

COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
SPECIAL MEETING
February 12, 2013

The Henrico County Board of Supervisors convened a special meeting on Tuesday, February 12, 2013, at 5:15 p.m., in the County Manager's Conference Room, Administration Building, Henrico County Government Center, Parham and Hungary Spring Roads, Henrico, Virginia.

Members of the Board Present:

David A. Kaechele, Chairman, Three Chopt District
Patricia S. O'Bannon, Vice Chairman, Tuckahoe District
Richard W. Glover, Brookland District
Tyrone E. Nelson, Varina District
Frank J. Thornton, Fairfield District

Other Officials Present:

John A. Vithoukas, County Manager
Joseph P. Rapisarda, Jr., County Attorney
Tanya B. Harding, Deputy Clerk to the Board/Administrative Assistant
Joseph A. Casey, Deputy County Manager for Administration
Jane D. Crawley, Deputy County Manager for Community Services
Timothy A. Foster, P.E., Deputy County Manager for Community Operations
Randall R. Silber, Deputy County Manager for Community Development
Tamra R. McKinney, Director of Public Relations & Media Services

Mr. Kaechele called the meeting to order at 5:18 p.m.

Mr. Vithoukas briefly referred to the three items listed on the agenda.

Belmont Golf Course Management.

Mr. Vithoukas recognized Neil Luther, Director of Recreation and Parks, who pointed out that he had placed at each of the Board members' seats a pen and leather folder, along with a special invitation for an event that will be held on March 7 at the Culmral Arts Center at Glen Allen. The Board will receive more information regarding this upcoming event at its February 26 work session.

Mr. Luther updated the Board on recent changes to the management at Belmont Golf Course. After a 22-year association with the County, the DePasquale/Gentilhomme Group decided last year not to renew its contract for management of the course. The contract expired on December

31. Although staff had some concerns about finding a replacement that would continue the valuable service that had been offered by the DePasquale/Gentilhomme Group, Mr. Luther is pleased with the new contractor, Wink Management, which is based out of Mechanicsville. Wink Management has extensive experience with arenas and golf course management.

Mrs. O'Bannon voiced concerns pertaining to the large number of tournaments that are held at Belmont throughout the year and the new company's unfamiliarity with the logistics of these tournaments. Mr. Luther assured her that all aspects of managing the golf course were discussed during the bidding process and he expressed confidence that Wink Management will be able to handle the tournaments and offer many other opportunities at Belmont that will benefit the County. In response to questions and concerns raised by Mr. Kaechele, Mr. Luther explained that maintenance and upkeep of the golf carts are handled through a separate contract, the snack bar and lunch room will continue to be maintained by the County, Wink Management has the necessary resources to make seasonal adjustments to staffing at the golf course, and the County's employee who is assigned to the golf course will continue to work there. Mr. Luther clarified for Mr. Glover how proceeds from the pro shop are allocated. Mr. Vithoukas and Mr. Luther clarified for Mr. Kaechele that the number of rounds of golf played at Belmont is running well ahead of the previous fiscal year.

Update on Actual Litigation Styled *McBurney v. Young*

Mr. Vithoukas recognized Mr. Rapisarda, who provided a slide presentation updating the Board on a case pending in the United States Supreme Court, *McBurney V. Young*. Oral arguments for the case are scheduled for February 20. The defendants are Thomas C. Little, Director of the County's Real Estate Assessment Division, and Nathaniel L. Young, Jr., Deputy Commissioner and Director of the Virginia Division of Child Support Enforcement. Mr. Rapisarda reviewed the genesis of the lawsuit. He explained that a resident of Rhode Island, Mark J. McBurney, submitted a written Virginia Freedom of Information Act (FOIA) request to the Virginia Division of Child Support Enforcement in April 2008 requesting documents related to his claim for child support payments. A resident of California, Roger W. Hurlbert, submitted a FOIA request by telephone in June 2008 requesting real estate tax assessment records for all parcels in the County of Henrico. Both requests were denied on the basis of a "citizens-only" provision in the Virginia FOIA.

Mr. Rapisarda continued his presentation by explaining the combined lawsuit, which was filed in January 2009 under a federal civil rights statute. The lawsuit claims that the "citizens-only" provision in the Virginia FOIA is unconstitutional because it violates the Privileges and Immunities Clause of Article IV of the U.S. Constitution and the Dormant Commerce Clause, a legal doctrine that courts have inferred from the Commerce Clause in Article I of the U.S. Constitution. The U. S. District Court rejected the constitutional challenge and upheld the "citizens-only" provision, and the 4th Circuit Court of Appeals affirmed the District Court decision. The U.S. Supreme Court has agreed to hear the appeal. Mr. Rapisarda responded to a question from Mr. Glover concerning the County's and Commonwealth's reluctance to provide the requested information to the non-Virginians.

Mr. Rapisarda concluded his presentation by reviewing future events related to the case. Oral arguments will occur on February 20 and a ruling is expected in the summer of 2013. If the plaintiffs prevail, they will be entitled to receive payment for attorney's fees.

The Board recessed for dinner at 6:00 p.m. and reconvened at 6:08 p.m.

Update on the Cobbs Creek Reservoir Project

Mr. Vithoulkas recognized Art Petrini, Director of Public Utilities, who distributed copies of a slide presentation titled *Cobbs Creek Regional Water Supply Reservoir*. Mr. Petrini reminded the Board that it last received a work session update on this project in August 2011. He explained the importance of the reservoir to the future business and residential water supply needs of Henrico, Goochland, Powhatan, and Cumberland Counties. Mr. Petrini also noted that the reservoir is viewed as a model for local governmental cooperation that fulfills the requirements of the State Water Supply Plan and that it will reduce environmental stress on the James River during designated low flow periods. He cited the County's projected 2055 water supply deficit as 30 million gallons per day and reviewed project features, including the benefits of the project to its regional partners.

Mr. Glover voiced concerns about Goochland County being identified on the map as a regional partner for the project. There was discussion between Mr. Glover and Mr. Petrini regarding the memorandum of understanding between Cumberland and Henrico Counties and Goochland County's role and level of participation in the project. Mr. Vithoulkas suggested that a continuation of this discussion and further questions from the Board take place in closed session.

On motion by Mr. Thornton, seconded by Mr. Glover, the Board approved going into a Closed Meeting at 6:26 p.m. for Consultation with Outside Counsel and the County Attorney Regarding Legal Matters Requiring the Provision of Legal Advice Pertaining to the Cobbs Creek Reservoir Project, Pursuant to Section 2.2-3711(A)(7) of the Code of Virginia, 1950, as Amended.

The vote of the Board was as follows:

<u>Aye</u>	<u>Nay</u>
David A. Kaechele	
Patricia S. O'Bannon	
Richard W. Glover	
Tyrone E. Nelson	
Frank J. Thornton	

On motion of Mr. Glover, seconded by Mrs. O'Bannon, the Board approved going out of the Closed Meeting at 6:49 p.m.

The vote of the Board was as follows:

<u>Aye</u>	<u>Nay</u>
David A. Kaechele	
Patricia S. O'Barmon	
Richard W. Glover	
Tyrone E. Nelson	
Frank J. Thornton	

On motion of Mr. Glover, seconded by Mrs. O'Bannon, the Board approved the attached Certificate of Closed Meeting.

The vote of the Board was as follows:

<u>Aye</u>	<u>Nay</u>
David A. Kaechele	
Patricia S. O'Bannon	
Richard W. Glover	
Tyrone E. Nelson	
Frank J. Thornton	

Mr. Vithoukas reviewed the agenda for the 7:00 p.m. meeting. He noted the resolution to be presented by Mr. Nelson and the Fire Chief recognizing the heroic efforts of two gentlemen who alerted residents of Coventry Gardens Apartments to a fire in their complex on Christmas Day. Mr. Vithoukas also referred to the appointment to the Parks and Recreation Advisory Commission from the Fairfield District. He briefly reviewed the three zoning cases and the three other public hearing items on the agenda and advised that Mr. Glover was requesting a thirty-day deferral of the ordinance to vacate a portion of an alley easement in the Trebov Avenue subdivision in the Brookland District.

Mr. Vithoukas pointed out that there were five items on the general agenda with the first being the introduction of a resolution for receipt of requests for February 2013 amendments to the FY 2012-13 annual fiscal plan. He advised the board that one citizen was signed up to speak during the public comment period regarding zoning violations at Regency Tire & Auto but that other citizens were also expected to address the Board on this matter. Mr. Vithoukas explained that Mrs. O'Bannon had met with the tenant and was scheduled to meet with the property owner on February 13. Although the County's hands are currently tied, many patrons of Regency Tire & Auto are upset that the business may be closed. Mr. Rapisarda clarified that this is currently an administrative matter and there is no action the Board can take at this time other than listening to citizen concerns.

There being no further business, the meeting was adjourned at 6:56 p.m.

David A. Karcher

Chairman, Board of Supervisors
Henrico County, Virginia