

**RICHMOND COUNTY BOARD OF SUPERVISORS
NOVEMBER 12, 2015**

MINUTES

At a regular meeting of the Board of Supervisors for Richmond County, Virginia, held on the 12th day of November, 2015, thereof in the Public Meeting Room of the County Office Building.

Present:

F. Lee Sanders, Chairman
Richard E. Thomas, Vice-Chairman
Jean C. Harper, Member
John L. Haynes, Jr., Member
Robert B. Pemberton, Member

Also Present:

R. Morgan Quicke, County Administrator
Denise Dunaway, Development Services Manager
Jennifer Delano, Commissioner of the Revenue
Greg Baker, Chief of Emergency Services
Kristie Brann, Deputy Treasurer
Dr. Greg Smith, RCPS, Superintendent
David Brown, VDOT, Residency Administrator
Mabel Lewis, Chairman, Electoral Board
Halle Keyser, Registrar
Richard MonCure, Friends of the Rappahannock
Carter Wellford
Hill Wellford
Louise Hammond
Terrell Bowers
Marian Packett
Carolyn Packett
Dawn Howeth
Rob Smith, Attorney, Diatomite
Tayloe Emery
Carl Peacock, Soil Scientist, Diatomite
Jeff Howeth, Engineer, Diatomite
Peggy Sander, Chesapeake Bay Foundation
Mortimer Payne
David Reams, Vice President, Richmond County Little League
Approximately 30 others

CALL TO ORDER

Chairman Sanders called the meeting to order at 9:00 a.m., gave the invocation, and led everyone in the Pledge of Allegiance.

RCPS

Dr. Greg Smith reported that they celebrated Veterans' Day with a well attended program, which utilized all of the technology in the new Auditorium.

Dr. Smith was pleased to announce that the Richmond County Schools are fully accredited. He said that Richmond County Schools have always been fully accredited and added that out of 134 schools in Virginia, only 33 have achieved this.

Dr. Smith invited the Staff and Board to the Annual Christmas Luncheon on Wednesday, December 9, 2015 at 12:30 p.m. at the Northern Neck Technical Center.

Dr. Smith presented the Board with a plaque to commemorate the new school facilities.

VDOT

Mr. Brown said that his crew is busy cutting back vegetation and preparing for the winter operations.

Mr. Brown reported that two formal presentations have been scheduled regarding the Rt. 3 Corridor Study. The first work session will be held on December 1, 2015 at the Westmoreland County Administrative Building from 5:00 to 7:00 p.m. and the second work session will be held on December 9, 2015 at the Lively Fire Department from 5:00 to 7:00 p.m.

Chairman Sanders asked Mr. Brown if they could perform a speed study on a portion of Oak Row Road. Chairman Sanders reported that the stop sign has disappeared at the intersection of Scates Road and Menokin Road.

SHERIFF

Mr. Quicke presented the Sheriff's report for the month of October. He reported that the Sheriff's Office dispatched 761 calls for service, bringing the total for the year to 6050. He said that the Richmond County jail population for the past week was 23.

Mr. Quicke reported that the Sheriff's Office is preparing for the Christmas parade on December 6th. He said that the two recent bomb threats at the high school are under investigation and that the new consoles have been installed in the dispatch room.

TREASURER

Kristie Brann, Deputy Treasurer, presented the Trial Balance Report for the month of October, 2015.

COMMISSIONER OF THE REVENUE

Jennifer Delano, Commissioner, provided the Board with the statistics from the 2015 personal property book, compared to the 2014 book.

Mrs. Delano reminded the Board that the annual land use application deadline has passed and any applications received through the end of the year will be charged a \$20.00 late fee.

PLANNING & ZONING

Mr. Quicke told the Board that the Planning Commission will hold a public hearing in December on the proposed Solar Panel Ordinance.

EMERGENCY SERVICES

Greg Baker gave the following report for the month of October, 2015: 123 calls; 1 call for mutual aid into Richmond County; 2 calls for mutual aide to bordering counties; and 2 fly-outs.

During the month of October, \$27,120.00 was collected through EMS recovery billing.

Chief Baker reported that the grant for Code Red was approved in the amount of \$7,385.00. Mr. Baker explained that this is a 100% funded grant for one year and the proper paperwork will be submitted for this project. He said that he hopes to have this program up and running by early spring.

Mr. Baker said that two full time employees recently resigned, but fortunately, one has asked to return.

RCVFD

Chief Baker presented the following RCVFD report for October 2015: Company 1: 20 calls (4 EMS assists); Company 2: 10 calls (1 EMS assists); Company 3: 12 calls (6 EMS assists). Total calls for the month of October 2015 – 42 (11 EMS assists).

STATE HOMELAND SECURITY GRANT AWARD – CodeRED NOTIFICATION SYSTEM

Mr. Quicke told the Board that a motion will be needed to accept the grant award and move forward with the implementation of CodeRED.

“On a motion made by Richard E. Thomas, the Board voted: F. Lee Sanders – aye; Richard E. Thomas – aye; Jean C. Harper – aye; John L. Haynes, Jr. – aye; Robert B. Pemberton – aye: to accept the State Homeland Security Grant Award and to allow Mr. Baker and Mr. Quicke to move forward with implementation of CodeRED.”

PUBLIC COMMENT

Richard MonCure, Friends of the Rappahannock, said they are not opposed to development, but feel that Fones Cliffs is an extraordinarily, unique, and sensitive resource. Mr. MonCure asked, if the project is approved, that setbacks behind the Chesapeake Bay Protection Area be required and that the appropriate guidance from all relevant state and federal agencies be followed.

Carter Wellford said that the study done by Chimera regarding the Fones Cliffs contradicts the analysis that was provided by Diatomite. Mr. Wellford said that the net income from the Fones Cliffs project will be very small and that RKMK found that the soils are mostly unsuitable from landscaping and golf courses.

Hill Wellford provided the Board with an executive summary of a report that was prepared for Diatomite in 2013 by an environmental consulting group. Mr. Wellford asked the Board to focus on page 13 in the report.

Louise Hammond asked the Board to approve Diatomite’s request as presented.

Terrell Bowers reminded the Board that 10 years ago the Board voted to change the Zoning Ordinance that stripped all agricultural land owners of the majority of their lot entitlements. He said that this change was not an effort to block rezoning and development, which seems to be happening now.

Marian Packett said that this County needs development. He said if the developer has the money, give them a shot to succeed. Mr. Packett said that nothing absorbs water better than a golf course.

Carolyn Packett asked the Board to vote in the affirmative so one day each member of the Board can say that they were a part of a successful development.

Dawn Howeth said she is in favor of Diatomite’s rezoning and asked the Board to approve the request.

Rob Smith thanked the Board for their time and stated that the private sector gets things done when the public sector fails. Mr. Smith said that they will be combining the Bowers tract with theirs and together, they will be conserving about 600 acres along Fones Cliffs. He said that they are not asking for a handout from the taxpayers.

Tayloe Emery thanked the Board for listening for everyone over the past months and said that when he got involved, he thought that he would just be speaking out about something that

was important to him; instead, by exercising his first amendment right, it turned into personal attacks towards his family and his business. Mr. Emery thanked Mr. Smith, Mr. Howeth and Mr. Bowers for standing up for their beliefs, even though he doesn't agree with them. Mr. Emery asked everyone in the room if they moved to Richmond County or the City of Richmond.

Carl Peacock told the Board that he is the soil scientist that was responsible for making the soil evaluations for the Diatomite property. Mr. Peacock said he was onsite and that he is comfortable with his evaluations. He asked the Board to favor this project and move forward.

Jeff Howeth, Engineer representing Diatomite, said he is not 100% convinced that development is destroying shellfish. Mr. Howeth confirmed that he and Mr. Peacock spend time on the Diatomite property while doing the soil evaluation. He said that their obligation is to look for species on the property and all of the regulations will be successfully navigated, just like it was for the Bowers property.

Peggy Sander, Chesapeake Bay Foundation, thanked the Board for the work that they have done regarding the project. Ms. Sander asked the Board to review the Chimera report and the Developer's report and ask if it is reasonable to approve the project at this time.

Mortimer Payne said that the developer makes money and everyone else loses. Mr. Payne said the number one responsibility is the Rappahannock River and the River is far more important than a development.

Chairman Sanders closed the public comment period and thanked everyone for their comments.

RICHMOND COUNTY ELECTORAL BOARD

Mabel Lewis informed the Board that the 2015 Election was a great success with no complaints. Ms. Lewis said in 2016, there will be four elections.

Halle Keyser, Registrar, said there are 4,885 registered voters and 42% voted in the past election. Ms. Keyser thanked the Board and Mr. Quicke for the outpouring support shown to her through this election. She told the Board that 30 students participated in the page program during the election and she looks forward to their partnership in 2016.

Chairman Sanders thanked Ms. Keyser for stepping in and doing an excellent job during the election.

"IN GOD WE TRUST" LETTERING OPTIONS

Mr. Quicke provided the Board with several letter templates, which will be used to display "In God We Trust" in the Public Meeting Room. Mr. Quicke said that he and Mrs. Harper met with Innovative Images in Warsaw to discuss their options.

Chairman Sanders suggested Mr. Quicke and Mrs. Harper meet with the design shop and discuss having the seal and lettering in place by the December meeting.

Mr. Quicke asked about the location. The Board members agreed that the wall directly ahead of the hall entrance would be a good location.

LANCASTER COUNTY REQUEST – DOMINION POWER

Mr. Quicke reminded the Board that the Lancaster County has asked Richmond County to consider adopting a resolution in support of their efforts to require that the new Dominion transmission lines be placed underground rather than above ground adjacent to the Norris Bridge.

Mr. Pemberton suggested staying out of Lancaster County's issues. Mr. Haynes said he understands that the underground lines are less reliable and feels like Richmond County should stay out of the issue. The Board unanimously agreed to not move forward with Lancaster County's request.

RICHMOND COUNTY LITTLE LEAGUE – FUNDING REQUEST

David Reams provided the Board with a copy of a letter from Little League National regarding the grant award. Mr. Reams explained the grant funding they received for the lighting and he said the grant will only cover a small portion; therefore, he asked the Board if they could help in any way.

Chairman Sanders told Mr. Reams that the County can't fund the money at this time and the only option would be to advance \$20,000.00 from future budgets.

“On a motion made by John L. Haynes, Jr., the Board voted: F. Lee Sanders – aye; Richard E. Thomas – aye; Jean C. Harper – aye; John L. Haynes, Jr. – aye; Robert B. Pemberton – aye; to advance the Richmond County Little League \$20,000.00 from future budget funds and to allow Mr. Quicke to work with the Little League regarding the advance.”

COUNTY ENTRANCE SIGNS – FUNDING AND LOCATION

Mr. Quicke said that Mr. Quesenberry had been working very diligently with various organizations to help fund four entrance signs in the County. He said that the Chamber of Commerce, the Main Street Organization, the Rotary, and the Ruritan Club have agreed to donate \$500.00 each towards the signs. Mr. Quicke said he anticipates the cost of the signs to be \$5,000.00, of which \$2,000.00 will come from contributions, and the other \$3,000.00 will come from the CIP. He said that this item has been in the CIP since 2013.

Mr. Quicke asked the Board to approve this project, not to exceed \$5000.00, so he can begin working with VDOT on all permits necessary for placing signs within the right-of-way. He said the signs will be located at the four main entrances to the County; 360 East Bound, past the bridge; 360 West Bound, on the Haynesville side of Village; 3 South, near Lyells Corner; and 3 North, up the hill from the mill pond.

Mr. Quicke provided the Board with a design sample.

Mr. Haynes said this item has been provided for in the CIP so he recommended moving forward.

The Board voted by consensus to allow Mr. Quicke to proceed with this project.

UPCOMING BOARD APPOINTMENTS

Mr. Quicke reminded the Board about Mr. Balderson's BZA appointment and Mr. Tolson's Social Services appointment, which will expire on December 31, 2015.

Mr. Thomas said that he has spoken with Mr. Tolson and he has agreed to serve another term on the Social Services Board.

"On a motion made by Richard E. Thomas, the Board voted: F. Lee Sanders – aye; Richard E. Thomas – aye; Jean C. Harper – aye; John L. Haynes, Jr. – aye; Robert B. Pemberton – aye: to re-appoint Mr. Gordon Tolson to the Social Services Board for a 4-year term that will expire on December 31, 2019."

Chairman Sanders said that he would provide a name for the Board of Zoning Appeals appointment at the December meeting.

MP-NN COMMUNITY SERVICE BOARD – APPOINTMENT

Mr. Quicke said he received a letter from Mr. Walsh indicating that former Sheriff Bryant's term on the MP-NN CSB, as the Richmond County representative, will expire on December 31, 2015. Mr. Quicke said that the Board needs to either re-appoint Mr. Bryant for a second term or appoint a replacement.

Chairman Sanders suggested asking Sheriff Smith about serving on the Board. Mr. Quicke said he would discuss this appointment with Sheriff Smith.

FARNHAM CREEK BOAT LANDING – UPDATE

Mr. Quicke told the Board that this project is progressing but is a little behind schedule due to the contractor running into a few problems with debris under the water. He said he expects a completion date by the end of November.

LITTLE FLORIDA – ZONING CASE UPDATE

Mr. Quicke told the Board that they were in court on Monday, October 19, 2015 for the Little Florida case. He said that the Judge did not rule on the case that day and as soon as he does, the Board will be advised.

MONTHLY APPROPRIATIONS – RICHMOND COUNTY DEPARTMENT OF SOCIAL SERVICES

“On a motion made by Jean C. Harper, the Board voted: F. Lee Sanders – aye; Richard E. Thomas – aye; Jean C. Harper – aye; John L. Haynes, Jr. – aye; Robert B. Pemberton – aye: to appropriate \$85,000.00 to the Richmond County Department of Social Services for the month of December 2015.”

MONTHLY APPROPRIATIONS – RICHMOND COUNTY PUBLIC SCHOOLS

“On a motion made by Robert B. Pemberton, the Board voted: F. Lee Sanders – aye; Richard E. Thomas – aye; Jean C. Harper – aye; John L. Haynes, Jr. – aye; Robert B. Pemberton – aye: to appropriate \$1,295,860.00 to the Richmond County School Board for the month of December 2015.”

APPROVAL OF MINUTES – OCTOBER 8, 2015

“On a motion made by John L. Haynes, Jr., the Board voted: F. Lee Sanders – aye; Richard E. Thomas – aye; Jean C. Harper – aye; John L. Haynes, Jr. – aye; Robert B. Pemberton – aye: to approve the minutes from the October 8, 2015 meeting.”

CLOSED SESSION

“On a motion made by Robert Pemberton, the Board voted: F. Lee Sanders – aye; Richard E. Thomas – aye; Jean C. Harper – aye; John L. Haynes, Jr. – aye; Robert B. Pemberton – aye: as permitted by Virginia Code Section 2.2-3711A(7), consultation with legal counsel to receive advise of legal counsel on issues related to the Fones Cliffs rezoning application.”

CERTIFICATION MOTION AFTER RECONVENING IN PUBLIC SESSION:

“On a motion made by Robert B. Pemberton, the Board voted: F. Lee Sanders – aye; Richard E. Thomas – aye; Jean C. Harper – aye; John L. Haynes, Jr. – aye; Robert B. Pemberton – aye: that the Board certifies that, in the closed session just concluded, nothing was discussed except the matter or matters (1) specifically identified in the motion to convene in closed session and (2) lawfully permitted to be so discussed under the provisions of the Virginia Freedom of Information Act cited in that motion.”

ACTION FROM CLOSED SESSION

There was no action taken by the Board of Supervisors resulting from the closed session.

FONES CLIFFS RESORT AND SPA – CONTINUED DISCUSSION

Chairman Sanders asked Mr. Smith to review the updated proffers regarding the Fones Cliffs Resort and Spa. Mr. Smith explained the updates/additions to paragraphs 7, 12, 15, 16, 17, and 23 of the proffer statement. (Attachment 1)

Mr. Haynes wanted the audience to know that #16 of the proffer statement reads “The applicant agrees to consult with the Board of Supervisors early in the Phase 11 process to obtain preliminary approvals for erosion control measures before proceeding with additional engineering plans that may be dependent on such erosion control measure being determined beforehand”. Mr. Haynes said that the Developer is allowing the Board to require more stringent setbacks. Mr. Pemberton asked Mr. Smith to confirm that the Board has the final say. Mr. Smith said that is correct.

Mr. Haynes recommended approving Phase 1, to include the latest proffer statement submitted by Diatomite Corporation.

Chairman Sanders shared his thoughts regarding the Fones Cliffs development with the Board. (Attachment 2)

“On a motion made by John L. Haynes, the Board voted by roll call: F. Lee Sanders – nay; Richard E. Thomas – aye; Jean C. Harper – aye; John L. Haynes, Jr. – aye; Robert B. Pemberton – aye: to approve a rezoning request submitted by Diatomite Corporation of America, parcels further identified as 4-1, 4-2 and 5-30, and to include the most recent proffers submitted by Diatomite.”

OTHER BUSINESS

Mr. Thomas thanked all of the Veterans and wished everyone a Happy Thanksgiving. Mr. Thomas said there is a group of citizens that want to clean up a burnt out house on Sharps Road and he asked for ideas on funding the container box. Mr. Thomas questioned the IDA parking lot. Mr. Quicke said he realizes the parking lot is in bad shape and he will look into repairing the parking lot and the lights.

Mr. Haynes thanked the Veterans for all that they have done for our Country.

Mr. Pemberton shared his thoughts regarding the Fones Cliffs development. (Attachment 3)

Mr. Quicke reminded the Board that the Statement of Economic Interest forms are due on December 15, 2015. Mr. Quicke invited the Board to the retirement reception in honor of Wayne Emery, Rosa Forrester, and Edith Anne Sanders on December 14, 2015 from 4 to 6 p.m. in the General District Courtroom.

ADJOURNMENT

After no further business, Chairman Sanders adjourned the meeting.

A handwritten signature in cursive script, appearing to read "F. Lee Sanders", written over a horizontal line.

F. Lee Sanders, Chairman
Richmond County Board of Supervisors

PROFFER STATEMENT

APPLICATION: FONES CLIFFS RESORT AND SPA

Diatomite Corporation of America, ("the Owner") is the owner of certain real property known as Fones Cliff totaling approximately 976 acres, located in Stonewall Magisterial District, Richmond County, Virginia which is more particularly described as follows: Richmond County Tax Parcel 4-1, 4-2 and 5-30. The Owner has filed an application to rezone the Property from its current A-1 zoning classification to a mixed use residential and commercial project pursuant to various provisions of the Richmond County Zoning Ordinance (the "Zoning Ordinance"). In order to plan the future development of the Property in a manner conducive to goals and objectives of the Zoning Ordinance, the Owner agrees to meet and comply with the following proffers in connection with the development of the Property should the Owner's application to rezone the property be approved by the Board of Supervisors:

PROFFERS

1. The Property's golf course and ancillary business operations as depicted on the 7-9-14 conceptual Master Plan prepared by Lindsay Bruce Ervin, Inc. (hereafter the "Master Plan") is specifically allowed under the Property's current A-1 zoning, as stated in the Richmond County Zoning Ordinance under §2-2-2-12. Owner proffers that upon final approval and recordation of a subdivision plat, the land devoted to the golf course shall not be used for any other purpose but a golf course.
2. All portions of the Property referred to as Parcel 1 in the "Detailed Zoning Request" to be zoned B-1 to accommodate the lodging facilities and guests cabins, the restaurant and bar, the banquet, conference rooms and classrooms, the spa facilities and other complimentary uses (such as gift shops, wine tasting rooms, business services, clothing stores) shall not be used for any other B-1 use, not consistent with the zoning request and not consistent with services that can be found in a luxury resort.
3. The architecture of the Lodge and associated guests cottages will incorporate 18th and 19th century architectural features as commonly found in the Northern Neck of Virginia and other parts of Tidewater Virginia. The main portion of the Lodge will have an architectural

theme resembling Exhibit 1 and be built of brick and or of native stone. Design standards and construction materials will not be less than the design standards and construction materials listed below for single family housing. The cottages will have an architectural theme similar to small buildings and cottages that would have been present in the Northern Neck on farms in the 17th and 18th centuries and will have an architectural theme resembling the images in Exhibit 2.

4. The architecture of the 205 detached single family homes in Parcel 4 will incorporate 18, 19th and early 20th century architectural elements as commonly found in the Northern Neck of Virginia and other parts of Tidewater Virginia. The single family homes will have an architectural theme resembling the images in Exhibit 3.

5. The architecture of the 513 multi-family units in Parcel 4 will incorporate 19th century design themes as commonly found in Richmond's Church Hill and Lower Fan communities, as well as the communities of Old Town Alexandria and the Georgetown section of Washington, DC. The townhouse homes will have an architectural theme resembling the images in Exhibit 4.

6. A copy of the draft Fones Cliffs Design Standards are attached hereto as Exhibit 5 and proffered as part of this application. The type and quality of the building and construction materials used in all residential development shall be as listed in Article IV of the Design Standards.

7. The undeveloped R-3 portion of the Project, not incorporated into any residential lots, commercial uses, golf courses or any ancillary golf course uses shall be devoted to a perpetual use benefiting the homeowners and other fee simple owners of the Project. Pursuant to § 2-5-7 of the RCZO, the developer shall provide for and establish an organization or other legal entity for the perpetual ownership and maintenance of any common open space and other similar areas designated on the preliminary site plan, including, but not limited to, pedestrian ways, play lots, swimming pools, bathhouses, tennis courts, parking lots, water, and/or sewage systems and roads. **Any impervious uses in this common area shall be limited to 10% or less of the gross area of such common area. The remaining 90 % of such common area shall be devoted to "natural area" use as defined in Va Code 10.1-209 and shall have no impervious uses.** Such organization shall be created by covenants running with the land, and such covenants shall be included as part of a final site plan and subject to approval by the County Attorney and Board of Supervisors. A draft copy of the FONES CLIFFS RESORT AND SPA DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS is attached as Exhibit 6. A conceptual plan of hiking and equestrian trails and three small parks (Warren Fones Park, John Smith Park and Overlook Park is attached as Exhibit 7).

8. Parcel 4 shall have 7 community piers, all of which will conform to the size, dimensions and length guidelines listed in § 4-14-8 of the Richmond County Zoning Ordinance (the "RCZO"). No pier shall have more than two moorage slips. The location of the piers are identified on the "Pier Location Map" attached as Exhibit 8.

9. The applicant proffers that it will construct no less than 10 historical markers within the project to memorialize and commemorate local historic events and historic personalities native to the property and its surroundings. These memorials will be constructed of granite, marble, masonry or some other permanent material. One such granite marker will commemorate John Smith's encounter with the Rappahannock Indians in 1608, as is pictured in Exhibit 9. Such marker shall be constructed at the time that the first certificate of occupancy is issued for the first home. Applicant proffers to construct at least one new commemorative marker for every 60 dwelling units completed and sold.

10. The applicant proffers to surface treat all of Cliffs Road leading into the entrance of the project prior to a certificate of occupancy being issued for the first dwelling unit sold in the project. The applicant further proffers that it will surface treat or cause the surfaced treatment to occur for all of the portion of Carter's Wharf Road adjacent or utilized by the project prior to a certificate of occupancy being issued for the first dwelling unit sold in the project. In addition, the applicant will surface treat or cause the surface treatment to occur for all of Carter's Wharf Road by the time the 20th dwelling unit certificate of occupancy is issued. Such surface treatment will comply with VDOT standards.

11. The applicant proffers to provide fire hydrant coverage for the attached multi-family uses where exposure distances are less than 10 feet at a minimum flow rate of 250 gallons per minute for a minimum duration of 30 minutes. Detached building exposure distances greater than 10 feet or less than 10 feet with the proper UL exposure rating will not be required to have fire hydrant coverage.

12. The applicant proffers to provide Richmond County with a 3 acre parcel of land along a main road in the project to be dedicated for public use for the future site of a public safety facility that could house fire, police and rescue. This parcel will be conveyed to Richmond County contemporaneously with the recordation of the subdivision plat. The applicant further proffers that it will build a 3,000 square foot, 4 bay metal building on said parcel and deliver ownership of said building by the time a certificate of occupancy is issued on the 125th dwelling unit. **Such building will have a brick front with 14 foot bay doors and will be built to**

Virginia Building Code standards relating to snow loads and other structural requirements. The building will have an architectural theme resembling the image in Exhibit 10.

13. The applicant proffers that the Master Plan and the Detailed Zoning Request be part of the zoning approval, and also proffers that the non-binding, but proposed build out schedule (which illustrates applicant's good faith estimate of a realistic build out schedule) be included as an expression of the applicant's reasonable intentions in developing the property. Applicant further proffers to start the construction of the golf course before the first certificate of occupancy is issued for any residential unit to be sold on the property.

14. The applicant proffers that it will abide by all current setback requirements including all set back requirements prescribed Section 403.7 of the International Building Code.

15. The applicant proffers that it will abide by all applicable set back requirements as required by law and sound engineering practices and acknowledges that during Phase II of the zoning process the Board of Supervisors may make approval contingent upon adequate set back requirement as determined in its best judgment and discretion after evaluating all Phase II submittals and plans. **The applicant agrees to consult with the Board of Supervisors early in the Phase II process to obtain preliminary approvals for setback matters before proceeding with additional engineering plans that may be dependent on setback allowances.**

16. The applicant proffers that it will evaluate the trees along the embankment in accordance with the Shoreline Erosion Advisory Services and sound engineering practices. The applicant further proffers that during Phase II of the zoning process, it will submit geotechnical studies and engineering reports based on sound engineering practices detailing how it will mitigate erosion along the cliffs facing the Rappahannock River. Applicant further acknowledges that the Board of Supervisors may make Phase II approval contingent upon adequate cliff and shoreline erosion measures as determined by best engineering practices and in the judgment and discretion of the Board. **The applicant agrees to consult with the Board of Supervisors early in the Phase II process to obtain preliminary approvals for erosion control measures before proceeding with additional engineering plans that may be dependent on such erosion control measure being determined beforehand.**

17. **The applicant shall appear before the Board of Supervisors every 60 days at its regularly scheduled meetings to apprise the Board of its Phase II progress and to answer any questions the supervisors may have.**

18. The applicant proffers that upon Phase I approval, it will immediately commence the necessary engineering for Phase II approval.

19. The applicant proffers that after the first 120 residential units are constructed, it will not construct any new houses until 60 houses have certificates of occupancy.

20. The applicant proffers that after the first 320 residential units are constructed, it will not construct any new residential units until 70% of the existing residential units have certificates of occupancy.

21. The applicant proffers that after the first 550 residential units are constructed, it will not construct any new residential units until 80% of the existing residential units have certificates of occupancy. Nothing in these proffers shall limit the applicant's ability to build and develop all other uses of this zoning case.

22. The applicant proffers that it will comply with the applicable provisions of the Golden and Bald Eagle Protection Act.

23. **Third party inspections authorized by the County shall be conducted by licensed architects and engineers.**

24. The applicant proffers that it will consult with the Friends of the Rappahannock during the Phase II engineering process and that the applicant will meet with a representative of Friends of the Rappahannock every 45 days and seek input from such organization. The applicant further proffers that it will submit engineering plans during the Phase II zoning submittal process that are consistent with the Model Development Principles For the Central

Rappahannock, funded by the Environmental Protection Agency and the Chesapeake Bay Program.

WITNESS the following signature and seal:

DIATOMITE CORPORATION OF AMERICA

By: _____

Counsel

COMMONWEALTH OF VIRGINIA

COUNTY OF RICHMOND, to wit:

The foregoing instrument was acknowledged before me this 12th day of November, 2015 by Robert C. Smith, attorney for Diatomite Corporation

Denise -V. Dunaway

Notary Public

Commission No. 7085644
My Commission Expires June 30, 19

My commission expires:

Acceptance:

These Proffers herein have been accepted by action of the Board of Supervisors on November 12, 2015.

County Administrator

Notary Public

Denise -V. Dunaway

Commission No. 7085644
My Commission Expires June 30, 19

Attachment 2

We have been told build it and they will come, We built Folly Farms (87) Garland Lake (84) Woodyard (16) and Rappahannock Cliffs (40).

Only 1 has come to Folly Farms, 9 to Garland Lake, 5 to the Woodyard and 1 to Rappahannock Cliffs with no electricity.

Where is the need when we have 227 lots already and only 16 came.

Who's property rights will be lost when our quaint country roads need to be widen and straighten for our wealthy educated new neighbors.

The families that have lived for generations in our district will lose.

RCVFD Co. #3 has answered 11 calls for accidents on Newland Road this year, 4 in the last month.

Think about the people that this will affect every day while Rob Smith, Terrell Bowers and Diatomite Corp are somewhere else counting their money.

Mr Chairman, Board Members I have a couple of comments that will only take a few minutes so please bare with me.

In 2005? Richmond County fearing the potential for uncontrolled rapid growth revisited its ordinance concerning density. At the time a landowner could build 1 home for every 2.5 Acres. A tiered plan was adopted which allowed different levels of home construction depending on the size of the plot. The county ~~was~~ assured land owners who wished to increase the number of homes on their land that applying to rezone would be available and also relatively painless. As we can see that is not the case. Each of us desire to maximize the value of our assets. Some have accomplished this through Conservation Easements while others have used development. Neither side is wrong just different ways to satisfy the needs of the landowner. I believe in zoning. However I believe zoning ordinances were created to protect the land values of neighbors and not to destroy the property ~~and~~ rights of landowners.

Secondly I find the strategy of negative commentary towards an opponent both distasteful and unnecessary. Words such as Liars, Minions, and Slaveholders used in letters, advertisements, and spoken during public forums have not helped either cause. Rather they have only created an atmosphere of hostility and doubt. Making others look bad does not make you look good. Each of us on the board have made their decisions after countless hours of deliberation. Each decision is the correct one for that individual. I believe that friends, business associates, and leaders should be chosen based on their merits and not because they are the lesser of two evils.

Thank you for your time.

