTE 1 AND/OR WOODSTOCK LANE AND U.S. ROUTE 1, LOCATED IN THE GRIFFIS-WIDEWATER ELECTION DISTRICT

WHEREAS, a Smart Scale intersection project (Project) has been approved due to safety concerns at the southern intersection of Telegraph Road and U.S. Route 1 and Woodstock Lane and U.S. Route 1; and

WHEREAS, the Project will take several years to complete leaving a dangerous intersection in operation without a traffic signal; and

WHEREAS, a temporary traffic signal would reduce the safety concerns during the design and construction of the entire Smart Scale Project; and

WHEREAS, the Board has considered the increased costs that the traffic signal could add to the Project and the safety concerns of our citizens;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of September, 2017, that the Board requests that the Virginia Department of Transportation (VDOT) consider the installation of a temporary traffic signal at the

southern intersection of Telegraph Road and U.S. Route 1 and/or Woodstock Lane and U.S. Route 1; and

BE IT FURTHER RESOLVED that the County Administrator, or his designee, provides a certified copy of this Resolution to VDOT officials and to sign all documents that he deems necessary to effectuate this request and this Resolution.

Item 18. Discuss the Confederate Flag (Visible from I-95) Ms. Sellers asked that this item be placed on the agenda for discussion. She said that the matter should be considered in a public setting and she asked the County Attorney to provide his opinion (or advice that he gave the Board) to the public. She said that race issues were hard to discuss including what the government was doing to validate or invalidate the matter of the Confederate flag and racism in the County. Ms. Sellers said that it was a matter taken very seriously by (former) Sheriff Charles Jett and (current) Sheriff Decatur. She spoke about the Multi-Coalition, not knowing why it went away when it did a few years back when the Board first discussed it. Race was a hard discussion for Ms. Sellers because her son was African-American as was her foster daughter. She would like to hold a community conversation on her time as this was a personal, not political issue. Ms. Sellers said that it was about more than just erecting billboards and there needed to be a conversation about what was said during public presentations both at this meeting and two weeks ago.

Ms. Sellers motioned, seconded by Mr. Thomas, to permit the County Attorney to make a public statement regarding legal advice given to members of the Board regarding the Confederate flag.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Maurer, Milde, Sellers, Snellings, Thomas  
Nay: (0)

Mr. Thomas said that he and Ms. Bohmke met with members of the Multi-Cultural Coalition, which was very much still in existence and very active with a membership of about 25 people that meets every other month. Mr. Thomas said that he could not speak for them but they were very involved in the community and in the issues of racism and the Confederate flag.

County Attorney, Mr. Charles Shumate, gave the following statement: *“Before I introduce myself and explain what we’ve gone through as a Board and as an office, as the County Attorney, I am the legal advisor and the one that confers with the Board of Supervisors on a legal basis, that’s why we go back into the Closed Session Room. It is kind of a standing joke when the County Attorney has time to speak, I always defer my comments because I particular, as the County Attorney in residence at this time until I retire or somehow cease to hold this office, I choose not to speak publicly because I believe very firmly in the attorney/client privilege; that I give advice and counsel to my clients, the Board, the departments, and County Administration, outside of the public hearing. If I gave advice in front of you all the time, I would be telling my adversaries, a couple of whom are probably in this audience right now,*

*about our trial strategies, what we plan to do, what the weaknesses are in the case, what the strengths are and they would benefit greatly from that, so I choose not to do that. So I've asked tonight for the first time when I'm advising them in front of you, and sharing with them and you my comments, that they pass a motion so that I have their authority to do that, so that I have no ethical improprieties to deal with and that the Board has authorized me to speak. The confidentiality privilege that I speak of, the attorney/client privilege is not a privilege that I can waive for them or a privilege any member of the Board can waive, it can only be waived by the Board.*

*I thought it might be a good idea to start out, and this is for the remaining audience to build myself up and to try to share with you my understanding of where you are coming from. I am now 75 years of age and this summer I celebrated my 50<sup>th</sup> year of practicing law. For 40 some years I was in the private sector and I've been here as the County Attorney since October of 2010. When I came here the Board asked me if I would be a potted plant or would I be someone that would help them to get from Point A to Point B by giving them sound legal advice. That was easy for me to answer because all of my life, coming from the private sector and coming into that interview and beyond I have believed in giving my client the best possible legal advice that I can give them. Sometimes it's not what they want to hear and I can assure you that when we go into Closed Session, there are many times that I give them advice that they don't particularly want to hear. And we have some very, very good and hard conversations. And please, counsel, don't continue to take notes of everything I say... Umm, I meant that with all courtesy to you [gesturing to the Assistant County Attorney present in the audience].*

*But I want to share with you that we go through a very hard exercise back there and this issue that you have before you is not isolated in this Fredericksburg, Stafford, Spotsylvania area as you well know. It's an issue that we have throughout the County; we have the issue of hate throughout the Country. But you know there are a lot of things that we deal with in a free society that are hard to understand. How can you do this? How can you allow someone to fly this flag or put up a Nazi swastika? How can you burn a flag? I served 11 months and 29 days in Viet Nam (inaudible comment). To this day, if I see someone burning the American flag, fortunately I've never been present, that is so disrespectful and hateful to me and I relate that to what you are saying about hateful and disrespectful it is to you when you see that Confederate flag. And I want to grab ahold of that person and bring them great harm. But you know, I have to dig down really deep and understand that there's a First Amendment that our forefathers created that says you can't do that; that if you bring harm to them, you're the one that's going to end up in jail. I have to stand by and watch that person burn that American flag. Now that's my personal problem. I went to the Virginia Military Institute, which is deeply steeped in Confederate history. VMI is the only college in American that went to war as a fighting unit, the Battle of New Market. So my heritage is deeply steeped in all of this. But it has not persuaded me from what I believe the Constitution requires me to do and say when I advise this Board.*

*Now as you sit out there, I don't know how you take my comments so far but I am trying to tell you that I am not a patsy for this Board. They've never asked it and I wouldn't give it to them. I*

*give them strong, hard legal advice as to what they can do and what they can't do and that's what we've done in this case. It happened also back in 2014, the same issue came before the Board and we advised them at that time. And the answer then is the same as the answer now."*

A member of the audience was escorted from the Board Chambers after repeated outbursts in response to Mr. Shumate's remarks. Mr. Milde asked Mr. Shumate to please continue.

*"It is not my personal belief; my belief is in the Constitution of the United States. The whole purpose of what I've said, in case it's been missed by anyone, is that I understand the strong feelings that you have because I have strong feelings sometimes as well. I can relate to what you're saying. I think some of you have spoken very well on your particular perspective as I've listened to it over the sessions we've had. But I have recently had occasion to give this Board advice once again about their legal standing visa vie the flag and flagpole and the consequences of what they can and cannot do. And I have concluded without equivocation both back in 2014 and now that this County has no legal authority to require the removal of that Confederate flag from that private property on that flagpole, which is 80 feet in height."*

Following another citizen outburst, Mr. Shumate continued his remarks.

*"The Board has wrestled with this back in 2014. It has wrestled with in for the past several weeks; my office has not wrestled with it because we clearly understand what the law is in this case. The law is very clear that the First Amendment does not allow this governmental body to remove that Confederate flag from that 80 foot flagpole."*

*Let me review with you several talking points... First of all the building permit issuance: our office back in 2014 and now in the current environment has looked at the building permit process. The issuance of the permit has been found by our office to be in accordance with all regulations, it passed precedence and it's all in proper order. It's been inspected after construction and once again found to be in proper order. There is nothing wrong with the building process in this case and it is not a means by which you can rely on to undo what has been previously done and require the removal of the flag.*

*Next, many people have said couldn't you just pass another ordinance that reduces the height of the flagpole? If you could do it in the proper way, you could do that. You could go to 35, you could go to 25, you could do all those things but this flagpole would be grandfathered meaning it would become a non-conforming use and it would remain. You would not be able to reduce the height of this flagpole through a new zoning ordinance that you would pass. So that pole and the flag on it would remain.*

*Next point is the flag itself. As the recitation of untold authorities, it's been the law of this land that that Confederate may fly. It may be very disrespectful to some people and I respect that. That was the whole intention to my preamble to the discussion. It may be something that is very hard to understand but the Constitution of the United States, as interpreted by our highest court*

*in the land, has said without equivocation that the Confederate flag and flags like that are legal expressions that are allowed to stand the test of outside challenges.*

*If we were to, or this Board were to, contrary to my legal advice attempt to take down that flagpole on private property, this is not governmental property, there's always a distinction there, if it were governmental property it could be handled differently. But it's privately-owned, private property, private flag, and private pole. We've checked with VDOT, I might add, and once again, VDOT has no power to regulate pole or the flag, it's not in their right-of-way. If this Board were to take some action contrary to my legal advice, they would expose themselves to litigation in my opinion. Either the property owner would file something against them for invading his civil rights, or the Virginia Flaggers would probably file a lawsuit in some form to challenge what they've done and expose these people [gesturing to the Board of Supervisors] to liability. Normal governmental immunity would be done away with and they could be sued individually as well. I can't let them take some untoward action that might be popular in some quarters but be also outside the framework of the law as we know it to be. My way of thinking as their legal counsel and what I've advised them, and I believe they are following it, is that they cannot do anything regarding the height of that flagpole on private property, or do anything about that flag, once again on private property. It is constitutionally protected.*

*So therefore, my conclusion to them is that we have no legal or regulatory ability to remove the flag or the flagpole. I ran across a quote from Alberto Gonzalez, former Attorney General of the United States, that I'd just like to read in conclusion and this relates to the tragic shooting in Charleston, South Carolina back in 2015 because tempers were running very high, very sensitive as you all know. But he said as follows and I'm going to quote the entire passage and will conclude on that. "The tragic shooting in a church in South Carolina by an apparent disciple has intensified debate about the meaning of the Confederate battle flag. Many Americans believe this flag is a symbol of hate and a reminder of the evils of slavery. Others say it is merely a symbol of our heritage and a life gone by. Either way, the Confederate flag is a symbol that conveys a message. Therefore, it is speech (Mr. Shumate inserted parenthetically "that is what is protected by the First Amendment"). In fact, the stronger the reaction to the Confederate flag, the stronger the argument that the flag conveys a message that ordinarily is protected under the First Amendment."*

*Alberto Gonzales was the former Attorney General of the United States under George Bush and is also White House counsel. I thought those words were not from me but from someone of some stature who's had to deal with this issue on a somewhat regular basis about what's protected and what's not. There's no limit to First Amendment rights, but there's very strict scrutiny as for what you can and cannot do. And right now this Board's hands are tied. They cannot do the simple things that one might think they can do and can't go out and just arbitrarily mandate some ordinance change that that flagpole or flag come down. It's just not constitutionally permissible. Now that's my honest legal advice to this Board and I submit that to you and I submit that to the Board. And I thank you for your time and thank you members of the Board.*



Mr. Milde thanked Mr. Shumate.

Adjournment At 7:29 p.m., the Chairman adjourned the meeting.

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Thomas C. Foley  
County Administrator

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Paul V. Milde, III  
Chairman