

Regular Meeting, Wednesday, June 28, 2017, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Tracy C. Pyles, Jr., Chairman
Terry Lee Kelley, Jr., Vice-Chairman
Carolyn S. Bragg
Wendell L. Coleman
Marshall W. Pattie
Michael L. Shull
Gerald W. Garber
Timmy Fitzgerald, County Administrator
Jennifer Whetzel, Deputy County Administrator
John Wilkinson, Director of Community Development
Leslie Tate, Planner
James Benkahla, County Attorney
Angie Michael, Executive Assistant

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, June 28, 2017, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 241th year of the Commonwealth....

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Chairman Pyles welcomed the citizens present.

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The Board led the Pledge of Allegiance.

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Terry Kelley Supervisor of the Beverley Manor District, delivered invocation.

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JOHN SWETT RESOLUTION

The Board considered a Resolution for John W. Swett.

Mr. Pyles stated that this is a resolution about a former Board of Supervisors member, a former member of the Augusta County Service Authority and an all-around good person who worked hard to make this county better. Mr. Swett will truly be missed. The resolution will be approved tonight and then at a later time we will invite the family to come and present it.

Mr. Kelley moved, seconded by Ms. Bragg to adopt the following resolution:

Resolution for John William Swett

Whereas, John William Swett, who passed away on Tuesday, April 18th, 2017, was a dedicated and faithful servant to the citizens of Augusta County; and

Whereas, John W. Swett served on the Augusta County Board of Supervisors, representing the South River District, From 1991 to 1994, serving as Vice-Chair in 1994. During this time, he was responsible for organizing the first countywide spring trash clean-up, among many other things; and

Whereas, John W. Swett served on the Augusta County Service Authority from 1996-2000, and was involved in many major water/sewer projects; and

Whereas, John W. Swett continued contributing to the betterment of Augusta County through his activities with the Sweet Dreams Committee, being involved from its inception and then served on the Board of Directors from 2008 until his passing. Countless hours were spent promoting the event, obtaining sponsors, getting local businesses and organizations involved, and assisting with the ongoing success of the festival; and

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AUGUSTA COUNTY CODE SECTION 25-72-AMENDMENT (CONT'D)

Vote was as follows: Yeas: Pattie, Shull, Coleman, Garber, Bragg, Kelley
and Pyles
Nays: None

Motion carried.

AUGUSTA COUNTY CODE 25-73 DEFINITIONS-AMENDMENT

The Board considered an ordinance to amend Section 25-73 of the Augusta County Code to permit the storage of commercial vehicles and/or trailers in general districts by administrative permit. The Planning Commission recommends approval.

Ms. Tate stated that the requirements for the administrative permit would be that the parcel has at least six acres, a maximum of two vehicles/trailers would be permitted, the vehicles/trailers must meet a 200 foot set back from all property lines, the sale of goods and services related to those commercial vehicles would not be permitted on site and no more than two employees would come to pick up or drop off the commercial vehicles/trailers. This would be implemented with those conditions as an administrative permit, but if anyone would like to store commercial vehicles/trailers on general agriculture zoned land and they can't meet any of those conditions they would still be able to do so through the special use permit process.

The Chairman declared the public hearing to be open.

There being no speakers, the Chairman declared the public hearing closed.

Mr. Coleman reminded everyone in the audience about the time the Board spent reviewing the ordinances at the Staff Briefing on Monday.

Mr. Kelley moved, seconded by Mr. Coleman, that the Board adopt the amendment to the following ordinance:

**AN ORDINANCE TO AMEND
SECTION 25-73 OF THE
AUGUSTA COUNTY CODE**

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to create a procedure for the storage of commercial vehicles and/or trailers with an administrative permit for lots of at least six (6) acres in area in General Agriculture districts.

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that Section 25-73 of the Augusta County Code is amended to read as follows:

§ 25-73. Uses permitted by administrative permit.

The uses listed in this section shall be permitted within General Agriculture Districts only upon the issuance of an Administrative Permit by the Zoning Administrator pursuant to the provisions of ARTICLE LVI of DIVISION I of this chapter. Administrative Permits are to be issued only for uses where they applicant can demonstrate that the proposal meets the standards required by this chapter and the uses will not have an undue adverse impact on the surrounding neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes and vibration.

O. Storage of commercial vehicles and/or trailers.

Storage of commercial vehicles and/or trailers shall be permitted on lots at least six (6) acres in area in General Agriculture districts by Administrative Permit provided:

1. There shall be no more than two (2) commercial vehicles and/or trailers permitted per lot; and
2. The commercial vehicles and/or trailers are setback two hundred (200) feet from all property lines; and
3. The sale of goods and services related to the commercial vehicles and/or trailers shall not be permitted on site; and
4. No more than two (2) employees will pick up or drop off the commercial vehicles and/or trailers.

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AUGUSTA COUNTY CODE 25-73 DEFINITIONS-AMENDMENT (CONT'D)

Vote was as follows: Yeas: Pattie, Shull, Coleman, Garber, Bragg, Kelley
and Pyles
Nays: None

Motion carried.

AUGUSTA COUNTY CODE SECTION 25-4-AMENDMENT

The Board considered an ordinance to amend Section 25-4 of the Augusta County Code to revise the definition of Day Care home occupation. The Planning Commission recommends approval.

Ms. Tate stated that this is changing the definition from any facility operating in the residence of the operator for the purpose of providing care and protection during part of the day to a group of originally six and now being moved to five, but not more than twelve children unrelated to the operator. This is bringing the ordinance back into compliance with the state code. They had shifted their number from six to five and this is bringing our ordinance in line with theirs.

The Chairman declared the public hearing to be open.

There being no speakers, the Chairman declared the public hearing closed.

Mr. Coleman moved, seconded by Mr. Kelley, that the Board approve the amendment to the following ordinance:

**AN ORDINANCE TO AMEND
SECTION 25-4 OF THE
AUGUSTA COUNTY CODE**

WHEREAS, the Augusta County Board of Supervisors has deemed it necessary to revise the definition of Day care home occupation to comply with State Code Section 15.2-2292.

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that Section 25-4 of the Augusta County Code is amended to read as follows:

§ 25-4. Definitions.

Day care home occupation. Any facility operating in the residence of the operator for the purpose of providing care and protection during a part of the day to a group of ~~six (6)~~ *five (5)*, but not more than twelve (12) children unrelated to the operator.

Vote was as follows: Yeas: Pattie, Shull, Coleman, Garber, Bragg, Kelley
and Pyles
Nays: None

Motion carried.

AUGUSTA COUNTY CODE 25-518-AMENDMENT

The Board considered an ordinance to amend Section 25-518 of the Augusta County Code to clarify that underground petroleum storage tanks over 660 gallons require a Special Administrative Permit in Source Water Protection Areas 2 designations. The Planning Commission recommends approval.

Ms. Tate stated that this is a housekeeping measure where a mistake in the Source Water Protection ordinance is being corrected. The Source Water Protection ordinance has an Area 1 and an Area 2 designation related to the public water supply. The Area 1 is supposed to be more restrictive than the Area 2. There is a part in the ordinance where it's listed that petroleum storage

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AUGUSTA COUNTY CODE 25-518-AMENDMENT (CONT'D)

tanks require a special administrative permit in Area 2. That was intended to say only those underground petroleum storage tanks that are over 660 gallons as it reads in Area 1. This was a mistake in the ordinance and it was important to change it to reflect that the Area 2 is in fact less restrictive than Area 1 in that regard.

The Chairman declared the public hearing to be open.

There being no speakers, the Chairman declared the public hearing closed.

Ms. Bragg moved, seconded by Mr. Kelley, that the Board accept the amendment to the following ordinance:

**AN ORDINANCE TO AMEND
SECTION 25-518 OF THE
AUGUSTA COUNTY CODE**

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to clarify that underground petroleum storage tanks *over 660 gallons* may be permitted by a Special Administrative Permit, but underground petroleum storage tanks less than 660 gallons shall be permitted by-right.

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that Section 25-518 of the Augusta County Code is amended to read as follows:

§ 25-518. Uses Permitted by Special Administrative Permit in Area 2.

The uses listed in this section shall be permitted within Area 2 only upon the issuance of a Special Administrative Permit by the Director of Community Development in a manner consistent with the provisions of article LVI of division I of this chapter. Special Administrative Permits are to be issued only for uses where the applicant can demonstrate that the proposal meets the standards required by this chapter and the uses will not have an undue adverse impact on the public water supply.

The County may grant approval for a Special Administrative Permit only after written findings of fact are made that all of the following are true:

1. The proposed use is not expected to detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants; and
2. Sufficient recharge to the aquifer is not expected to be inhibited or prevented; and
3. The proposed use complies with all other applicable sections of this ordinance.

The Director of Community Development shall make a determination of whether or not to issue a Special Administrative Permit within 30 days of the receipt of an application.

A. Chemical manufacturing; dry cleaners; electrical or electronic manufacturing, on-site recycling or disposal; or electroplating facilities; which involve the collection, handling, manufacture, use, storage, transfer or disposal of any hazardous materials may be permitted by Special Administrative Permit provided:

1. The use is connected to public sewer; and
2. The use installs a secondary containment and spill detection and control system for any bulk storage of chemicals, whether underground or above ground; and
3. The applicant submits a Spill Containment and Prevention Plan; and
4. The use is otherwise permitted by the underlying district regulations or the required permits of the underlying district regulations are obtained.

B. Asphalt processing plants; extraction of minerals, rocks, gravel, sand, or similar materials; facilities with underground petroleum storage tanks **over 660 gallons**; commercial fertilizer storage facilities; commercial machine shops; railroad or heavy equipment maintenance or fueling facilities; storage of chemicals or petroleum products in structures for subsequent resale to distributors or retail dealers or outlets; and wood preserving facilities which involve the collection, handling, manufacture, use, storage, transfer or disposal of any hazardous materials may be permitted by Special Administrative Permit provided:

1. The use installs a secondary containment and spill detection and control system for any bulk storage of chemicals, whether underground or above ground; and

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AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

the other is an adequate shelter for dogs such as a doghouse with three sides and a roof or four sides with an opening large enough for the animal to come in and out. Also indicated are the types of adequate bedding such as leaves, hay, straw, blankets, etc. The dangerous dog definition is included, which is referring them to state code. If someone looks under the Augusta County ordinance for Dangerous Dog definition they know where to go to find it. The changes that are required because of state code, 25-24 dealing with destructive dogs, 25-24.1 dealing with vicious dogs and 25-27 dealing with dogs killing domestic animals or other livestock or poultry. These are no longer provisions allowed in state code so they are being removed from the Augusta County ordinance. The first sentence in paragraph D of 5-51, penalties, refers to vicious dogs and has been removed since there is not provisions in state code. Changes were made to enable the county to collect the fees verses the state to collect. Sections 5-3 cruelty to animals and 5-12.1 rabies inoculation of companion animals and availability of certificates have had changes made. These two sections are verbatim per state code. Three sections were added dealing with enforcement and penalties and are verbatim from state code. This gives the County a way to charge. If there is a violation of Chapter 5, which is a class four misdemeanor, giving false reports to an Animal Control or Law Enforcement officer, which is a class one misdemeanor, and if there is any interfering with an Animal Control Officer we are able to charge under this section with a class one misdemeanor as well. Section 25-28 is the section Augusta County would like to be more stringent than state code. This section deals with dogs killing or injuring and chasing livestock or poultry. It is hoped that if an animal is taken to the Animal Shelter by Animal Control for suspicion of injuring or ingesting another animal, the shelter can hold the animal until the investigation is complete and the Judge makes a ruling before returning the animal to its owner.

The Chairman declared the public hearing to be open.

There being no speakers, the Chairman declared the public hearing closed.

Mr. Benkahla verified that the concern with 25-28 was that the animal may attack a second time and that was another reason for wanting to hold animal at the shelter.

Mr. Kelley moved, seconded by Ms. Bragg, that the Board accept the amendment to the following ordinance:

**AN ORDINANCE TO AMEND
CHAPTER 5. ANIMALS OF THE
AUGUSTA COUNTY CODE**

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to incorporate definitions related to animals from Virginia State Code, incorporate Virginia State Code requirements concerning cruelty to animals, incorporate Virginia State Code requirements concerning rabies inoculation of companion animals, correct when a dog license tax is payable, eliminate destructive dog provisions that are not established by Virginia State Code, eliminate dangerous and vicious dog provisions that are regulated through Virginia State Code, revise impoundment procedures, eliminate provisions for dogs killing other domestic animals other than livestock or poultry; and to incorporate Virginia State Code regulations on dogs killing, injuring or chasing livestock or poultry; and

WHEREAS the Augusta County Board of Supervisors has further deemed it desirable to add a provision which permits an animal control officer with reason to believe that a dog is killing livestock or poultry to confine the animal until such time as evidence shall be heard and a verdict rendered; and

WHEREAS, the Augusta County Board of Supervisors has also deemed it desirable to incorporate penalties as detailed by Virginia State Code for violation of County ordinance, and incorporate penalties for the giving of false reports and interfering with an animal control officer.

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AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that Chapter 5. Animals of the Augusta County Code is amended to read as follows:

CHAPTER 5. ANIMALS.

Article I. In General.

- § 5-1. Lawful fences.
- § 5-2. **Definitions**
- § 5-3. **Cruelty to animals.**

Article II. Licensing of Dogs.

- § 5-11. Unlicensed dogs prohibited.
- § 5-12. Evidence showing inoculation for rabies prerequisite to obtaining dog license.
- § 5-12.1. **Rabies inoculation of companion animals; availability of certificate.**
- § 5-13. How to obtain license.
- § 5-14. Amount of license tax.
- § 5-15. When license tax payable.
- § 5-16. Effect of dog not bearing tag as evidence.
- § 5-17. ~~What dog license shall consist of.~~ **Dog license; defined**
- § 5-18. Duplicate license tags.
- § 5-19. Displaying receipts; dogs to wear tags.
- § 5-20. Payment of license tax subsequent to summons.

Article III. Control of Dogs.

- § 5-21. Running at large defined.
- § 5-22. Dogs prohibited from running at large.
- § 5-23. Dogs not inoculated prohibited from running at large.
- ~~§ 5-24. Destructive dogs prohibited from running at large.~~
- ~~§ 5-24.1 Control of dangerous and vicious dogs.~~
- § 5-25. Impoundment.
- § 5-26. Records.
- ~~§ 5-27. Dogs killing other domestic animals other than livestock or poultry.~~
- § 5-28. **Dogs killing, injuring or chasing livestock or poultry.**

Article IV. Compensation for Livestock and Poultry Killed by Dogs.

- § 5-31. Compensation provided.
- § 5-32. Requirements for compensation.
- § 5-33. Subrogation.
- § 5-34. Penalty for false claim.

Article V. Diseased and Deceased Fowl.

- § 5-41. Importation of diseased fowl and carcasses of diseased fowl prohibited.
- § 5-42. Disposal of diseased fowl off-site prohibited.

Article VI. Enforcement.

- § 5-51. ~~Penalties.~~ **Miscellaneous offences.**
- § 5-52. Power to issue summons.
- § 5-53. Issuance and service of summons in place of warrant.
- § 5-54. Violation of chapter; notice.
- § 5-55. **Violation of Chapter 5; penalty**
- § 5-56. **Giving false reports.**
- § 5-57. **Interfering with an animal control officer.**

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AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

Article VII. Coyotes.

§ 5-61. Killing of coyotes.

~~§ 5-62. Payment of bounty for coyotes.~~

~~§ 5-63. Penalty for false claims.~~

CHAPTER 5. ANIMALS.

Article I. In General.

§ 5-1. Lawful fences.

The boundary line of each lot or tract of land and any stream in the county shall be a lawful fence as to any livestock domesticated by man. (3/28/67)

State law reference--Virginia Code § 55-310. Sections 5-3 through 5-10 reserved.

§ 5-2 Definitions.

As used in this chapter unless the context requires a different meaning:

"Abandon" means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in §3.2-6503 of the Code of Virginia for a period of five consecutive days.

"Adequate care" or "care" means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

"Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

"Adequate feed" means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

"Adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and for dogs and cats, provides a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals' feet to pass through the openings; (ii) sag under the animals' weight; or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter. In addition,

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AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

- (A) Shelter, for livestock, includes structures or natural features such as trees or topography.
- (B) Shelter, for a dog, includes 1 or more of the following:
 - (a.) The residence of the dog's owner or other individual.
 - (b.) A shelter that is an enclosed structure with a roof, floor and at least three solid walls, or four solid walls with an opening in one side large enough to permit the dog to enter and exit comfortably, and of appropriate dimensions for the breed and size of the dog. The shelter shall have appropriate bedding. (ex. Shavings, hay, straw, leaves, pine needles)

"Adequate space" means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

"Adequate water" means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring state of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

"Adoption" means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

"Agricultural animals" means all livestock and poultry.

"Ambient temperature" means the temperature surrounding the animal.

"Animal" means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, of the Code of Virginia, animal means any species susceptible to rabies. For the purposes of § 3.2-6570 of the Code of Virginia, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

"Animal control officer" means a person appointed as an animal control officer or deputy animal control officer as provided in § 3.2-6555 of the Code of Virginia.

"Boarding establishment" means a place or establishment other than a public or private animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

"Collar" means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

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AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

"Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

"Dangerous dog" is defined in § 3.2-6540 of the Code of Virginia.

"Direct and immediate threat" means any clear and imminent danger to an animal's health, safety or life.

"Dump" means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

"Emergency veterinary treatment" means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

"Enclosure" means a structure used to house or restrict animals from running at large.

"Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

"Farming activity" means, consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.

"Humane" means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

"Law-enforcement officer" means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"Livestock" includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600 of the Code of Virginia; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

"New owner" means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.2-6574 of the Code of Virginia and who adopts or receives a dog or cat from a releasing agency.

"Owner" means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal.

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"Poultry" includes all domestic fowl and game birds raised in captivity.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

"Private animal shelter" means a facility operated for the purpose of finding permanent adoptive homes for animals that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other similar organization.

"Properly cleaned" means that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

"Properly lighted" when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals.

"Properly lighted" when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

"Public animal shelter" means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality.

"Releasing agency" means (i) a public animal shelter or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

"Research facility" means any place, laboratory, or institution licensed by the U.S. Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

"Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

"Sterilize" or "sterilization" means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

"Treasurer" includes the treasurer and his assistants or other officer designated by law to collect taxes in such county.

"Treatment" or "adequate treatment" means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the

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animal.

"Veterinary treatment" means treatment by or on the order of a duly licensed veterinarian.

"Weaned" means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species and has ingested such food, without nursing, for a period of at least five days.

State law reference Virginia Code § 3.2-6500

§ 5-3. Cruelty to animals.

A. Any person who: (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; (v) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (vi) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vii) causes any of the above things, or being the owner of such animal permits such acts to be done by another is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

B. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

C. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.

D. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor.

E. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule § 3.2-6540, 3.2-6540.1, or 3.2-6552 of the Code of Virginia.

F. Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

State law reference Virginia Code § 3.2-6570

Article II. Licensing of Dogs.

§ 5-11. Unlicensed dogs prohibited.

It shall be unlawful for any person to own a dog four months old or older in the county unless such dog is licensed as required by the provisions of this article. (Ords.6-13-62; 9-13-72; 11-28-72)

June 28, 2017, at 7:00 p.m.

AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

State law reference Virginia Code § 3.2-6524 and 3.2-6543.

§ 5-12. Evidence showing inoculation for rabies prerequisite to obtaining dog license.

No license tag shall be issued for any dog unless there is presented, to the treasurer or other duly authorized issuing agency, evidence satisfactory to him showing that such dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian.

State law reference Virginia Code § 3.2-6529.

§ 5-12.1. Rabies inoculation of companion animals; availability of certificate.

A. The owner or custodian of all dogs and cats four months of age and older shall have such animal currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises unless otherwise provided by regulations. The supervising veterinarian on the premises shall provide the owner or custodian of the dog or the cat with a rabies vaccination certificate or herd rabies vaccination certificate and shall keep a copy in his own files. The owner or custodian of the dog or the cat shall furnish within a reasonable period of time, upon the request of an animal control officer, humane investigator, law-enforcement officer, State Veterinarian's representative, or official of the Department of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the U.S. Department of Agriculture for use in that species. At the discretion of the local health director, a medical record from a licensed veterinary establishment reflecting a currently vaccinated status may serve as proof of vaccination.

B. All rabies clinics require the approval by the appropriate local health department and governing body. The licensed veterinarian who administers rabies vaccinations at the clinic shall (i) provide the owner or custodian a rabies vaccination certificate for each vaccinated animal and (ii) ensure that a licensed veterinary facility retains a copy of the rabies vaccination certificate. The sponsoring organization of a rabies clinic shall, upon the request of the owner or custodian, an animal control officer, a humane investigator, a law-enforcement officer, a State Veterinarian's representative, a licensed veterinarian, or an official of the Virginia Department of Health, provide the name and contact information of the licensed veterinary facility where a copy of the rabies vaccination certificate is retained. However, the county or city shall ensure that a clinic is conducted to serve its jurisdiction at least once every two years.

C. Vaccination subsequent to a summons to appear before a court for failure to do so shall not operate to relieve such owner from the penalties or court costs provided under §16.1-69.48:1 or 17.1-275.7, Code of Virginia.

D. The Virginia Board of Health shall, by regulation, provide an exemption to the requirements of subsection A if an animal suffers from an underlying medical condition that is likely to result in a life-threatening condition in response to vaccination and such exemption would not risk public health and safety. For the purposes of § 3.2-6522, Code of Virginia such exemption shall mean that the animal is considered not currently vaccinated for rabies. For the purposes of § 3.2-5902, 3.2-6526, and 3.2-6527, Code of Virginia, such exemption shall be considered in place of a current certificate of vaccination.

State law reference-- Virginia Code § 3.2-6521

§ 5-13. How to obtain a dog license.

A. Any person may obtain a dog license by making oral or written application to the treasurer of the county, accompanied by the amount of the license tax and current certificate of vaccination as required by this article.

B. Upon receipt of proper application and current certificate of vaccination as required by this article, the treasurer or other officer charged with the duty of issuing dog licenses shall issue a license receipt for the amount on which he shall record the name and address of the owner or custodian, the date of payment, the year or years for which issued and the serial number of the tag, and deliver the metal license tags or plates provided for in this article.

C. The treasurer may establish substations in convenient locations in the county and appoint agents for the collection of the license tax and issuance of such licenses. (6/13/62)

State law reference Virginia Code § 3.2-6527.

June 28, 2017, at 7:00 p.m.

AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

§ 5-14. Amount of license tax.

A. There is hereby imposed a license tax on the ownership of dogs within the county, unless otherwise exempted by law.

B. The annual license tax on a fertile dog not in a licensed kennel shall be Ten Dollars (\$10.00). A multi-year license tax that runs concurrently with the dog's rabies vaccination effective period shall be Twenty-five Dollars (\$25.00).

C. The annual license tax on a neutered or infertile dog shall be Six Dollars (\$6.00). A multi-year license tax that runs concurrently with the dog's rabies vaccination effective period shall be Fifteen Dollars (\$15.00). Any person who applies for a license tag for a neutered or infertile dog shall present at the time of application certification from a licensed veterinarian attesting the neutering or infertility of the dog. If such certification is not so presented, the dog shall be taxed the fee levied on fertile dogs.

D. The tax for each kennel shall be calculated at the rate of fifty Dollars (\$50.00) for each block of up to twenty dogs.

E. For purposes of this chapter, "kennel" means an enclosure with five or more dogs. (Ords.

6/13/62; 9/13/72; 11/28/72; 5/5/92; 9/23/09; 3/10/10, eff. 1/10/10)

State law reference Virginia Code § 3.2-6528.

§ 5-15. When license tax payable.

A. On January 1 and not later than January 31 of each year a license tax is due, the owner of any dog four months old or older shall pay a license tax as prescribed in section 5-14 of this article.

~~B. If a dog becomes four months of age or comes into the possession of any person between January 1 and November 1 of any year, the license tax for the current calendar year shall be paid by the owner.~~ **Within thirty days after the dog becomes four months of age, or not later than thirty days after an owner acquires a dog four months of age or older, the license tax for the current calendar shall be paid.**

~~C. If a dog becomes four months of age or comes into the possession of any person between October 31 and December 31 of any year, the license tax for the succeeding calendar year shall be paid by the owner and this license shall be valid from the date the license is purchased. (Ord. 6/13/62)~~

State law reference Virginia Code § 3.2-6530.

§ 5-16. Effect of dog not bearing tag as evidence.

Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed, and in any proceedings under this article the burden of proof of the fact that such dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog.

State law reference Virginia Code § 3.2-6533.

§ 5-17. ~~Of what dog license shall consist.~~ Dog license; defined

A. A dog license shall consist of a license receipt and a metal tag. The tag shall be stamped or otherwise permanently marked to show that the county issued the license and bear a serial number.

B. A kennel license shall consist of a license receipt which shall show that the county issued the license, shall show the number of dogs authorized to be kept under such license, and shall bear a serial number. It shall also consist of metal tags for the individual dogs, each of which shall be stamped or otherwise permanently marked to show that the county issued the license and bear a serial number. (6/13/62)

State law reference Virginia Code § 3.2-6526.

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AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

§ 5-18. Duplicate license tags.

If a dog license tag shall become lost, destroyed or stolen, the owner or custodian shall at once apply to the treasurer or his agent who issued the original license for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the treasurer or his agent that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag which the owner or custodian shall immediately affix to the collar of the dog. The treasurer or his agent shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag for any dog shall be one dollar. (Ords. 6/13/62; 9/13/72)

State law reference Virginia Code § 3.2-6532.

§ 5-19. Displaying receipts; dogs to wear tags.

A. Dog and kennel license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal ~~warden~~**control officer** or other officer.

B. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by the licensed dog.

C. It shall be unlawful for the owner to permit any licensed dog four months old or older to run or roam at large at any time without a license tag.

D. The owner or custodian of the dog may remove the collar and license tag required by this section when (i) the dog is engaged in lawful hunting, (ii) the dog is competing in a dog show, (iii) the dog has a skin condition which would be exacerbated by the wearing of a collar, (iv) the dog is confined, or (v) the dog is under the immediate control of the owner or custodian.

E. A kennel dog shall not be permitted to stray beyond the limits of the enclosure but this shall not prohibit removing dogs therefrom temporarily while under the immediate control of the owner or custodian. (Ord. 6/13/62)

State law reference Virginia Code § 3.2-6531.

§ 5-20. Payment of license tax subsequent to summons.

Payment of the license tax subsequent to a summons to appear before a court for failure to pay the license tax within the time required shall not operate to relieve such owner from the penalties provided.

State law reference Virginia Code § 3.2-6536.

Article III. Control of Dogs.

§ 5-21. Running at large defined.

A. A dog shall be deemed to run at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.

B. A dog shall not be deemed under its owner's or custodian's immediate control unless it is under restraint. A dog under restraint shall mean any dog (i) secured by leash or lead, (ii) under control of a responsible person and obedient to that person's commands, (iii) within the real property limits of its owner or other person consenting to its presence, or (iv) restrained as a hunting dog as provided by state law. (ord. 9/26/78)

State law reference Virginia Code § 3.2-6538.

§ 5-22. Dogs prohibited from running at large.

It shall be unlawful for any dog to run at large at any time anywhere in the county. Any person who ~~permits his dog~~ **owns a dog that** ~~to~~ runs at large shall be deemed to have violated the provisions of this section. (Ord. 9/26/78)

State law reference Virginia Code § 3.2-6538.

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AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

§ 5-23. Dogs not inoculated prohibited from running at large.

It shall be unlawful for any dog which has not been inoculated or vaccinated against rabies to run at large at any time anywhere in the county. A dog shall be deemed not inoculated if its owner or custodian cannot produce proof of current rabies vaccination. Any person who ~~permits his~~ **owns a** dog which is not inoculated **and such dog** runs at large, shall be deemed to have violated the provisions of this section.

State law reference Virginia Code § 3.2-6522 and **6525**.

~~§ 5-24. Destructive dogs prohibited from running at large.~~

~~It shall be unlawful for any destructive dog to run at large at any time anywhere in the county. For the purpose of this article, a dog shall be deemed destructive if it (i) has bitten a person, (ii) is of proven bad temper, (iii) has killed or injured a domestic pet, livestock or domestic fowl, or (iv) has damaged or destroyed personal property or real estate not belonging to its owner or custodian, and against which a complaint has been filed on an appropriate form supplied by the animal warden. A destructive dog shall not be considered under restraint unless it is properly muzzled so as to prevent it from biting any person, domestic pet, livestock or fowl. Any person who permits his destructive dog to run at large shall be deemed to have violated the provisions of this section. (Ords. 3/13/68; 10/23/02)~~

~~State law reference Virginia Code § 3.2-6525.~~

~~§ 5-24.1. Control of dangerous and vicious dogs.~~

~~A.— If a canine or canine crossbreed previously declared a dangerous dog pursuant to Virginia Code § 3.1-796.93:1, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person, the owner or custodian of such canine or canine crossbreed shall be guilty of a Class 2 misdemeanor.~~

~~B.— If a canine or canine crossbreed previously declared a dangerous dog pursuant to Virginia Code § 3.1-796.93:1, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury, the owner or custodian of such canine or canine crossbreed shall be guilty of a Class 1 misdemeanor.~~

~~C.— If the owner of any canine or canine crossbreed declared a dangerous dog pursuant to Virginia Code § 3.1-796.93:1 willfully fails to comply with the requirements imposed as a result of such declaration shall be guilty of a Class 1 misdemeanor.~~

~~D.— The provisions of subsections A and B of this section shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack. (Ord. 10/23/02; 8/23/06, eff. retroactively to 7/1/06)~~

~~State law reference Virginia Code § 3.2-6540.~~

§ 5-25. Impoundment.

A. The board of supervisors shall maintain or cause to be maintained a ~~pound~~ **public animal shelter** or enclosure in accordance with state law and shall cause dogs running at large in violation of article III of this chapter to be confined therein.

B. Any animal which has been so confined must be kept for a period of not less than five days, such period to commence on the day immediately following the day the animal is initially confined to the facility, unless sooner claimed by the owner thereof.

C. A reasonable effort must be made to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the shelter shall make a reasonable effort to notify the owner of the animal's confinement within the next 48 hours following its confinement.

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D. In the event that any animal confined in such facility is claimed by its rightful owner, the owner shall only be charged with the actual expenses incurred in keeping the animal impounded.

E. ~~Unclaimed dogs shall be disposed of in accordance with applicable state laws.~~ If an animal has not been claimed upon expiration of the appropriate holding period as provided in subsection B; it shall be deemed abandoned and become the property of the public animal shelter.

F. The ~~pound~~ **public animal shelter** shall be accessible to the public at reasonable hours during the week ~~or~~ by appointment.

(Ords. 9/26/78; 5/22/79; 9/23/09)

State law reference Virginia Code § 3.2-6546.

§ 5-26. Records.

An animal ~~warden~~ **control officer** or the custodian of any ~~pound~~ **public animal shelter**, upon taking custody of any animal in the course of his official duties, shall immediately make a record of the matter in a daily log. The record shall include a description of the animal including color, breed, sex, approximate weight, reason for seizure, location of seizure, the owner's name and address if known, all license or other identification numbers and the disposition of the animal.

State law reference Virginia Code § 3.2-6557.

~~§ 5-27. Dogs killing other domestic animals other than livestock or poultry.~~

~~A. Dogs which kill other dogs or domestic animals other than livestock or poultry shall be confined as provided in this section.~~

~~B. Any animal warden who has reason to believe that any dog is killing, or has killed, other dogs or domestic animals, within or without the county, other than livestock or poultry shall apply to a magistrate of the county, city or town wherein the dog may be located for the issuance of a warrant requiring the owner or custodian, if known, to appear before a general district court at a specified time.~~

~~C. The animal warden or owner shall confine the dog until such time as evidence shall be heard and a verdict rendered.~~

~~E. If it appears from the evidence that the dog has habitually killed other dogs or domestic animals, the court may order the dog killed in accordance with state law. State law reference Virginia Code § 3.1-796.117.~~

§ 5-28. Dogs killing, injuring or chasing livestock or poultry.

A. It shall be the duty of any animal control officer or other officer who may find a dog in the act of killing or injuring livestock or poultry to seize or kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the dog to produce the dog.

Any animal control officer who has reason to believe that any dog is killing livestock or poultry shall confine the animal until such time as evidence shall be heard and a verdict rendered. Any animal control officer or other person who has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate serving the locality wherein the dog may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a general district court at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the dog be: (i) killed immediately by the animal control officer or other officer designated by the court; or (ii) removed to another state that does not border on the Commonwealth and prohibited from returning to the

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AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

B. Commonwealth. Any dog ordered removed from the Commonwealth that is later found in the Commonwealth shall be ordered by a court to be euthanized immediately.

C. Notwithstanding the provisions of subsection B, if it is determined that the dog has killed or injured other poultry, the district court may, instead of ordering killing, euthanasia, or removal to another state pursuant to this section, order either (a) that the dog be transferred to another owner whom the court deems appropriate and permanently fitted with an identifying microchip registered to the owner or (b) that the dog be fitted with an identifying microchip registered to the owner and confined indoors or in a securely enclosed and locked structure to sufficient height and design to prevent the dog's escape; direct contact with the dog by minors, adults, or other animals; or entry by minors, adults, or other animals. The structure shall be designed to provide the dog with shelter from the elements of nature. When off its owner's property, any dog found to be a poultry killer shall be kept on a leash and muzzled in such a manner as not to cause injury to the dog or interfere with its vision or respiration, but so as to prevent it from biting a person or another animal.

State law reference--Virginia Code § 3.2-6552

Sections 5-~~2829~~ through 5-30 reserved.

Article IV. Compensation for Livestock and Poultry Killed by Dogs.

§ 5-31. Compensation provided.

Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry, not to exceed limits established by state law, provided the requirements of this article have been met. (Ord.4/24/79)

State law reference Virginia Code § 3.2-6553.

§ 5-32. Requirements for compensation.

No person shall be entitled to receive compensation under section 5-31 unless:

A. The claimant has furnished evidence within sixty days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog;

B. The animal ~~warden~~ **control officer** shall have been notified of the incident within seventy-two hours of its discovery;

C. The animal ~~warden~~ **control officer** has conducted an investigation which included a visual examination of the dead or injured livestock;

D. The board of supervisors of Augusta County, Virginia, has determined that the claim is supported by the investigation of the animal ~~warden~~ **control officer**; and

E. The claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under section 5-31 is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied. (Ords. 4/24/79; 3/12/86)

State law reference Virginia Code § 3.2-6553.

§ 5-33. Subrogation.

Upon payment under section 5-31, the board of supervisors of Augusta County, Virginia, shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law. (Ord. 4/24/79)

State law reference Virginia Code § 3.2-6553.

§ 5-34. Penalty for false claim.

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AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

For any person to present a false claim or to receive any money on a false claim under the provisions of this article shall constitute a Class 1 misdemeanor.

State law reference Virginia Code § 3.2-6587.

Sections 5-35 through 5-40 reserved.

Article V. Diseased and Deceased Fowl.

§ 5-41. Importation of diseased fowl and carcasses of diseased fowl prohibited.

It shall be unlawful for any person knowingly to import, haul or transport into or through Augusta County any diseased fowl or carcasses of diseased fowl from areas subject to any lawful quarantine declared by any federal, state or local governmental agency without being properly permitted by the Virginia Department of Health or the Virginia Department of Agriculture and Consumer Services and with the concurrence of the Augusta County Board of Supervisors. (Ord. 6/24/84).

State law reference Virginia Code § 15.2-1200.

§ 5-42. Disposal of diseased fowl off-site prohibited.

A. It shall be unlawful for any person knowingly to deposit, dump or bury diseased fowl or carcasses of diseased fowl, which have been determined to have contracted a disease within an area subject to any lawful quarantine declared by any federal, state or local governmental agency, on property located within Augusta County, unless the property is the site where said fowl were ordinarily maintained and kept at the time the disease was detected.

B. Nothing herein shall be deemed to require on-site disposal of such fowl and carcasses where a determination is made by the Virginia Department of Health or the Virginia Department of Agriculture and Consumer Services that on-site disposal would increase the risk of spread of contagious diseases among persons, animals or fowl or would be hazardous to the environment.

C. In the event on-site disposal is not approved by the Virginia Department of Health or the Virginia Department of Agriculture and Consumer Services, such fowl and carcasses may be deposited and disposed of by methods approved by the Virginia Department of Health at locations within the county approved by the Virginia Department of Health or the Virginia Department of Agriculture and Consumer Services. (Ord. 4/24/84)

Sections 5-43 through 5-50 reserved.

Article VI. Enforcement.

§ 5-51. ~~Penalties.~~ Miscellaneous offences.

The following shall be unlawful acts and constitute misdemeanors, and any person convicted thereof shall be subject to the following authorized punishments:

A. For any dog owner to own a dog four months or older in the county without a license in violation of section 5-11, a fine of not less than ten dollars (\$10.00) and not more than two hundred fifty dollars (\$250.00).

B. For any dog owner to allow a dog to run at large in violation of section 5-22, a fine of not less than twenty five dollars (\$25.00) and not more than two hundred fifty dollars (\$250.00).

C. For any dog owner to allow a dog not inoculated to run at large in violation of section 5-23, a fine of not less than fifty dollars (\$50.00) and not more than two hundred fifty dollars (\$250.00).

D. ~~For any dog owner to allow a vicious dog to run at large in violation of section 5-24, a fine of not less than one hundred fifty dollars (\$150.00) and not more than two hundred fifty dollars (\$250.00).~~ For any person to violate any other provision of this chapter for which specific penalty is not provided, a fine of not less than ten dollars (\$10.00) and not more than two hundred fifty dollars (250.00).

June 28, 2017, at 7:00 p.m.

AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

State law reference Virginia Code § 3.2-6587.

§ 5-52. Power to issue summons.

When in uniform or upon displaying a badge or other credentials of office, animal ~~wardens~~ **control officers** and deputy animal ~~wardens~~ **control officers** shall have the power to issue a summons to any person found in the act of violating any provision of this chapter.

State law reference Virginia Code § 3.2-6543 and 3.2-6555.

§ 5-53. Issuance and service of summons in place of warrant.

A. Whenever any person is found violating any provision of this chapter punishable as a Class 3 or Class 4 misdemeanor or any other misdemeanor for which he cannot receive a jail sentence, the animal ~~warden~~ **control officer** or other authorized authority shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice.

B. Upon the giving by such person of his written promise to appear at such time and place, the animal ~~warden~~ **control officer** or other authorized authority shall forthwith release him from custody.

C. If any such person shall fail or refuse to discontinue the unlawful act, the animal ~~warden~~ **control officer** or other authorized authority may proceed according to the Commonwealth's procedures for arrest without warrant.

D. Any person refusing to give written promise to appear under the provisions of this section shall be taken immediately by the animal ~~warden~~ **control officer** or other authorized authority before a magistrate or other issuing authority having jurisdiction, who shall proceed according to the Commonwealth's procedures for arrest without warrant.

E. Any person who willfully violates his written promise to appear, given in accordance with this section, shall be treated in accordance with the Commonwealth's procedures and penalties for failure to appear.

State law reference Virginia Code § 3.2-6555 and 19.2-74.

§ 5-54. Violation of chapter; notice.

The treasurer may, on a form to be provided by the county, notify a dog owner by ~~certified~~ mail at his last known address, that the dog owner may pay the dog license fee within the time specified by the notice together with the added cost of the ~~certified~~ mailing and, if such fee is not paid within the time so prescribed, the treasurer will notify the animal ~~warden~~ **control officer** or other authorized authority that the dog owner has failed to pay such fee within the time so prescribed ~~and a summons will be issued to appear before the general district court.~~

(Ord. 9/23/09)

§ 5-55 Violation of Chapter 5; penalty

Any person convicted of a violation of this chapter, unless a penalty is otherwise specified, shall be guilty a Class 4 misdemeanor and shall be punished by a fine of not more than two hundred fifty dollars (\$250.00)

State law reference Virginia Code § 3.2-6587

§ 5-56. Giving false reports.

A. It shall be unlawful for any person (i) to knowingly give a false report as to the commission of any crime to any animal control officer or law-enforcement official with the intent to mislead, or (ii) without just cause and with intent to interfere with the operations of any animal control officer or law-enforcement official. Any person knowingly giving false reports shall be guilty of a Class 1 misdemeanor.

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AUGUSTA COUNTY CODE AMENDMENT (CONT'D)

B. Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 of the Code of Virginia, who is in the course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

State law reference Virginia Code § 18.2-460 D and § 18.2-461

§ 5-57. Interfering With an Animal Control Officer

No individual shall interfere with an animal control officer in the legal performance of his or her duties. This includes but not limited to, striking or attempting to strike the animal control officer; providing the animal control officer with false information; taking or attempting to take any animal from an animal control officer in the legal performance of his or her duties; or from any official vehicle used by the department to transport animals; or taking or damaging any county property used in conjunction with the animal control officer's duties. Any person interfering with an animal control officer's duties shall be by guilty of a Class 1 misdemeanor.

State law reference Virginia Code § 18.2-460

ARTICLE VII. Coyotes.

§ 5-61. Killing of coyotes.

It shall be lawful for any person to kill coyotes within the boundaries of Augusta County at any time, provided that, as to the property on which any such coyote is killed, (i) such person owns the property, (ii) such person is the lawful tenant in possession of the property, (iii) such person has the permission of the owner or lawful tenant in possession of the property to kill such coyote, or (iv) such property is owned by the Commonwealth of Virginia or the United States of America.

§ 5-62. Payment of bounty for coyotes and §5-63. Penalty for false claims repealed by ordinance dated May 12, 2010, effective July 1, 2010.

(Ord. 10/12/05, eff. 1/1/06; 5/12/10, eff. 7/1/10)

State law reference—Virginia Code §15.2-926.1.

Vote was as follows: Yeas: Pattie, Shull, Coleman, Garber, Bragg, Kelley and Pyles
Nays: None

Motion carried.

* * * * *

END OF PUBLIC HEARINGS

* * * * *

MATTERS TO BE PRESENTED BY THE PUBLIC

Patrick Shipe of 180 Plum Tree Draft Road Churchville in the North River District read the following statement:

Presentation to Board of Supervisors
June 28, 2017

POINT ONE:

I appreciate the opportunity to speak to the Board of Supervisors tonight. First off I'd like to give you a little of my background so that you will understand I have direct knowledge about my issue.

I joined the Augusta County Fire Department Co#1 in the early 70's, right after high school. In 1974 Mr. Dick Huff hired me to replace one of the four original paid firemen due to a retirement. I worked in what is now called Co. 10, located on Richmond Road which was then a brand new building to house the newest two pieces of equipment; a 65' snorkel aerial device and a new pumper. During that time I trained all over the state, gaining knowledge and

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MATTERS TO BE PRESENTED BY THE PUBLIC (CONT'D)

certifications to add to my experience.

In 1989 I was hired as the first county wide training officer. My first office was at Co. 10 and after the old Smith Transfer building was ready for occupancy, I had an office here.

I retired in 2002, after having spent well over 1/2 of my adult life with the Fire Department.

POINT TWO

Do you understand when the county built Co. 10 on Richmond Road it was just a building? The ladies auxiliary equipped the kitchen with restaurant style appliances and furnished the lounge. The volunteers, who were led by excellent officers, equipped the rest through fundraisers. This included additional turnout gear, equipment for the apparatus, etc. Also, the volunteers built the building behind Co. 10 to house the restored 1941 Oren pumper.

POINT THREE

I must point out you would be destroying 76 years of history; photos, memories and awards. For example, in the 70's, Co. 10 received a plaque from the Department of Fire Programs for being the first volunteer department in Virginia with over 70% of personnel certified in training. In the 80's Co. 10 was recognized as having a Department of Emergency Management Certified Haz-Mat Team consisting mostly of volunteers. We had a lot to be proud of. We saw more progressive changes in the fire service in the late 70's and early 80's than any other 10 year period and we succeeded.

Now I have to ask you, can you sleep at night voting to close Co. 10? Shouldn't you be trying to relocate this as was planned in the middle 80's? Leave the politics of the courthouse out of Emergency Services. The fire department will be better off with your support rather than dismantling it, and so will the citizens we have always served, and will continue to serve.

In my opinion the actions of the current chair and some members of the Board have been reprehensible and an embarrassment to the constituents they serve. I ask that the remainder of the Board consider your actions and motives in the decision to close Co. 10.

Thank you,
C. Patrick Shipe

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STUARTS DRAFT PARK PERFORMANCE PLATFORM

The Board considered naming the performance platform at Stuarts Draft Park "The John Swett Performance Platform".

Timothy Fitzgerald, County Administrator, stated last summer there was a performance platform built at the Stuarts Draft Park. Recently it has been expanded and an amphitheater has been created with some natural landscape seating. It works well with Sweet Dreams. This is a great facility within Stuarts Draft Park. A request was made from Ms. Bragg to name the pavilion the "John W. Swett Amphitheater" in recognition of Mr. Swett's work documented in the resolution. He has been a key player since the inception of Sweet Dreams and the Stuarts Draft Park.

Ms. Bragg stated that many have had the opportunity to work with Mr. Swett over the years. He was a remarkable person and a dedicated servant to Augusta County and the citizenship of the County. The question was brought up at a Sweet Dreams meeting if there was anything that could be done to honor his service to the County that is visible and more permanent in the park. The park has benches that have honored several people from the community. It was thought to be fitting and appropriate that with the Board's permission the amphitheater be named the "John W. Swett Amphitheater".

Ms. Bragg moved, seconded by Dr. Pattie, that the Board authorize the naming the platform at the Stuarts Draft Park "The John W. Swett Amphitheater".

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STUARTS DRAFT PARK PERFORMANCE PLATFORM (CONT'D)

Vote was as follows: Yeas: Pattie, Shull, Coleman, Garber, Bragg, Kelley and Pyles
Nays: None

Motion carried.

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LADD ELEMENTARY -- WITHDRAWN

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WAIVERS -- NONE

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CONSENT AGENDA

Chairman Pyles asked if the public wished for any item to be removed from the Consent Agenda and considered separately. There was no request.

Mr. Shull would like to make an amendment to the May 24, 2017 minutes. He would like the minutes to reflect the statement made by himself stating that the closing of Company 10 has become political.

Mr. Pyles would like for Angie Michael, Executive Assistant, to review the tape and verbatim include what Mr. Shull said.

Mr. Coleman moved, seconded by Ms. Bragg that the Board approve the consent agenda as follows:

MINUTES

Approved minutes of the following meetings:

- Staff Briefing, Monday, May 22, 2017
- Regular Meeting, Wednesday, May 24, 2017

Vote was as follows: Yeas: Pattie, Shull, Garber, Coleman, Kelley, Bragg and Pyles
Nays: None

Motion carried.

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MATTERS TO BE PRESENTED BY THE BOARD

Shull:

I would like to address some of the things that has been going on. As you know we were presented with a plan for a five year plan on Fire and Rescue. At the time it was presented we had some questions about it. It was brought to us with no figures on it. We have been presented with plans in the past. Mr. Coffield brought us a five year plan with the Chief and it was going to cost around \$5 million. This plan, I asked what it would cost, there was a chuckle and I was told that it would cost some money, but they didn't know how much. I'm sort of ashamed that this Board would go down the road of approving something without any cost. I don't think there has been

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MATTERS TO BE PRESENTED BY THE BOARD (SHULL CONT'D)

enough background in it and that's why I asked to table it the last time. So that we could study it more and sometimes once you find out information and sometimes when you've voted on something earlier you wish you could go back and change that vote. After studying the things that have gone on and getting a lot of background, the ladder truck, I think that was something we really didn't need and I wish I could resend that vote now, but it is passed. There was enough information brought back and there was enough leadership here to go out and look at the companies as it was eluded to Monday, this truck weighs seven tons more than the current ladder truck. It's going to tear up the blacktop in front of Preston Yancey. The other ladder truck tore up the floor and it had to be replaced. Is this floor going to hold up with this ladder truck? The floor at Riverheads, once the truck is out there, that floor was designed for engines not a ladder truck. The ladder truck in Riverheads, which it isn't needed there because there isn't enough buildings there, the road that goes from Riverheads to 340 is narrow road. It's not a good road to get the ladder to Stuarts Draft where it was intended on going. After researching and talking with firefighters on the ladder truck, the current ladder truck is broke down before it even goes into operation. I asked some of them what the maximum or extent of how far the water can be pumped out of this truck. Can it reach a football field? They told him that it would be pushing it to reach a football field. When you go and set and look at the buildings that are in Stuarts Draft, the warehouse at Lofton, if there was a fire in the middle of that building the water wouldn't reach it. The firefighters told me that it wouldn't help in this type of fire. It's more for apartments and things like that. It makes a good TV camera piece when you're squirting water out. We weren't given the option with the ladder once we found out during the meetings that the ladder truck is not used on that many calls. That truck is not wore out. We just redid the engine in it. We weren't given the option to replace the ladder on the truck. The truck was fine. Now we have two trucks sitting here that's going to tear up our infrastructure. We are going to be spending more on buildings. What disheartens me the most is the comments that are made in the paper about bullying. The firefighters have been calling me. Mr. Fitzgerald and Mr. Holloway went to Riverheads and they didn't give them an option. They said "we are putting it here". I could see that a little bit more with a County company, but it's still volunteers. They asked who would be running it. They said you are. They asked what if we don't get out on it will we be charged with no response and they said yeah. That is not the way to deal with volunteers. The ones from Verona called me. They were very upset. They were told in a matter of speaking, if you don't go along with this we're going to set up a fire station at the County building and we will operate our career staff out of there and we will put you out of business. They have 30 some volunteers there and they were all so upset that there was only two of them that really wanted to stay. There is not enough communication with the volunteers. I don't think we've got the right ones to be able to go out and sit down and talk to the volunteers. You don't just go out and order people to do this. You go out and set down. I asked during the meeting when Middlebrook was brought up, did you go out and talk to these people? Mr. Holloway said no. Don't you think you should go out and set down if you're going to have a five year plan and try to work with these volunteer companies and be able to come up with a plan? We're traveling down a road right now and we don't what it going to cost for this plan. There hasn't been enough study in the amount of calls that goes in. There were 1252 calls that Company 10 answered last year. If it's closed those calls will have to be picked up by somebody. It's going to overwhelm the volunteer companies around Staunton to the point that they end up like Stuarts Draft. Stuarts Draft was overwhelmed with calls, 700 and some calls. They said they couldn't handle and we need to get off of first responder. So we let them off of first responder, but those 300 calls that we let them off of had to be handled by

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MATTERS TO BE PRESENTED BY THE BOARD (SHULL CONT'D)

somebody. They had to be picked up by Riverheads. Riverheads is traveling over into Stuarts Draft to answer calls. Stuarts Draft Rescue, Preston Yancey, it had to fall back on somebody. Time and service, that's we are providing for people, service. You will never make enough money out of this to cover the cost, but it's providing a service. There hasn't been enough planning in this. I talked to another company and they said they could handle the calls right now, but it's going to overwhelm them if their membership drops. It will put them out. Another thing that's going to hurt us and it's going to be probably in the millions of dollars when ISO rates change on their insurance. With this current plan, our map from ISO, it's showing Staunton, but there's a lot of white areas around. We've been led to believe that this county was a 5-8B. Every time we ask the Chief, we are 5-8B. That's what we got from ISO. I've told him for three years, we are not that rating throughout the whole county. Anything outside of a five mile area around the station is a 10. You don't take a station out of the system. ISO said you add stations if you want to improve the ratings. Not only are we traveling down the road that it's going to cost the taxpayers money to keep this plan in place, but we also are going to hurt the homeowners and business in the area because if Staunton is not recognized, Company 10's five mile area went further out than what the City of Staunton's station is going to come out. Swoope's five miles ends coming out Rt. 262 at Route 11. If the city doesn't pick up from Swoope's stopping point there will be a problem. What will happen if the fire boxes change and the City of Staunton is in the county answering a call? Mr. Pyles opened the door with the pay per calls. If they start answering too many calls in the county then the city will want reimbursed for their calls. The real problem is if they're on a major call in the county and there's a major call that comes up in the city, City Council and citizens of Staunton are going to ask where their fire company is. The answer will be that it is out answering a call in the county. Then, the City of Staunton may come back to us and say they will not cover the county anymore. We will stop at the city limits. Then we are up the creek. You may have a problem with one volunteer company, but all of the volunteer companies are calling to say there's a problem. We need to look into it to see what the problem is. Is it the leadership? We don't have anyone that can sit down with the people and see what's going on. We are headed down a road that if we start pushing the volunteer companies out, the volunteer is a valuable resource and people don't realize what they do. For a few pennies on the dollar we are taking care of volunteer companies. If they all handed in their keys tomorrow, the citizens of Augusta County could be facing up to \$20 million. I don't think the citizens are ready for that. I'm hearing from all of the fire companies that they are ready to turn in their keys now. If the plan goes through, it's going to happen. We are going to have companies that gets overwhelmed and have the snowball effect. We will end up paying a lot more money and the tax rate will go up. When the citizens call 911, they don't care what name is on the side of the engine. They hope somebody shows up and they want it to show up in a timely manner. If you start pulling stations out and have to go further away, then there will be problems getting there. Somebody is going to die. Are we putting money on a life? That's what we are doing when you pull services back to where they are not getting there quicker. We are headed down the road right now that once we move into Riverheads they will push the volunteers out of there. We will be all career. We move into Verona, we will push all of the volunteers out of there. We move into Churchville we will assume the loan for the new building that is being built and we will have an all career station there. When we move to Crimora and build a station and pull the career staff out of New Hope and Dooms we will have all career there. I guess that's what some want, but that's the underlying factor of where this is headed. I haven't given up on volunteers yet. If you let the volunteers do their job they will continue to do it. The problem we had, and I said it in the meeting, this should have been a five year EMS plan. Fire is taking care of itself. Just like Stuarts Draft. They wanted to get out of first responder because there are a number of young boys that want to help. They are ready to fight fire, they're not ready to go pick grandma up off the floor. We needed to focus more on the EMS side then we did the fire. You look

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MATTERS TO BE PRESENTED BY THE BOARD (SHULL CONT'D)

at the call volume that comes in, 75% or more of the calls are EMS. In 2009 or 2010 it was voted to remodel Company 10 for about \$300,000.00. If the plans were to close, why spend that amount of money on it? If we were going to move Company 10 out of the city, it should have been moved to Mint Springs when they were looking at Riverheads. We are going to have a lot of the companies end up here if this plan is enacted. I hope the Board will reconsider what is going on and listen to the fire people. The volunteers are not stupid. They train and they are well educated on fire. Our leadership in fire is not the God of fire. They don't know it all. That's why they should sit in a meeting with volunteers and say this is the problems we are facing, how do we go about addressing it? This gets everybody to work together, rather than saying here's the way it's going to be. I was put on the Board to help people not to hinder them. I took several calls today. One on a complaint on the muddy water in the river. I told the lady I would try to find out what's wrong. Another lady called about her road. I told her we would try to help out as much as I can, but it's already in the 6 year plan. That's what we are here for, to help people. Mr. Pyles and Mr. Kelley, we have talked about not getting money from the calls on the interstate. We say we aren't getting money from the people traveling up and down our roads, but how do we know they didn't stop to get gas, buy food, and stay in our motels or purchase things here? When the call comes in that there's wreck on the interstate we don't know whether it's a member of our family or who it may be, but we go answer the call. The people in this county travel outside the county. They go to Rockingham and out of the state. Mr. Pyles travels back and forth to Texas. If we had the attitude that we don't want to run the calls because we don't make any money off of them, what if the other areas did that? Its neighbor helping neighbor. The call comes in and we are answering it. A firefighter will you that they don't care who it is, we are answering the call. The money is not important. It's looking out for the fellow neighbor and it's what we do. We save lives and we don't put a price on them. Fire and Rescue is an elite service. When we buy insurance for home, auto or health insurance, it's for one purpose and it's there when we need it. We hate to pay the bill. It's the same thing when we pay for fire and rescue. We pay these guys and when we call 911 we know they will show up. I would like to thank all of the volunteers and all of the ones behind the scenes that get out and help with fundraising. I think there are programs that we could come up with to help out the volunteers. I'm not ready to raise the taxes and that's where we are headed.

Mr. Kelley:

I am a volunteer. I just don't talk about it. In 2008 at Company 10 I had the most duty hours and the most calls responded. 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016 I had the most duty hours at Company 10. I don't know how my wife put up with it. In 2014 I had over 1,067 hours as a volunteer. I ran 449 calls that year. It bothers me that you think I don't know what I'm talking about. I've been to several fire departments that have called and asked me. I've been to Swoope and I was part of Verona's talk. Verona asked me to come back again because one of the members wasn't able to be there. When I left, they were going to have their meeting and everyone seemed okay with the situation. Volunteerism is hard, today especially. If you want to get after someone, get after the state that requires all of the training. It's good to have the training. I remember when I was 16 years old I went into a burning building with my dad at Ingleside. There is no way today a 14, 15 or 16 year old kid could go into a burning building, but training was a little different as well. I remember at the trailer at the back of Company 10 and falling through the pit and the hole at 14 years old. You can't do that today. The state requires so much training. I left Verona Fire Department in 1987 because I started having a family and that's the way a volunteer goes. You get them when they are young, you train them

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and you bring them up. I got out, but I had Fire 1, Fire 2 and Fire 3 under Pat Shipe. Nobody told me to recertify. So when my 16 year old son wanted to get into the fire department I said sure I'll go and I was ready to go back to Verona. He didn't want to go to Verona, he wanted to go to Company 10 so I agreed. I ended up doing Fire 1 and Fire 2 all over again. I was 44 years old crawling on my hands and knees all night long because I thought I was going to be there with my son and do it for him. He's the one that picked me up because I had to get up and go to work the next day. After 200 hours of those classes we decided to take EMT. We made my wife go with us. Now there is three EMT's and one Medic in my family and two fully trained firefighters. I know how hard it is. I've been at Company 10 and we have 10-15 volunteers who are 100% trained, but it's hard to keep them. Keeping the young people interested is what the volunteers are having a hard time doing. Things happen in life. They start a family and grow up and then they go away from it and in their older years come back. When I talked to Verona a lot of people didn't understand and I didn't want to bring these kinds of things up, but the calls that Verona was responsible for, that's when career staff was not there. They missed 52 out of 350 calls and someone else had to pick them up. That's 14.89% and that's a dangerous number of calls that someone else had to pick up. The EMS side is the hardest thing and ambulances is what brought this whole thing up. How are we going to provide EMS calls to the areas that are needed? Are we going to keep hiring career staff? When we looked at everything, a station that's in the City of Staunton, my station, 40% of the calls are answered in the City of Staunton. About 18% of the calls are on the interstate and 11% of the calls are just traffic accidents in general. About 70% of the money at Company 10 has no immediate effect on the citizens of Augusta County. I do represent that area. I represent Verona, Jollivue and all the way to Stuarts Draft. Every single Board members district touches mine. I have to look out for my citizens and what is the best use of county resources without raising taxes. Without putting a burden on the citizens of Augusta County. So when the Board voted for it, I supported them. I'm not voting for it or can't vote for it because it is a conflict of interest. If I thought it was about the courthouse and getting back at the City of Staunton I would have stood up and said no we are not doing that. In talking to Verona, we do have to be able to cover the interstate. We asked for two paid firefighters 24/7 to be put there to put the squad on the interstate. Those are the calls that are needed there. I've talked to the Chief of Swoope, Verona and Stuarts Draft because my members and I need a place to go. I will probably be going to Verona so I can help train the new members there on how to put Squad 10 on the road. I help put that piece of apparatus together. I wired the entire thing where the generator and the plasma cutter is and even taught the career how to use it. It is a valuable resource for this county and the wrecks on the interstate. And you are right, I don't care what time of night or day the call comes, I got up and went on those calls. I didn't care who it was, but we made sure they are taken care of. We talked about the interstate in the last Emergency Services meeting, the new EMS Captain, Jeff Hurst, Carson, Minday, Tracy and I, what can we do and how are we going to take care of it? We talked about where the best place was to place apparatus. In the first plan, phase one would take the people out of Middlebrook. This Board was wise to say no. That's a big area out there. The career staff needs to be there for that community at this time. I have been a volunteer at Company 10 since 2006. When I went there I thought Company 10 was closing. In 2009 when the renovations were taking place, people asked why we were spending money on it. In 2008 I spent 3 or 4 blizzards up on the roof shoveling the snow off. The roof was bad and needed work. The restrooms needed work. The ladies showers needed the work. That's the work that was done at that station. It wasn't a complete renovation, but the living quarters needed to be done as well. Mr. Shipe said that when the firehouse started, the volunteers put the stuff in it and we continue to do that. We put brand new chairs. We put a brand new stove, TV, lounge and tables. The volunteers still put money in that we work hard for. I know our volunteer force is looking at how to keep our charter. They've contacted an attorney. I've encourage them to do it. Again, I

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MATTERS TO BE PRESENTED BY THE BOARD (KELLEY CONT'D)

put other people from our department on that because I feel like it would be a conflict of interest to be on the other side of it. Volunteerism is hard. There's a station just east of Verona that's had five different Fire Chief's since November and they are getting ready to close up. How can we as a Board make sure our citizens are being taken care of? It's a hard decision to close Company 10. Is it the right decision? By numbers, I believe the Board was correct. Do I want it to close, no. I don't want any station in this county to close. When I was in Verona there wasn't a New Hope Fire Department, Mount Solon Fire Department, Fishersville Fire Department or Swoope Fire Department. We had a big territory. Company 10, Verona and Stuarts Draft pretty much covered everything. Times have changed to the good. We have a lot of volunteers. We need to see how we can keep those stations volunteer as much as possible and support them. Do I have all of the answers, no, but I am willing to talk to any fire department that wants to talk to us as I have talked to the ones that have called me and talked to me as well. We do have to do what I think is best for the county and I don't think bickering and arguing over what we directed the staff to do is the right thing to do at this time. Carson has met with Verona and Swoope and Riverheads. I've talked to Riverheads and I've talked to Swoope, I've talked to Verona and I've talked to Stuarts Draft. We have to use the resources we have for the betterment of our communities.

Mr. Garber:

I wanted to give a quick update on the courthouse. We continue to work. We are working thoroughly and I can tell you about the basement of just about every building within four block square of the courthouse. Some we own and some we don't. We continue to talk to the people. I would simply say, for those of us that are working on this courthouse, there is no correlation between the fire issue and the courthouse. Since we don't meet in two weeks, on the 20th the largest outdoor agricultural event in the county will be held at my farm. We eat well and everyone is personally invited.

Mr. Coleman:

The Commonwealth Transportation Board on June 20th approved the FY2018 6 Year Improvement Program. In Augusta County, the Route 340 shoulder widening and rumble strips, the Wilson Complex Round-a-Bout and the Mill Place Parkway improvements will be taken care of. They have been approved through the Smart Scale Projects and wasn't sure if they Board had been made aware of that. Being a member of the MPO, I thoroughly appreciate being asked to serve on that Board.

Ms. Bragg:

I think the fire and rescue situation has been covered. Bike Virginia came through Stuarts Draft with about 1200 bikers. It was an interesting event and I had an opportunity to talk to a lot of people that had never been in Augusta County. They spoke very highly of it and it was a great opportunity for them to visit. I thank everyone for the naming of the amphitheater for John Swett and also remind everyone that the Red Wing Roots Festival is coming up in July and Sweet Dreams is coming up.

Mr. Pyles:

I think facts sometimes can do the best thing in trying to take care of misinformation. Everybody has an opinion and certainly the volunteers have opinions. We do have meetings every month where volunteers are welcome to come and speak. They are not shy, but we listen and put much in their hands like the SOG's. A couple of years ago, when Mr. Shull was the Chairman, we gave them \$250,000 to spend and they couldn't agree on what to spend it on. It was during Mr. Shull's Chairmanship as well that the ladder truck was ordered. I'm not sure that we had good leadership back then. I thought it was okay to do, but that wasn't decided on this watch. It was

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delivered on this watch. I want you to know that what we've done with Fire and Rescue is to follow a plan more or less that started in 2000. We did a study and included Staunton and Waynesboro. We wanted to make the system better. There were 133 different suggestions made. Much of what was suggested we have completed. We have made incredible changes since 2000. When Mr. Shipe left we had 21 employees. When I came on the Board in 1996 we had 14 employees. Now we have 105. We have gone from \$2 million a year to \$10 million a year. We've done it without a tax increase. I find it amusing that Mr. Shull brought up a tax increase when at our budget meeting he asked if we could do a fire tax. We said no to the fire tax because we can make it work with what we have. That's what we have always done in Augusta County. We have been 58 cents or below since the 1980's. We do a good job. When we see a need, we address it. This plan has been changed multiple times. Plans are a general idea of where you want to go and how you get there. You have to adjust for the changes that come up. Planning is everything. Dick Huff made the decision to keep Company 10 in Staunton. We have had to move on with things. I think about Mr. Shipe's statement about the history of the Company 10 building. It reminds me of when I was in the Navy. I wondered what happened to the Richard A. Byrd. It was sold to the Greek Navy and has since been sunk. I can't visit it, but our US Navy today is better than when I was in the Navy. They have the latest in technology, they had to keep up with the times. They have to be able to knock down Korean missiles. Our sea power is the greatest strength in this world. We can go anywhere with our submarines. We had power. We had to evolve. My responsibility here, and Mr. Shull said politics. When it comes to people's lives you will not find me there. I remember going to Vietnam, they kept saying the politicians will not let us do these things. When it comes to the people doing the jobs for us they need protection I'm going to give them what they need. I'm going to do the best I can and be fair to everyone. I don't have the entire presentation because it would take too long. As Mr. Shipe says, sometimes you have to go a little longer on things for people to understand. People don't want all of the information. They want bullet points to learn something. It can't be done that way. People get annoyed at me because I run numbers. I look at everything and read everything there is. I've read the reports. Farmers Insurance has a slogan that says "We know a lot because we've seen a lot". I've seen a lot and I know a lot. I don't need to ask the Chief of Staunton how we should conduct our business. We know how to conduct our business. I opened a door for charging for services. On page 25 of the 2000 report the popular method of delivering services via an intergovernmental contract. Service is provided by one locality to another locality for a fee. These should not be confused with mutual aid agreements where one municipal department assists the other during an unusually difficult fire or EMS workload. Charges for fire and emergency can be based on many factors:

1. Fire department operating cost. We give them \$841,000 per year.
2. Money paid to career positions. We give \$600,000
3. Cost of apparatus and major equipment depreciated over a given time period.
4. Cost of physical plant over a given time period.
5. Percentage of fire department use over a given time period.
6. Percentage of assessed valuation of the contracting municipality to the total assessed value over a given time period.

We put out all of those things. We do mutual aid and we are going to continue to do mutual aid. We are not turning a blind eye. We are wanting to move out of having first due responsibility in Staunton. Our citizens are paying us to protect them. We'll do our neighborly duty and moral obligation. We will be there more for them than they will be for us. We have all kinds of apparatus and people so we will be there. They have 27 people. We have 105 paid and over 800 volunteers. We surround Staunton with fire companies. Swoope, Churchville, Verona, Preston Yancey, Riverheads and Middlebrook are here for them and will stay here for them. We ask them if they would pay for what they get from us and they said no. It's not wrong to

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ask people to pay for stuff they get for free when you have to pay for it yourself. The move of the stations started in 2000. They were for closing Company 10 and they were also for building a station south of Staunton on 262 and I81. They talked about the how it could be more service to Augusta County. That wasn't me being mad at City Council. That was the professionals at Marketing and Management Solutions that said how to run the stations, where they can get the most value and where we can serve our citizens better. Would I sleep well night if the fire truck couldn't get out on the road because Richmond Road was backed up or it's too far to go? This thing of not sleeping at night, Mr. Shipe, shame on you. I worry about these people every day. The things that we do are to make this county safer and I can tell you what we've done to do it. I will still sleep badly if somebody gets injured, but it's not because I didn't try to make it right. On page 49 of the 2000 plan it states; relocate Fire Station 10 and the Verona Fire station to a location somewhere in the vicinity of Woodrow Wilson Parkway and I-81 or Laurel Hill Road and I-81. Recommend a total staffing of 18 persons. When the ladder truck is assigned an additional six persons are assigned. The very thing we are doing is what was recommended to do. There is no spite. Why say we did that. Somebody ought to be ashamed of themselves for it. That's what the plan said. The 2000 plan states that we should go from 16 to 100 paid positions in 2010 and we are at 105. We are pretty close. We can't do it all, but we will follow the plan. There was the issue of having a fire station in Greenville. We kind of messed up because a couple disgruntled Company 10 people wanted their own fire station and they got a couple political people to put a fire station in Riverheads. We built it. It's the first volunteer station Augusta County has ever built for volunteers. It cost \$1,210,938 plus equipment. It has about \$2 million worth of equipment and a building. They had the gall to complain that the hardware on the bay doors was too expensive. The bays doors were breaking down and it was discovered that the doors are classified as residential not for business use. The doors were replaced for \$7,000 and Mr. Shull complained about it at the past Staff Briefing. He didn't complain about the \$2 million spent there, but the \$7,000 didn't work too well. Board minutes from 2010 show Mr. Shull not wanting to build the Riverheads fire station. This is what I said in 2010; I'm going to speak against everybody out here, but it is not for the reasons that you might think that I'm just against something. We had a fire plan we paid for and said 'we ought to move the fire station that is in Staunton south of Staunton so that it could serve your area. That was the plan. We set money aside for it dutifully. For many years, we put that in place. When this PPEA was proposed, I asked this Board to please let's also look at the cost to move that station south. On a 6-1 vote, they said no. Why wouldn't we want to do that? Mr. Clymore speaks we serve needs and not wants. When he was Superintendent, he closed Deerfield Elementary School because it makes sense to have one facility rather than two. We have to have our money saved as well as we can. Having more buildings doesn't give us more people. We keep adding in construction and cutting in service providers. We haven't added to our Fire and Rescue people. While you think . . . or Ms. Sorrells says she's got the greatest need, that's not what the County indicates when it looks at fire responses. You know Deerfield, they are at six minutes and 11 seconds; Mount Solon, six minutes and 38 seconds; Verona, 8.66 minutes; the things that go to you—Raphine, 4.71 minutes; Company 10, 1.66 minutes. It's not the biggest hole. It's not the biggest need. Deerfield had asked for three years straight to get three people—get one person and this Board continually turned them down. Are their lives worth less than Deerfield this isn't as wise as we could be. This is what was said in 2010. I read it, I understood it and I wanted to follow it. The same things were said then that are being said now. We had a plan and I objected to us not following the plan. If we would have done that things would be better. That was politics back then. What I have on the screen now is spreadsheets of our financial audits which are available online. In 2002 it shows we had 21 employees and now we have 105. Then we had 1080 volunteers and

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now we have 760. We went from being 2% of the force to now we are 12%, but that doesn't tell the whole story. 12% of our career people are engaged in 53% of the calls. If you don't look at the numbers and you don't dig down you can't see it. When Mr. Kelley talked about Verona, we were masking true numbers because we had it all together. I ask him to break out the difference between when it is career and when it's just volunteer. Do that and you'll find out how many people are at risk if we don't have good volunteers turning out? I want them out there and we're not stopping them. If we can't make the calls we have to do something. Mr. Shull talked about people throwing in their keys. About 10 years ago one Chief made the point that what if two of us just throw in our keys and don't show up. That's an awful thing to say. To threaten us like that. Do what we say and what we want or we are going to throw in our keys. I said, we can't be that vulnerable to people that get ticked off every now and then. So we went from that point trying to make things happen and secure things. We want our volunteers no doubt about it, but more than that we want to ensure that when the call comes in there are people to answer it. In 2002 our budget for Fire and Rescue was \$2,607,098. This year it's \$9,806,389. We have increased their budget by five times and kept the same tax rate. We've increased the number of employees by five times and kept the same tax rate. The calls are going on, but we are there to meet the calls. People ignore the numbers that are put out each month, but I don't. How many times did we turn something over to second due? What was the reason for it? There is a wealth of information, but some people would rather talk from the back of a truck about what the problems of the world are instead of trying to analyze the facts that we are given. As far as the Staunton proposal, I sent, on Tuesday March 7, to every Board member this same email with the same attachment. I sent them separately so that we can't have contemporaneous conversations back and forth. We couldn't have three of us chit chatting simultaneously so I sent them out individually. In Mike's email it said here is an outline of what I would like to propose to Staunton. Let me know if you have any concerns. Also, Lineage Architects are almost done with their work. Timmy will schedule a time that is convenient for you to review and asked questions and give thoughts. Mike did not respond by email or phone. Opportunity given, but not taken. This is the proposal that I made to the Board and you can see if it seems like there is politics involved or if I'm trying to be nasty to anybody. The email to the Board read; if given the "ok" to meet with Staunton I would request: (All numbers will need to be more fully examined but think these are reasonable working estimates). They pay for purchase of required adjacent properties estimated at \$1,500,000. Pay for demolition is estimated at \$500,000 (could offer to include in Bond). Any expenses unique to Staunton will be assumed by Staunton. Staunton provide reserved parking places for all staff and free parking for public in Johnson St. lot via validation. I would bring up intention to close Company 10. If Staunton wants us to keep open, I would ask for Board support to offer to pay one half yearly of all costs for Co. 10 (for this year ½ estimated at \$451,000) "or" Staunton pays for each call at the pro rata cost from prior year. This year that would be 407 x \$720=\$293,040. "And" us receiving their 2016 FY EOC budget allocation (\$838,000) so as to combine our EOCs. (It costs Staunton \$34 per resident to fund EOC. It costs us \$24 per resident. If we assume we can assume Staunton's calls for our same efficiency (should be able to improve) we will gain \$245,000. This gives us a net of \$538,040. At this point the estimated savings of closing Co. 10 and redeploying staff such as to allow rescue out of Verona, are still being worked on but either of these proposals will give us better savings. If Staunton agrees to our proposal for property and asks us to bond, and if they choose option 2 their new annual increase to their budget will be about \$400,000 annually (\$100,000 courthouse, \$300,000 for calls). If they refuse everything and we close Co. 10 they will have to pick up the cost for 407 calls and for better protection for east side. When it is all calculated out and response time factored in they will be better off with us. Should they make a counter offer hopefully we can discuss in closed session to decide. We are still working on numbers with closing of 10 and other options for closing the \$1million gap. As to courthouse: The

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first estimate was over \$44,000,000. We talked through some options and concerns and received today an estimate of just under \$39,000,000. If we get \$2,000,000 from Staunton and good bids we could be around \$35,000,000. As soon as we receive the final drawings and elevation displays we can schedule time for each of you or pairs of you to meet with Pennie Garber to go over the proposal. In the meantime if "ok" I would like to schedule a meeting with Staunton—Tracy. All I'm suggesting is that we are going to have to buy property in Staunton that we wouldn't have to pay for in Verona so Staunton should have to pay for that.

Mr. Shipe asked for clarification about the topic of conversation.

Mr. Pyles stated that the article in today's paper indicated that we were closing Company 10 for spite because we couldn't do the building of the courthouse downtown.

Mr. Shipe stated that Mr. Pyles was getting very aggressive with him. Nothing that he has said was directed at him personally. They have known each other a very long time and unfortunately he is the Chairman. His concern was the closing of Company 10. It has nothing to do with all of this. He has read and done his research and he wants to make sure Mr. Pyles understands that he is not being aggressive towards him and all he is asking is for the Board to think about it before they drastically do something. In 1985 there was a plan to relocate Company 10 and the deal was they couldn't come to a monetary solution on the property that was to be bought and sold.

Mr. Pyles made the following comment:

When you asked me how I could sleep at night if we did this, that's aggressive. When you're saying to me that I'm making these calls that are disregarding public health and safety, that's a shot at me Mr. Shipe.

Mr. Pyles continued with the presentation:

The response back from Gerald on the email sent was I'm okay, but not hopeful. I sent an email to Timmy: If we stay in Staunton I think we need to look at running rescue to the east and south from Co. 10. I would also like to include certain I-81 responses as if for Staunton. That is if they had 10's responsibility they would have to run some on I-81. Wouldn't they? The answer was no they wouldn't. That is still ours. The idea that we wouldn't try to do revenue recovery for accidents the same as we do for EMS calls is to miss a chance to make some money and hold taxes down. We met with the Mayor and Mr. Owens and it seemed to be a good meeting. They raised the question about consolidation. The email to Carolyn Dull and Steve Owen read as follows: I am only opposed to consolidation because of financial consideration (and slowing down the work). If having this option is important to council; I'd like to think we could eventually make it work where we are planning to build. In the Frazier plan the requirements are for (4) Circuit Courts (3) General District Courts, (3) JD&R (notation of 2035). The gross sf is 130,167 with a net of 91,230. Our Scheme 2 is 115,235 sf gross and 80,620 sf. We have planned 2 standard Circuit Courts with a smaller third. 2 each for GD and JD&R. What we do not have included is the Echols building and its 8,415 sf. With this at say 75% functional space we would have another 6,311 sf giving us just about 87,000 sf. compared to 91,230 as Frazier suggested. We could put the Commonwealth Attorney in Echols which may be adequate. The space now planned for CA could be another courtroom. The guideline for 2035 may be overstated. It is possible we could make these two buildings work for a number of years. But I wouldn't want to revisit this

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unless there is real interest. At 25% of the population Staunton's share of capital is about \$9,000,000. At 32% (case load) the share is \$12,000,000. If we consolidate you would need to pay 25% to 32% of operating cost after state offset. It is possible, with the loss of constitutional officers and compensation based on Augusta/Staunton population, our net revenues will be lower than what we presently get combined. In any case it will not be a big savings for either of us. I do think with the Echols building and some space reconfigurations we could consolidate in the building we are planning. But I think it is a better idea in theory than it will be in actuality. I will forward information relative to the Comp Board when I can find again. Thanks for the good meeting – Tracy. People take from this that I was trying to bully them and I wasn't trying to work with them. I don't know how I could have done things differently. This email was sent on March 15 and we were promised an answer in ten days. After the ten days went by I kept asking Mr. Fitzgerald to follow up to see if there was a response. We didn't hear anything back from Staunton until April 18. We got a letter that was cold and condescending. I was informal and addressed the email using their first names. The letter received was addressed to Chairman Pyles. The following statement in the letter read; I would be remiss if I did not state that the City will never agree to tear down, or permit others to tear down, the City's protected historic landmarks and structures, nor would the City disregard its own laws and procedures, including the superseding of the Historic Preservation Commission, to allow anyone to demolish protected historic buildings in the City. I went back to meet with them and asked if they had any counter proposals. They had none. I am simply telling you that there was never a conversation from this Board or any member to anybody about this being spiteful to Staunton. As a courtesy, we let them know what we were doing and we tried to give them opportunities to work with us, but they didn't want to. This isn't to be critical of Mr. Shipe, Mr. Shipe said how well the people were trained. They are well trained. When we met with the Mayor and City Manager, they did nothing but talk down about our volunteers. They said they are not well trained. That they are farmers that come out of the field and spray water. That's the attitude that they have. They have no volunteers, only paid career staff. They don't want volunteers, but we work with volunteers. The Board is accused of something today. We may make mistakes in how we go about things and what we do, but we didn't do anything out of spite. We did what we thought was best for the long term interest of this County.

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MATTERS TO BE PRESENTED BY STAFF – NONE

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CLOSED SESSION

On motion of Mr. Kelley, seconded by Ms. Bragg, the Board went into closed session pursuant to:

- (1) **the real property exemption under Virginia Code § 2.2-3711(A)(3)** [discussion of the acquisition for a public purpose, or disposition, of real property]:

- a) Ladd Elementary School

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CLOSED SESSION (CONT'D)

(2) the legal counsel exemption under Virginia Code § 2.2-3711(A)(7)
[consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel, as permitted under subsection (A) (7)]:

a) Ladd Elementary School

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On motion of Mr. Shull, seconded by Mr. Coleman, the Board came out of Closed Session.

Vote was as follows: Yeas: Bragg, Kelley, Garber, Wendell, Shull, Pattie and Pyles
 Nays: None

Motion carried.

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The Chairman advised that each member is required to certify that to the best of their knowledge during the closed session only the following was discussed:

- 1. Public business matters lawfully exempted from statutory open meeting requirements, and
- 2. Only such public business matters identified in the motion to convene the executive session.

The Chairman asked if there is any Board member who cannot so certify.

Hearing none, the Chairman called upon the County Administrator/ Clerk of the Board to call the roll noting members of the Board who approve the certification shall answer AYE and those who cannot shall answer NAY.

Roll Call Vote was as follows:

AYE: Bragg, Garber, Kelley, Coleman, Shull, Pattie and Pyles
NAY: None

The Chairman authorized the County Administrator/Clerk of the Board to record this certification in the minutes.

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LADD ELEMENTARY SCHOOL

Mr. Kelley moved, seconded by Mr. Coleman, to approve the County Administrator to execute the Ladd Elementary School contract subject to conditions in Closed Session.

Vote was as follows: Yeas: Bragg, Kelley, Garber, Wendell, Shull, Pattie and Pyles
 Nays: None

Motion carried.

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ADJOURNMENT

There being no other business to come before the Board, Mr. Coleman moved, seconded by Dr. Pattie, the Board adjourn subject to call of the Chairman.

Vote was as follows: Yeas: Pattie, Shull, Garber, Coleman, Kelley, Bragg and Pyles
 Nays: None

Motion carried.

Chairman

County Administrator