

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 August 23, 2004 at 8:30 AM.

SUPERVISORS PRESENT

Dallas O. Jones, Chairman (Drewryville)  
Walter L. Young, Jr., Vice-Chairman (Franklin)  
E. Beale Carter, Jr. (Newsoms)  
Carl J. Faison (Boykins-Branchville)  
Anita T. Felts (Jerusalem)  
Ronald M. West (Berlin-Ivor)  
Moses Wyche (Capron)

SUPERVISORS ABSENT

None

OTHERS PRESENT

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

Chairman Jones called the meeting to order at 8:30 AM, and after the *Pledge of Allegiance*, Supervisor West gave the invocation.

*[Note: Supervisor Carl Faison was not yet present].*

Chairman Jones sought approval of the minutes of the July 26, 2004 regular meeting and July 27, 2004 continued meeting. They were approved as recorded, as there were no additions or corrections.

Regarding highway matters, Chairman Jones recognized Mr. Jimmy B. Pair, Jr. of the Virginia Department of Transportation (VDOT), filling in for Mr. Randolph Cook, Resident Engineer.

Mr. Pair advised that Mr. Cook wanted him to communicate that they were aware that there were a lot of water issues in the County and were working to correct them.

Supervisor Felts congratulated Mr. Pair on his new position.

Vice-Chairman Young stated that it seemed that the railroad crossing at Delaware Road was a dead issue. All the railroad crossings around it had been fixed. Mr. Pair indicated that he would bring that to Mr. Cook's attention.

Supervisor West commented that with all the water in the ditches, the mosquito habitat was great.

Supervisor Wyche stated that someone from VDOT was supposed to be contacting him regarding the paving of Whitehouse Road. Mr. Pair advised that he would relay that information to Lisa Cherry, who would be back on Wednesday.

Chairman Jones asked Mr. Johnson if they had done anything for the folks over at Burdette? Mr. Johnson advised that Richard Railey, County Attorney, had determined that there was no speculative interest and was in the process of doing the title work. As soon as that was completed, they would get the easements and proceed from there.

Supervisor West stated that there was a very significant pothole on the little cut-through road next to Tucker Swamp Baptist Church. He did not know if it had been taken care of because he did not go out that way yesterday. Mr. Pair advised that it was supposed to have been taken care of on Friday. He noted that he planned to have that entire section surface-treated in the spring.

Mr. Johnson announced that included in the agenda was a copy of Secretary Clement's recent notice of public hearing for the 2006-2011 6-year plan. The hearings would be conducted by video conference on Tuesday, September 21, with Secretary Clement and the Commonwealth

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Transportation Board presiding from VDOT's Central Office in Richmond. Our comments would originate from the District headquarters in Suffolk and be broadcast back to Richmond along with others that evening from the Hampton Roads and Bristol District(s). He stated that he was open to the Board's direction on whether they felt a personal appearance was time well spent. He noted that they actually had \$1.1 billion less than last year to appropriate over the next six years. As an alternative, written comments were being received through October 9, 2004.

It was consensus of the Board to have Mr. Johnson submit written comments demonstrating their continued support of the Route 58 Overpass Project. Since the hearing would be conducted by videoconference and they would not be face-to-face with anyone, they did not feel a personal appearance was warranted.

Moving to appointments, Mr. Johnson announced that the term of Mr. Morgan Munford of Sedley on the Board of Building Code Appeals would expire September 30, 2004 and that he was eligible for reappointment. Other current members included Sonny Draper of Boykins, Bob Edwards of Courtland, Lemuel Rountree of Newsoms, and E.P. "Buddy" Kea, Jr. of Ivor. He noted that included in the agenda were excerpts from the *Virginia Uniform Building Code* as it related to the composition of that Board. He advised that that Board met solely on an "as-needed" basis. Over the past ten years, it had met twice, none in the last five, hearing a total of three appeals. He requested that Supervisor Felts contact Mr. Munford to see if he was willing to serve again. Supervisor Felts indicated that she would contact him and report back at the September meeting.

Mr. Johnson reminded that notwithstanding the appointment of Bob Hinson last month, two other vacancies existed on the Southeastern Tidewater Opportunity Project, Inc. (STOP) Board of Directors for Southampton County. Those positions were actually filled by the STOP Board itself, but Mrs. Jones had informed him that she would welcome any recommendations they may have. He stated that one of the appointees must represent business, industry, labor, religious organizations, social services, education, or a community group. The other should represent the low-income population of Southampton County. He advised that after the article ran in the paper, he received a phone call from Walt Brown who expressed an interest in one of those appointments as a representative of a community group, the Cheroenhaka Tribal community. He indicated to Mr. Brown that he would relay his interest to the Board of Supervisors and seek their direction.

While they appreciated Mr. Brown's interest, Supervisors Faison and Carter were concerned that since he was one of four candidates running for the Board of Supervisors seat for the Newsoms District, it may not be appropriate to recommend him for appointment, as they did not want it to appear that the Board was favoring one candidate over another. It was consensus of the Board to NOT recommend Walt Brown for appointment to the STOP Board for that reason. They agreed that if he were still interested in the appointment after the election, and a vacancy still existed, they would be glad to consider recommending him at that time. Mr. Johnson advised that he would be glad to explain that to Mr. Brown.

Regarding monthly reports, Mr. Johnson received various reports and provided them in the agenda. They were Financial, Sheriff's Office, Communication Center Activity Report, Animal Control, Building Inspections, New Housing Starts, and Cooperative Extension. Also Treasurer's Office for April & May 2004, Delinquent Tax Collection, Daytime E.M.S. Contract, Fire/Rescue Reports, Public Safety Radio System Status Report, and Personnel.

In reference to the personnel report, Mr. Johnson announced that Douglas N. Ottmers was hired in the Sheriff's Office effective 8/16/04 at an annual salary of \$26,075. Mark W. Patterson was hired in the Sheriff's Office effective 8/16/04 at an annual salary of \$23,854. He advised that the salary of Merle R. Holt, Jr. of the Sheriff's Office was increased to \$26,075 effective 8/01/04 as the result of a 12-month regrade. The salary of Joni N. Necessary of the Sheriff's Office was increased to \$23,854 effective 8/23/04 as the result of a promotion. He informed that Gwen Gainey of the Sheriff's Office resigned effective 8/16/04. He stated that Raymond E. Merkh of the Sheriff's Office remained on active military leave. Another employee of the Sheriff's Office, whose name would appear in the personnel report last month, would be leaving this week for Iraq.

Proceeding to financial matters, Mr. Johnson announced that bills in the amount of \$1,371,551.12 were received. **Vice-Chairman Young moved, seconded by Supervisor West, that the bills in the amount of \$1,371,551.12 be paid with check numbers 64324 through 64815. All were in favor.**

Moving forward, Mr. Johnson pleasingly announced that Southampton County had been awarded a grant from the Virginia Economic Development Partnership (VEDP) to develop a “virtual building” at the Southampton Business Park. The application of Ms. Cindy Cave, Community/Economic Development Director, was one of five selected across the state. The program was a matching grant program that would cover 50% of the development costs, up to \$15,000. He advised that the Virtual Building Grant Program would provide Southampton County with the unique opportunity to develop a flexible build-to-suit alternative, comparable in time and expense to shell buildings, at a fraction of the up-front expense. They would be partnering with the Timmons Group, Baskerville Architects, Dominion Resources, and Verizon to develop the project which would include an initial market analysis, site preparation, development of site-specific building plans and specifications, and three-dimensional computer models of the site plan and building floor plan/elevations. He informed that the project would be marketed in various ways, including development of a page on the county website specifically dedicated to the virtual building, and development of a compact disc that would effectively illustrate the virtual building for mailing to prospects. He stated that they might remember from last month that Southampton County earned in excess of \$91,000 in interest on the joint certificate of deposit with VDOT for the Industrial Access Road surety. Those interest earnings were redeemed on July 31 and deposited in the General Fund. It was his recommendation that the Board earmark a portion of those interest proceeds as the required leverage for this grant.

The Board was excited about the grant and commended Ms. Cave for a job well done.

**Supervisor Faison made a motion to accept the Virtual Building Grant and authorize the County Administrator to finalize the contract, with local matching funds derived from those interest proceeds. Vice-Chairman Young seconded the motion. All were in favor.**

Supervisor West asked how much the virtual building would cost? Cave replied that they had estimated \$40,000-\$50,000 total. It might cost less, but she thought the State looked favorably upon the fact that they were willing to invest a little more. She advised that the virtual building was treated exactly like a building so it would come up on the state database as an existing building. She noted that Southampton County was among the leaders in doing this.

Continuing on, Mr. Johnson announced that some of them might remember the formation of a regional HOME Program consortium back in May 1995 that included the Cities of Franklin and Suffolk and Counties of Isle of Wight and Southampton. The consortium provided access to federal financial resources for affordable housing initiatives throughout the region. Funding was derived from the U.S. Department of Housing and Urban Development (HUD) and funneled through the regional consortium for distribution within our localities for downpayment assistance, rental assistance, new housing construction, and housing rehabilitation. He stated that The STOP Organization presently served as our subrecipient and administered the program on our behalf. Prior to that, the Southampton County Assembly served as subrecipient. In order to continue to qualify for the funding, HUD guidelines required that we periodically renew our original Cooperative Agreement and pass a new resolution of support. He noted that over the past 9 years, Southampton County had drawn down slightly less than \$400,000 in HOME program funding. The money had been used to provide affordable housing for a number of first-time home buyers and to rehabilitate a number of other qualified homes. He advised that it was necessary for the Board to adopt the resolution included in the agenda for continued cooperation in the Consortium and to authorize him to sign the Cooperative Agreement on behalf of Southampton County.

Mr. Johnson read aloud the following resolution:

**A RESOLUTION AUTHORIZING CONTINUING PARTICIPATION IN THE  
WESTERN TIDEWATER HOME CONSORTIUM**

WHEREAS, the Western Tidewater HOME Consortium was established on June 7, 1995; and,

WHEREAS, the County of Southampton has received \$387,604 in HOME Investment Partnership funds since that time; and,

WHEREAS, many low and moderate income families have received a benefit from HOME Investment Partnership funds; and,

WHEREAS, HOME Investment Partnership funds provide additional financial

Resources to the County of Southampton and the Western Tidewater region to alleviate certain housing conditions through activities including, but not limited to, new housing construction, homeownership assistance and home rehabilitation; and,

WHEREAS, every citizen should have a decent, safe and sanitary living environment in which to live and the County of Southampton supports efforts to affirmatively further fair housing; and,

WHEREAS, the continuation of the Western Tidewater HOME Consortium is necessary in order to receive further HOME Investment Partnership funds.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Southampton, Virginia, that the County formally supports its continuing participation in the Western Tidewater HOME Consortium and designates the County Administrator to do all the things necessary to submit a proposal for funding and to implement the program.

BE IT FURTHER RESOLVED that this resolution shall be effective upon adoption.

READ AND ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_  
County Clerk

**Vice-Chairman Young made a motion to adopt the resolution and authorize the County Administrator to execute the Cooperative Agreement. Supervisor West seconded the motion. All were in favor.**

Proceeding to the biosolids use permit notification, Mr. Johnson announced that included in the agenda was official notice from the Virginia Department of Health (VDH) that an application had been filed by Synagro, Inc. to apply biosolids on certain agricultural lands in Southampton County. Biosolids were sewage sludge that had received treatment for pathogen control and contained acceptable levels of pollutants for land application. Treated biosolids contained three primary crop nutrients - nitrogen, phosphorous, and a trace of potassium. They were typically used to replace or supplement commercial fertilizer. The application indicated that Synagro intended to apply the biosolids on 746.8 acres in Southampton County (59 fields/16 tax parcels/5 landowners). He advised that in Virginia, the agricultural use of biosolids was regulated by the VDH. During the permitting process, VDH staff would evaluate the soil type of each field and make certain that the applications met required setbacks from occupied dwellings, property lines, water wells, lakes, streams or groundwater. He noted that for their reference, he had included in the agenda a 1999 Virginia Cooperative Extension publication, *Agricultural Land Application Biosolids in Virginia: Regulations*.

He informed that there were a couple of things for the Board to be aware of. First, VDH had scheduled the required public information meeting to discuss technical issues related to this permit application for Thursday, August 26, 2004, 5:00 PM – 7:00 PM, in the Board Room of the Southampton County Office Center. VDH would await processing the permit until they received comment from the Board of Supervisors, or until 30 days had elapsed from the date of the public information meeting, whichever came first. Second, § 62.1-44.19:3, *Code of Virginia*, provided that any county may adopt a local ordinance that provided for the testing and monitoring of land application of sewage sludge. He advised that several years ago, the Virginia Association of Counties (VACo) prepared a model ordinance that was already in use in many Virginia counties, a copy of which was included in the agenda. He thought it was important for the Board to recognize that this had been a contentious issue in several Virginia localities, particularly Appomattox County where the Board of Supervisors sought to prohibit the application of biosolids. A suit was subsequently filed against the County and carried all the way to the U.S. Court of Appeals who found in favor of the plaintiff. He noted that a copy of the U.S. Court of Appeals decision along with a couple of news articles was included in the agenda.

Mr. Johnson stated that he thought the Board's decision should focus on the following questions:

- 1) Do you wish to provide comment on the application? If so, what is the nature of your remarks? Do you need to continue this meeting until after the public information meeting?
- 2) Do you wish to consider adoption of a local Biosolids ordinance? If so, do you wish to do so at this meeting as an emergency measure, or consider it through the normal course of business and schedule a public hearing in consideration of that in September? Do you wish to consider it at all?

The model biosolids ordinance prepared by VACo is as follows:

## **DRAFT BIOSOLIDS ORDINANCE**

AN ORDINANCE AMENDING THE \_\_\_\_\_ CODE, BY THE ADDITION OF ARTICLE \_\_\_\_\_, LAND APPLICATION OF BIOSOLIDS

### **I. Findings**

The Board of Supervisors finds that improper spreading, placement, disposal or management of Biosolids without appropriate regulation, notice and monitoring may result in adverse effects to the general health safety and welfare of the inhabitants of the County and to agricultural lands, water supplies, wildlife, livestock, natural resources and the environment.

### **II. Purpose and Intent**

This ordinance is intended to ensure laws and regulations governing the land application of Biosolids are properly implemented and enforced, and to secure and promote the health, safety and welfare of the county's citizens; to deter the creation of a public nuisance and to prevent pollution of the waters and soils of the county related to land application of biosolids. In carrying out this ordinance the County will test and monitor the application of Biosolids to agricultural land within its boundaries as authorized by the Code of Virginia and applicable regulations. This ordinance is intended to address the land application of biosolids in the County and to implement the authority granted to local governments by Va. Code sections 62.1-44.19:3 and sections 32.1-164.5 et seq., to provide for the testing, monitoring and enforcement of land application of Biosolids within the political boundaries of the County and to ensure compliance with applicable laws and regulations. This ordinance is not intended to regulate the land application of animal wastes or manures or exceptional quality biosolids.

### **III. Authority and Severability**

This ordinance is adopted pursuant to the authority granted by the Code of Virginia, including but not limited to sections 15.2-1200 et seq., 15.2-2200 et seq., 15.2-2283 et seq., 62.1-44.19:3 and 32.1-164.2 et seq. In the event that any portion of this ordinance is declared void for any reason, such decision shall not affect the remaining portions of the ordinance, which shall remain in full force and effect, and for this purpose the provisions of this ordinance are hereby declared to be severable.

### **IV. Definitions**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning:

**Applicator** means any person who applies biosolids pursuant to appropriate permits.

**Biosolids** mean sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing or distribution in accordance with state law and regulations.

**Biosolids Monitor** means an employee or agent of the County, either full-time or part-time, charged with the responsibility of ensuring that the land application of Biosolids is conducted in accordance with this ordinance and applicable laws and regulations.

**Exceptional Quality Biosolids** means Biosolids that have received an established level of treatment for pathogen control and vector attraction reduction and contain known levels of pollutants, such that they may be marketed or distributed for public use in accordance with state regulations.

**Land Application of biosolids** means the spreading, placement or distribution of Biosolids upon, or insertion into, the land.

**Nutrient Management Plan** means a plan prepared by a person certified by the Commonwealth as a nutrient management planner and otherwise meeting the requirements set forth by state law and regulation.

**Owner** means a person who holds legal title, equitable title, a leasehold interest or the right of possession or control over land.

**Permit** means an authorization granted by the authority of the Commonwealth of Virginia to land apply Biosolids.

**Permittee** means any person who holds a permit authorizing the land application of Biosolids.

**Sewage Sludge** means any solid, semi-solid, or liquid residues, which contain materials, removed from municipal or domestic wastewater during treatment including primary and secondary residues.

**Storage Facility** means any facility designed to store biosolids for a period of time. Such facilities include, but are not limited to: above ground or underground storage tanks, silos, ponds lagoons and other holding devices.

## V. Prohibited Practices

- A. No person shall dispose of sewage sludge, including biosolids, on land located in the County except in accordance with federal and state law and regulations and this ordinance.
- B. No person shall land apply biosolids on lands in the County until all of the procedural requirements set forth in this ordinance as well as those set forth in applicable federal and state laws and regulations have been satisfied. No Owner shall permit land application of biosolids on land in the County until all of the procedural requirements set forth in this ordinance and those set forth in state and federal law and regulation have been satisfied.
- C. No person shall apply and no owner shall permit the application of sewage sludge other than biosolids that have been approved by the regulations of the Virginia Department of Health or Department of Environmental Quality to land in this county. No Owner shall permit the application of sewage sludge other than biosolids that have been approved by regulations of the Virginia Department of Health to land in the County.
- D. No person shall apply Biosolids to land in the County except pursuant to a valid permit issued by the Virginia Department of Health or Department of Environmental Quality, in compliance with all applicable federal and state statutes and regulations, and in accordance with the provisions of this Ordinance.

## VI. Notice & Requirements for Land Application of Biosolids

- A. Land application of Biosolids is authorized only in Agricultural zoning districts .
- B. Any person proposing or intending to land apply Biosolids to lands in this County shall notify the County Biosolids Monitor in writing at least 14 days prior to any intended land application of Biosolids, or as otherwise required by state law or regulation.
- C. The notice provided to the Biosolids Monitor shall include the following information (if not already submitted to the locality):
  - 1. The name, address and telephone number of the Permittee or Applicator;
  - 2. The tax map numbers of the parcels where land application will occur;
  - 3. The name, address and telephone number of the Owner of the property where the land application will occur;
  - 4. The name, telephone number and address of the hauler of the biosolids
  - 5. The estimated date range on which land application will occur and the duration of the planned application;
  - 6. A copy of the current state permit and any other state or federal permits authorizing the land application;
  - 7. A copy of a Nutrient Management Plan (NMP) as required by state law and regulation.
  - 8. Information on proposed haul routes and alternative haul routes on a county map.
- D. The county shall review the documentation provided with the notice and shall notify the applicant in writing of any deficiencies in the submittal within 10

business days of receipt. The applicant will have 10 business days to correct and amend the deficiencies unless otherwise permitted by the county in writing.

## **VII. Monitoring and Sampling**

- A. By agreeing to accept Biosolids for land application, the Owner of the property on which land application takes place agrees to allow the Biosolids Monitor access to the land application site for the purpose of monitoring land application activities. It is the responsibility of the Permittee to ensure that the property Owner is advised of this requirement. The Biosolids Monitor shall make diligent efforts to make contact with the property Owner prior to entering the property.
- B. The Permittee and Owner shall allow the county to take samples at the application site before, during and after the application. Any test samples shall be analyzed at a lab qualified to conduct such analysis and the County Health Department may review these test results to determine compliance with applicable laws and regulations. At the request of the Applicator the Biosolids Monitor will provide the applicator with a split sample.
- C. At the request of the Biosolids Monitor, the Applicator or Permittee shall provide the most recent analysis results for Biosolids that are land applied at any site in the county.

## **VIII. Complaint Response**

- A. The Biosolids Monitor shall notify The Virginia Department of Health, the Applicator or Permittee and the Owner of all complaints concerning the land application of biosolids.
- B. The Biosolids Monitor shall notify the Permittee of any failure to follow the requirements of the Permit resulting in the improper application of Biosolids or in the spillage of Biosolids onto public streets or rights-of-way or on property outside the area authorized by the Permit.
- C. The Permittee shall respond to undertake appropriate corrective action for improperly applied Biosolids, or to clean up Biosolids spilled onto public streets, roadways or other unpermitted areas, immediately upon receiving such notification.
- D. In the event that the Permittee does not respond to notification of spillage or improper application and the County conducts the cleanup of spilled Biosolids, the Permittee shall compensate the County for the actual costs of such cleanup.
- E. The Permittee is responsible for ensuring that the tracking of Biosolids from land application sites onto public roads is minimized and that Biosolids that are dragged or tracked out from land application sites are promptly removed from public roads and highways.

## **IX. Scheduling**

The Permittee will, at the request of the Biosolids Monitor, make all reasonable efforts to schedule land application activities so as to avoid conflicts with community or social events in the vicinity of the land application site.

## **X. Storage**

Biosolids shall be land applied as they are received at the site unless land application is precluded by unforeseen weather conditions or other circumstances beyond the control of the Permittee. Biosolids shall not be stored at any site in the County other than storage that is approved in accordance with the law and regulations of the Virginia Department of Health.

## **XI. Financial Responsibility**

Land application of Biosolids is not allowed unless the Permittee has in effect liability insurance or other evidence of financial responsibility in the amount that is required by state law or regulation, covering losses and claims arising from the land application or transportation of Biosolids and related activities in the County. Such insurance or other form of financial

responsibility shall be maintained in full force and effect throughout the time that the applicator is engaged in land application of Biosolids in the County. The Permittee shall provide the Biosolids Monitor with certificates of insurance and shall promptly notify the Biosolids Monitor of any proposed cancellation or modification of insurance coverage.

## **XII. Reimbursement**

The County shall submit requests for reimbursement for the costs and expenses of testing and monitoring of land application and related activities as are allowed by applicable state law, regulations, manuals, guides and procedures.

## **XIII. Effective Date**

This ordinance is effective immediately. Any land application that is in progress on the date this ordinance is adopted, and any land application that was scheduled before the effective date of this ordinance, shall be deemed in compliance with this ordinance provided that application is completed within thirty days after the effective date of this ordinance.

## **XIV. Enforcement**

- A. Any person who violates any of the provisions of this ordinance shall be charged with a Class 1 misdemeanor as defined by the Code of Virginia, as amended. Each day during which any violation is committed or exists shall constitute a separate offense.
- B. The Biosolids Monitor shall have the authority to order the abatement of any violation of state law or regulation. The abatement order shall identify the activity constituting the violation; specify the code provision or regulation violated by the activity and order cessation and correction of the violation.
- C. The County may bring suite to enjoin, restrain, correct or prevent any violation of this ordinance.

Vice-Chairman Young asked if biosolids had an odor like hog or chicken waste? Mr. Johnson advised that he asked that question to Synagro, Inc. and they indicated that they did not think it had much odor, but in some localities people did complain of odor. Vice-Chairman Young stated that he was concerned that the maximum surface application could range from 2-15 dry tons, which was a lot. Mr. Johnson explained that that was not something that would be calculated locally. That was a function of the VDH's issuance of the permit and was based on soil characteristics, what would be grown there, etc.

Mr. Johnson clarified for Supervisor Faison that this process was initiated by the farmer requesting it. It was clearly an economic motive. The alternatives to reduce the cost of commercial fertilizer apparently was significant.

Supervisor Carter stated that his first reaction was that they did not need this in Southampton County. However, he spent a lot of time going over the information and as he understood it, they did not have a lot of choice. The only thing they could do was adopt an ordinance to control it to the extent that they could, which he thought they certainly needed to do. Mr. Johnson confirmed that that was correct. They did not have a right to prohibit it. However, the State did give them the authority to monitor it.

Supervisor Faison advised that he thought there needed to be a statement in the ordinance about the welfare of the people in Southampton County. Supervisor West agreed. Supervisor Faison asked what expense the monitoring would be to the County? Mr. Johnson replied that the ordinance provided that the County would have a biosolids monitor, which would obviously be a contracted position. He did not know at this time what that was cost.

Supervisor West stated that he thought it was important for the Board to attend the public information meeting on Thursday and also adopt an ordinance. He mentioned that he knew of an industrial giant in Isle of Wight County that had a history of this type of discharge running into low-lying areas when it rained causing pollution and problems. He thought there were too many red flags. Supervisor Carter commented that he would rather not see biosolids in the County at all, but the way he understood it, it was not a whole lot they could do about it. He noted that it was very restrictive on what slopes you could have, etc. Supervisor West remarked that monitoring was only as good as the people doing it. Attorney Railey advised that Supervisor Carter's analysis was correct. All they could do was monitor it.

Chairman Jones asked Wes Alexander, Southampton County Cooperative Extension Agent, who was present in the audience, if he had any comments? Mr. Alexander advised that Virginia Tech was very much in favor of biosolids applications if they were done properly. It had been done successfully in many areas. Chairman Jones stated that it would be a cost to the County to hire someone to monitor it. Mr. Alexander stated not necessarily.

Supervisor Carter asked Mr. Alexander if they could join with other counties to utilize one monitor for a general area? Mr. Alexander explained that he thought that biosolids would be applied very infrequently; maybe once a year. Mr. Johnson advised that that was his understanding, although the permit was good for 5 years. Mr. Alexander stated that there were a lot of restrictions that were pretty straightforward, such as setbacks and slopes, that would not be hard to monitor.

Supervisor Felts asked if this were something that all farmers in the County would have a right to take part in? Mr. Alexander replied yes and he thought they would because it was an economic advantage.

**Vice-Chairman Young moved, seconded by Supervisor Carter, to consider today as the First Reading of the Ordinance and authorize public comment on the Ordinance to take place at the September meeting. All were in favor.**

Since the Board desired to offer comments on this biosolids application, and the 30-day window to do so would expire just short of the next regular board meeting, **Vice-Chairman Young moved, seconded by Supervisor Faison, to continue this meeting to Thursday, August 26, 2004, at 7:00 PM, immediately following the VDH public information meeting. All were in favor.**

Moving forward, Mr. Johnson announced that staff recently received a request to evaluate the area along Pretlow Road, north of Kingsdale, for streetlights. Included in the agenda was a copy of a planimetric map of that area illustrating the placement of homes and existing poles and lights. The Board's policy for installation of a new light was that it should serve five or more residences, or specifically illuminate a street intersection or cul-de-sac. He advised that based on a field survey by Waverly Coggsdale, Assistant County Administrator, they were recommending the installation of one light on an existing pole in front of the residence at 28102 Pretlow Road as being wholly consistent with the Board's policy.

**Vice-Chairman Young moved, seconded by Supervisor Faison, to approve installation of the streetlight at 28102 Pretlow Road. All were in favor.**

Moving to consideration of removal of inactive elevated water tanks, Mr. Johnson announced that as some of them may recall, following construction of the new 300,000 gallon elevated water tank beside the former Boykins Elementary School in 1996, two older elevated water tanks in the Town of Boykins were taken out of service. The tanks were located on Commerce and Spring Garden Streets, a map of which was included in the agenda. He advised that almost immediately, Narricot Industries began experiencing problems with pressure and flow for fire protection, and the Spring Garden Street tank was placed temporarily back in service until a new 12-inch water main was extended from the 300,000 tank to their plant in 2001. Narricot's insurer, Traveler's Insurance, conducted fire flow tests and concluded that the new water supply was adequate to supply Narricot's sprinkler system demands. Their report noted, that at the time of testing, the older tanks had been shut off, drained, and would be demolished by the County in the future. He stated that the tanks no longer served any useful purpose, and in fact, were a liability. Because they were drained and out of service, they could potentially become a structural hazard if subjected to sustained hurricane-force winds. There was also the issue of security. He understood that someone climbed the Commerce Street tank this summer and hung an American flag from it. He remarked that while he appreciated their patriotism, it demonstrated a clear need to proceed with demolition of the tanks. He informed that Julien Johnson, Public Utilities Director, had received a proposal from Pittsburg Tank and Tower to remove both tanks for \$29,687.50. Interestingly, the same company offered a proposal to Dewberry & Davis, our consulting engineers, in 1997 for \$75,000. He advised that he was recommending that they proceed immediately. Adequate unappropriated enterprise funding was available for this project.

**Vice-Chairman Young moved, seconded by Supervisor West, to accept Pittsburg Tank and Tower's proposal. All were in favor.**

Continuing on, Mr. Johnson reminded that last month, Glenn Updike made a brief presentation during late arriving matters relative to the County's direct involvement in operating the livestock market at the Fairgrounds. His remarks were taken under advisement with no action taken. He advised that Supervisor Carter had indicated that he would like this matter discussed this morning and that Mr. Updike would be present to provide additional information.

Mr. Glenn Updike addressed the Board. He informed that the livestock market was in need of major structural repairs. The roof was leaking and the gutters were throwing water back into the barn. People needed somewhere local to buy, sell, and trade livestock.

Mr. M.L. Everette addressed the Board. He stated that it was important to do the necessary repairs and get the market reopened. He thought they needed to change their plan of action. He noted that he had to take cattle to Blackstone, the nearest market, and it took 1½ hours to get there.

Supervisor Carter stated that a cattle producer talked to him yesterday and pointed out that maybe the livestock market was not busy enough to be open as frequent as it was. Maybe they could have sales 4 times a year.

Vice-Chairman Young, member of the Fair Board, advised that he did not think the livestock building was in need of major repairs. Wes Alexander, Southampton County Cooperative Extension Agent and member of the Fair Board, agreed. Mr. Alexander informed that the Fair Board was advertising statewide for an operator. He commented that having at least 1 sale a month was necessary.

It was mentioned that perhaps Joe Gray might be interested in operating the livestock market again. Vice-Chairman Young clarified that Mr. Gray was definitely not interested.

Mr. Updike commented that they needed to get a reputable operator. Mr. Alexander stated that if they could get a list of reputable operators, the Fair Board would be glad to contact them.

Moving forward to upcoming meetings, Mr. Johnson announced that the Franklin-Southampton Alliance had asked him to extend to the Board an open invitation to participate in an upcoming field trip on Wednesday, September 15. The group would be meeting with community officials and touring facilities in the communities of Wilson and Dunn, North Carolina to discuss some of their recent successes in the area of economic development. It would be a full day, with departure scheduled at 7:30 AM and arrival back around 7:00 PM. Transportation would be arranged. He noted that a tentative agenda for the day was included in the agenda.

Chairman Jones and Supervisors West and Wyche indicated that they would attend. Supervisors Faison and Felt advised that they would let Mr. Johnson know later today whether or not they would attend.

Mr. Johnson advised that Charles Turner, Southampton County School Superintendent, had indicated to him that the School Board would like to coordinate a joint dinner meeting with the Board of Supervisors to discuss some of their upcoming capital needs. Capital improvements was one of the topics recently discussed at their strategic planning retreat and they wished to share their findings with them and seek their input and guidance. He advised that they had suggested October 4 or October 7 at 6:30 PM, most likely to be held at the Wigwam (Southampton Technical Center).

It was consensus of the Board for the joint dinner meeting to be held on October 7.

Moving on to the Western Tidewater Community Services Board (WTCSB) FY 2005 Performance Contract, Mr. Johnson recognized Mr. Demetrias Peratsakis. Mr. Peratsakis briefly addressed the Board. He thanked them for their FY 2005 appropriation and asked for their approval of the FY 2005 Performance Contract and Budget, detailed in the agenda. The total FY 2005 budget was proposed at \$14,541,958.

**Supervisor West moved, seconded by Vice-Chairman Young, to approve the WTCSB FY 2005 Performance Contract and Budget. All were in favor.**

Proceeding to indoor air quality issues at the Southampton County Office Center, Mr. Johnson reminded the Board of discussion last April regarding air quality in the Southampton County Office Center, particularly as it related to the formation of mold on numerous ceiling tiles throughout the facility. Last October, he had engaged the services of a certified industrial

hygienist who performed an air quality and surface investigation and found elevated indoor levels of mold spores and recommended remediation by removing and replacing all contaminated ceiling tiles and wiping the ceiling grid track and HVAC vents with a mold growth inhibitor. The hygienist further indicated a need to engage the services of a licensed mechanical engineer to evaluate the HVAC systems in the facility for proper distribution of air flow to minimize the chances of recurrence.

Accordingly, Mr. Johnson advised that he'd had the HVAC systems evaluated and plans and specifications had been prepared to provide all new piping and insulation for AHU's 1-5, located in the mezzanine of the Office Center, to prevent further formation of condensation on the chilled water piping, believed to be a contributing factor to the formation of mold. The project further called for the air handling units to be wiped down with mold and mildew retardant. Mr. Johnson advised that he'd accepted a proposal from Industrial Air Conditioning and Refrigeration Corporation of Richmond to complete the work for \$28,522 and issued the Notice to Proceed on August 3, with substantial completion to be achieved no later than September 27. It was noted that the HVAC work addresses all 5 handlers in the building, not just the one serving the Health Department. Mr. Johnson reported that work is expected to commence on Saturday, August 28 and be completed over successive weekends.

It was noted that, once the HVAC work is complete, additional air quality testing would be performed throughout the entire facility to evaluate the effectiveness of the HVAC work.

Regarding miscellaneous issues, Mr. Johnson announced that the polling place change approved last month was submitted to the U.S. Department of Justice and they had contacted him and indicated that they did not foresee any delays with preclearance approval. He stated that once he received official notice that the change had been precleared, he would notify Mrs. Leona Davis, Voter Registrar, who would notify each registered voter in the affected precinct in accordance with state regulations.

He advised that included in the agenda were copies of the most recent SOL test results for Southampton County Schools. The results showed continued improvement and five of the six schools were now fully accredited.

Mr. Charles Turner, Southampton County School Superintendent, briefly spoke. He stated that the numbers were significant. Only 9 points in English at the Middle School separated them from getting all schools fully accredited.

Mr. Johnson asked the Board to take note of the following two upcoming events:

- August 30 – Faculty/Staff Return-to-School-Day – The Board was invited to hear remarks from the Secretary of Education, among others, at 9:00 AM, followed by lunch at approximately 11:15 AM; and
- Heritage Day on Saturday, September 11.

He informed that included in the agenda were copies of several environmental notices relative to the public water systems at Southampton Meadows Mobile Home Park and Nottoway Trailer Court.

Mr. Johnson advised that copies of the following incoming correspondence was included in the agenda:

- 1) From the Franklin-Southampton Area Chamber of Commerce, encouraging the Board to collaborate with the City of Franklin in economic development efforts;
- 2) From the U. S. Department of Housing and Urban Development (HUD), confirmation of receipt of our annual report associated with the \$1 house at 32076 The Hall Road;
- 3) From VDHCD, a copy of their annual compliance review report for the STOP Organization's use of Virginia Indoor Plumbing Rehabilitation funds;
- 4) A note of thanks from The Genieve Shelter for your FY 2005 appropriation;
- 5) A note of thanks from Paul D. Camp Community College for your FY 2005 appropriation; and
- 6) A request for return of all reassessment proposals submitted by Wingate Appraisal Service (response attached).

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He advised that outgoing correspondence and news articles of interest were included in the agenda.

Moving to late arriving matters, Wes Alexander advised that they would like a member of the Board to sit on the interview panel for the full-time 4-H position. Vice-Chairman Young volunteered.

A letter was received from New Day Christian Center for permission to use old Boykins Elementary School parking lot for overflow parking at an event planned at their church on September 4 and 5. Mr. Julien Johnson, Director of utilities advised that the old school was extremely wet at the present time and that automobiles would likely get stuck if attempting to park on the premises. Accordingly, Mr. Michael Johnson was directed to contact Elder Robert Foreman and advise him that the property was unsuitable for parking at this time.

Mr. Johnson then presented the following Declaration of Local Emergency for ratification by the Board pursuant to § 44-146.21, *Code of Virginia*:

### DECLARATION OF A LOCAL EMERGENCY

WHEREAS, the Emergency Operations Plan for Southampton County, Virginia provides that the Director of Emergency Services, with the consent of the Southampton County Board of Supervisors, is the constituted legal authority for implementing the Emergency Operations Plan and declaring a local state of emergency; and

WHEREAS, the effects of Hurricane Charley presented conditions of extreme peril of life and property necessitating the proclamation of the existence of an emergency on August 14, 2004.

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that an emergency now exists throughout Southampton County;

IT IS FURTHER PROCLAIMED that during the existence of said emergency, the powers, functions, and duties of the Director of Emergency Services for Southampton County, Virginia shall be those described by law and the ordinances, resolutions, and approved plans of Southampton County in order to mitigate the effects of the emergency;

IT IS FURTHER PROCLAIMED that, in order to carry out the effect of this proclamation, funds shall be appropriated from the county's unappropriated fund balance to cover reasonable operational costs of emergency services pending further report to the Board of Supervisors as deemed necessary to cover the expected scope of this emergency.

This proclamation shall be subject to confirmation by the Board of Supervisors at its next scheduled session on August 23, 2004 in accordance with the provisions of § 44-146.21, *Code of Virginia*.

EFFECTIVE, this 14<sup>th</sup> day of August 2004 at 12:00 PM.

\_\_\_\_\_  
Michael W. Johnson  
Director of Emergency Services

Attest: \_\_\_\_\_  
J. Waverly Coggsdale, III  
Assistant County Administrator

**Supervisor Wyche moved, seconded by Supervisor Faison, to ratify the declaration. All were in favor.**

**Chairman Jones announced that it was necessary for the Board to conduct a closed meeting 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;**

**Section 2.2-3711 (A) (7) Consultation with legal counsel and briefings by staff members regarding specific legal matters (contract negotiations) requiring the provision of legal advice by counsel;**

**Section 2.2-3711 (A) (7) Consultation with legal counsel and briefings by staff members regarding specific legal matters (ordinance enforcement) requiring the provision of legal advice by counsel;**

**Section 2.2-3711 (A) (7) Consultation with legal counsel and briefings by staff members regarding specific legal matters (contract negotiations) requiring the provision of legal advice by counsel;**

**Vice-Chairman Young moved, seconded by Supervisor Carter, to conduct a closed meeting for the purposes previously read.**

Richard Railey, County Attorney, Waverly Coggsdale, Assistant County Administrator, Cindy Cave, Community/Economic Development Director, and Julien Johnson, Public Utilities Director, were present in the closed meeting.

Upon returning to open session, **Vice-Chairman Young moved, seconded by Supervisor West, 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: Dallas O. Jones  
Walter L. Young, Jr.  
E. Beale Carter, Jr.  
Carl J. Faison  
Anita T. Felts  
Ronald M. West  
Moses Wyche**

**The motion passed unanimously.**

Chairman Jones advised that there were two motions needed as a result of the closed meeting.

The first was related to an Emergency Medical Services Agreement with Franklin Fire and Rescue. **Vice-Chairman Young moved, seconded by Supervisor Wyche, to authorize the Chairman to execute the following agreement on behalf of Southampton County:**

## **AGREEMENT FOR EMERGENCY MEDICAL SERVICES**

THIS AGREEMENT, made and entered into this 23 day of August, 2004 by and between SOUTHAMPTON COUNTY, a political subdivision of the Commonwealth of Virginia (the "County"), party of the first part; and the CITY OF FRANKLIN, a municipal corporation of the Commonwealth of Virginia (the "City"), party of the second part.

### **BACKGROUND AND REITERATIONS**

1. § 27-3, *Code of Virginia*, 1950, as amended, provides that the governing body of any county adjoining or near a city, may contract with such city, upon such terms as deemed proper by the governing body for response to medical emergencies in the county or portions thereof, and may prescribe the terms and conditions upon which such services are to be provided.

2. The County is desirous of obtaining emergency medical services for the benefit of the citizens residing in the southeastern portion of Southampton County, identified specifically as the "designated area" herein below, and the City is willing to provide such services as hereinafter set forth and provided.

### **AGREEMENT**

NOW, THEREFORE, for and in consideration of the premises and of the mutual benefits to be derived by each of the parties hereto, which said parties now agree to be a valuable and sufficient consideration, said parties agree and covenant upon the terms and conditions as follows:

#### **1. CONTRACT COMMENCEMENT; HOURS OF OPERATION.**

Beginning at 12:00 a.m. on September 1, 2004, City agrees to provide emergency medical and ambulance transport services for all emergency medical 9-1-1 calls originating from within the designated area each and every day, 24 hours per day.

#### **2. DESIGNATED AREA.**

The designated area for first response by the City for emergency medical services is divided into two pieces and generally described as follows: (a) An area north of the Franklin City Limits, which is bounded by the Blackwater River on the east, by Rt. 619 (Burdette Road) on the north, by Rt. 635 (Black Creek Road) and then Rt. 641 (Sedley Road) on the west and by the Franklin City limits on the south and (b) An area in the southeast corner of the County bounded by the Franklin City Limits and then Rt. 671 (General Thomas Highway) on the north, by Rt. 680 (Sunbeam Road) and then Rt. 684 (Monroe Road) on the west, by the North Carolina State line on the south, and by the Blackwater River on the east.

#### **3. LEVEL OF EMERGENCY AMBULANCE SERVICE; QUALIFICATIONS.**

The City agrees that all ambulances shall be staffed at the Advanced Life Support (ALS) level. All providers shall have current EVOC certificates, valid Virginia Driver's licenses, and an acceptable driving record and be released to practice in the Tidewater Emergency Medical Services (TEMS) region.

The City shall meet the reasonable expectations of patients, families, public safety personnel, health care professionals, government officials and media representatives in addition to complying with the operational and clinical performance requirements of this agreement. It shall provide professional and courteous conduct and appearance at all times.

All persons employed by City shall be competent and holders of appropriate licenses and certificates in their respective professions. A copy of each employee's EMS certifications, licenses and driving record shall be furnished to the County, upon request.

**4. RESPONSE TIME STANDARD.**

The City shall place a transport-capable ALS staffed and equipped ambulance at the scene of each emergency call, within 14 minutes and 59 seconds of being dispatched, on not less than ninety percent (90%) of all such emergency calls. "Arrival at the scene" shall be the moment that a fully equipped transport-capable ambulance arrives at the location of the request for service and the crew notifies the City's dispatcher that it is fully stopped and the ambulance crew is exiting the vehicle to approach the patient.

Response time compliance shall be calculated and reported by City on a monthly basis to the County Administrator. For every response exceeding the response time standard defined herein, the City shall submit monthly, in writing, the cause of such extended response and its steps to eliminate its recurrence.

Chronic failure to comply with the response time standard may, in the sole discretion of the County, constitute default of the contract and justify termination.

**5. CLINICAL PERFORMANCE.**

The City shall at all times satisfy its Operational Medical Director (OMD). The OMD shall determine medical protocols, monitor the clinical aspects of the City's performance, formulate recommendations for improving performance, and enforce medically-related standards required by this agreement, state law or regulation.

**6. REPORTING REQUIREMENTS.**

**PPCR Forms** – The City shall complete an approved pre-hospital patient care report (PPCR) form for each completed transport, turn-around, or no-transport call. The PPCR form is required for all patients for whom care is rendered at the scene, or with whom contact is made regardless of whether the patient is transported. Forms shall be filed in accordance with the City's policies and procedures.

**Employees' Certification** – The City shall provide, upon request, a copy of each employee's certification and continuing education records to the County Administrator.

**Daily Operations Report** – The City shall record a daily operations report documenting response time compliance, transports, mutual aid, and unit hour utilization. This report shall provide both the daily and cumulative monthly performance. Said report shall be provided on a monthly basis to the County Administrator.

**7. POINT OF CONTACT.**

The City agrees that its Director of Emergency Services shall serve as the point-of-contact to resolve any patient care or administrative issues that may arise from performance under this contract. The County agrees that its County Administrator shall serve as its point-of-contact.

**8. REVENUE RECOVERY.**

The parties agree that the City shall be entitled to bill and collect reasonable medical fees from responsible parties for services provided pursuant to this agreement. Such fees shall be in addition to remuneration otherwise provided by the County, specified in paragraph 9 herein below. The City agrees that the County shall not be responsible for any unpaid or uncollected fees for services provided pursuant to this agreement.

**9. REMUNERATION.**

The County agrees to provide annual compensation to the City for services rendered hereunder that is equitable and comparable to that enjoyed by its four volunteer rescue squads and the citizens they serve, expressed by the following formula:

Beginning with the compensation set forth in that certain agreement between Southampton County, Boykins Volunteer Fire Department and Rescue Squad, Inc., Capron Volunteer Fire Department and First Aid Squad, Inc., The Courtland Volunteer Rescue Squad, Incorporated, Ivor Volunteer Rescue Squad, Inc., and Sentara Enterprises, Inc., dated December 17, 2001, as it may be amended from year to year, which shall then be divided by four, serving to quantify the value of emergency medical service benefits enjoyed by citizens residing in all areas of Southampton County, save the designated area. The resulting quotient shall then be multiplied by the average ratio of EMS calls answered by the City in the County to the total number of calls answered by the City in Southampton County, Isle of Wight County and in the City for the three (3) preceding years, expressed as a percentage rounded to the nearest hundredth, yielding the pro-rata benefit of such services to county residents residing in the designated area. The resulting product shall then be multiplied by a factor that accounts for the difference in the number of hours per week that the City of Franklin's career personnel are available to respond to medical emergencies in the designated area as compared to response by career personnel in other areas of Southampton County.

In fiscal year 2004-2005, such compensation is calculated as follows:

$$\frac{\$454,795}{4} = (\$113,699) \cdot (0.18) \cdot (2.8) = \underline{\underline{\$57,304}}$$

**The City agrees that such compensation is sufficient for services rendered during the entire fiscal year beginning July 1, 2004 and that any other charges imposed for services rendered under that certain 60-day agreement for emergency medical services beginning July 1, 2004 shall be credited to the County.**

Such compensation shall be in addition to other annual appropriations provided by the County to the City for emergency fire and rescue services rendered pursuant to the longstanding implied-in-fact agreement between the parties. Such appropriations for fiscal year 2004-2005 are \$20,300.31 and \$21,313.66 for fire and rescue services, respectively, and shall hereinafter remain comparable to annual appropriations provided to other first response agencies serving Southampton County.

Furthermore, such compensation shall be in addition to that certain annual appropriation provided by the County to the City for fire & rescue capital projects. Such appropriation for fiscal year 2004-2005 is \$15,000 and shall be payable upon written request from the City of Franklin to the Board of Supervisors, identifying the capital project, equipment or debt service for same to which the proceeds shall be applied. The City shall also be entitled to request its unclaimed fire and rescue capital proceeds remaining from fiscal year 2003-2004 (\$15,000), presently escrowed in the County Building Fund on its behalf.

**10. INDEMNITY.**

Services rendered pursuant to this Agreement shall be deemed conclusively to be for a public and governmental purpose and all of the immunities from liability enjoyed by the County when acting through its own emergency medical technicians for a public and governmental purpose shall be enjoyed by the City to the same extent.

The City binds itself to indemnify, defend, save and hold Southampton County and its respective agents, its Board of Supervisors, and employees harmless from and against any act, judgment, claim, demand, suit, proceeding, expense, order, action, loss, damage, cost, charge, interest, fine, penalty, liability, attorney and expert fee, and related obligation (collectively, "claims") arising from or related to acts and omissions of the City in its performance or non-performance under the agreement, whether direct or indirect including but not limited to liabilities, obligations, responsibilities, remedial actions, losses, damages, punitive damages, consequential damages to third parties, treble damages, costs and expenses, fines, penalties, sanctions, interest levied and other charges levied by other federal, state, and local government agencies on Southampton County by reasons of the direct or indirect actions of the City.

These obligations are not intended to cover claims against Southampton County arising solely from their own gross negligence or intentional misconduct.

Likewise, Southampton County binds itself to indemnify, defend, save and hold the City and its respective employees, agents, and assigns harmless from and against any act, judgment, claim, demand, suit, proceeding, expense, order, action, loss, damage, cost, charge, interest, fine, penalty, liability, attorney and expert fee, and related obligation (collectively, "claims") arising from or related to acts and omissions of the County in its performance or non-performance under the agreement, whether direct or indirect including but not limited to liabilities, obligations, responsibilities, remedial actions, losses, damages, punitive damages, consequential damages to third parties, treble damages, costs and expenses, fines, penalties, sanctions, interest levied and other charges levied by other federal, state, and local government agencies on the City by reasons of the direct or indirect actions of the County.

**11. INSURANCE INDEMNITY PROVISIONS.**

The City shall procure, pay for, and maintain the minimum insurance coverage and limits as provided for in this Agreement. This insurance shall be evidenced by delivery to Southampton County a certificate of insurance executed by a financially stable insurance carrier licensed or permitted to write insurance by the Virginia Bureau of Insurance. The following coverage shall be provided:

- A. Commercial general liability insurance with limits of not less than \$2,000,000 per occurrence, and \$2,000,000 annual aggregate.
- B. Professional medical liability insurance including errors and omissions with minimum limits of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
- C. Worker's compensation coverage/statutory limits.
- D. Umbrella coverage in the amount of at least \$2,000,000 shall be provided as additional coverage to all underlying liability policies, including professional liability.
- E. Endorsements required - Sixty days prior to the expiration, cancellation, non-renewal or any material change in coverage or limits on any policy, a notice thereof shall be sent to the Southampton County Administrator at his address of record by the insurer. Companies issuing the insurance shall have no claims against Southampton County for payment of premiums or assessment of deductibles, which are the sole responsibility and risk of the City. All such policies shall name Southampton County and its employees and Board of Supervisors, the Southampton County Sheriff's Office and its employees, as additionally named insureds.

**12. TERM AND RENEWAL PROVISIONS.**

The term of this contract shall be for a period of ten months commencing at 12:00:01 a.m., September 1, 2004 and extending to 11:59:59 p.m., June 30, 2005. It shall automatically renew for successive terms of one (1) year subject to the right of any party to cancel the agreement with 180 days advance written notice at any time during the fiscal year. Terms and provisions of subsequent agreements shall be annually negotiated by March 1 each year for the following fiscal year contract. It shall be the City's responsibility to inform the County, in writing, no later than March 1 of each year of its intention to renew and the annual cost of renewal. Failure by the City to provide such notice shall be deemed conclusive evidence that it wishes to renew the Agreement for a subsequent year with no change in the terms and provisions.

**13. ASSIGNMENT OF RIGHTS.**

No assignment of this Agreement, or any right accruing under this Agreement, shall be made, in whole or in part, by any party without the express written consent of the others, and, in the event of any assignment to which all consent, any assignee shall assume the liabilities and obligations of the assignor.

**14. AMENDMENTS.**

No additions, supplements, annexes to, or amendment, alteration or modification of all or part of this Agreement shall be of any force or effect, unless in writing, executed by all parties and

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attached hereto. No amendment of any provision of this Agreement shall imply the modification of any other provision.

**15. SEVERABILITY.**

If any provisions of this Agreement shall be declared illegal, void or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect.

WITNESS the following signatures and seals affixed hereto as of the day and year written herein above:

SOUTHAMPTON COUNTY

CITY OF FRANKLIN

\_\_\_\_\_  
Dallas O. Jones, Chairman  
Board of Supervisors

\_\_\_\_\_  
James P. Councill, III  
Mayor

ATTEST:

ATTEST:

\_\_\_\_\_  
Michael W. Johnson, Clerk

\_\_\_\_\_  
Rowland L. Taylor, Clerk

**The motion was approved unanimously.**

**Supervisor Faison moved, seconded by Supervisor West, to increase Denise Edwards' annual salary from \$21,007 to \$22,057, a 5% adjustment, in recognition of her achievement in becoming certified as a Class 4 wastewater operator. The motion was approved unanimously.**

There being no further business at that time, the meeting was recessed at 11:30 AM and continued to August 26, 2004 at 7:00 PM.

**CONTINUED SESSION - August 26, 2004**

Chairman Jones called the meeting back to order on August 26, 2004 at 7:00 PM.

**SUPERVISORS PRESENT**

Dallas O. Jones, Chairman (Drewryville)  
Walter L. Young, Jr., Vice-Chairman (Franklin)  
E. Beale Carter, Jr. (Newsoms)  
Carl J. Faison (Boykins-Branchville)  
Anita T. Felts (Jerusalem)  
Ronald M. West (Berlin-Ivor)  
Moses Wyche (Capron)

**SUPERVISORS ABSENT**

None

OTHERS PRESENT

Michael W. Johnson, County Administrator (Clerk)  
Richard E. Railey, Jr., County Attorney

**Supervisor Young moved:**

- 1. That the emergency ordinance printed herein below be immediately adopted as an emergency ordinance pursuant to § 15.2-1427, *Code of Virginia*;**
- 2. That a joint public hearing with the Southampton County Planning Commission be scheduled for September 27, 2004 at 7:00 p.m. to consider readoption of the emergency ordinance, that it may remain enforceable in perpetuity, unless repealed or amended by the Board; and**
- 3. That the County Administrator be directed to provide written comments to the Virginia Department of Health regarding Synagro's pending application sometime between September 20, 2004 and September 25, 2004.**

**Supervisor Carter seconded the motion.**

**EMERGENCY BIOSOLIDS ORDINANCE**

AN ORDINANCE AMENDING THE SOUTHAMPTON COUNTY CODE,  
BY THE ADDITION OF ARTICLE IV, CHAPTER 7, LAND APPLICATION OF BIOSOLIDS

**Sec. 7-61. Findings.**

The Board of Supervisors finds that improper spreading, placement, disposal or management of Biosolids without appropriate regulation, notice and monitoring may result in adverse effects to the general health safety and welfare of the inhabitants of the County and to agricultural lands, water supplies, wildlife, livestock, natural resources and the environment.

**Sec. 7-62. Purpose and Intent.**

This ordinance is intended to ensure laws and regulations governing the land application of Biosolids are properly implemented and enforced, and to secure and promote the health, safety and welfare of the county's citizens; to deter the creation of a public nuisance and to prevent pollution of the waters and soils of the county related to land application of biosolids. In carrying out this ordinance the County will test and monitor the application of Biosolids to agricultural land within its boundaries as authorized by the Code of Virginia and applicable regulations. This ordinance is intended to address the land application of biosolids in the County and to implement the authority granted to local governments by Va. Code sections 62.1-44.19:3 and sections 32.1-164.5 et seq., to provide for the testing, monitoring and enforcement of land application of Biosolids within the political boundaries of the County and to ensure compliance with applicable laws and regulations. This ordinance is not intended to regulate the land application of animal wastes or manures or exceptional quality biosolids.

**Sec. 7-63. Authority and Severability.**

This ordinance is adopted pursuant to the authority granted by the Code of Virginia, including but not limited to sections 15.2-1200 et seq., 15.2-2200 et seq., 15.2-2283 et seq., 62.1-44.19:3 and 32.1-164.2 et seq. In the event that any portion of this ordinance is declared void for any reason, such decision shall not affect the remaining portions of the ordinance, which shall remain in full force and effect, and for this purpose the provisions of this ordinance are hereby declared to be severable.

**Sec. 7-64. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning:

***Applicator*** means any person who applies biosolids pursuant to appropriate permits.

***Biosolids*** mean sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and

contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing or distribution in accordance with state law and regulations.

**Biosolids Monitor** means an employee or agent of the County, either full-time or part-time, charged with the responsibility of ensuring that the land application of Biosolids is conducted in accordance with this ordinance and applicable laws and regulations.

**Exceptional Quality Biosolids** means Biosolids that have received an established level of treatment for pathogen control and vector attraction reduction and contain known levels of pollutants, such that they may be marketed or distributed for public use in accordance with state regulations.

**Land Application of biosolids** means the spreading, placement or distribution of Biosolids upon, or insertion into, the land.

**Nutrient Management Plan** means a plan prepared by a person certified by the Commonwealth as a nutrient management planner and otherwise meeting the requirements set forth by state law and regulation.

**Owner** means a person who holds legal title, equitable title, a leasehold interest or the right of possession or control over land.

**Permit** means an authorization granted by the authority of the Commonwealth of Virginia to land apply Biosolids.

**Permittee** means any person who holds a permit authorizing the land application of Biosolids.

**Sewage Sludge** means any solid, semi-solid, or liquid residues, which contain materials, removed from municipal or domestic wastewater during treatment including primary and secondary residues.

**Storage Facility** means any facility designed to store biosolids for a period of time. Such facilities include, but are not limited to: above ground or underground storage tanks, silos, ponds lagoons and other holding devices.

#### **Sec. 7-65. Prohibited Practices.**

- A. No person shall dispose of sewage sludge, including biosolids, on land located in the County except in accordance with federal and state law and regulations and this ordinance.
- B. No person shall land apply biosolids on lands in the County until all of the procedural requirements set forth in this ordinance as well as those set forth in applicable federal and state laws and regulations have been satisfied. No Owner shall permit land application of biosolids on land in the County until all of the procedural requirements set forth in this ordinance and those set forth in state and federal law and regulation have been satisfied.
- C. No person shall apply and no owner shall permit the application of sewage sludge other than biosolids that have been approved by the regulations of the Virginia Department of Health or Department of Environmental Quality to land in this county. No Owner shall permit the application of sewage sludge other than biosolids that have been approved by regulations of the Virginia Department of Health to land in the County.
- D. No person shall apply Biosolids to land in the County except pursuant to a valid permit issued by the Virginia Department of Health or Department of Environmental Quality, in compliance with all applicable federal and state statutes and regulations, and in accordance with the provisions of this Ordinance.

#### **Sec. 7-66. Notice & Requirements for Land Application of Biosolids.**

- A. Land application of Biosolids is authorized only in Agricultural zoning districts.
- B. Any person proposing or intending to land apply Biosolids to lands in this County shall notify the County Biosolids Monitor in writing at least 14 days prior to any intended land application of Biosolids, or as otherwise required by state law or regulation.
- C. The notice provided to the Biosolids Monitor shall include the following information (if not already submitted to the locality):
  1. The name, address and telephone number of the Permittee or Applicator;
  2. The tax map numbers of the parcels where land application will occur;
  3. The name, address and telephone number of the Owner of the property where the land application will occur;
  4. The name, telephone number and address of the hauler of the biosolids;

5. The estimated date range on which land application will occur and the duration of the planned application;
  6. A copy of the current state permit and any other state or federal permits authorizing the land application;
  7. A copy of a Nutrient Management Plan (NMP) as required by state law and regulation;
  8. Information on proposed haul routes and alternative haul routes on a county map.
- D. The county shall review the documentation provided with the notice and shall notify the applicant in writing of any deficiencies in the submittal within 10 business days of receipt. The applicant will have 10 business days to correct and amend the deficiencies unless otherwise permitted by the county in writing.

**Sec. 7-67. Monitoring and Sampling.**

- A. By agreeing to accept Biosolids for land application, the Owner of the property on which land application takes place agrees to allow the Biosolids Monitor access to the land application site for the purpose of monitoring land application activities. It is the responsibility of the Permittee to ensure that the property Owner is advised of this requirement. The Biosolids Monitor shall make diligent efforts to make contact with the property Owner prior to entering the property.
- B. The Permittee and Owner shall allow the county to take samples at the application site before, during and after the application. Any test samples shall be analyzed at a lab qualified to conduct such analysis and the County Health Department may review these test results to determine compliance with applicable laws and regulations. At the request of the Applicator the Biosolids Monitor will provide the applicator with a split sample.
- C. At the request of the Biosolids Monitor, the Applicator or Permittee shall provide the most recent analysis results for Biosolids that are land applied at any site in the county.

**Sec. 7-68. Complaint Response.**

- A. The Biosolids Monitor shall notify The Virginia Department of Health, the Applicator or Permittee and the Owner of all complaints concerning the land application of biosolids.
- B. The Biosolids Monitor shall notify the Permittee of any failure to follow the requirements of the Permit resulting in the improper application of Biosolids or in the spillage of Biosolids onto public streets or rights-of-way or on property outside the area authorized by the Permit.
- C. The Permittee shall respond to undertake appropriate corrective action for improperly applied Biosolids, or to clean up Biosolids spilled onto public streets, roadways or other unpermitted areas, immediately upon receiving such notification.
- D. In the event that the Permittee does not respond to notification of spillage or improper application and the County conducts the cleanup of spilled Biosolids, the Permittee shall compensate the County for the actual costs of such cleanup.
- E. The Permittee is responsible for ensuring that the tracking of Biosolids from land application sites onto public roads is minimized and that Biosolids that are dragged or tracked out from land application sites are promptly removed from public roads and highways.

**Sec. 7-69. Scheduling.**

The Permittee will, at the request of the Biosolids Monitor, make all reasonable efforts to schedule land application activities so as to avoid conflicts with community or social events in the vicinity of the land application site.

**Sec. 7-70. Storage.**

Biosolids shall be land applied as they are received at the site unless land application is precluded by unforeseen weather conditions or other circumstances beyond the control of the Permittee. Biosolids shall not be stored at any site in the County other than storage that is approved in accordance with the law and regulations of the Virginia Department of Health.

**Sec. 7-71. Financial Responsibility.**

Land application of Biosolids is not allowed unless the Permittee has in effect liability insurance or other evidence of financial responsibility in the amount that is required by state law or regulation, covering losses and claims arising from the land application or transportation of Biosolids and related activities in the County. Such insurance or other form of financial responsibility shall be maintained in full force and effect throughout the time that the applicator is engaged in land application of Biosolids in the County. The Permittee shall provide the Biosolids Monitor with certificates of insurance and shall promptly notify the Biosolids Monitor of any proposed cancellation or modification of insurance coverage.

**Sec. 7-72. Reimbursement.**

The County shall submit requests for reimbursement for the costs and expenses of testing and monitoring of land application and related activities as are allowed by applicable state law, regulations, manuals, guides and procedures.

**Sec. 7-73. Effective Date.**

This ordinance is effective immediately. Any land application that is in progress on the date this ordinance is adopted, and any land application that was scheduled before the effective date of this ordinance, shall be deemed in compliance with this ordinance provided that application is completed within thirty days after the effective date of this ordinance.

**Sec. 7-74. Enforcement.**

- A. Any person who violates any of the provisions of this ordinance shall be charged with a Class 1 misdemeanor as defined by the Code of Virginia, as amended. Each day during which any violation is committed or exists shall constitute a separate offense.
- B. The Biosolids Monitor shall have the authority to order the abatement of any violation of state law or regulation. The abatement order shall identify the activity constituting the violation; specify the code provision or regulation violated by the activity and order cessation and correction of the violation.
- C. The County may bring suite to enjoin, restrain, correct or prevent any violation of this ordinance.

**The motion was approved unanimously.**

There being no further business, the meeting was adjourned at 7:25 PM.

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Dallas O. Jones, Chairman

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Michael W. Johnson, Clerk