

At a regular meeting of the Southampton County Board of Supervisors held in the Board Room of the Southampton County Office Center at 26022 Administration Center Drive, Courtland, Virginia on February 24, 2003 at 8:30 AM.

SUPERVISORS PRESENT

Reggie W. Gilliam, Chairman  
Eppa J. Gray, Jr., Vice-Chairman  
Carl J. Faison  
Dallas O. Jones  
Charleton W. Sykes  
Ronald W. West  
Walter L. Young, Jr.

SUPERVISORS ABSENT

None

OTHERS PRESENT

Michael W. Johnson, County Administrator (Clerk)  
J. Waverly Coggsdale, III, Assistant County Administrator  
Richard E. Railey, Jr., County Attorney  
Julia G. Williams, Finance Director  
Cynthia L. Cave, Community/Economic Development Director  
Susan H. Wright, County Administration Executive Secretary

Chairman Gilliam called the meeting to order at 8:30 AM and Supervisor Jones gave the invocation.

Chairman Gilliam sought approval of the minutes of the January 27, 2003 regular meeting. They were approved as recorded, as there were no additions or corrections.

Regarding highway matters, Chairman Gilliam recognized Mr. Randolph Cook, Resident Engineer of the Virginia Department of Transportation (VDOT).

Mr. Johnson announced that included in the agenda was correspondence from Stuart Waymack, VDOT's Director of Right of Ways and Utilities, regarding the public right of way use fee for FY 2004. The fee, imposed by the General Assembly in the 1998 session, was calculated by multiplying the number of public highway miles in the Commonwealth by \$425 per mile, then adding the number of feet in new telephone installations at the rate of \$1 per foot, and dividing that sum by the number of telephone lines in the Commonwealth. He advised that the fees were collected by local telephone companies and directly passed to consumers. The charge appeared on each consumer's monthly telephone bill on page 3 as "Public Rights-of-Way Use Fee." The fee would remain unchanged for FY 2004 at \$0.60 per access line. He informed that in all counties, funds were remitted by the telephone service providers to VDOT, which allocated them to construction improvement programs for secondary highways. Each county received its share of the funding in its secondary allocation on the basis of population.

Mr. Johnson reported that the six-year program update meeting for the Hampton Roads District was scheduled for Thursday, March 27, 2003 at 9:00 AM at the Hampton Roads Planning District Commission offices. The Commonwealth Transportation Board was seeking local government feedback to help identify critical highway needs for 2004-2009. He suggested that despite limited funding, they make a strong push for the proposed overpass on U.S. Route 58 east of Courtland. He advised he would be pleased to enlist as many speakers as possible for that day. The Board was in agreement with Mr. Johnson.

Mr. Cook agreed and stressed that they needed to let them know that after much dialogue with the Corps of Engineers and Environmental Protection Agency (EPA), they had all the plans and permits in place, good for the next 8 years, and the only thing lacking was the financing. He added that any other concerns about the primary system needed to be addressed at that meeting.

Mr. Cook reported that the railroad crossing in Boykins would close this morning and should reopen Wednesday afternoon. The detour should be well marked and in place and there would

be an emergency crossing for cars only. He announced that next Monday morning the railroad crossing in Branchville would close and reopen on Wednesday unless the schedule changed.

Mr. Cook announced that VDOT was aware of the drainage problems caused by the substantial amounts of precipitation and was working to fix them. However, he requested that significant problems be reported to him or one of the VDOT superintendents.

Supervisor West advised that some time ago he had mentioned a ¼ mile dirt road called Tarra Lane (Route 756). The road was very unimproved, as there were no houses or anything on it. It was more of a private road and basically a nuisance to the County. He stated he had talked to Mr. Virgil Wall of VDOT about having it removed from the system. He asked Mr. Cook if he would follow through on that? Mr. Cook replied (with confirmation from Mr. Johnson) that he would prepare a resolution for such.

Supervisor West asked if anything could be done to circumvent the present rules and regulations regarding outfall ditches, which was a major problem? Mr. Cook replied no, the rules would likely get tougher if anything. He advised that VDOT would not go in an outfall ditch without an easement and they would not go in it more than 200 or 300 feet from the road regardless of its length. If there was a problem that directly affected the road and there was an easement, they would try to do something about it. He informed that it had to be approved by the environmental agency and sometimes they would authorize them to go in and remove debris only (e.g. limbs, leaves), and restrict them from removing any clean out. He added that if an outfall ditch was in an area considered wetlands, even if it had an easement, it was an entirely different scenario.

Supervisor West advised that Wombles Mill Road where Virgil Wall lived was low and had a lot of flat surfaces. He asked Mr. Cook if that road could be pushed to be built up with plant mix? He stated that Virgil did not want to request it, and he appreciated his modesty, but it needed it. Mr. Cook advised that that road carried less than 200 vehicles per day and it was unlikely it would get plant mix, but they would do what they could to reshape it. There were so many other roads such as Routes 687 and 635 that carried 750-800 vehicles per day that needed attention. They had to work on those roads first and with limited funds.

Proceeding to appointments, regarding the Suffolk Shelter for the Homeless, Inc., Supervisor West informed that Mrs. Mildred McClenney, the possible candidate he suggested last month to be appointed to the Board of Directors of that organization, had declined the appointment because it would entail too much getting out for her. (She is 81 years old). However, she recommended someone whom he thought would accept the appointment. He advised he would still like the opportunity to fulfill the appointment. The Board was ok with that.

Continuing with appointments, regarding the Social Services Board, Supervisor West pleasingly announced that Mr. Henry J. Hicks of 14185 Appleton Road, Ivor, had graciously accepted the appointment and looked forward to serving on that Board. He mentioned he had already spoken to Mrs. Jane Maddrey, Director of Social Services for Southampton County. He added he thought the addition of a male on the present all-female Board and Mr. Hicks' activeness in and knowledge of the community would be positive for that Board.

**The aforementioned statements by Supervisor West were understood to be in the form of a motion. Supervisor Jones seconded the motion. All were in favor, thus the motion passed unanimously.**

Regarding monthly reports, Mr. Johnson received various monthly reports and provided them in the agenda. They were Financial, Sheriff's Office, Traffic Tickets for 2003, 9-1-1 Sign Repair, Animal Control, and Building Inspections. Also New Housing Starts, Cooperative Extension, Delinquent Tax Collection, Daytime E.M.S. Contract, Fire and Rescue Reports, and Personnel.

Mr. Vernie Francis, Sheriff of Southampton County, addressed the Board. He announced he wanted to give the Board a brief update of what was transpiring with State budget reductions concerning the Sheriff's office. Nothing had been finalized, however, it looked like the information he had received would closely reflect the final outcome. He reported that his (the Sheriff's Office) budget reduction reimbursement from the State would be reduced by \$66,915 in the present budget year and anticipated it to be reduced by \$131,313 in the upcoming budget year, for a total reduction of \$198,228. He advised that he and his staff had already started

looking at how this would impact them and what actions to take. They had begun taking actions, which he referred to as "Phase 1". They had looked at their statutory requirements (what the code required them to do and provide), and knew they would have to continue those things. They had looked at the non-statutory things they were providing and determined they would have to look at those case-by-case. Only those in which funds were available would have a chance of continuing. He informed they were going to reduce staff by 3 deputy sheriff positions. They had instituted a fuel reduction policy to cut fuel consumption, and were also in the process of converting the jail farm to a total work release facility.

Sheriff Francis continued that they were entering into an agreement with Smithfield Foods and would have an entirely new crew going there, which should increase their enterprise efforts. The community work programs they had been carrying out would probably be reduced by 95%. However, they did plan to continue grass cutting and such for Southampton County. They had also decided to no longer respond to stray cats (a non-statutory requirement). Thus, they had developed and would implement a trap policy for citizens who may want to trap their own cats. They had instituted an internal paper reduction policy in which 40+ forms throughout the jail operation had been eliminated. They were implementing a postage reduction policy and encouraging the use of internal and external email. In addition, they were doing many other little things on a day-to-day basis to try and deal with the budget reductions. He advised he was not asking for money today, but just wanted the Board to know what the Sheriff's Office was facing, and that he and his staff were working with Mr. Johnson and his staff to deal with the situation.

Mr. Johnson announced in reference to the personnel report, there were several personnel changes. Cynthia L. Cave was hired as the new Community/Economic Development Director effective January 27, 2003 at an annual salary of \$60,000. Joni N. Necessary was hired in the Sheriff's Office effective February 1, 2003 at an annual salary of \$19,949. Arthur L. Banks of the Courtland Wastewater Treatment Plant was promoted to an annual salary of \$20,395 effective January 1, 2003. Ben G. Davis and Sally Hale resigned from the Sheriff's office effective January 15, 2003 and January 12, 2003 respectively. J. Michael Blythe and Raymond E. Merkh of the Sheriff's office began active military leave effective February 10, 2003 and January 1, 2003 respectively.

Proceeding to financial matters, bills in the amount of \$981,684.20 were received. **Vice-Chairman Gray moved, seconded by Supervisor Young, that the bills in the amount of \$981,684.20 be paid with check numbers 54428 through 54871. All were in favor, thus the motion passed unanimously.**

Mr. Johnson announced that included in the agenda was correspondence from the Hampton Roads Planning District Commission (HRPDC) seeking the Board's consideration of a written agreement to formalize the Regional Stormwater Management Program. The program had been operated by the HRPDC for the last 12 years, but a written agreement had never been established. He informed that while Southampton County did not manage a municipal storm sewer system, certain operational and reporting requirements were nonetheless imposed by the Virginia Stormwater Management Act and the Virginia Erosion and Sedimentation Control Law. Since inception of the program, the 16 local governments in the Hampton Roads region had worked collectively and cooperatively to develop and implement stormwater management programs that addressed implementation of best management practices, system maintenance, water quality testing, enforcement of program standards, and public education. He advised that the group's public education and information subcommittee, known as HR STORM worked to cultivate a region-wide pollution prevention ethic that would protect and enhance area waterways through stormwater education.

He continued that HR STORM's goals included increasing public understanding of stormwater issues, augmenting and enhancing local stormwater education programs, and increasing participation by the general public in programs and activities to reduce stormwater pollution. He noted that by sharing ideas and pooling resources, localities could reduce their costs in addressing state and federal permit requirements. He stated that the HRPDC facilitated monthly meetings of the Regional Stormwater Management Committee where member communities coordinated efforts in water quality data gathering and pollutant loading studies. That data enabled localities to better target future program dollars to help improve the management of the quantities of, as well as improving the quality of stormwater entering local water bodies. He advised that the written agreement (formalizing the Regional Stormwater Management Program)

did not change the method of funding the program, as Southampton County's pro-rata share of the \$150,000 program would remain unchanged in FY 2004 at almost \$2,300.

The agreement is as follows:

**MEMORANDUM OF AGREEMENT  
ESTABLISHING THE  
HAMPTON ROADS REGIONAL STORMWATER MANAGEMENT PROGRAM**

**WHEREAS**, Section 15.2-4200 of the Code of Virginia enables local governments to establish Planning District Commissions; and

**WHEREAS**, the sixteen local governments that are signatories to this Agreement have acted, in accordance with Section 15.2-4200 of the Code of Virginia, to establish the Hampton Roads Planning District Commission; and

**WHEREAS**, the Hampton Roads Planning District Commission has been requested and has undertaken various studies to support local government stormwater management programs, including compliance with VPDES Permits; and

**WHEREAS**, the signatory local governments have requested the HRPDC to administer and coordinate a regional stormwater management program on their behalf; and

**WHEREAS**, pursuant to the Clean Water Act, the U.S. Environmental Protection Agency has promulgated implementing regulations, 40 Code of Federal Regulations Part 122, which established the National Pollutant Discharge Elimination System (NPDES) Permits for Municipal Separate Storm Sewer System Discharges; and

**WHEREAS**, pursuant to the State Water Control Law, the State Water Control Board has promulgated implementing regulations, 9 VAC 25-31-10 (Phase I) and 9 VAC 25-750 (Phase II), which established the Virginia Pollutant Discharge Elimination System (VPDES) requirements that localities obtain such permits for their Municipal Separate Storm Sewer System Discharges; and

**WHEREAS**, the majority of the sixteen signatory local governments are required by their VPDES Permits to conduct certain activities, including reporting on their discharges, the conduct of public information and education programs, and certain other activities; and

**WHEREAS**, the Chesapeake Bay Preservation Act, the Virginia Stormwater Management Act and the Virginia Erosion and Sediment Control Law and implementing regulations also establish stormwater management requirements that govern one or more of the sixteen signatory local governments.

**NOW THEREFORE**, the signatory parties enter into the following Agreement.

This Memorandum of Agreement, entered into this \_\_\_\_ day of \_\_\_\_ 2003, among and between the sixteen cities and counties in Hampton Roads and the HRPDC, establishes the Hampton Roads Regional Stormwater Management Program.

**BASIC PREMISES**

All local governments in Hampton Roads operate municipal separate storm sewer systems (MS4).

The Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth and Virginia Beach received VPDES Permits in 1996. Those permits, which were renewed in 2001, govern the discharges from their MS4 to waters of the State and impose certain operational and reporting requirements on those systems. These permits must be renewed on a five (5) year basis with the next renewal scheduled for 2006.

The Cities of Poquoson, Suffolk and Williamsburg and the Counties of Gloucester, Isle of Wight, James City, and York have all been identified by the U. S. Environmental Protection Agency as requiring VPDES Permits under Phase II of the MS4 Regulations. They will be required to obtain a permit in March 2003. Those permits will also impose certain operational and reporting requirements on those systems. The permits will require renewal on a five (5) year basis beginning in 2008.

The City of Franklin and the Counties of Southampton and Surry are governed by stormwater management requirements established under the Virginia Stormwater Management Act and the Virginia Erosion and Sediment Control Law. Surry County is also governed by the Chesapeake Bay Preservation Act. Those requirements also impose operational and reporting requirements on the localities.

The aforementioned local governments are interested in managing stormwater in a manner which protects and does not degrade waters of the State and which meets locally established quality of life goals and objectives. The VPDES permits require that stormwater be managed to the maximum extent practicable.

In carrying out their stormwater management responsibilities, the aforementioned local governments have developed a consensus on regional goals to guide the operation of their stormwater management programs. Initially, approved by the Hampton Roads Planning District Commission at its Executive Committee Meeting of September 15, 1999, they are:

1. Manage stormwater quantity and quality to the Maximum Extent Practicable (MEP)
  - Implement Best Management Practices (BMP) and retrofit flood control projects to provide water quality benefits.
  - Support site planning and plan review activities.
  - Manage pesticide, herbicide and fertilizer applications.
2. Implement public information activities to increase citizen awareness and support for the program.
3. Meet the following needs of citizens:
  - Address flooding and drainage problems.
  - Maintain the stormwater infrastructure.
  - Protect waterways.
  - Provide the appropriate funding for the program.
4. Implement cost-effective and flexible program components.
5. Satisfy VPDES stormwater permit requirements:
  - Enhance erosion and sedimentation control.
  - Manage illicit discharges, spill response, and remediation.

This Agreement establishes the administrative framework, which will be used by the local governments in Hampton Roads to address certain stormwater management requirements under the above-cited state and federal laws and regulations.

All sixteen local governments that are members of the Hampton Roads Planning District will be participants in and signatories to the Agreement.

#### **HRPDC RESPONSIBILITIES**

The Hampton Roads Planning District Commission will serve as the policy-making body of the Hampton Roads Regional Stormwater Management Program with the concurrence of the signatory local governments.

Under the terms of this Agreement, the HRPDC is responsible for the following:

Establish the Regional Stormwater Management Committee (RSMC), which will be the technical decision-making body of the Hampton Roads Regional Stormwater Management Program. It will provide technical and policy advice to the HRPDC.

Provide the necessary administrative, technical and clerical resources to support all program activities directed by the RSMC in order to ensure that the permit-holding cities and counties meet applicable stormwater management requirements, including the agreed upon provisions of the VPDES Permits.

Prepare, in cooperation with the RSMC, an Annual Work Program and Budget for the Hampton Roads Regional Stormwater Management Program. The Annual Work Program will be incorporated into the HRPDC Unified Planning Work Program and the Annual Budget will be incorporated in the HRPDC Budget.

Assist the signatories in coordinating reporting on stormwater related activities to other state and federal agencies to ensure that program requirements are met in a cost-effective manner, which minimizes duplicative reporting and the administrative burden on the signatories.

Conduct a regional stormwater education program. This will include public education activities and may include outreach to specific economic sectors and groups. The Public Information and Education Subcommittee (HR STORM) will be responsible for guiding the development of original materials, including publications, media advertising and promotional items. This may also include development of locality-specific materials or coordination of bulk purchases. The Public Information and Education Subcommittee will advise the RSMC on the educational and outreach components of the Hampton Roads Regional Stormwater Management Program.

Develop and conduct a regional training program for municipal employees, contractors, civic leaders and so forth. The training program will emphasize stormwater management, pollution prevention and permit issues.

Respond equitably and in a timely fashion to requests from all signatory local governments for technical assistance. The time frame for responses will be based on experience, the complexity of individual requests and the overall work load of program staff.

Provide other technical support, as requested, to the signatory local governments.

Develop staff capability to conduct more comprehensive activities, including stormwater discharge impact analyses and modeling in support of local programs.

Facilitate development of multi-jurisdictional management plans for shared watersheds. This may include conducting necessary technical analyses.

Take steps, in conjunction with the signatory local governments, to obtain financial support for program activities from outside sources, including state, federal and private grants.

Contract with and manage consultants, including both private firms and academic institutions, to support the regional program, including provision of requested services to local governments in excess of the common program elements.

Represent the Program at federal, state, regional and local governmental, civic, professional and political organizations, agencies and committees.

Prepare annual program reports, which comply with the provisions of the individual VPDES Permits of the signatory localities. The basis for this reporting will be the Regional Indicators of Stormwater Management Program Effectiveness, developed through the HRPDC in 2000.

Prepare an Annual Report of activities undertaken through the Hampton Roads Stormwater Management program. This report will include summaries of related activities undertaken on a cooperative basis by the signatories.

Coordinate the compilation of regional data for the Annual Reports to the DEQ.

### **Regional Phase II Program**

The HRPDC will be responsible for undertaking certain activities to enable localities permitted under Phase II, and participating in the Regional Phase II Program, to comply with the terms of their MS4 Permits. These activities include:

Operate the regional stormwater management and pollution prevention training programs for local government employees. This program will be one element of the local programs to meet the Pollution Prevention/Good Housekeeping for Municipal Operations Minimum Management Measure and the education component of the Illicit Discharge Detection and Elimination Management Measure.

Operate the stormwater public information and education program. This program will be one element of the local programs to meet the Public Education and Outreach Minimum Management Measure and the education component of the Illicit Discharge Detection and Elimination Management Measure.

Develop and maintain a Best Management Practices (BMP) Tracking System. This system will serve as one element of the local programs to meet the Construction Site Stormwater Runoff Control and Post-Construction Stormwater Management in new Development and Redevelopment Minimum Management Measures. The BMP Tracking System is a component of the Regional Indicators of Stormwater Management Program Effectiveness.

Develop and maintain an Illicit Discharge Tracking System. This system will serve as one element of the local programs to meet the Illicit Discharge Detection and Elimination Minimum Management Measure. The Illicit Discharge Tracking System is a component of the Regional Indicators of Stormwater Management Program Effectiveness.

Develop Annual Report format template and reporting protocols to be used in completing Annual Reports to the Department of Environmental Quality and other agencies as appropriate.

Assist the localities with MS4 Permits issued under Phase II of the Program with ongoing program development and evaluation and preparation of applications for permit reissuance.

### **LOCAL GOVERNMENT RESPONSIBILITIES**

Under the terms of the Agreement, the signatory local governments are responsible for the following:

Appoint a representative and alternates, as appropriate, to the Regional Stormwater Management Committee.

Appoint a representative and alternates, as appropriate, to the Public Information and Education Subcommittee (HR STORM).

Provide, in a timely fashion, all locally generated data required by their VPDES Permits and such other data as may be necessary to accomplish locally requested services. This may include data necessary to meet the Annual Reporting requirements of other programs.

Provide timely technical review of HRPDC analyses and conclusions.

Provide technical recommendations to local representatives on the HRPDC, the policy-making body of the Hampton Roads Regional Stormwater Management Program (HRPDC).

Support HRPDC efforts to obtain additional funding to support the regional program.

Comply with all terms of their VPDES Permits and related program requirements.

Provide annual funding to support the agreed-upon regional program.

#### **ROLE OF THE REGIONAL STORMWATER MANAGEMENT COMMITTEE**

The RSMC will consist of one voting representative of each signatory, appointed by the Chief Administrative Officer of the signatory local government. One or more alternates may be formally designated by the CAO.

The term of membership on the RSMC will be at the pleasure of the Chief Administrative Officer.

The RSMC may elect a Chairman and Vice-Chairman from among its membership. The HRPDC staff will serve as Secretary for the RSMC.

Ex officio members of the RSMC will include representatives of the Hampton Roads Sanitation District, U.S. Navy and the Virginia Departments of Environmental Quality, Conservation and Recreation, Chesapeake Bay Local Assistance and Transportation.

Generally, the RSMC will operate on a consensus basis. All consideration of and recommendations concerning the Annual Work Program and Budget will require a majority vote of the RSMC membership. Each signatory is entitled to one (1) vote on the RSMC.

The RSMC will provide technical and policy recommendations to the HRPDC, which is the policy-making body of the Hampton Roads Regional Stormwater Management Program. It will provide day-to day technical guidance on behalf of the signatory local governments to the HRPDC staff.

Various subcommittees may be established by the RSMC to facilitate operation of the Hampton Roads Regional Stormwater Management Program. The Public Information and Education Subcommittee (HR STORM) is a standing subcommittee of the RSMC.

#### **METHOD OF FINANCING**

For Fiscal Year 2004 (July 1, 2003 – June 30, 2004), costs for the Hampton Roads Regional Stormwater Management Program will be \$150,000 and will be allocated according to the formula, approved by the participating localities and used during previous Fiscal Years.

For Fiscal Year 2004, costs for the Phase II component of the Hampton Roads Regional Stormwater Management Program will be \$100,000. Costs will be allocated among the participating Phase II communities according to a formula being developed by localities participating in the Regional Phase II Program.

Beginning with Fiscal Year 2005 (July 1, 2004), program costs will be allocated on a pro-rata basis among the local governments. There will be a base buy-in per participating local government with the balance of annual costs allocated according to a formula reflecting the local share of regional population. Formula details will be developed by the RSMC and approved by the HRPDC with the concurrence of the signatory local governments. The most current estimate of population developed by the Weldon Cooper Center for Public Service/Virginia Employment Commission, will be used as the population base for allocating program costs. Local contributions may be adjusted on an annual basis to reflect program experience and projected program

expenditures necessary to satisfy permit requirements and local needs.

Individual local governments may request specific services from the HRPDC, which are in excess of the program elements common to all participants. The cost of such services will be borne by the requesting locality or localities.

When appropriate, financial support from other entities, such as state and federal agencies, and the private sector will be sought and obtained to support the activities of the Hampton Roads Regional Stormwater Management Program.

#### **AVAILABILITY OF FUNDS**

Performance by the HRPDC of its responsibilities under this Agreement is subject to the availability of funding from the signatory local governments. Failure of the local governments to provide the necessary funding to support these activities will constitute a Notice to Modify or Terminate the Agreement.

#### **MODIFICATIONS**

Modifications to this Memorandum of Agreement must be submitted in writing, recommended for approval by the Regional Stormwater Management Committee, approved by the Hampton Roads Planning District Commission, and accepted by all signatories.

#### **DURATION AND TERMINATION**

This Agreement will have a term of five (5) years, extending from the date of full execution by the signatories through December 31, 2007. This will be concurrent with the first cycle of Phase II VPDES Permits. To conform to local government charter and Virginia Code requirements, the funding provisions of this Agreement will be subject to annual appropriations.

No later than January 1, 2007, the signatories will institute a formal reevaluation of the Hampton Roads Regional Stormwater Management Program. This reevaluation will serve as the basis for appropriate modification of the Agreement and the Hampton Roads Regional Stormwater Management Program.

Any signatory may terminate its participation in the Hampton Roads Regional Stormwater Management Program by written Notice To Terminate to all other parties. Such termination will be effective with the start of the following Fiscal Year. Depending upon the terms of individual VPDES Permits, termination of participation in the Hampton Roads Regional Stormwater Management Program in the middle of a permit term may result in changes to permit conditions and require renegotiation of the individual locality's VPDES Permit from the state (Virginia Department of Environmental Quality.)

#### **OWNERSHIP OF PROPERTY**

It is not the intent of the signatories that the Memorandum of Agreement will result in the purchase, ownership, leasing, holding or conveying of any real property.

#### **INDEMNITY**

It is the intent of the signatories that no signatory will be held liable for any damage or associated penalties caused by or associated with the failure of any other signatory to discharge its duties or to exercise due diligence in discharging its duties under this Agreement, and that no signatory, by entering this Agreement, waives any defenses or immunities available to it at law, including, but not limited to, those set forth in Section 15.2-970 of the Code of Virginia.

It is the intent of the signatories that no signatory will be held liable for any damage or associated penalties caused or associated with the failure of any other signatory to comply with the terms and conditions of the signatory's VPDES Permit.

**LIST OF SIGNATORIES**

CITY OF CHESAPEAKE

CITY OF FRANKLIN

GLOUCESTER COUNTY

CITY OF HAMPTON

ISLE OF WIGHT COUNTY

JAMES CITY COUNTY

CITY OF NEWPORT NEWS

CITY OF NORFOLK

CITY OF POQUOSON

CITY OF PORTSMOUTH

SOUTHAMPTON COUNTY

CITY OF SUFFOLK

SURRY COUNTY

CITY OF VIRGINIA BEACH

CITY OF WILLIAMSBURG

YORK COUNTY

HAMPTON ROADS PLANNING DISTRICT COMMISSION

This listing of participants will be followed by individual signature pages

**IN WITNESS THEREOF**, the Chief Administrative Officer of the local governments and the Executive Director of the Hampton Roads Planning District Commission hereby execute this Agreement.

HAMPTON ROADS PLANNING  
DISTRICT COMMISSION

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

**Supervisor Jones made a motion authorizing the County Administrator to endorse the agreement on behalf of Southampton County. Supervisor Sykes seconded the motion. All were in favor, thus the motion passed unanimously.**

Mr. Leland E. Beale, Jr., who had obtained permission prior to the meeting to address the Board, came forward to speak. He stated he was representing Citizens for Responsible Government and wanted to let the Board know that his group was still present and active and intended to monitor the (FY 2004) annual budget as they had tried to do since 1993. He advised they believed in standardizing the tax rates and not bringing grief to the landowners and real estate owners who paid a large part of the taxes in the County. He then spoke of the agricultural act that was signed into law by the President on May 13 of last year in the middle of peanut planting season. It was a 6-year act, one year of which was already expired. Most people thought it would not be applicable to 2002 but it was. He reported that prior to that act, a ton of peanuts was \$610, and the act brought the price down to \$355. In addition, rental property (farms) were cut 50%. He informed that he recently acquired a copy of a notice in Northampton County, North Carolina that stated, "By order of the Board of Equalization and Review, the peanut quota value will be deleted from our real property listing for the tax year effective 2003." He asked the Board to consider that notice when preparing the budget.

He made known that he certainly liked hearing that Sheriff Francis had taken over to try and get his budget in order, and the Board could take a note from that and get the County's budget in order. He advised that, as the Sheriff was doing, they needed to start out with what they thought they needed and had to have, and then find out how much revenue was expected. He mentioned that his group was interested in all taxation, but particularly in real estate taxation. He noted there was a big hit last year (in real estate taxation). He stated that his group understood that the Governor was trying to get the State's budget in order and had to make some cuts to do it, although they were not defending him. He told the Board that it would be best if the budget could be reduced by attrition. If a staff member left due to retirement or some other reason, he encouraged the Board to look at the position very closely before filling it, along with all the other things that went along with budgeting. He mentioned that his group was not always necessarily against tax increases, but the increases in the past had been astronomical. He stated that 6-12 farms in the County were sold last year, and the tax assessment on land values would be based on such, but it was not truly representative because the farms were probably sold to a doctor in Virginia Beach. You would get hit with the assessment and the tax rate. He stressed that the peanut act, which would be with us 5 more years, had destroyed the peanut industry in Southampton County. He would be surprised if there would be 10,000 acres of peanuts planted in the County this year, compared to 23,000 acres in the past. He advised that he hoped the Board would look at the budget especially careful this year in view of the State budget cuts and the peanut industry. He thanked the Board for allowing him the time to speak.

Moving forward to public hearings, Waverly Coggsdale, Assistant County Administrator and Secretary of the Planning Commission, announced the first public hearing was as follows:

The application of Futures Academy, Inc. (applicant) and Holiday Properties, Inc. (owner) for a conditional use permit in accordance with Section 18-37(38) of the Southampton County Code to permit a private residential school for foster care youth. Said request is on property identified as Tax Map 82, Parcels 10 & 11, and located off the north side of Ivey Tract Road (Route 662) approximately 1.5 miles south of its intersection with Hicks Ford Road (Route 615). The properties contain approximately 243 acres, zoned Agricultural District (A-1), and located in the Drewryville Magisterial District.

Mr. Coggsdale advised that the Southampton County Planning Commission at its December 12, 2002 meeting conducted a public hearing in regards to this application. They deferred action until a meeting could be held between Futures Academy and representatives of the Southampton County Department of Social Services, Southampton County Public Schools System, and the Southampton County Sheriff's Office. This meeting was held the morning of Thursday, January 9, 2003, with the three representatives taking no formal position on the application at that time, but indicating they may do so after reviewing the information received. He advised that the Southampton County Planning Commission considered the application under "Old Business" at its January 9, 2003 meeting and recommended its approval with the following conditions:

- 1) No more than ninety (90) cadets at any one time in the program;
- 2) A six foot (6') fence be installed around the perimeter of the facility;
- 3) No firearms/weapons be permitted on the site;

- 4) Development of the site be in accordance with the submitted site plan entitled "Conceptual Site Layout Plan of Futures Academy, Inc." dated 10/24/02 and created by MSA; and
- 5) The use be operated and the site be developed in accordance with all federal, state, and local laws and regulations.

Chairman Gilliam reminded this was a public hearing and asked that members of the public desiring to speak in favor of or opposed to the conditional use permit come to the podium and state their case.

Mr. Larry Jacobs, Vice-President, and Ms. Tari Darr, President, of Futures Academy, Inc. approached the podium to address the Board. Mr. Jacobs introduced Ms. Darr and himself. Mr. Jacobs then more or less read aloud the following letter dated February 13, 2003 that he had addressed to and previously mailed to Waverly Coggsdale:

Pursuant to our meeting with the Southampton County Planning Board on January 9<sup>th</sup> 2003, a meeting was held by the Futures Academies Inc. Board of Directors. The Futures Academies Inc. Board of Directors raised serious concerns and objections relative to the conditions set forth in our "conditional use permit" approval.

It is the unanimous decision of the Futures Academies Inc. Board of Directors to appeal the conditions for usage as set forth in the meeting of January 9<sup>th</sup> 2003. I will, as the representative for Futures Academies Inc., attend the public hearing scheduled for February 24<sup>th</sup> 2003 and express our objections at that time.

Set forth below you will find a list of our concerns and objections.

1. The Futures Academies Inc. Board of Directors object to the condition that we are required to place a six-foot high fence around the entire campus area, which is in excess of sixty acres. We are neither prepared nor willing to spend in excess of twenty five thousand dollars to comply with that condition. Futures Academies Inc. finds that to be punitive from a financial standpoint. From a practical standpoint it would cause our Academy to take on the atmosphere of a correctional facility. The fencing requirement has no basis or merit from the standpoint of a security measure. Futures Academies Inc. is not willing to accept this "condition" for those two reasons. As was stated in the planning commission meeting Futures Academies Inc. may elect at some future point in time to place some type of fencing on our property.
2. The Futures Academies Inc. Board of Directors object to the condition that we are only permitted to serve a maximum of ninety children at any given time. Futures Academies Inc. finds this condition to be unacceptable in that our business is being restricted from expansion without the expressed consent of the Board. As we stated in our presentation to the Board, our present construction plans are based on a maximum capacity is ninety children. Should we plan expansion to our program at this location we will already be required to meet the applicable space and facility guidelines of the State Department of Social Services as they related to a residential facility. (We have chosen to purchase the amount of land, 244 acres, in anticipation of our future expansion.) This condition, as set forth in our "conditional use permit" would restrict our plans for expansion. I am not aware of any similar restriction to any other business in Southampton County.
3. The Futures Academies Inc. Board of Directors object to the imposed written condition that no firearms be permitted on the property at any given time. Certainly, we do not want and will not allow firearms on our property. That has already been adopted as a corporate policy by Futures Academies Inc. Our concern is pursuant to this condition we would be required to stop and search each and every person and vehicle entering our property. In light of our extending use of our sports complex facility to county residents and the fact that Southampton County has many residents carrying firearms in their vehicles, this condition would be nearly impossible to enforce. Because our usage of this property is conditional, any accidental oversight or violation of the condition could be the basis for our "conditional use permit" to be revoked by the County. Thus our operations would be immediately halted and Futures Academies Inc. would suffer a financial catastrophe.
4. Futures Academies Inc. has no objection to the condition that all federal, state, and local laws and regulations be followed and obeyed. Futures Academies welcomes the opportunity to work with any and all agencies and officials in ensuring our Academy is meeting and exceeding any requirements or regulations.

I am sure that you can appreciate the objections that Futures Academies Inc. has listed here. Futures Academies Inc. hopes that these objections can be immediately remedied to our satisfaction.

The Futures Academies Inc. Board of Directors has directed me as Vice President to notify the Southampton County Board of Supervisors that there is no room for negotiation in this matter. Further, should the Southampton County Board of Supervisors elect not to remove all of these "conditions" as set

forth by the Southampton County Planning Board, Futures Academies Inc. withdraws its application for a "Conditional Use Permit", as it relates to this property, effective February 24, 2003.

Ms. Darr added that with the "no firearms" condition, Lloyds of London, their last insurable agency, (to allow use of the sports complex) would not insure the property, as to fully abide by that condition would entail the employment of persons with metal detectors and officers at every entrance to check the vehicles.

Mrs. Doris Rawls Miller addressed the Board. She advised she was born on, currently lived on, and her family had lived on Ivey Tract Road for over 300 years. The scene there was precious and scarce and worth being preserved for future generations. She stated she would appreciate Mr. Jacobs answering citizens' questions about the project. Chairman Gilliam advised her this was a public hearing and not a question and answer period. She frustratingly agreed to just state the questions which were: What is the capitalization of Futures Academies, Inc.? Who are the corporate officers? Has any grant been approved for this project? If so, what was the amount requested? From whom was it requested? When will it be received? What type of licensing approval have you received from the governing authorities? Will the State of Virginia be required to pay for facilities and training of students from Washington D.C., Maryland, and other states? If not, what provision will be made for funding out of state students? She advised that an article in the paper (*The Tidewater News*) dated February 20, 2003 stated that Mr. Jacobs of Futures Academies stated they had developed a state of the art program to provide required training and educational services to foster care youth ages 15-17. They were working closely with the Virginia State Board of Education and Southampton County School System to develop an educational program that met all required state guidelines. She stated that two members of the State Board had informed her that they knew nothing about the program or its development.

Mrs. Miller stated that after the Zoning Board (this and all subsequent references to the Zoning Board by her were actually referring to the Planning Commission) approved the request, she and others spoke with hundreds of Southampton County residents. She also met with a County official for over an hour voicing objections. His answer to her was that the Board (of Supervisors) would consider none of those objections, as their only concern and vote would be on "land use". She advised that the residents thought their opposition to the project should be considered along with "land use". Many more residents wanted to attend this public hearing but had to work or had other appointments. Realizing their objections should be noted, she drew up petitions on Friday night and distributed them on Saturday from 10:00 AM-7:00 PM to Courtland, Capron, Drewryville, Boykins, Branchville, Adams Grove, and throughout the County, obtaining over 100 signatures in opposition to the project. Ms. Koren Edwards of 32012 The Hall Road, Branchville, provided a statement on the back of a petition stating that further information was needed by the community for residents to support the facility. Mr. Jones of Concerned Citizens of Branchville provided a statement on a petition as well. It stated that Concerned Citizens of Branchville and surrounding communities were opposed to the rezoning (it was actually a conditional use permit) of a quiet residential area where people had settled to live a nice quiet lifestyle. They did not feel they had been fully informed of the true type of operation Futures Academies was proposing. Many different explanations were floating in the general public, and the citizens deserved to be completely informed of true and correct information to allow them to make a decision in support of or not in support of such a facility. As members of the community, they opposed the whole program.

Mrs. Miller advised that one group returned the petitions unsigned. She was informed they did not sign because they had been told it was a private endeavor and were unaware of it being funded by federal or state funds. They were also told that since no one attended the Zoning Board meeting to protest, and the tax revenue was needed, the Board approved it. She stated for the record that she, her husband John Miller, and Jerry Grizzard did attend the first meeting (Planning Commission public hearing for this application) and voiced their objections. The Board did not make a decision that night but talked it over and stated it would probably be February before they had time to talk to with the School Board, Sheriff's Office, and others. When she met with the County official, she learned that a meeting had been held in January. She noted that the date on the sign placed on Ivey Tract Road (at the proposed site) was not changed to reflect that meeting date.

Mrs. Miller stated that Congress was 5 months late in finishing the current fiscal year budget. When this experiment (of Futures Academies) was first proposed by the federal government, it

was not anticipated that budget surpluses would vanish followed by huge deficits at federal and state levels. She advised that a state senator had told her that no money was available at this time nor would be in the foreseeable future for this experiment. She saw no necessity for approval of the rezoning request (actually a conditional use permit) at the present time. She noted that last Thursday's paper (*The Tidewater News*) incorrectly quoted that the time for today's meeting (public hearing) was 7:00 PM. She thought there would have been more people present today had they not read that. She was aware that many hours had been spent by the Board of Supervisors studying this project, and the community recognized and appreciated their efforts. She thanked the Board for allowing her to speak.

Mr. Jerry Grizzard addressed the Board. He stated that he and his sisters owned the farm adjoining the proposed site. He did not think the operation was needed. He was very concerned about Futures Academies' objection to putting a fence around the property, as teens coming into that rural community would not have any type of confinement. He advised there was a lot of farmland in that area and they had about 200 acres of woodland on their farm alone that was hunted all the time. He asked what would keep the students from walking off into the woods? He thought the students would not want to be there because it was his understanding that troubled children would be sent to the Academy for discipline for 90 days. He did not know how you would change a child's attitude in 90 days. He advised that he understood the cost to be expensive at \$300 per student per day. The 90 students on campus would cost the federal government or whoever was supporting the venture \$27,000 a day. That would make the monthly cost almost \$1 million. He asked the Board not to approve the request. He wanted to see the area remain as it was today. He realized the Board had budget decisions and other tough decisions to make, but pointed out there may be a lot of expenditures in this project that the County may ultimately have to pay that were not apparent today. He encouraged the Board to fully research what it would cost the County and make sure it would be a worthwhile venture.

Mr. Ron Miller of Courtland addressed the Board. He advised he had no intention of speaking to the application today, as he came to the meeting to find out what the project was, how it was going to be run, and get some information. Evidently he was not going to get any because no questions were allowed to be answered. He stated there has been a lot of misinformation in the community as to what the project was or was not, who was or was not funding it, whether it was profit or nonprofit, how many students would be there, what kind of kids they were and if they would be potential problems to the area or just students trying to learn, and whether they needed discipline or not. He advised he wanted those questions answered a decision was made that would affect the community. He stated the Board needed to be aware that the Ivey Tract Road area had drought situations in the summers and the wells often went dry. Who knows if there would be enough water for the facility to accommodate hundreds of people on a daily basis? He added that the electricity in that area was not reliable and went out often. He advised he was concerned and came to get information but the only information he had gotten was what the Zoning Committee (actually Planning Commission) imposed as stipulations in order for the application to be approved, and Futures Academies disallowed all but one of those. It concerned him that they were not willing to cooperate with the Commission and spend any of their money to make the property what the Commission thought it should be. He advised he had not formed an opinion and reiterated that he came to get information which he had not. He noted he retired from teaching in a vocational technical center 30 years and knew what it was like to try to educate young people that came out of normal homes. There were all kinds of problems in what we considered a "normal" home, much less homes that were not. He thought a lot of questions needed to be answered not only from a business or tax standpoint, but also from the social aspect of this community before the Board made a decision.

Mrs. Linda Grizzard Hazeltine addressed the Board and advised she was opposed to the project. She stated that Ivey Tract Road was a very narrow, winding road. If the County was going to be allowed to use the facility (sports complex, etc), there would be a lot more traffic on that road in addition to trucks that would bring supplies to the facility. The extra traffic would possibly require widening and/or lots of maintenance on the road, as it was a rock, not an asphalt road. She asked the Board to consider this issue.

Mr. David Hazeltine addressed the Board. He asked what would happen to the property if and when the project was abandoned? He asked why that area was selected considering the issues in that area concerning road conditions, water, electricity, and other issues? Mrs. Grizzard Hazeltine added she and her husband were concerned with what would happen to their water

resources if Futures Academy were to operate in that area. Would it dry up their water system and cost them the expense of digging another well?

Mrs. Rawls Miller asked permission to allow all those opposed to the application to stand. Mr. Gilliam honored her request and numerous people in the audience stood.

Chairman Gilliam asked if anyone else desired to speak in favor of or in opposition to the conditional use permit? Hearing none, he closed the public hearing.

Supervisor Faison advised he liked the project and understood Futures Academies' objections to the conditions imposed by the Planning Commission, but he understood the citizens' concerns as well. The proposed location was in an area in which people had already started their homes. He thought if they had requested an area more suitable for the operation, he might see it as a good venture for the County. He would have to vote against it based on the information heard today.

Supervisor West stated he thought some questions needed to be answered. He thought that in the right location, the academy was appropriate. He suggested that the Board defer action today and at least get more information to provide to the general public. He added that they needed to be friendly and open to businesses coming in.

Supervisor Jones pointed out that the Planning Commission imposed the conditions on the application and were not aware of Futures Academies' objections to those conditions. The Planning Commission recommended approval of the application with the conditions and thought those conditions would remain. He advised he was in agreement with Supervisor West to defer action, but thought the application needed to go back to the Planning Commission to afford them the opportunity to respond to Futures Academies' objections to their conditions.

Supervisor West stated to the citizens that he appreciated and understood their concerns. He thought questions needed to be answered and that Mrs. Jane Maddrey, Director of Southampton County Social Services, needed some additional information (based on her written response regarding her meeting with Futures Academies).

Supervisor Faison noted that he did not want the Board's reaction to the application to be interpreted as unfriendly. He thought the proposed location was a problem but there was a need for such a facility for foster children.

Supervisor West added that the Board wanted and needed new businesses and job opportunities, but also wanted to be friendly to the people who supported them and paid the taxes.

Mr. Larry Jacobs remarked that some issues that had been brought up were certainly valid.

Mr. Ron Miller asked if Mr. Jacobs had held a public hearing, other than at the Planning Commission, where he presented the information to the general public? Mr. Jacobs replied no. Mr. Miller asked if he would be willing to do that? Mr. Jacobs replied no, not at this time.

Supervisor Jones confirmed with Richard Railey, County Attorney, that it would be appropriate for the application to go back to the Planning Commission.

**Supervisor West moved, seconded by Supervisor Jones, to refer the application back to Planning Commission for their further consideration. All were favor, thus the motion passed unanimously.**

Proceeding to the Wireless 9-1-1 Presentation, Sheriff Vernie Francis noted that the presentation Lieutenant Jim Covington was about to make was the same one they were presenting to all fire and emergency medical services in Southampton County. He informed that the sheriff's departments had been required by statute to start receiving wireless 9-1-1 calls. In the past, those calls went to the Virginia State Police in Chesapeake. He stated they had all the major wireless carriers "cut on" so they the local dispatch center could receive wireless 9-1-1 calls.

Lieutenant Covington then began a brief *power point* presentation entitled "What to Expect". He stated that as everyone was aware, the local dispatch center had always received 9-1-1 calls made from wire-lined phones. When those calls are received, the phone number and address (of the

origin of the call) appear automatically on the computer screen at the dispatch center. Thus the dispatchers only have to verify the accuracy of the information and dispatch the appropriate emergency response unit. They could also look up the location information on a map. He informed that the Sheriff's office recently began receiving wireless 9-1-1 calls that would be implemented in 2 phases. In Phase 1, when a wireless 9-1-1 call comes in, the dispatcher will receive the cellular phone number (of the origin of the call), the address of the cell tower receiving the call, and a cell sector direction. In Phase 2, which would be implemented in 6 months, an approximate location in latitude and longitude would be provided, which was very important. He explained that during phase 1, the cell tower address the dispatchers receive indicate a 4 square mile radius that the caller is in. Each tower was divided into 3 sectors, and to complicate things, there were 2 in Southampton County not in sectors. He explained that when Phase 2 is implemented, the location of the call would involve a GPS (global positioning system) or handset solution. His understanding from the wireless companies was that cell phones manufactured in early to mid 2000 contain a chip somewhat like a handheld GPS. That chip will send a latitude and longitude back to the tower. For older phones, a network tower solution using triangulation would be used where the call would go to one tower and be sent to another for distance and a straight line that would ultimately provide a closer location than in Phase 1.

Lieutenant Covington informed that location technology was not an exact science, as it was affected by the number of towers or satellites able to see or "pick up" the phone. The GPS needed 3 satellites to get a latitude and longitude. He explained that theoretically, if you were inside a building, you could get a tower signal and call out, but the 3 satellites would not see the phone because they do not work inside. As a result, you were back at Phase 1 with the 4 square mile radius a caller could be in. He reported that accuracy would increase from 50 meters in Phase 1 to 300 meters in Phase 2, depending on whether GPS or triangulation was used. The dispatchers would be receiving more calls for each incident and each caller would have a different "piece of the puzzle". The dispatchers would have to gather and filter through information, as the call itself would not automatically provide location data as do wire-lined calls, and the caller may not know or be able to communicate exactly where they are. Thus, it would take a longer time to dispatch the call and for the appropriate emergency service unit to respond and leave more time for the crime, for the fire to burn, and for people to remain injured. In conclusion, he assured that the dispatchers would do the very best job they could.

Sheriff Francis added that they anticipated a lot of calls from Routes 58 and 460 due to traffic accidents and anticipated a minimum 50% increase in total call volume to the dispatch center. He advised they had taken pictures of landmarks along Routes 58 and 460 to use as resource materials. He invited the Board to come to the dispatch center any time they so desired to get a better idea of the process. Mr. Johnson confirmed with Sheriff Francis that they were already receiving wireless 9-1-1 calls with Phase 1 information being displayed (for those cellular providers whose towers were in Southampton County). Sheriff Francis noted that cellular towers did not stop at local boundaries. For example, if you were at Dockside and called 9-1-1 from a cellular phone, you may get the dispatcher in Ahoskie, NC (which could transfer the call to another dispatch center). Vice-Chairman Gray asked if fire departments and rescue squads were equipped with GPS so they could tell latitude and longitude locations? Lieutenant Covington replied that most had GPS technology due to utilizing Nightingale or other means of medical air traffic transportation, but the dispatch center could correlate the latitude and longitude to a mapping system. Lieutenant Covington and Sheriff Francis thanked the Board for their time.

In regards to reconsideration of a delinquent tax lien release, Mr. Johnson reminded the Board of a request they received month-before-last from the Boykins Town Council to consider abatement of a portion of the delinquent real estate taxes accrued on the old Rock Grocery Store on Main Street, Boykins. The Town indicated it had identified a prospective buyer, willing to demolish the structure and construct a new office building on the site, provided relief was granted on the amount of delinquent taxes. Delinquent taxes due Southampton County were estimated at \$4,057.42. The prospective buyer had requested to pay \$0.30 on the dollar or roughly \$1,217. At that time, we were unaware of any enabling legislation permitting the release of tax liens and cited the very similar request of Margaret and John Wilroy in 2000 that was denied. However, he stated it was brought to his attention that specific statutory authority was in fact enacted by the General Assembly on July 1, 2000 authorizing local governing bodies to release delinquent tax liens when 4 conditions were met, provided an ordinance was adopted authorizing the release of such liens. He advised that all 4 conditions were met in the pending request. Based upon this information, the Boykins Town Council has requested that the Board reconsider this matter.

Their local ordinance is as follows:

**AN ORDINANCE TO ENACT A CERTAIN SECTION  
OF THE CODE OF THE TOWN OF BOYKINS**

BE IT ORDAINED by the Town Council of the Town of Boykins, Virginia, in a Special Town Council Meeting on January 29, 2003, that:

Section 15 of the Code be enacted to read as follows:

**§ Sec. 15.27a Release of delinquent tax liens.**

The Town Council shall have the authority to release liens for delinquent real estate, or any portion thereof, including penalty and accrued interest, in order to facilitate the conveyance of real property, provided however, such liens may only be released when the following four conditions are met: (1) the purchaser is unrelated by blood or marriage to the owner; (2) the purchaser has no business association with the owner; (3) the purchaser owes no delinquent real estate taxes to the Town for any real property within the Town; and (4) the property, including land and improvements, is valued at less than \$50,000.00.

In the event of such release, all such tax liens shall remain the personal obligation of the owner of the property at the time the liens were imposed.

\*State law reference – Code of Virginia § 58.1-3228 (2002) et seq.

Done in the Town of Boykins, Virginia, this 29<sup>th</sup> day of January, 2003.

\_\_\_\_\_  
Mayor

FOR: R.S. Edwards, Jr.                      Linda Beatty (absent)  
Mary Elizabeth Tosto  
Gary Baugham  
Kent Clark

AGAINST:

ATTEST:

\_\_\_\_\_ (SEAL)  
Town Clerk

Mr. Spier Edwards of the Boykins Town Council briefly addressed the Board and requested their adoption of an ordinance similar to the one they had adopted in order to release the lien on the property.

Ms. Mary Elizabeth Tosto briefly addressed the Board. She advised that the Boykins Town Council thought if the Board adopted an ordinance for such, it would be beneficial not only to their town, but to the County and the State. She then thanked them for their time.

Mr. Edwards noted that if enacted, it would be the first in the state of Virginia.

**Supervisor Faison made a motion directing the County Attorney to draft an ordinance for the Board’s consideration in the form of first reading next month. Vice-Chairman Gray seconded the motion. All were in favor, thus the motion passed unanimously.**

Mr. Edwards pointed out that the ordinance would not “wipe out” the tax. The previous owner was still responsible for the payment of the taxes and the County could seek collection of the taxes should the previous owner “come into” any money.

Moving forward to hunting weapons restricted, Mr. Johnson announced that included in the agenda was correspondence from Bill Woodfin, Director of the Department of Game and Inland Fisheries (DGIF), concerning certain statutory revisions that became effective January 1, 2003. Among the changes were specific definitions for *firearm, muzzleloading pistol, muzzleloading rifle, muzzleloading shotgun, pistol, revolver, rifle, and shotgun* in the state enabling legislation. He advised that Richard Railey, County Attorney had informed that it was necessary for our local ordinance, which restricted certain hunting weapons, to be revised to reflect those changes. Attorney Railey prepared a draft ordinance, included in the agenda, for the Board's consideration in the form of first reading. Much of the language in Attorney Railey's draft was suggested by DGIF to standardize the variations of local ordinances across the state. Because of this Board's unique policy on the use of muzzleloading weapons for hunting in Southampton County, it was not entirely possible to utilize DGIF's standard verbage. As presently drafted, the ordinance would prohibit hunting with any muzzleloading rifle or shotgun, including the hunting of small game, which was presently permitted under the local ordinance. He advised that Attorney Railey would answer questions. It was necessary that a revised ordinance be adopted and transmitted to the DGIF prior to May 1, 2003 to be effective for the hunting year beginning July 1, 2003.

Supervisor West had some concerns with the ordinance and stated that the County was trying to reach compliance with what was generally accepted in the state of Virginia, but there was a separation concerning muzzleloading. He asked why the prohibiting of muzzleloading was so important to Southampton County? Attorney Railey advised that the General Assembly redefined the definitions of various weapons in an effort to eliminate their ambiguity. That in turn made it necessary for Southampton County to revisit their ordinance. The difference between muzzleloading rifles and muzzleloading shotguns was now clearly defined by the General Assembly. He informed that Southampton County did not have the authority to outlaw muzzleloading *shotguns*, but had the authority to outlaw muzzleloading *rifles*. The ordinance would prohibit the hunting of both small game and deer with a muzzleloading weapon. (Previously it was legal to hunt small game with a muzzleloading weapon, as Mr. Johnson had mentioned). The issue had been raised through litigation and discussions that it was inconsistent to allow or disallow one without the other. He advised that he drafted the ordinance consistent with what had been in place in the County the last 20 years. He noted that he prohibited hunting with muzzleloading shotguns loaded with slugs or sabit slugs because research suggested there was little difference between them and muzzleloading rifles. Supervisor West asked why Southampton County wanted to *prohibit* hunting both small game and deer with a muzzleloading rifle instead of *allowing* both? Attorney Railey advised that the Board of Supervisors had the authority to allow or disallow what they so desired.

There was discussion among the Board and questions and concerns were addressed to Attorney Railey. Supervisor West had the most concerns as noted in the aforementioned paragraph. Attorney Railey explained again why the ordinance was being revisited, explained the ordinance itself, and explained some of the terminology to try to clear up the confusion. Ultimately it was the general consensus of the Board to keep Attorney Railey's ordinance as presented.

**Supervisor Young made a motion directing the County Administrator to advertise the ordinance for public comment on March 24, 2003 at 7:00 PM. Vice-Chairman Gray seconded the motion. All were in favor, thus the motion passed unanimously.**

Accordingly, a first reading was held on the following ordinance prepared by County Attorney, Richard Railey, and revised on 02/24/03:

AN ORDINANCE TO AMEND SEC. 10-26 OF THE SOUTHAMPTON COUNTY CODE  
IN RESPONSE TO CHANGES IN STATE ENABLING LEGISLATION  
THAT SPECIFICALLY DEFINE A NUMBER OF WEAPONS USED FOR HUNTING

- - - - -

BE IT ORDAINED by the Board of Supervisors of Southampton County, Virginia that the Southampton County Code be, and hereby is, amended revising Sec. 10-26 to read as follows:

**Sec. 10-26. Hunting weapons restricted.**

~~(a) It shall be unlawful for any person to hunt in the county with a rifle of a caliber larger than twenty-two one hundredths of an inch (.22); provided, however, that this section shall not be constructed to: to hunt with a rifle larger than .22 caliber rim fire except rifles of a larger caliber may be used for hunting groundhogs between March 1 and August 31;~~

~~(1) Prohibit any person from shooting groundhogs with a larger caliber rifle between March 1 and August 31.~~

~~(2) Prohibit hunting for small game animals with muzzle loading rifles except during the general open season for the hunting of deer and turkey with firearms; and provided, further, the caliber of ball used in such muzzle loaded rifle shall not exceed forty five one hundredths of an inch (.45).~~

~~(b) Any person violating the provisions of this section, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00). *It shall be unlawful to hunt with a muzzleloading rifle at anytime;*~~

~~(c) *It shall be unlawful to hunt with a muzzleloading shotgun loaded with slugs or sabot slugs; and*~~

~~(d) *Any person violating the provisions of this section, upon conviction, shall be guilty of a Class 3 Misdemeanor and shall be punished accordingly.*~~

This ordinance shall be effective at 12:00 midnight March 24, 2003.

For state law authority, please see §§ 29.1-100, 29.1-519, and 29.1-528 of the 1950 Code of Virginia, as amended.

A copy teste: \_\_\_\_\_, Clerk  
Southampton County Board of Supervisors  
Adopted: \_\_\_\_\_

Proceeding to the discussion of reduced licenses for sterilized dogs, Mr. Johnson announced that it was recently suggested to him by a local animal rights advocate that the county consider an ordinance providing a license discount for animals that have been spayed or neutered as a means of reducing the stray animal population. He advised that although Southampton County did not require licenses for cats, he thought the idea had merit and wanted to present it to the Board for consideration. He noted that the City of Franklin adopted a similar ordinance in December 2001.

Supervisor Gray commented he did not think it was incentive enough to cause someone to spay or neuter their dog(s). Mr. Johnson and Supervisor Faison agreed that nevertheless, it would at least encourage it and bring awareness to the spay/neuter cause.

**Supervisor Jones moved, seconded by Supervisors Young and Faison, to direct the County Administrator to advertise the ordinance for public comment on March 24, 2003 at 7:00 PM. All were in favor, thus the motion passed unanimously.**

Accordingly, a first reading was held on the following ordinance prepared by Michael Johnson, County Administrator:

AN ORDINANCE TO AMEND SEC. 3-34 OF THE SOUTHAMPTON COUNTY CODE TO PROVIDE FOR A REDUCED LICENSE FEE FOR STERILIZED DOGS

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BE IT ORDAINED by the Board of Supervisors of Southampton County, Virginia that the Southampton County Code be, and hereby is, amended revising Sec. 10-26 to read as follows:

**Sec. 3-34. License – Required, payment.**

It shall be unlawful for any person to own, harbor, keep, shelter or permit to remain on his premises a dog four (4) months old or over in the county unless such dog is licensed as required by the provisions of this article. Dog license taxes shall be paid for the calendar year, namely, from January first to December thirty-first, inclusive, and the license tax shall be payable in the office of

the county treasurer in the following amounts:

- (1) ~~Individual~~ *Unaltered dog* ..... \$10.00
- (1.1) *Spayed or neutered dog* ..... \$ 5.00
- (2) Kennel, for up to and including five (5) dogs ..... \$20.00
- (3) Kennel, for up to and including twenty (20) dogs ..... \$35.00
- (4) Kennel, for twenty-one (21) to fifty (50) dogs ..... \$50.00
- (5) Guide dog for blind persons ..... No fee
- (6) Hearing dogs for deaf and hearing-impaired persons ..... No fee

A copy teste: \_\_\_\_\_, Clerk  
 Southampton County Board of Supervisors  
 Adopted: \_\_\_\_\_

Regarding the water & sewer extension request, Mr. Johnson announced that in the agenda was correspondence that Supervisor Faison received from the Branchville Town Council requesting that water and sewer services be extended beneath the CSX railroad, across the property of Eastern Fuels and Meherrin Ag and Chemical Company, and subsequently looped back to the point where services currently terminate at or near the Branchville Corporate limits. He advised that Mayor Harris had brought this to his attention a year ago and at that time, they looked at solely the cost of extending water service. The projected cost at that time (not including sewer) was roughly \$179,000. He informed that the estimate would at least double to include sewer, so it would cost in excess of \$400,000 to extend both water and sewer service.

He stated that in the past, the Board had evaluated water and sewer extensions for economic development based on a 5-year return-on-investment. Mayor Harris cited the extension of water and sewer service to International Paper’s Converting Innovation Center in 1997 as a very similar precedent. In that particular case, Southampton County issued a revenue note in the principal amount of \$341,000 for the required water and sewer improvements. Terms were 36 months at 5.8% annual interest with annual debt service of \$124,238. The note was fully retired February 24, 2000 at a total cost of \$372,712.81. At the time, the Converting Innovation Center (CIC) was expected to pay property taxes to Southampton County in excess of \$116,500 annually. Even in sharing 30% of that sum with the City of Franklin, the county would still fully recover its cost of extending water and sewer service in less than 5 years. After a major expansion in 2000, the CIC now pays Southampton County more than twice what was initially projected in property taxes. He noted that in 1997, they had a firm commitment from Union Camp before investing any money in water and sewer extensions, and unfortunately that was not the case with the Branchville site. In order to achieve a 5-year payback for the cost of the water line extension alone would require real estate improvements approaching \$6 million. That figure would be doubled for water *and* sewer extensions. While he heartily recommended that they continue to pursue industrial development in that part of the county and work with the property owners to market those sites, he could not recommend that speculative water and sewer extensions move ahead until a clear prospect had been identified.

Supervisor Faison advised that he also received a letter from G. Dallas Barnes, Jr., President of Meherrin Ag and Chemical, and he read it aloud. It stated that they supported the water and sewer extensions request made by Boykins Town Council. It would be beneficial to their business because of the increased fire protection, which was extremely important to their line of business. With the increased protection, the safety of the surrounding area would be greatly enhanced. They thought the request was reasonable and would benefit the entire community and asked the Board to consider the matter carefully.

Supervisor Faison understood the budget situation but stated that the request indicated an interest for that area to be considered for business. Supervisor Jones thought they needed to look at it at budget time. Vice-Chairman Gray asked if they were expecting \$6-12 million worth of

expansion in that area? Supervisor Faison commented it would be unrealistic for them to put \$6 million in that project, but in terms of economic development, he thought it was a part of the County that could be attractive for business because of water and sewer already existing in that area. Vice-Chairman Gray stated it had not been the policy of the Board over the years to arbitrarily run water and sewer lines to different parts of the County. He agreed that the extension of water and sewer may attract business, but not \$6-12 million worth in Branchville. Mr. Johnson remarked they would love to have industry worth that in Branchville and it was a good industrial site with the potential for expansion. He was not suggesting to not consider the request, but thought it would be more prudent to wait until they had identified a prospect with substantial investment before investing in the infrastructure, which had typically been the Board's policy for water and sewer extensions for economic development in the past. He noted that the continuance of that policy was up to the Board. He clarified that at least a \$6 million investment was needed to achieve a 5-year payback; the actual cost to extend water and sewer would be roughly \$400,000. It was the consensus of the Board to follow what had been their typical policy on this matter.

Moving forward to the follow-up on abandoned and neglected graveyards, Mr. Johnson reminded that at the Board's December 16, 2002 session, while considering a conditional use permit for a family cemetery, there was substantial discussion concerning perpetual maintenance of small cemeteries in rural areas, particularly after descendants of the deceased had passed away or moved out of the area. He advised that Attorney Railey had located the following state statute which speaks to improvement of abandoned or neglected graveyards:

**§ 57-39.1. Improvement of abandoned and neglected graveyards.** — When the owners of any private graveyard, not connected with any church or church property, abandon the graveyard and allow it to fall into a condition of neglect and disuse, so that it is unsightly and thereby lessens the desirability and value of adjacent land, and the owners fail or refuse, when requested by the owner of adjacent land or when requested by the local governing body of the county, city or town wherein the private graveyard is located, to remedy such condition of neglect and put the graveyard into suitable condition, then any owner of adjacent land or the local governing body may file a bill in equity in the circuit court of the county or city wherein the graveyard is located, for the purpose of requiring the graveyard to be placed in a suitable condition. The owners of the graveyard or any person having a right therein shall be made defendants to such court proceedings.

The court shall not enter an order requiring the owners of a graveyard in which a grave or entombment right has never been sold to improve it or place it in a suitable condition. However, after hearing the evidence the court may allow the petitioners, at their own expense, to improve the graveyard and place it in suitable condition and may also require bond to ensure that the petitioners will not injure or remove any tomb, monument, gravestone, grave marker, or vault without having first obtained court approval. Acting pursuant to court order, the petitioners may thereafter enter upon the land and improve the graveyard and place it in a suitable condition. The costs in any case involving a graveyard in which a grave or entombment right has never been sold shall be paid by the petitioners.

In any case involving a graveyard in which a grave or entombment has been sold, the court shall determine whether the owners or petitioners shall pay the costs of improving the graveyard and may require bond to insure against injury or removal of any tomb, monument, gravestone, grave marker, or vault without court approval.

Mr. Johnson advised that while the aforementioned statute spoke to the issue of perpetual maintenance and care, the point raised about delineating the metes and bounds of family cemeteries to assure they are identified in the future chains-of-title was a very valid point. The Planning Commission and Board of Supervisors should consider requiring that a metes and bounds survey of the proposed cemetery be recorded in the clerk's office for all future conditional use permits for cemeteries.

Vice-Chairman Gray asked Mr. Johnson if they should go about it on an individual basis or have an ordinance for such? Mr. Johnson referred that question to Attorney Railey but commented that he supposed they could impose it as a local ordinance for all family cemeteries or deal with it as a condition since conditional use permits were required for them. Attorney Railey advised they could impose it as a condition, but the argument against that was that conditions were at the discretion of the Planning Commission and ultimately the Board of Supervisors for each conditional use permit. To be totally fair, he suggested they consider changing the zoning ordinance.

**Vice-Chairman Gray made a motion for the changing of the zoning ordinance to require that family cemeteries be platted and recorded in the clerk's office be brought to first reading at the next meeting.**

Supervisor Jones remarked that his wife's family had a cemetery in Adams Grove. A couple years ago there was a death in the family and they could not get to the cemetery because the renter had planted crops to the edge of the cemetery and there was no entrance or exit to get to it. Mr. Johnson stated that Mr. Jones' point of having access to the cemetery was very valid also. Attorney Railey suggested for that point to be taken care of with the ordinance as well. Supervisor Young commented that he had experienced problems with the persons responsible for maintaining a cemetery on some land he rented. Mr. Johnson noted that the ordinance would not solve the problems of the family cemeteries in existence today.

**Supervisor Jones seconded the motion. All were in favor, thus the motion passed unanimously.**

Vice-Chairman Gray encouraged and Mr. Johnson agreed to talk with the Virginia Association of Counties (VACo) to see if there were such ordinances in effect by other counties who may have encountered similar problems with family cemeteries.

Regarding miscellaneous issues, Mr. Johnson announced that in the agenda was information recently shared with him by Mr. Charles Turner, Superintendent of Southampton County Public Schools, illustrating the vast improvement made at Southampton High School in the Standards of Learning (SOL) testing. Because of Southampton High School's block schedule, SOL's will be conducted in the spring in addition to the fall. If the test results in the spring are comparable, the high school would likely become fully accredited next year. He added that the progress in many of the subject areas was outstanding, with test scores improving by 10-20 points on average.

Mr. Charles Turner briefly spoke to the Board. He advised they were delighted with their progress and credited the people, programs, and extensive amounts of training. He noted that the process was continual. He stated that as Mr. Johnson mentioned, if the scores stayed where they were, the high school would be fully accredited at the end of the year, which was their desire.

Mr. Johnson informed that included in the agenda was copied correspondence from U.S. Secretary of Agriculture, Ann Veneman, to Governor Mark Warner officially designating Southampton County as a *primary* natural disaster area based on agricultural production losses last year from the heat and drought. Sources had previously indicated that some of the federal disaster aid contemplated by Congress would be available only in those localities designated as primary natural disaster areas. Accordingly, this designation placed local producers in a position to take advantage of all federal aid programs.

He advised that in the agenda was correspondence from the Department of Game and Inland Fisheries seeking input from local governments regarding hunting and trapping regulations, which were reviewed biennially. If the Board had specific ideas or recommendations, they needed to be presented at the March 18 DGIF Board meeting at Deep Creek Middle School.

Mr. Johnson noted that a copy of the 2002 year-end report by the J. R. Horsley Soil and Water Conservation District was provided in the agenda.

He reported that the following incoming correspondence was received and copies included in the agenda:

- 1) From Jim Chandler, Tidewater Emergency Medical Services (TEMS) Executive Director, confirming the appointment of Robert Grizzard to their Board of Directors for a 2-year term;
- 2) From Arthur B. Harris, Jr., Mayor of Branchville, copied correspondence to CSX Railway and State Delegates/Senators relative to continual problems with a blocked railroad crossing in the Town of Branchville;
- 3) A note of thanks from Randy Forbes for those of you who attended the town hall meeting hosted here earlier this month;
- 4) From the Western Tidewater Community Services Board that a number of their administrative services have relocated to a new facility at 5268 Godwin Blvd., Suffolk.

Finalizing miscellaneous issues, Mr. Johnson stated that outgoing correspondence and various news articles of interest were included in the agenda for the Board's reference.

Regarding late arriving matters, Supervisor Faison brought up that the entrance from Route 35 to the Southampton County Middle School was not well lighted and was especially dark when it rained. He advised they had requested a light there before, and asked how they would go about getting that? Mr. Johnson informed that the service provider there was Community Electric, and asked if the Board wished to refer that issue to the School Board for their consideration? Mr. Charles Turner, School Superintendent, advised they would look into the matter.

**Chairman Gilliam advised that it was now necessary for a closed meeting to be held in accordance with the provisions set out in the Code of Virginia, 1950, as amended, for the following purposes:**

**Section 2.2-3711 (A) (1) to discuss appointment, assignment, performance, and salaries of specific public officers;**

**Section 2.2-3711 (A) (5) Discussion concerning prospective industries where no previous announcement has been made of the business' or industry's interest in locating its facilities in the community; and.**

**Vice-Chairman Gray made a motion to convene a closed meeting for the purposes aforementioned. Supervisor Young seconded the motion. All were in favor, thus the motion was approved unanimously.**

Richard Railey, County Attorney, and Waverly Coggsdale, Assistant County Administrator and Secretary of the Planning Commission, were present in the closed session.

Ms. Cindy Cave, Community/Economic Development Director for Southampton County, joined the others in the closed meeting for a portion of that meeting.

Upon returning to open session, Chairman Gilliam advised only those items previously assigned had been discussed.

**Vice-Chairman Gray moved, seconded by Supervisor Young, to adopt the following resolution:**

#### **RESOLUTION OF CLOSED MEETING**

**WHEREAS, the Southampton County Board of Supervisors had convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and**

**WHEREAS, Section 2.2-3712 (D) of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.**

**NOW, THEREFORE, BE IT RESOLVED that the Southampton County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public matters as were identified in the motion convening the closed meeting were heard, discussed and considered by the Southampton County Board of Supervisors.**

**Supervisors Voting Aye: Reggie W. Gilliam  
Eppa J. Gray, Jr.  
Carl J. Faison  
Dallas O. Jones  
Charleton W. Sykes  
Ronald W. West  
Walter L. Young, Jr.**

**The motion was approved unanimously.**

Chairman Gilliam advised that two motions were needed as a result of discussions in the closed meeting.

**Supervisor Young made a motion to name Mr. Hart Council as the interim Public Works Director effective March 1, 2003 at an annual salary of \$35,218. Supervisor Jones seconded the motion. All were in favor, thus the motion passed unanimously.**

**Vice-Chairman Gray made a motion to increase the hourly rate of the County Attorney, Richard Railey, from \$90 per hour to \$110 per hour, effective July 1, 2003. Supervisor Young seconded the motion. All were in favor, thus the motion passed unanimously.**

Mr. Johnson mentioned that again this year, the employees of the Southampton County office center had put together a team for the March of Dimes Walk America. About \$200 worth of items had been donated to the County to be raffled including a \$50 savings bond from Bank of America, \$20 gift certificate to *For Pete's Sake*, and *Peanut Patch* peanuts, among other items. He advised that he had raffle tickets for \$5.00 each and would like the Board's support. More importantly, he asked if the Board would agree to match the amount raised by the County team to donate to the March of Dimes up to \$500 as they had last year?

**Vice-Chairman Gray made a motion agreeing to the aforementioned statement. Supervisor Jones seconded the motion. All were in favor, thus the motion passed unanimously.**

There being no further business, the meeting was adjourned at 12:00 Noon.

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Reggie W. Gilliam, Chairman

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Michael W. Johnson, Clerk