

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 September 26, 2005 at 6:00 PM.

SUPERVISORS PRESENT

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

SUPERVISORS ABSENT

None

OTHERS PRESENT

Michael W. Johnson, County Administrator (Clerk)
James A. Randolph, Assistant County Administrator
Julia G. Williams, Finance Director
Robert L. Barnett, Building Official/Zoning Administrator
Richard E. Railey, Jr., County Attorney
Julien W. Johnson, Jr., Public Utilities Director
Susan H. Wright, Administrative Secretary

Chairman Jones called the meeting to order, and after the *Pledge of Allegiance*, Supervisor Faison gave the invocation. (*Note: Supervisor Brown was not yet present.*)

Chairman Jones sought approval of the minutes of August 9, 2005 Mini-Retreat and August 22, 2005 regular meeting. They were both approved as recorded, as there were no additions or corrections.

Regarding highway matters, Mr. Michael Johnson, County Administrator, announced that Mr. Joe Lomax, who had been officially appointed to succeed Randolph Cook as Residency Administrator for the Virginia Department of Transportation (VDOT) Franklin Residency Office, was with us this evening. He would be here every month to meet with and hear the concerns of the Board with regard to highway issues. He noted that he was still back and forth between two jobs, so he was not completely up to speed with things going on in the Franklin Residency.

Mr. Lomax introduced himself to the Board. He stated that he was filling some pretty big shoes. He did not know that he could fill them, but he could certainly attempt to try. He informed that he had been with VDOT for almost 21 years and had worked in various positions from traffic surveying to construction. He had spent 8 years with the Franklin Residency as a construction inspector and was responsible for building the Pretlow Interchange (Route 714) and the Route 35 Bridge at Route 58. He also spent time here after Hurricane Floyd. He assisted Kevin Gregg and Randolph Cook for many years here and owed a lot of what he had learned to those gentlemen. He was going to try to pick up where Mr. Cook left off. He knew that Mr. Cook had a good rapport with the folks here in the County because he was "home-grown." He advised that he was from Chesapeake and lived in Portsmouth. But when his daughter graduated, he was going to have to come this way because it was just too far. His father-in-law was the minister of Galilee Baptist Church on Old Branchville Road in Southampton County and had been for 20+ years. So he did have some connections with the community and was not exactly an unknown. He stated that Mr. Jerry Kee could not be here tonight due to a family emergency. He was a fine-working gentleman at the Franklin Residency. He could have done the job and was acting Residency Administrator for about 4 months. But in the end, the decision was made and he just happened to win the horse race. He was glad to be here and happy to be serving the County. He informed that he just left Isle of Wight County and the City of Suffolk. They did not have anybody right now that could take on that initiative. So he would be spending probably 30-40 percent of his time there. He asked the Board to please let him know if there was anything he could do and to feel free to contact the office at any time.

Chairman Jones welcomed Mr. Lomax to Southampton County. He stated that he hoped they could have a good working relationship.

Mr. Johnson advised that included in the agenda was a petition from 10 households on Lakeside Drive in Darden Mill Estates requesting installation of two "Children at Play" signs in their community. The request was consistent with the policy adopted by the Board of Supervisors at its October 27, 1997 meeting. A resolution was included in the agenda for their consideration.

(Note: Supervisor Brown arrived at this time.)

The resolution is as follows:

At a meeting of the Board of Supervisors of Southampton County, Virginia, held in the Southampton County Office Center, Board of Supervisors' Meeting Room, 26022 Administration Center Drive, Courtland, Virginia on Monday, September 26, 2005 at 6:00 p.m.

PRESENT: Dallas O. Jones, Chairman
Walter L. Young, Jr., Vice-Chairman
Walter D. Brown, III
Carl J. Faison
Anita T. Felts
Ronald M. West
Moses Wyche

IN RE: "Watch for Children" signage request

Supervisor _____ moved that:

"The County Administrator is directed to request to the Virginia Department of Transportation to install and maintain 'Watch for Children' signage on Lakeside Drive alerting motorists that children may be at play between 18300 and 19041 Lakeside Drive."

Seconded by Supervisor _____.

Voting on the Item: Supervisors Jones, Young, Brown, Faison, Felts, West, Wyche – YES;
None – NO.

A COPY TESTE:

Michael W. Johnson, Clerk
Southampton County Board of Supervisors

Vice-Chairman Young moved, seconded by Supervisors Faison, to adopt the resolution directing the County Administrator to request VDOT to install and maintain the signage described above. All were in favor.

Mr. Johnson advised that they may remember from their June 2004 regular meeting, a presentation of a draft memorandum of understanding between VDOT and Southampton County which was intended to coordinate the management and disposal of vegetative debris following a local disaster. At that time, staff was directed to work with VDOT officials in developing a written debris management plan outlining the roles and responsibilities of each respective organization. He informed that he was now pleased to present for their consideration a finalized agreement and plan, which essentially reduced to writing the debris management activities that occurred following Hurricane Isabel in 2003. For all intents and purposes, the plan assigned responsibility for clearing of the roadways to VDOT and for ultimate removal and disposal of debris to Southampton County. As they were aware, in a declared disaster, Southampton County was federally reimbursed for the majority of debris management expenses. He was seeking authorization to execute the Memorandum of Understanding with VDOT, which was included in the agenda.

The Memorandum of Understanding is as follows:

MEMORANDUM OF UNDERSTANDING (MOU)

The Virginia Department of Transportation (VDOT)
Hampton Roads District
and
Southampton County

RE: Coordination of Emergency Debris Management Activities

THIS MEMORANDUM OF UNDERSTANDING, executed in duplicate, made and entered into this _____ day of _____, 2005, by and between Southampton County, hereinafter called the "County" and the Commonwealth of Virginia, Department of Transportation, Hampton Roads District, hereinafter referred to as the "VDOT".

WITNESSETH:

THAT WHEREAS, the County and the VDOT contemplate the coordination of emergency debris management, to include clearing roads and bridges of storm-debris, cutting and removal of storm damaged trees and limbs, and the removal and disposal of storm debris collected from within the VDOT right-of-way; and

WHEREAS, the County desires to provide "curb-side" storm-debris pickup services to their residents and assist in the general storm-debris cleanup effort on VDOT right-of-way, and acknowledging that the VDOT has maintenance responsibility for VDOT right-of-way.

NOW, THEREFORE, during major storm events affecting Southampton County, the County is hereby authorized to assist in the clearing of VDOT maintained roadways and bridges, and once all roadways and bridges are cleared of debris, the County is authorized to administer emergency debris removal contracts to cut and remove storm damaged trees and limbs, and to remove and dispose of storm-debris collected from the VDOT right-of-way.

FURTHERMORE, the authorization for the County to conduct the aforementioned debris management activities on VDOT right-of-way, is contingent on adherence to a debris management plan (Attachment 1) jointly developed and agreed upon by the County and the VDOT. As conditions warrant and upon mutual agreement, the plan may be revised or updated to meet the needs of both the County and the VDOT. The debris management plan must include the following:

Debris Clearing Plan

1. Identification of critical routes and development of a prioritized list for scheduling of debris clearance operations.
2. Assignment of primary responsibilities for debris clearance for each road.
3. Definition of debris clearing operations.
4. Communications plan for coordinating work between the County and VDOT debris clearing operations.

Debris Removal and Disposal Plan

1. Identification of critical routes and prioritization of those routes for scheduling of debris removal operations.
2. Definition of debris removal and disposal operations.
3. Assignment of primary responsibility for debris removal for each road.
4. Identification of Temporary Debris Storage & Reduction Sites intended to be used should a major storm require implementation.
5. Communications plan for coordinating work between the County and VDOT debris removal and disposal operations.

At no time, unless otherwise provided for and agreed upon by both parties in the Debris Management Plan (Attachment 1), is VDOT responsible for reimbursements, costs or charges for work performed by the County, or contracted by the County for emergency debris clearing and removal operations on VDOT right-of-way.

This agreement may be amended at any time by mutual agreement of the parties in writing. Further, this agreement may be terminated by either party upon 60 days notice in writing to the other party.

Unless otherwise specified, this Agreement and its Attachment embody the entire understanding between the County and VDOT and any prior or contemporaneous representations, either oral or in writing are hereby suspended.

VDOT

Southampton County

Signature

Signature

Name/Title

Name/Title

Attachment 1
Debris Management Plan

PURPOSE

The purpose of this plan is to provide policy and guidance for the removal and disposition of debris caused by a major disaster, and to facilitate and coordinate the management of debris following a disaster in order to mitigate against potential threats to the life, health, safety and welfare of Southampton County citizens.

SITUATION

Natural and manmade disasters precipitate a variety of debris that include, but are not limited to such things as trees, sand, gravel, building construction material, vehicles, personal property and hazardous materials. The quantity and type of debris generated from any particular disaster will be a function of the location and kind of event experienced, as well as its magnitude, duration and intensity. The quantity and type of debris generated, its location, and the size of the area over which it is dispersed will have a direct impact on the type of collection and disposal methods utilized to address the debris problem, associated costs incurred, and how quickly the problem may be addressed.

ASSUMPTIONS

A natural disaster that requires the removal of debris from public lands and waters can occur at any time. The amount of debris resulting from an event or disaster may exceed Southampton County's ability to dispose of it. Private contractors, hired and monitored by Southampton County, will play a significant role in debris removal, collection, reduction and disposal. The debris management program implemented by Southampton County will be based on a philosophy of reduction, reuse, reclamation, resource recovery, incineration and landfilling.

DEBRIS CLEARING

Hurricanes and natural disasters can generate unprecedented amounts of debris in a few hours or minutes. The debris may be equally heavy in suburban and rural areas depending on the magnitude of winds and associated damage. Debris removal shall be a high priority following any disaster. Large-scale debris removal shall be divided in 2 phases. Phase 1 consists of the clearance of debris that hinders immediate life saving actions taken within the disaster area and the clearance of that debris which poses an immediate threat to public health and safety. Phase 2 consists of the removal and disposal of that debris which is determined necessary to ensure the orderly recovery of Southampton County and to eliminate less immediate threats to public health and safety.

PHASE 1 DEBRIS CLEARING

Phase 1 debris clearing involves the opening of all primary highways, arterial roads and collector streets by moving debris to the shoulders of the road. There is no attempt to physically remove or dispose of the debris, only to clear key access routes to expedite the movement of emergency vehicles, law enforcement vehicles, resumption of critical services and assessment of damage.

The debris may include wind-blow trees or limbs, outdoor furniture, trash cans, utility poles, power and telephone cables, transformers and other electrical devices, building debris such as roofs, sheds and signs and personal property such as clothing, appliances, boats, cars, trucks and trailers.

Immediately following a natural or manmade disaster, VDOT's Franklin Residency Administrator, in consultation with Southampton County Director of Emergency Services, shall identify critical routes that are essential to emergency operations and mutually develop a priority list for Phase 1 debris clearing.

Phase 1 debris clearing operations shall be supervised by VDOT using all available resources. Requests for additional assistance may be made by the Residency Administrator to the State Emergency Operations Center (EOC).

Upon completion of Phase 1 operations, VDOT shall provide the Southampton County Director of Emergency Services with an estimate of the quantities of debris alongside each roadway.

PHASE 2 DEBRIS REMOVAL AND DISPOSAL

Southampton County shall assume primary responsibility and oversight for Phase 2 debris removal and disposal. In the event of a large scale disaster, the County shall be divided into three debris management zones which coincide with the local VDOT area offices: Berlin, Capron, and Franklin. If necessary, the County will establish one or more temporary debris storage and reduction sites and execute its pre-placed contract for emergency debris removal and disposal. Priorities for removal and disposal shall be mutually agreed upon by the VDOT Residency Administrator and the Southampton County Director of Emergency Services. Southampton County shall then prepare daily schedules for its contractor for debris removal based upon the mutually agreed upon priority list, until all debris is transported to the temporary debris storage and reduction sites(s). Southampton County shall assume responsibility for compliance monitoring at the temporary debris storage and reduction site(s). VDOT shall assume responsibility for compliance monitoring of all field operations and shall provide field inspection at mutually agreed upon check points.

Vice-Chairman Young moved, seconded by Supervisor Wyche, to authorize the County Administrator to execute the Memorandum of Understanding with VDOT. All were in favor.

Chairman Jones asked if any of the Supervisors had any highway issues to report to Mr. Lomax?

Vice-Chairman Young advised that he had an issue but had talked to Benny Necessary (VDOT Superintendent of the Franklin Area) and he took care of it.

Supervisor West asked if grass cutting was continuing throughout the County? Mr. Lomax replied that he thought the final cut was about to begin but he would confirm that.

Supervisor Wyche asked about the status of Whitehouse Road? Had they received any bids? Mr. Lomax replied that he was not up to speed regarding Whitehouse Road but would get an answer for him.

Supervisor Brown advised that an assessment was done of Riverdale Road from Sandy Ridge Road to Route 258 to see if a 45 mph speed limit was necessitated, especially in the vicinity of the church, fellowship hall, and the cluster of 12 homes, and it was not. He advised that he would like that revisited and noted that there were 4 more houses coming. Mr. Lomax replied that he would look into it.

Regarding reports, various reports were received and provided in the agenda. They were Financial, Building Inspections, New Housing Starts, Cooperative Extension, and Treasurer's Report. Also, Delinquent Tax Collection, Fire & Rescue Financial Reports, Reassessment, Public Safety Radio Project Status Report, and Personnel.

In regards to the delinquent tax collection report, Supervisor West asked what percent were we at for the year? Mr. David Britt, Southampton County Treasurer who was in the audience, replied 96-97 percent.

In regards to the personnel report, Mr. Johnson advised that Raymond E. Merkh, who had been on active military leave, resigned from the Sheriff's Office effective 08/31/05. J. Travis Felts resigned from the Sheriff's Office effective 09/15/05. He informed that Derek W. Ayers of the Sheriff's Office remained on active military leave in Iraq.

Moving to financial matters, Mr. Johnson announced that bills in the amount of \$1,297,084.43 were received. **Vice-Chairman Young moved, seconded by Supervisor West, that the bills in the amount of \$1,297,084.43 be paid with check numbers 71463 through 72091. All were in favor.**

Moving forward to appointments, Mr. Johnson announced that as discussed last month, the term of Mr. Lemuel Rountree of Newsoms on the Board of Building Code Appeals would expire on September 30, 2005. Other current members included Sonny Draper (Boykins), Bob Edwards (Courtland), Morgan Munford (Sedley), and E.P. Kea, Jr. (Ivor). Mr. Rountree was eligible for reappointment. He stated that included in the agenda for their information were excerpts from the *Virginia Uniform Statewide Building Code* as it related to composition of the Board of Building Code Appeals. He noted that this Board met solely on an "as-needed" basis. Over the course of the past eleven years, it had met twice, none in the last six, hearing a total of three appeals.

Supervisor Brown advised that he had contacted Mr. Rountree and he was more than happy to continue serving.

Supervisor Brown moved, seconded by Vice-Chairman Young, to reappoint Mr. Lemuel Rountree to the Board of Building Code Appeals. All were in favor.

Mr. Johnson advised that also as discussed last month, the respective terms of Douglas A. Chesson (Berlin-Ivor) and James N. Bradshaw (Jerusalem District) on the Board of Zoning Appeals would expire on September 30, 2005. Appointments were made by the Circuit Court upon recommendation by the Board of Supervisors. Terms were for 5 years meaning that these two terms would run from October 1, 2005 to September 30, 2010. Both gentlemen were eligible for reappointment. He noted that the statute, included in the agenda, provided that Board members shall continue to serve until a successor was appointed by the Court, regardless of the expiration of their term.

Supervisor West advised that he had contacted Mr. Chesson and he was willing to continue to serve.

Supervisor West moved, seconded by Vice-Chairman Young, to recommend to the Circuit Court that Douglas A. Chesson be reappointed to the Board of Zoning Appeals. All were in favor.

Supervisor Felts advised that she had contacted Mr. Bradshaw and he was willing to continue serving.

Supervisor Felts moved, seconded by Vice-Chairman Young, to recommend to the Circuit Court that James N. Bradshaw be reappointed to the Board of Zoning Appeals. All were in favor.

Proceeding to consideration of proposals to purchase a rotary fan press, Mr. Johnson announced that as they may recall from their July session, staff was authorized to publish and distribute a request for proposals (RFP) for a rotary fan press to assist with sludge dewatering at the Courtland and Environs Wastewater Treatment Plant. He advised that proposals were received from two companies, Prime Solution, Inc. (PSI) based in Allegan, Michigan and Fournier from Quebec, Canada, both of which were evaluated by Mr. Julien Johnson, Public Utilities Director, and his staff. Based upon the criteria included in the RFP, Mr. Johnson was recommending acceptance of the proposal by Prime Solution, Inc. to furnish and install a reconditioned RFP-24D trailer for \$78,490. He noted that a copy of their proposal was included in the agenda. The proposal included a reconditioned 24" rotary fan press contained within a 7' x 14' cargo trailer, and all the related appurtenances such as the feed pump, air compressor, and electrical controls. The price included delivery, installation, start-up and training and the reconditioned press was covered by a 2-year limited warranty. He informed that while the price of a *new* rotary fan press from PSI was comparable, the new unit did not come mounted in the cargo trailer, a feature which Mr. Johnson believed would add measurable life to the equipment. The manufacturer's warranty was identical

on the new and reconditioned units. He noted that Fournier's base bid for a 36" rotary fan press was almost \$130,000. He stated that sufficient funding had been identified within the Enterprise Budget to purchase the equipment without the need for financing.

Supervisor Brown asked if the Courtland Wastewater Treatment Plant was operating at capacity? Mr. Michael Johnson replied no, slightly below. Supervisor Brown asked if it would hit capacity in the near future? Mr. Johnson replied, likely in the next 24 months. He added that we were at about 85% capacity. The Department of Environmental Quality required that design plans for an expansion be done when capacity reached 90%. When capacity reached 95%, we would be required to contract to have the plant expanded and construction must begin.

Mr. Julien Johnson clarified for Supervisor Brown that the proposed rotary fan press could handle the future capacity. It could also be moved around because it would come mounted in a cargo trailer.

Vice-Chairman Young moved, seconded by Supervisor Felts, to accept the proposal of Prime Solution, Inc. to furnish and install a reconditioned RFP-24D Trailer at the Courtland and Environs Wastewater Treatment Plant for \$78,490. All were in favor.

Moving forward, Mr. Johnson announced that as they may be aware, Sec. 2.14 (A) (2) of the *Personnel Policies and Procedures* provided that reimbursement for mileage associated with county-business travel in private vehicles shall be at the same rate for state employee travel. The state reimbursement rate was established by statute, as opposed to policy, meaning that it would remain constant, at least until the General Assembly convened next January and considered new legislation. The rate was last adjusted in July 2000, when it was increased from \$0.27 to \$0.325 per mile. He stated that as they were aware, the national average price per gallon for gasoline last week was \$2.79, up \$0.92 from last year. By way of comparison, the national average price per gallon in 2000 (the last time the Commonwealth revised its policy) was \$1.51, an 85% overall increase. He informed that on September 9, the Internal Revenue Service announced that it was increasing the optional standard mileage rates from \$0.405 to \$0.485 per mile for the final four months of the calendar year in recognition of rising fuel prices. He advised that since the county established its rate by policy, it was under no obligation to continue using the state rate, if the Board was inclined to amend its policy. Because the overwhelming majority of county business was conducted through the use of county-owned vehicles, the fiscal impact of an amended policy was minimal. In fairness to employees and Board members who were periodically obligated to utilize their private vehicles for business use when no county vehicle was available, he was seeking their consideration of the following policy amendment:

“Notwithstanding the provisions of Sec. 2.14 (A) (2) of the Personnel Policies and Procedures of Southampton County, reimbursement for mileage is hereby established at the rate of \$0.39 per mile for all county-related travel in private vehicles between October 1, 2005 and December 31, 2005.”

This adjustment provided for a 19.75% increase in the current rate, which was comparable with the temporary IRS increase.

Supervisor Wyche moved, seconded by Supervisor West, to temporarily adjust the travel reimbursement policy as outlined above. All were in favor.

Mr. Johnson commented that we could revisit this on January 1, 2006 or perhaps wait until March 2006 to see what the General Assembly may have done with regard to this issue.

Moving to adoption of the National Incident Management System, Mr. Johnson announced that beginning October 1, 2005, the Federal government was requiring localities to adopt the National Incident Management System (NIMS) in order to qualify for continued federal preparedness grant programs. He noted that included in the agenda was a list of the affected programs. Implementation of NIMS was subject to completion of the following activities:

- 1) Formally recognizing NIMS and adopting NIMS principles and policies by resolution of the Board of Supervisors;
- 2) Having executive and managerial employees with direct roles in emergency preparedness complete the independent study course, “National Incident Management System (NIMS), an Introduction”;

- 3) Establishing a baseline for determining which NIMS requirements we're already meeting and developing strategies for meeting any identified gaps;
- 4) Establishing a timeframe and strategy for full NIMS implementation by September 30, 2006; and
- 5) Institutionalizing the use of the Incident Command System (ICS).

He advised that included in the agenda was a copy of a resolution that was required to satisfy item number 1 above. In regards to items 2 through 4, Sheriff Francis and Captain Covington had both completed the independent study course and he (Mr. Johnson) was in the process of completing it. Over the course of the next year, they would be working with Chief Holt and the Southampton County Fire and Rescue Association in identifying any gaps that we had in achieving full compliance by September 2006 and the strategies that would be necessary to overcome them. He stated that with regard to item 5, Southampton County was already utilizing the Incident Command System (ICS). Because our last ICS in-service training was conducted in September 2000, we would likely schedule a refresher course over the next 12 months.

Supervisor West asked if this would cover incidents from a train wreck to a hurricane? Mr. Johnson replied yes.

Mr. Johnson clarified for Supervisor Brown that this would also cover biological and/or chemical attacks.

The resolution required to satisfy item 1 above is as follows:

**BOARD OF SUPERVISORS
SOUTHAMPTON COUNTY, VIRGINIA**

RESOLUTION 0905-08

At a meeting of the Board of Supervisors of Southampton County, Virginia held in the Southampton County Office Center, Board of Supervisors' Meeting Room, 26022 Administration Center Drive, Courtland, Virginia on Monday, September 26, 2005 at 6:00 p.m.

PRESENT

The Honorable Dallas O. Jones, Chairman
The Honorable Walter L. Young, Jr., Vice-Chairman
The Honorable Walter D. Brown, III
The Honorable Carl J. Faison
The Honorable Anita T. Felts
The Honorable Ronald M. West
The Honorable Moses Wyche

IN RE: National Incident Management System

Motion by Supervisor Young:

WHEREAS, the President of the United States, in Homeland Security Directive HSPD-5, directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), which will provide for a consistent nationwide approach for Federal, State and local governments to work together more effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, the collective input and guidance from all Federal, State, and local homeland security partners has been, and will continue to be, vital to development and effective implementation and utilization of a comprehensive NIMS; and

WHEREAS, as the principal source of revenue for local government, localities rely heavily on this source of income to meet federal and state mandates for services, especially education and public safety; and

WHEREAS, it is necessary and desirable that all Federal, State, and local emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management; and

WHEREAS, to facilitate the most effective and efficient incident management, it is critical that Federal, State, and local organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS, NIMS standardized procedures for managing personnel, communications, facilities and resources will improve Southampton County's ability to utilize federal funding to enhance local agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident Command System components of NIMS are already an integral part of Southampton County's management activities, including its current emergency management training program; and

WHEREAS, the National Commission on Terrorist Acts (9-11 Commission) recommended adoption of a standardized Incident Command System.

NOW, THEREFORE, BE IT RESOLVED, by the Southampton County Board of Supervisors on this 26th day of September, 2005, that the National Incident Management System (NIMS) is hereby established as Southampton County's standard for incident management.

Seconded by Supervisor Wyche.

VOTING ON THE ITEM: YES – Supervisors Jones, Young, Brown, Faison, Felts, West, Wyche
NO – None

A COPY TESTE:

Michael W. Johnson, County Administrator/
Clerk, Southampton County Board of Supervisors

Vice-Chairman Young moved, seconded by Supervisor Wyche, to adopt the resolution. All were in favor.

Moving forward, Mr. Johnson announced that as they may be aware, federal regulations required that all freon-containing appliances have proof of freon gas recovery before being taken to a landfill or recycling facility for disposal. Freon must be removed by a certified technician and the appliance marked with a decal certifying its removal. He advised that heretofore, by policy, Southampton County had accepted all white goods, including freon-containing appliances, in its red boxes. Refrigerators, freezers, air conditioners and dehumidifiers were subsequently pulled from the waste stream by SPSA personnel upon observation at the transfer station or landfill, and the freon was then removed by a qualified technician prior to disposal of the spent appliance. He stated that based upon an ever-increasing number of freon-containing appliances, and the ongoing concern that some periodically pass through undetected when co-mingled with other wastes, they began discussing alternative means of appliance disposal with SPSA officials several months ago. Those discussions yielded a proposed service agreement between the County and SPSA, a copy of which was included in the agenda for their consideration.

Mr. Johnson continued that the agreement provided that SPSA would furnish empty 40-yard containers at mutually-agreed upon locations for Southampton County citizens to dispose of used appliances. When full, and upon notice from the County, SPSA would transport the containers to the Regional Landfill in Suffolk where the freon would be recovered by qualified technicians, and the appliances would then be appropriately recycled. He advised that the cost to Southampton County would be \$125 per pull and \$12 per appliance for freon recovery services. He noted that there was no charge for non-freon containing appliances. Their discussions had focused on 3

appliance recycling locations, all at existing SPSA transfers sites: Boykins, Franklin, and Ivor. While this expense would be a new cost, it was somewhat mitigated by the cost avoidance we would experience by removing these heavy appliances from the general waste stream, where disposal costs us \$52 per ton. Calculations indicated that a fully loaded container of refrigerators and freezers would average between 1 and 1.5 tons. He stated that while we would only have limited control prior to transitioning to attended sites, this was an important step in becoming more environmentally responsible. If the Board was so inclined to enter into this agreement, it could begin as early as October 1 with public notice provided through the *Tidewater News*, the county's website, and signs placed at all 14 of our transfer stations.

Supervisor West commented that he did not think it would do a whole lot of good until the sites were attended. Supervisor Faison remarked that this would, however, put the policy into place. Mr. Johnson pointed out that it would not cost anything unless people used it.

The service agreement is as follows:

SERVICE AGREEMENT

This AGREEMENT is made this 1st day of October, 2005, by and between the Southeastern Public Service Authority of Virginia, 1 Bob Foeller Drive Suffolk, VA 23434 ("SPSA"), and Southampton County ("SHC") at Post Office Box 400, Courtland, VA 23837.

WHEREAS, SPSA operates a solid waste management and disposal system in southeastern Virginia; and

WHEREAS, SHC collects used appliances from residents for disposal,

The parties agree as follows:

SERVICE

1. SPSA will provide hauling and recycling / disposal of used appliances for SHC, to include pick-up of SPSA provided (1 each) 40 CY roll-off container as frequently as twice per week. All used appliances generated by SHC will have refrigerant removed by SPSA (when applicable) and recycled at a properly permitted facility in accordance with all applicable federal, state, and local laws. Service will commence on October 1, 2005.
2. SPSA shall pick up used appliances on an on-call basis from "to be determined" locations in Southampton County within 2 business days of notification by SHC. SHC may choose to transport roll-off containers loaded with appliances to the Regional Landfill with their own vehicles rather than incur the cost associated with SPSA transportation services.

PAYMENTS

3. During the period from the starting service date of this Agreement and ending June 30, 2008, SHC shall pay SPSA \$125.00 per roll-off container pull, \$75 per utility trailer pull and \$12.00 each for refrigerant containing appliances. There will be no charge for recycling appliances which never contained refrigerant (washers, dryers, hot water heaters, ranges, etc..).
4. SPSA shall invoice SHC immediately following the end of each month in which services are furnished in accordance with this Agreement. SHC shall pay SPSA by the last working date of each month in which an invoice is received. SHC shall pay SPSA 1.5% interest on amounts invoiced during each calendar month in which payment of a proper invoice is past due.

TERM

The Term of this Agreement expires June 30, 2008.

TITLE

5. SPSA shall acquire title to the used appliances when SPSA connects to the roll-off container at SHC's facility. Notwithstanding, title to and liability for material other than used appliances, including hazardous wastes, or unacceptable solid waste shall remain with SHC. SHC will be responsible for the proper disposal and cost associated with any such unacceptable material.

UNFORESEEABLE CIRCUMSTANCES

6. The term "Unforeseeable Circumstance" as used herein shall mean any action beyond the reasonable control of the party affected thereby. Such actions include, but are not limited to, acts of nature that are unforeseeable and unpreventable by human intervention; acts of a public enemy; insurrection; riot; strike; labor dispute; labor or material shortage; fire; explosion; flood; breakdown of or damage to plant, equipment, of facility; order or act of civil or military authority; changes in laws or regulations that prohibit disposal of used appliances at SPSA's facilities or which substantially increase SPSA's costs to dispose of used appliances; or other causes of a similar nature.

If, because of an Unforeseeable Circumstance, either party is unable to carry out any of its obligations under this Agreement, either in whole or in part, such party shall give written notice to the other party hereto of such Unforeseeable Circumstances and the effect(s) thereof. The obligations of the party giving notice of the Unforeseeable Circumstance shall be suspended to the extent made necessary by such Circumstances for their duration, provided that notice was given promptly and that the party giving such notice promptly takes all reasonable steps to mitigate the effect of the Circumstances.

If either party is significantly burdened in the performance of or is unable to perform its obligations under this Agreement due to Unforeseen Circumstances for a period of at least sixty (60) days subsequent to giving notice as described above, then the party giving such notice may immediately terminate the Agreement without further liability or obligation to the other party by providing written notice of such termination to the other party. Nothing in this paragraph shall be construed to excuse either party from its obligations incurred before such termination.

ADDITIONAL CONDITIONS

7. Each party shall defend, indemnify and hold the other party harmless, to the extent permitted by Law, from and against any and all claims, penalties, demands, actions, proceedings, liability or losses of whatsoever nature (including reasonable attorney's fees) for injury or death to person(s) or for damage or loss to or of property arising out of or caused by the indemnifying party's operations or activities unless and to the extent such injury, damage, or loss is caused by the negligence or willful misconduct of the party seeking indemnification.
8. Changes to the obligations set out herein shall be incorporated by written addendum properly executed by authorized representatives of both parties.
9. This Agreement may be terminated by SPSA or SHC in the event of material violation of its provisions provided that:
 - a. Thirty-day written notice of such termination is given, and
 - b. Satisfactory corrective action is not taken to cure the violation during the thirty-day notification period.
10. Virginia law will govern this Agreement and the City of Suffolk, VA will be the governing jurisdiction in which any issues will be determined.

In witness thereof, the parties hereto have executed this Agreement the date first written above.

Southampton County

Authorized Signature

Witness

Title

SOUTHEASTERN PUBLIC SERVICE
AUTHORITY OF VIRGINIA

Authorized Signature

Witness

Title

Vice-Chairman Young moved, seconded by Supervisor Faison, to authorize the County Administrator to execute the service agreement, effective October 1, 2005. All were in favor.

Proceeding to consideration of Hurricane Katrina relief funding, Mr. Johnson announced that as they may be aware from recent VACo news releases, on September 1, the Brunswick County Board of Supervisors committed \$25,000 to the Hurricane Katrina Relief Fund and challenged all other Virginia counties to do likewise. As of September 20, a cumulative sum of \$130,000 had been committed by Virginia county governments, including contributions from Isle of Wight, Louisa and Loudoun counties. The fundraiser was expected to continue through the end of the month when VACo would forward all proceeds to the American Red Cross. He stated that as they knew, there were no funds budgeted for this purpose. Thus, any contribution would have to come from the unappropriated fund balance, which had been projected to dip as low as \$1.9 million at the close of FY 2006.

Mr. Johnson shared an editorial submitted to the Richmond Times Dispatch by Mr. Keith Mitchell of Emporia, VA. Mr. Mitchell did not favor Brunswick County committing taxpayers' dollars to Hurricane Katrina relief and challenging other Virginia counties to do the same. His view was that it was not their money to donate. Mr. Johnson noted that he shared that just to inform them that there were different viewpoints on the subject.

Vice-Chairman Young asked if VACo had done anything with Hurricanes Floyd and Isabel? Mr. Johnson replied that this was the first time he had heard of such.

Vice-Chairman Young commented that he had second thoughts about it.

Supervisor Faison advised that he thought we should wait.

Supervisor West stated that he did not think we should give away taxpayers' money. Supervisors Felts and Wyche agreed.

Supervisor Wyche added that we had people here that needed our help.

Supervisor Brown stated that he thought we should give something. The federal government had contributed \$2 million of taxpayers' money.

Supervisor Jones advised that he gave personally and he agreed with the majority of the Supervisors in that we should not give away taxpayers' money.

Mr. Vernie Francis, Southampton County Sheriff, who was in the audience, advised that he was President of the (local) Chamber of Commerce and they were preliminarily discussing the possibility of the City of Franklin and Southampton County sending police officers, firefighters, etc. to Franklin, Mississippi, a locality near Jackson that was hit hard by Hurricane Katrina, for certain amounts of time. He would be happy to check on that and report back. He noted that they chose to possibly help Franklin, Mississippi because of the shared locality name of "Franklin".

It was consensus of the Board to have Sheriff Francis check on that and report back.

Mr. Richard Railey, County Attorney, informed that every lawyer in Virginia had been asked to donate 10 legal hours assisting Hurricane Katrina victims. That was a significant contribution.

Moving forward, Mr. Johnson announced that the Virginia Department of Conservation and Recreation (DCR) oversaw the state erosion and sediment control program and, since 2001, the primary avenue it used to oversee local programs was a periodic comprehensive evaluation of their activities. The review assessed whether or not the local program met the minimum standards, documented program strengths and weaknesses, and identified corrective actions and strategies for improving program effectiveness. Each year, DCR selected certain programs to review based on population growth trends, current disturbed acreage, and the time elapsed since the last evaluation. Following the evaluations, programs were given overall ratings of "consistent" or "inconsistent." Programs rated as inconsistent entered into a corrective action agreement with DCR after which they were upgraded to "provisionally consistent." According to DCR's website, since the beginning of the program in 2001, only 4 communities in the Commonwealth had been rated consistent.

Mr. Johnson continued that in late 2004, our local program was reviewed by DCR for the first time, and like most others statewide, was rated inconsistent with the state program. He noted that a copy of their report was included in the agenda. Also included in the agenda was his (Mr. Johnson's) written response which identified our proposed corrective actions. Among other things, each of our staff members in the Department of Inspections would receive updated training and seek state certification, respectively, as Program Administrator, Plan Reviewer, and Inspector. In addition, DCR had provided plan review and site visit checklists that would be used by our staff in evaluating local compliance. Finally, DCR had noted that our current Erosion and Sediment Control Ordinance (Chapter 6 of the Southampton County Code) was sorely outdated and in need of revision. He stated that accordingly, he had prepared for their consideration a revised erosion and sediment control ordinance. This ordinance was the model ordinance recommended by DCR. It was necessary to advertise and conduct a public hearing prior to adopting it. Therefore, he was seeking authority to advertise the proposed ordinance for public comment at the October 24 regular session.

Supervisor West asked what was the biggest revision to our ordinance? Mr. Johnson replied that there were definitions that were not in our current ordinance and also there was nothing in our current ordinance that spoke to agreements in lieu of a plan.

Vice-Chairman Young moved, seconded by Supervisor Wyche, to authorize the County Administrator to advertise the ordinance for public hearing on October 24. All were in favor.

Accordingly, a First Reading was held on the following ordinance:

County of Southampton EROSION AND SEDIMENT CONTROL ORDINANCE

Section 6-1. TITLE, PURPOSE, AND AUTHORITY

This ordinance shall be known as the "Erosion and Sediment Control Ordinance of the Southampton County." The purpose of this chapter is to prevent degradation of properties, stream channels, waters and other natural resources of Southampton County by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

Deleted: conserve the land, water, air

Deleted: erosion and sedimentation,

This Chapter is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4 (Sec. 10.1-560 et seq.), known as the Virginia Erosion and Sediment Control Law.

Section 6-2. DEFINITIONS: As used in the ordinance, unless the context requires a different meaning:

A. "Agreement in lieu of a plan" means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

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- B. **"Applicant"** means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.
- C. **"Board"** means the Virginia Soil and Water Conservation Board.
- D. **"Certified inspector"** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.
- E. **"Certified plan reviewer"** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1.
- F. **"Certified program administrator"** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.
- G. **"Clearing"** means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.
- H. **"County"** means Southampton County.
- I. **"Department"** means the Department of Conservation and Recreation.
- J. **"Development"** means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.
- K. **"Director"** means the director of the Department.
- L. **"District"** or **"Soil and Water Conservation District"** refers to the Chowan Basin Soil and Water Conservation District.
- M. **"Erosion and Sediment Control Plan" or "Plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.**
- N. **"Erosion Impact Area"** means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes [or to shorelines where the erosion results from wave action or other coastal processes.
- O. **"Excavating"** means any digging, scooping or other methods of removing earth materials.
- P. **"Filling"** means any depositing or stockpiling of earth materials.
- Q. **"Grading"** means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.
- R. **"Land-disturbing Activity"** means any land change which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:
- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
 - (2) Individual service connections;

Deleted: <#>"Conservation Plan," "Erosion and Sediment Control Plan" or "Plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.¶

- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
 - (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
 - (5) Surface or deep mining;
 - (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;
 - (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 10.1-604 et seq.) of Chapter 6, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Sec. 10.1-1100 et seq.) of this title or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 10.1-1163;
 - (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
 - (9) Disturbed land areas of less than 10,000 square feet in size;
 - (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
 - (11) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.
- S. **"Land-disturbing Permit"** means a permit issued by Southampton County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.
- T. **"Local erosion and sediment control program"** or **"local control program"** means an outline of the various methods employed by Southampton County to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.
- U. **"Natural channel design concepts"** means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.
- V. **"Owner"** means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.
- W. **"Permittee"** means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.
- X. **"Person"** means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body, or any other legal entity.
- Y. **"Plan-approving authority"** means the Department of Building Inspections responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

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- Z. **"Program authority"** means Southampton County which has adopted a soil erosion and sediment control program approved by the Board.
- AA. **"Responsible Land Disturber"** means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1.
- BB. **"Single-family residence"** means a noncommercial dwelling that is occupied exclusively by one family.
- CC. **"State Erosion and Sediment Control Program"** or **"State Program"** means the program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.
- DD. **"State Waters"** means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdictions.
- EE. **"Transporting"** means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

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Section 6-3. LOCAL EROSION AND SEDIMENT CONTROL PROGRAM

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- A. Pursuant to section 10.1-562 of the Code of Virginia, Southampton County hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the Board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook, as amended.
- B. Before adopting or revising regulations, Southampton County shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when Southampton County is amending its program to conform to revisions in the state program. However, a public hearing shall be held if Southampton County proposes or revises regulations that are more stringent than the state program.
- C. Pursuant to Sec. 10.1-561.1 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The Erosion Control Program of Southampton County shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.
- D. Southampton County hereby designates the Department of Building Inspections as the plan-approving authority.
- E. The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the Department of Building Inspections.

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Section 6-4. SUBMISSION AND APPROVAL OF PLANS; CONTENTS OF PLANS

Deleted: **REGULATED LAND-DISTURBING ACTIVITIES;**

- A. Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the Department of Building Inspections for Southampton County an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, erosion and sediment control plan, at the option of the applicant, may be submitted to the Board for review and approval rather than to each jurisdiction concerned.

Where the land-disturbing activity results from the construction of a single-family residence, an "agreement in lieu of a plan" may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.

B. The standards contained within the "Virginia Erosion and Sediment Control Regulations", the Virginia Erosion and Sediment Control Handbook and are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence.

C. The plan-approving authority shall review conservation plans submitted to it and grant written approval within 45 days of the receipt of the plan if it determines that the plan meets the requirements of the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by § 10.1-561, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance.

However, the plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by § 10.1-561 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ordinance.

D. The plan shall be acted upon within 45 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.

When the plan is determined to be inadequate, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

E. An approved plan may be changed by the plan-approving authority when:

(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or

(2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

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F. In order to prevent further erosion, Southampton County may require approval of a plan for any land identified in the local program as an erosion impact area.

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G. When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

H. Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the Board for review and written comments. The specifications shall apply to:

1. Construction, installation or maintenance of electric, natural gas and telephone utility lines, and pipelines; and;
2. Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Individual approval of separate projects within subdivisions 1 and 2 of this subsection is not necessary when Board approved specifications are followed, however, projects included in subdivisions 1 and 2 must comply with Board approved specifications. Projects not included in

subdivisions 1 and 2 of this subsection shall comply with the requirements of Southampton County erosion and sediment control program.

- I. State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, Sec. 10.1-564.

Section 6-5. PERMITS; FEES; SECURITY FOR PERFORMANCE

Deleted: BONDING; ETC.

- A. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

- B. No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance, and has paid the fees and posted the required bond.

- C. An administrative fee of three hundred dollars (\$300.00) plus five dollars (\$5.00) per acre shall be paid to Southampton County at the time of submission of the erosion and sediment control plan.

Deleted: Fees:

- D. No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

- E. All applicants for permits shall provide to Southampton County a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the Building Official, to ensure that measures could be taken by Southampton County at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land-disturbing activity.

Deleted: Bond:

The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for Southampton County to take such conservation action, Southampton County may collect from the applicant any costs in excess of the amount of the surety held.

Within sixty (60) days of adequate stabilization, as determined by Building Official in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section.

- F. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

Section 6-6. MONITORING, REPORTS, AND INSPECTIONS

- A. Southampton County may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

Deleted: In addition, the [department or position title] shall require that a designated Responsible Land Disturber will be in charge of and responsible for carrying out the land-disturbing activity.

- B. The Building Department shall periodically inspect the land-disturbing activity in accordance with Sec 4VAC50-30-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

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If the Building Official determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall

be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.

- C. Upon determination of a violation of this ordinance, the Building Official may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the Building Official may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of Southampton County.

If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the Building Official may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of Southampton County.

The owner may appeal the issuance of an order to the Circuit Court of Southampton County.

Any person violating or failing, neglecting or refusing to obey an order issued by the Building Official may be compelled in a proceeding instituted in the Circuit Court of Southampton County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the Building Official from taking any other action authorized by this ordinance.

Section 6-7. PENALTIES, INJUNCTIONS, AND OTHER LEGAL ACTIONS

- A. Violators of this ordinance shall be guilty of a Class I misdemeanor.
- B. Any person who violates any provision of this ordinance shall, upon a finding of the District Court of Southampton County, be assessed a civil penalty. The civil penalty for any one violation shall be \$100, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.

Note: The adoption of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of this section. Refer to Code of Virginia, Sec. 10.1-562 J.

- C. The Building Official, or the owner or property which has sustained damage or which is in imminent danger of being damaged may apply to the Circuit Court of Southampton County to enjoin a violation or a threatened violation of this ordinance, without the necessity of showing that an adequate remedy at law does not exist.

However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken

corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

- D. In addition to any criminal penalties provided under this ordinance, any person who violates any provision of this ordinance may be liable to Southampton County in a civil action for damages.
- E. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by Southampton County.

Any civil penalties assessed by a court shall be paid into the treasury of Southampton County, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.
- F. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance, Southampton County may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection E of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection E.
- G. The Commonwealth's Attorney shall, upon request of Southampton County or the permit issuing authority, take legal action to enforce the provisions of this ordinance.
- H. Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

Section 6-8. APPEALS AND JUDICIAL REVIEW

- A. Any applicant under the provision of this ordinance who is aggrieved by any action of Southampton County or its agent in disapproving plans submitted pursuant to this ordinance shall have the right to apply for and receive a review of such action by the Board of Supervisors of Southampton County provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the Board of Supervisors of Southampton County shall be heard at the next regularly scheduled Board of Supervisors public hearing provided that the Board of Supervisors and other involved parties have at least 30 days prior notice. In reviewing the agent's actions, the Board of Supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the Board of Supervisors may affirm, reverse or modify the action. The Board of Supervisors decision shall be final, subject only to review by the Circuit Court of Southampton County.
- B. Final decisions of the Board of Supervisors under this ordinance shall be subject to review by Southampton County Circuit Court, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

Moving forward, Mr. Johnson announced that as they may be aware, Public Utilities staff members currently rotated weekend on-call responsibility. On-call employees were normally assigned duty one weekend per month and were required to wear the county-issued pager. They were not allowed to travel out of town or schedule family or social activities that would prevent a timely response. If they were actually paged to respond to a weekend emergency, such as a water leak, sewer blockage, etc., they qualified for overtime or compensatory time off in accordance with Section 1.17 of the *Personnel Policies and Procedures*. If no emergency arose, employees were not compensated in any fashion, despite being tethered to the workplace. He advised that many communities provided stand-by pay for their employees that were assigned on-call responsibility. Accordingly, he wanted to present the following policy amendment for their consideration:

1.17 Overtime Pay and Compensatory Time

- 5. Stand-By Pay

Non-exempt 40 hour/week personnel on standby on Saturday and Sunday shall be paid at least four hours at regular rate for Saturday and four hours at regular rate for Sunday. The employee may be credited a comparable amount of compensatory time off, if requested in lieu of pay. If the employee on stand-by actually works in excess of four hours on Saturday or Sunday, they will be paid or credited for actual hours worked.

He stated that this policy would serve to boost the morale of a small group of employees, that despite being burdened with on-call responsibility, were presently uncompensated for it. With an average hourly wage for on-call employees of \$12.22, the projected fiscal impact of the stand-by policy was just slightly more than \$5,000 annually. Given an annual operating budget of more than \$1.4 million, this expense was negligible and would have no significant impact on water and sewer rates.

Vice-Chairman Young stated that he thought the employees should receive stand-by pay. The other Supervisors agreed.

Mr. Johnson clarified for Supervisor Brown that compensatory time off was in place now if the employee requested it instead of overtime pay.

Vice-Chairman Young moved, seconded by Supervisor Wyche, to amend the *Personnel Policies and Procedures* as outlined above.

Regarding miscellaneous issues, Mr. Johnson announced that included in the agenda for their reference was a copy of a recent press release from Prince George County regarding its local plan, "Every Citizen Cares," to collect funding for Hurricane Katrina victims.

He advised that included in the agenda for their reference was a copy of a brief history of the Southeastern Public Service Authority (SPSA). Prepared for one of SPSA's newest Board members, Joe Newman, it was insightful for anyone who had an affiliation with SPSA.

Mr. Johnson informed that included in the agenda was correspondence from the Auditor of Public Accounts regarding their most recent review of collections and remittances in Southampton County. The letter included one finding, which was failure by the Treasurer's Office to promptly remit Sheriff's fees to the Treasurer of Virginia. Also included in the agenda was a copy of Southampton County Treasurer David Britt's response, where he cited his failure to fully train his recently-hired chief deputy.

He advised that also included in the agenda for their reference was a copy of the City of Franklin's most recent notice of public hearing regarding the application of Towne Development to rezone 84.7 acres on North High Street, in close proximity to Southampton County.

Mr. Johnson reported that the following environmental notices were received:

- 1) From the Virginia Department of Health, a copy of a Notice of Violation sent to Southampton County for exceeding the maximum level for total coliform bacteria during the month of August at the Boykins-Branchville system;
- 2) From the Virginia Department of Health, copies of the most recent THM water quality reports for the Boykins-Branchville system – results were below the federal contaminant level and the system is in compliance with the THM standard;
- 3) From the Virginia Department of Health, a copy of correspondence sent to Ellaree Hyder revoking the permit at Hyder's Trailer Court since it has recently been separated into 4 separate systems, each serving 15 or less connections;
- 4) From the Virginia Department of Health, a copy of a Notice of Violation sent to Southampton County for exceeding the maximum level for total coliform bacteria during the month of August at the Agri-Business Industrial Park;
- 5) From the Virginia Department of Health, a copy of correspondence sent to Dan Gordon renewing his operational permit for the waterworks at Southampton Meadows Mobile Home Park;
- 6) From the Virginia Department of Environmental Quality, notice of a groundwater withdrawal application from the Town of Windsor to withdraw an average of 539,726 gallons per day. Comments are due no later than September 30;

September 26, 2005

- 7) From the Virginia Department of Health, a Notice of Violation sent to For Pete's Sake for failure to collect the required repeat bacteriological samples in response to a positive sample on July 18; and
- 8) From the Virginia Department of Health, a Notice of Violation sent to Harlan Heikens for failure to collect the required repeat bacteriological samples in response to a positive sample of the Nottoway Shores waterworks on July 11.

He advised that the following incoming correspondence was received:

- 1) From the Treasurer's Association of Virginia, a copied email containing the most recent listing of counties and cities that have discontinued the use of vehicle decals;
- 2) From Douglas Chesson, Interim Director of the Airfield Conference Center, acknowledgment of the Board's contribution of \$3,207 for the annual 4-H camp activities;
- 3) From Robert Bloxom, Virginia Secretary of Agriculture and Forestry, acknowledgment of our request for federal disaster designation in response to drought and excessive heat.

He informed that outgoing correspondence and news articles of interest were also in the agenda.

Proceeding to public hearings, Mr. Johnson announced that there were three (3) public hearings which had been duly advertised for public comment. Originally, there was a fourth public hearing scheduled with regard to the proposed priority list for secondary and unpaved roads. At the request of VDOT, that public hearing had been postponed and would be rescheduled for the regular session of November 28, 2005 at 7:00 PM.

Chairman Jones advised that the first public hearing was being held to consider the following:

CUP 07212005:01 Application filed by LeClair Ryan, Stephen R. Romine, Esq. (agent) on behalf of SBA Communications Corporation (lessee) requesting a Conditional Use Permit for a wireless communications tower to be located on approximately .16 acres. The subject property is owned by Joe Nye Wiggins and the Joe Nye Life Estate and is further identified as Tax Map 106-15 located on Schoolhouse Road (Route 689) in the Franklin Magisterial District and Newsoms Voting District.

Mr. Jay Randolph, Assistant County Administrator and Secretary of the Planning Commission, advised that the Planning Commission held a public hearing on this application at its September 1, 2005 meeting. They unanimously recommended approval with the condition that space be reserved at the 180' mark on the tower for future use by Southampton County.

Chairman Jones opened the public hearing.

Mr. Stephen Romine of LeClair Ryan, representing SBA, addressed the Board. He advised that there were over 170 million users of cell phones today. Cell towers provided a critical link, as the majority of 9-1-1 calls made in the U.S. today were made from cell phones. He stated that there were 6 major carriers of wireless service. Two of those carriers, Sprint-Nextel and Cingular, had already committed. The tower would have the capacity to serve two more carriers. In addition, there would be space available on the tower for an antenna that would serve Southampton County's EMS. He advised that they were trying to fill a gap that existed along Route 258 in Southampton County. He shared a propagation map. No noted that no other structures in that area would suffice. The tower would be 250', self-supporting, and made of galvanized steel. The base would be surrounded by a chain length fence for security purposes. He stated that they looked for low visibility sites. This site was approximately ¼ mile from Route 258 and buffered by trees. SBA conducted a balloon test/simulation and found the tower to have minimal visual impact. He shared photos of the balloon test/simulation. He pointed out that this application was recommended for approval by the County's consultant and by the Planning Commission.

Chairman Jones closed the public hearing.

Supervisor Brown stated that it was a qualified need.

Supervisor Brown moved, seconded by Supervisors Felts and West, to accept the Planning Commission's recommendation and approve the conditional use permit with the (1) noted condition. All were in favor.

Chairman Jones advised that the second public hearing was being held to consider the following:

REZ 07272005:02 Application filed by Harold Lock (owner) requesting a rezoning from M-1, Limited Industrial District to B-2, General Business District of approximately 5.1 acres located at 25000 Shady Brook Trail (Route 650). The subject property is further identified as Tax Map 76-31B and is located in the Franklin Magisterial District and Franklin Voting District.

Mr. Jay Randolph advised that the Planning Commission held a public hearing on this application at its September 1, 2005 and unanimously recommended approval.

Chairman Jones opened the public hearing. No members of the public desired to speak. Chairman Jones closed the public hearing.

Chairman Jones noted that the applicant, Mr. Harold Lock, was not present.

Vice-Chairman Young advised that he had not received the first call with regard to this application.

Supervisor West stated that he would like for them to consider deferral until Mr. Lock could appear before this Board. He then made a motion to that effect. There was no second to the motion. Thus the motion was "killed."

Vice-Chairman Young moved, seconded by Supervisor Wyche, to accept the Planning Commission's recommendation and approve the rezoning. Chairman Jones, Vice -Chairman Young, and Supervisors Brown, Faison, Felts and Wyche voted in favor of the motion. Supervisor West voted in opposition to the motion. The vote was 6-1 in favor of the motion, thus the motion passed.

Chairman Jones advised that the third and final public hearing was being held to consider the following:

A proposed ordinance to amend Sec. 15-78.1 of the Southampton County Code increasing the fees imposed upon delinquent taxpayers that cover the administrative costs of collection from \$20 to \$30 when collected prior to judgment and from \$25 to \$35 when collected subsequent to judgment.

The proposed ordinance is as follows:

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15 OF THE SOUTHAMPTON COUNTY CODE, 1991, SO AS TO INCREASE THE FEE IMPOSED ON DELINQUENT TAXPAYERS TO COVER THE ADMINISTRATIVE COSTS ASSOCIATED WITH COLLECTION OF DELINQUENT TAXES

BE IT ORDAINED by the Board of Supervisors of Southampton County, Virginia that the Southampton County Code be, and hereby is amended and reordained as follows:

Sec. 15-78.1. Payment of administrative costs and fees, etc.

(a) There is hereby imposed on delinquent taxpayers a fee to cover administrative costs which shall be in addition to all penalties and interest, and shall not exceed ~~twenty~~ *thirty* dollars ~~(\$20.00)~~ *(\$30.00)* for taxes *or other charges* collected subsequent to ~~filing of a warrant or the appropriate legal document but prior to judgment~~ *thirty (30) or more days after notice of delinquent taxes or charges but prior to the taking of any judgment with respect to such delinquent taxes or charges*, and ~~twenty-five~~ *thirty-five* dollars ~~(\$25.00)~~ *(\$35.00)* for taxes *or other charges* collected subsequent to judgment.

(b) There is also imposed on delinquent taxpayers reasonable attorney's or collection agency's fees actually contracted for, not to exceed twenty (20) percent of the taxes or other charges so collected.

(Ord. of 10-28-91, § 16-25.1; Ord. of 9-25-95; Ord. of 6-23-97)

This ordinance shall become effective at 12:01 a.m., September 27, 2005.

Chairman Jones opened the public hearing. No members of the public desired to speak. Chairman Jones closed the public hearing.

Vice-Chairman Young moved, seconded by Supervisor West, to adopt the ordinance. All were in favor.

Going back to the Harold Lock application, Chairman Jones asked how the Board felt about an applicant not appearing before the Board? He stated that he thought they should defer action until the applicant could appear.

Supervisor West stated that there had been a time or two when information had come up that was not discovered by the Planning Commission. That was not to say that the Planning Commission was not doing a fine job. He thought it was fair for any person who had a request before this Board to at least stand before this Board. He did not think their application should be acted upon until they did so.

Supervisor Faison stated that he did not see where it was necessary to make it a law. Based on the merits of the case, the Board certainly had the right to defer action and request that the person appear. He just did not see a reason for that in Mr. Lock's case.

Attorney Railey advised that from a due process standpoint, if the Board was going to defer action on an application solely on the basis that the applicant was not present, the applicant needed to be plainly told that with a notice stating that if they did not appear, their application could be voted down or deferred just on that basis. It was fundamental fairness to tell them. The problem they had tonight was that the applicant was not told. If they were going to have the policy, they needed to be fair to people and notify them that that was the policy.

Chairman Jones asked the Board what they thought about that?

Supervisor Faison advised that he would hate for an applicant to not appear before the Board because they figured there was not a problem with the application. But if we notified them that that was our policy, he would say that maybe that was a good policy.

It was consensus of the Board to have staff notify persons upon submitting an application that their application could be denied or action deferred if they failed to appear before the Board.

Moving to late arriving matters, Mr. Johnson announced that Supervisor Wyche presented to him tonight a Certificate of Nomination that was given to the Southampton County Emergency Medical Services for outstanding performance and lasting contribution to the Tidewater Emergency Medical Services System. Southampton County EMS had about 12 representatives at the Tidewater EMS family picnic in the City of Norfolk on the first Saturday of this month. They were 1 of only 4 squads in all of Hampton Roads nominated. They did not win – Nightingale Air Ambulance was the winner – but it was an honor to simply be nominated.

Chairman Jones asked if there was anything else to come before this Board?

Chairman Jones asked Mr. Charles Turner, Southampton County School Superintendent, if he had anything to bring before the Board? Mr. Turner stated that hopefully some really good news would be coming very shortly.

Supervisor West asked about student enrollment increases. Mr. Turner advised that enrollment was up at the High School and Middle School.

Vice-Chairman Young asked if the problems at Hunterdale had been worked out? He noted that he had gotten a call about it. Mr. Turner replied that everything had been worked out.

Supervisor Wyche acknowledged that Mrs. Judy English, Southampton County Social Services Director, was in the audience. He asked if she had anything to bring before the Board?

Mrs. English advised that regarding the discussion earlier of Hurricane Katrina relief funding, we would have effects here locally from Hurricane Katrina. The price of gas and oil was going up and she was expecting to see some cold and hungry people here this winter. There would be people here needing our help and she was glad to hear Supervisor Wyche remind us of that. She wanted the Board members to keep that in the back of their minds, especially since she would be back before them in a couple of months to ask for additional assistance for those people.

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 purpose:

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) (3) Discussion of the acquisition of property for a public purpose where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; and

Section 2.2-3711 (A) (1) Discussion of performance of a specific county employee.

Section 2.2-3711 (A) (3) Discussion of the disposition of public held real property where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Vice-Chairman Young moved, seconded by Supervisor Wyche, to conduct a closed meeting for the purpose previously read.

Mr. Richard Railey, County Attorney, Mrs. Julia Williams, Finance Director, Mr. Jay Randolph, Assistant County Administrator, and Mr. Julien Johnson, Public Utilities Director, were also present in the closed meeting.

Upon returning to open session, **Vice-Chairman Young moved, seconded by Supervisor Wyche, 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.
Carl J. Faison
Walter D. "Walt" Brown, III
Anita T. Felts
Ronald M. West
Moses Wyche**

The motion passed unanimously.

Chairman Jones advised that a motion was needed as a result of the closed meeting.

Vice-Chairman Young moved, seconded by Supervisor West, to provide Carlton Edwards, Chief Utility System Operator, a 3% salary adjustment, from \$40,716 to \$41,937, in recognition of his recent accomplishment of passing the Class IV Waterworks Operator's exam. All were in favor.

Supervisor Brown advised that his organization, the Cheroenhaka (Nottoway) Indian Tribe had been looking at the International Paper "Hand Site", which was certified as a sacred Indian site. Last week, they met with the Department of Historic Resources in Richmond and they shared with them some artifacts of the Hand Site. They were currently scheduled to meet with Dr. Dorothy Lippert at the Smithsonian Institution National Museum of Natural History on October 14, 2005 for a private viewing of the Hand Site skeletal remains. It was key that Southampton County and this Board get involved in the Hand Site development and what the Cheroenhaka (Nottoway) Indian Tribe was trying to do. He was asking that the Board allow the County Administrator to go with them on their trip on October 14. He stated that as they were aware, there was a committee put together when Cindy Cave was here (Jamestown 2007 Committee) and he and Ellis Wright were on the committee working on/studying Native American trails in this area. They had been in contact with the Virginia Secretary of Commerce and Trade and the Sussex Historical Society. Southampton County in conjunction with Sussex County provided a very lucrative area for tourism dollars.

The Board was ok with Mr. Johnson, the County Administrator, going with the Cheroenhaka (Nottoway) Indian Tribe on the trip to the Smithsonian Institution National Museum of Natural History on October 14.

Mr. Johnson advised that he did not have his schedule with him, but that he or Jay Randolph, Assistant County Administrator, would go on the trip.

There being no further business, the meeting was adjourned at 9:30 PM.

Dallas O. Jones, Chairman

Michael W. Johnson, Clerk