

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 October 27, 2003 at 8:30 AM.

SUPERVISORS PRESENT

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

SUPERVISORS ABSENT

None

OTHERS PRESENT

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

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

Chairman Gilliam sought approval of the minutes of the August 25, 2003 and September 23, 2003 regular meetings. They were both approved as recorded, as there were no additions or corrections.

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

Mr. Michael Johnson, County Administrator, announced that included in the agenda was a copy of VDOT's response to the Board's resolution regarding Route 460. While they suggested that they would consider the input the Board had provided, they were asking that the Board supply them with transportation related rationale supporting the suggestion to expand the study area to include areas south of the Norfolk Southern Railway. He informed that he had talked with transportation planners at the Hampton Roads Planning District Commission who suggested that we not "fall in the trap" of trying to respond to that. The question for them should be why they excluded that area, and he would diplomatically word a response to that effect.

Mr. Johnson announced that the FY 2005 Preallocation Hearing for our region had unfortunately been moved to Thomas Nelson Community College in Hampton. He had announced back in August that it would be hosted at the Workforce Development Center in Franklin. The hearing was scheduled for November 6, 2003, with the public information session beginning at 5:00 PM and the public comment period to follow at 7:00 PM.

Mr. Johnson announced that included in the agenda was correspondence from Charles Rasnick (VDOT's Programming Division Director) relative to our ongoing safety concerns at the East Courtland interchange on Route 58. Mr. Rasnick indicated that they were evaluating interim alternatives that would enhance the safety of that intersection until an overpass could be funded.

Mr. Randolph Cook added that VDOT had their traffic people review it again, as they wanted to do whatever possible to help the situation. He thought they were already trenching the cable out there. He advised that they were going to put double signs and double flashing (orange) signals at all 3 corners prior to approaching that intersection, even from the Courtland side (the stop side), and east and west on Route 58. That would at least highlight that it was a dangerous intersection and catch people's attention. He was not sure how much good it would do, but it was all their traffic people could come up with, short of a stoplight, which had been turned down. He stated that the contractor should have the signs and signals up by the first of December.

Mr. Johnson announced that held over from August was a matter regarding the potential for speculative interest on Sheffield Drive, which Mr. Richard Railey, County Attorney, would speak to.

Attorney Railey advised that Mr. Johnson had asked him to determine if there were landowners on that road who had a speculative interest. In reviewing the statute, it was very plain to him that those landowners would have a speculative interest, and accordingly, a whole different set of rules would apply if the road were to be taken into the state system. He confirmed with Mr. Cook that the landowners would be asked to bear a proportional part of the cost.

Mr. Johnson explained that if the road were improved at state expense and taken into the system, the private property owners would ultimately benefit because they had a large amount of frontage and could sell the lots off. The statute was very clear that property owners were not to profit from a road being taken into the system. He advised that it would be different if they just had 1 lot, but two of the property owners had a vast amount of frontage. It did not mean that they could not work it out; it just meant that the property owners had to bear part of the cost because they would ultimately benefit from it. Attorney Railey noted that one property owner had 5 lots and the other had 4 lots.

Supervisor Jones advised that this was in his district and he was sure that the property owners would be interested in doing it because it was a bad situation getting in and out of there.

Mr. Johnson thought they should come up with a preliminary estimate on the cost of improving the road, let the property owners know what their pro rata share would be, and let them make a decision.

Mr. Cook agreed and advised that he would proceed with getting an estimate. He noted that the pro rata share was based on a percentage relative to the amount of property owned. Supervisor West asked what was the percentage? Mr. Cook replied that it was pretty high. In this case, the property owners owned quite a bit of land that stretched about .7 of a mile, so he would guess that they would be asked to bear more than 50 percent of the cost.

Supervisor West mentioned Holloman Drive off of Route 460 outside of Ivor in which there had been a request for some improvement and the state taking over. Mr. Cook and Mr. Johnson advised that they had looked at that before and it was the same situation (as Sheffield Drive). Mr. Cook noted that one property owner owned the bulk of the property on Holloman Drive, and the last time they talked to them, they were not willing to bear the associated cost. He mentioned that there was a very similar situation in Supervisor Young's area. In that situation, there were separate lots owned by individuals and the lots had already been platted, which made it even a little more speculative.

Supervisor Jones remarked that it least it would let the property owners on Sheffield Drive know that they were trying to do something. If they wanted to participate, it was available for them to do so, and if not, they needed to stop complaining about the road.

Mr. Cook advised that he would try to come up with an estimate and get with Mr. Johnson before the next meeting. He noted that this project would cost even more because of the railroad crossing. Signals would be required, so that would entail immediately adding \$125,000-\$130,000 to the cost.

Continuing with highway matters, Mr. Cook announced that they were finally making progress on Route 671. They were now working on the underground drainage. They were also continuing to work on the next section of Route 671, and to the best of his knowledge, were still advertising to have the section out to Hercules completed by March of next year.

Mr. Cook announced that he would probably schedule a public hearing for their 6-year plan for the next Board of Supervisors' meeting. He was more than willing to have a work session in between if they so desired, but with the amount of dollars, he did not see them adding anything to the plan. He advised that they already had a priority list for dirt road projects, and he was putting those in as quickly as others were completed. Whitehouse Road and Three Bees Road were coming up this spring. He stated that he was worried funds may go down due to all the damage done by Hurricane Isabel. They would get a good portion of the money back from FEMA (Federal Emergency Management Association), but it would take a while. They were still waiting to get money back from 3 of their biggest projects associated with Hurricane Floyd 4 years ago.

Supervisor Sykes advised Mr. Cook that the rocks they put on the embankment at the Mount Tabor Baptist Church cemetery were in the ditch as a result of Hurricane Isabel. Mr. Cook stated that he would try to take care of that.

Supervisor West informed Mr. Cook that he wanted to constantly remind him that New Road was in poor condition and deteriorating. He saw where they were trying to make some improvement, but

folks did not seem to think that was fast enough. Also Seacock Chapel Road had a tremendous amount of traffic with buses and other vehicles traveling towards Nottoway Elementary School, and it was narrow, winding, and dangerous. Mr. Cook stated that all they could do was patch it. It would not get any wider unless it got in the 6-year plan and he did not see that happening in the next 6 years. He advised that they would keep New Road patched and planned to rebuild it in the spring.

Supervisor Faison asked Mr. Cook if something was going to be done about the railroad crossing on Pittman Road going out of Boykins towards Branchville? Mr. Cook stated that apparently Virginia Carolina Railroad had taken the rail up and not put anything back down. He would call them today and also offer his assistance.

Mr. Cook advised Mr. Faison that they were working on the paperwork to take Railroad Avenue, the little street by the railroad, into the system.

Supervisor Jones asked Mr. Cook if he had looked at the crossover at Tennessee Road? Mr. Cook stated that they had not fixed it yet, but he would remind them to do so. It looked like the shoulder was built up and there was no way the water could get off.

Supervisor Young informed Mr. Cook that he had received several calls about ditches. The big ditch on Sycamore Church Road was bad before the hurricane, but now it was full of trees. Mr. Cook advised that there was no FEMA money for that and it was not VDOT's ditch either, so they would not do anything to it, except cut what was on the state's right of way. That went for all outfall ditches and even those in which they had an easement, as they only had about 100 feet from the road.

Supervisor Young advised Mr. Cook that there had been water at the Southampton Veterinary Clinic since before the hurricane. He saw where they had worked on it last week. Mr. Cook noted that they had not finished. Supervisor Young stated that they were trying to route the water the wrong way. Mr. Cook stated that was a matter of opinion. Their drainage engineer had looked at it and they would take care of it. The water should go down the ditch towards Thomas White's. Supervisor Young stated that was where it was going, but it had never gone that way before. Mr. Cook advised that it should have been going that way all along, but the driveway pipes had not worked in 20 years.

Supervisor Young stated to Mr. Cook that he did not know if they had anything to do with it, but there was a pile of brush on Delaware Road at Business Route 58 that was obstructing the view. Mr. Cook advised that they could get it moved and/or move it out of the way until it could be moved.

Supervisor Young mentioned to Mr. Cook that at Delaware and New Market Roads, there was a patch job that had fallen apart. Mr. Cook was aware of it and stated that it needed some asphalt.

Moving forward to appointments, regarding the appointment of a successor for Reverend James W. Browder, III on the Blackwater Regional Library Board of Trustees (his term expired June 30, 2003 and was not interested in reappointment), Chairman Gilliam informed that he had contacted Ann Pittman, one of the persons Mr. Johnson had suggested contacting, and she was not interested in serving. Mr. Johnson asked Vice-Chairman Gray if he had contacted Hazel Railey, the other person he had suggested contacting? Vice-Chairman Gray replied no, but he would before the next meeting.

In regards to the Board of Zoning Appeals (BZA), Barbara Ellsworth was appointed last October to fill the unexpired term of Trent Fox, which expired September 30, 2003, and was not interested in reappointment at this time. **Supervisor Jones** advised that he had found a successor. He then **made a motion to recommend to the Circuit Court that David M. Holland be appointed to succeed Mrs. Ellsworth on the BZA. Supervisor West seconded the motion. All were in favor.**

Regarding the Board of Building Code Appeals, the term of E. P. "Buddy" Kea, Jr. expired September 30, 2003. Supervisor West advised that he had contacted Mr. Kea and he indicated that it was not a real active Board, as he had never met with them, but he was willing to serve again. **Supervisor West then made a motion to reappoint E. P. "Buddy" Kea, Jr. to the Board of Building Code Appeals. Supervisor Jones seconded the motion. All were in favor.**

Finalizing appointments, in regards to the Virginia 2007 Community Program, Mr. Johnson announced that as discussed at the August meeting, each Board member agreed to seek 2 appointees from their respective districts to form a Virginia 2007 Community Program in Southampton County. He informed that the purpose of the committee was to promote and coordinate 2007 activities in coordination with Jamestown's quadricentennial celebration. The committee would be charged with examining our own local history and perhaps develop reunions, festival and other special events. It

was recommended that the committee include representatives of local government, civic groups, churches, historical societies, schools, businesses, cultural and ethnic organizations, and other groups or organizations that contributed to the quality of life in Southampton County.

Vice-Chairman Gray asked Mr. Johnson if he was going to put any staff on the committee? Mr. Johnson replied no, not in addition to. He thought it needed local government involvement, and if the Board members had any staff members that resided in their respective districts, they could pursue them as appointees. He asked that they wait and submit the names when they had 2 appointees.

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

In reference to the personnel report, Mr. Johnson introduced Mr. Julien W. Johnson, Jr., the new Utilities Director. He informed that Julien had been on the job for 3 weeks and had been busy looking for equipment and getting oriented to our systems. He had also been busy seeking staff members, and in fact, had interviews scheduled for tomorrow. Julien Johnson stated that he was glad to be here. Supervisor Jones commented that Mike Johnson and Julien Johnson had the same last name. Mike Johnson advised that there was no relation.

There were several personnel changes in September 2003. Ricky H. Wilson was hired in the Sheriff's Department effective 09/08/03 at an annual salary of \$23,329. Millard Murphy was hired in Public Works effective 09/24/03 at an annual salary of \$19,611. Also Terri-Lynn Hedgepeth was hired part-time in the Treasurer's Office effective 09/02/03. J. Michael Blythe and Raymond E. Merkh of the Sheriff's Department remained on active military leave.

There was one personnel change in October 2003. Julien W. Johnson, Jr. was hired as Director of Public Utilities effective 10/06/03 at an annual salary of \$46,000.

Moving forward to financial matters, Mr. Johnson announced that included in the agenda was an appropriations resolution totaling \$370,047.21. That sum represented the balance of local funding that was budgeted for school operations in FY 2003 but was not expended by the School Board. He advised that as it had been the Board's policy over the past 8 years, he was recommending that the funds be appropriated back to the School Board for their use in FY 2004. He noted that the money was equally divided for instructional costs for elementary and secondary schools.

The appropriations resolution is as follows:

APPROPRIATIONS -- OCTOBER 2003

NO NEW MONEY REQUIRED FOR OCTOBER 2003 APPROPRIATION

GENERAL FUND - CARRY-OVER FUNDS

370,047.21 CARRY-OVER SCHOOL FUNDS NOT
EXPENDED IN FY 2003--PREVIOUSLY
EARMARKED FOR SCHOOLS

370,047.21 TOTAL CARRY-OVER/GENERAL FUND

At a meeting of the Board of Supervisors of Southampton County,
Virginia on Monday, October 27, 2003

RESOLUTION

BE IT RESOLVED by the Board of Supervisors of Southampton County,
Virginia that the following appropriations be and hereby are made
for the period of July 1, 2003 through June 30, 2004 for the function and
purpose indicated:

From the General Fund to the School
 Operating Fund to be expended only
 on order of the Southampton County
 School Board:

4-205-61100-3000-002-9-100	Other Instructional Cost-District Elem	185,023.61
61100-3000-003-9-100	Other Instructional Costs-District Sec	185,023.60
	TOTAL	370,047.21

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TOTAL APPROPRIATION 370,047.21

REVENUE APPROPRIATION OCTOBER 2003
 (REVENUE RECEIVED FOR ABOVE EXPENDITURES)

3-205-41050-0001	Transfer In From Other Funds	370,047.21
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TOTAL APPROPRIATION 370,047.21

GENERAL FUND ENTRIES FOR ABOVE APPROPRIATION:

4-100-93000-9200	TRANSFER OUT TO SCHOOLS	370,047.21
3-100-41050-0005	TRANSFER IN-GENERAL FUND RESERVE	370,047.21

A copy teste: _____, Clerk
 Michael W. Johnson

Southampton County Board of Supervisors
 10/27/2003

Vice-Chairman Gray moved, seconded by Supervisor West, that the resolution be adopted. All were in favor.

Bills in the amount of \$1,168,033.89 were received. **Vice-Chairman Gray moved, seconded by Supervisor Young, that the bills be paid with check numbers 58752 through 59239. All were in favor.**

Moving forward to the Appomattox Regional Governor's School fiscal agent, Mr. Johnson announced that included in the agenda was memoranda from Mr. Charles Turner, Division Superintendent, Southampton County Schools, seeking the Board's favorable consideration of a change in the fiscal agent for the Appomattox Regional Governor's School. He advised that Petersburg City Schools had previously served as the fiscal agent for this consortium of 14 local schools. The participating 14 school boards had now resolved to designate the Chesterfield County Treasurer as the fiscal agent, effective July 1, 2004. Pursuant to Section 22.1-118, *Code of Virginia*, each local governing body of the 14 respective counties and municipalities must approve of this change. Accordingly, he had prepared a resolution for their consideration.

Mr. Johnson read aloud the following resolution:

Resolution for Fiscal Agent

Whereas, at its 2003 session, the General Assembly amended Section 22.1-118 of the Code of Virginia to permit school boards operating an academic year Governor’s School, with approval of the respective governing bodies of their localities, to select a fiscal agent from the treasurers of the participating localities; and

Whereas, the school boards of Amelia County, Charles City County, Chesterfield County, City of Colonial Heights, Dinwiddie County, City of Franklin, City of Hopewell, Powhatan County, City of Petersburg, Prince George County, City of Richmond, Southampton County, Surry County, and Sussex County (hereafter the “Participating School Boards”) operate the Appomattox Regional Governor’s School, which is an academic year Governor’s School; and

Whereas, the Participating School Boards wish to select the Treasurer of Chesterfield County to be the fiscal agent of the Appomattox Regional Governor’s School, effective July 1, 2004.

Now, therefore, be it resolved that the **Board of Supervisors of Southampton County** hereby approves of the selection of the Treasurer of Chesterfield County as the fiscal agent of Appomattox Regional Governor’s School, effective July 1, 2004.

Chairman, Southampton County

Chairman, ARGS

Clerk, Southampton County

Clerk, ARGS

Supervisor Young moved, seconded by Supervisor Faison, to approve the resolution. All were in favor.

Regarding capital funding requests, Mr. Johnson announced that included in the agenda were requests for FY 2004 capital funding from the Branchville Volunteer Fire Department and Courtland Volunteer Fire Department. He stated that beginning in FY 2000, the Board agreed to provide \$1.2 million over a ten-year period for capital improvements to fire and rescue. The allocable share for each fire department in FY 2004 was \$10,000 and for each rescue squad, \$5,000. Funds were earmarked annually for each department or squad and held in escrow pending specific approval by the Board. Escrowed funds would continue to accrue for each department or squad over the next ten years if not drawn down. He advised that a table indicating the status of the appropriations since FY 2000 was provided in the agenda. The current share due Branchville Volunteer Fire Department was \$19,500, representing their FY 2003 and FY 2004 amounts. The amount due Courtland Volunteer Fire Department was \$10,000. Both requests were in order, as the funding would be utilized for new fire apparatus that was purchased by the respective departments. He noted that they were actually ratifying Branchville’s request, as their request came in last month, and due to the Hurricane, was not dealt with in a timely manner. The check had already been forwarded to them.

Supervisor Faison moved, seconded by Supervisor West and Vice-Chairman Gray, that both requests be approved. All were in favor.

Proceeding to public hearings, Mr. J. Waverly Coggsdale, III, Assistant County Administrator and Clerk of the Planning Commission, announced that the first public hearing was to consider the following:

REZ 0803:01 Application filed by T. Davis Copeland, owner/applicant to “conditionally” rezone property identified as Tax Map 76, Parcel 31F, from Agricultural District (A-1) to Business District, General (B-2) “Conditional”. Said property is located off the south side of New Market Road (Route 688) approximately one hundred fifty feet south of its intersection

with the east bound lane of Southampton Parkway (U.S. Route 58). Said property contains approximately 7.818 acres and is located in the Franklin Magisterial District and Franklin Voting District.

Mr. Coggsdale advised that this application was originally considered (as a regular rezoning) by the Planning Commission at its July 10, 2003 meeting. They tabled a decision and deferred it to its August 14, 2003 agenda. At that time, the applicant amended the application to a *conditional* rezoning. Following that public hearing, the Planning Commission recommended denial of the application, citing conflict with the Comprehensive Plan. This item was set to come before the Board of Supervisors at their September meeting, but due to conflicts associated with Hurricane Isabel, it was rescheduled for today's meeting. He informed that since that time, the owner had contacted staff and requested that the county look at this area as it related to the Comprehensive Plan and the designation of its future land use, and reevaluate that designation.

Chairman Gilliam opened the public hearing and asked that anyone who had an opinion in favor of or opposed to the conditional rezoning to come to the podium and state their case.

Mr. T. Davis Copeland, owner/applicant, addressed the Board. He advised that he had an application before them to rezone property identified as Tax Map 76, Parcel 31F, from A-1 to B-2 Conditional. As Mr. Coggsdale had stated, he was asking them to question, what is Industrial? He would like for them to have their staff look at this issue before voting on the rezoning. Chairman Gilliam confirmed with Mr. Copeland that he wanted to defer the application. Mr. Copeland added that he would like their staff to reevaluate where this parcel was situated in the Comprehensive Plan.

Supervisor Jones stated that he thought they needed to rezone that whole area to Business because the whole corridor was being used for such. Mr. Johnson advised that the Comprehensive Plan indicated Industrial as the future land use for that area. Vice-Chairman Gray asked where the Industrial-zoned land began? Mr. Johnson replied that it began at the Cutchins' tracts coming out of the Franklin city limits and worked its way all the way back along Route 58 Business. He added that much of that area had already developed residentially, due to A-1 zoning, since the last Comprehensive Plan was done. Mr. Copeland was suggesting, that in light of those changes, it may be appropriate to reevaluate the Comprehensive Plan itself before taking action on the application.

Vice-Chairman Gray asked if the vote at the Planning Commission was unanimous for denial? Supervisor Jones, who is also a member of the Planning Commission, replied that it was 5-1 or 5-2.

Supervisor Young stated that New Market Road, the road in question, was about 1 ½ miles long and there were 6 other shops/businesses on this short road. He certainly did not think another business would affect anything. No one had called him about it and he did not see a problem with it.

Supervisor Young moved, seconded by Vice-Chairman Gray, to defer a decision on the application and reevaluate the Comprehensive Plan. All were in favor.

Mr. Coggsdale announced that the second public hearing was to consider the following:

REZ 0903:01 Application filed by Ronald D. & Cheryl T. Moss requesting a rezoning of approximately 79 acres +/- from Industrial District (M-1) to Agricultural District (A-1). The property is identified as Tax Map 32, Parcel 29, and located off the north side of Trinity Church Road (Route 645) approximately 1000 feet west of its intersection with Ivor Road (Route 616). Said property is located in the Berlin/Ivor Magisterial District and the Capron Voting District.

Mr. Coggsdale advised that the Planning Commission held a public hearing at its September 11, 2003 meeting in regard to this application and recommended its approval. He noted that the rezoning would allow the owner to subdivide the parcel into residential building lots.

Chairman Gilliam opened the public hearing and asked that anyone wanting to speak to the application to approach the podium and state their case.

Mr. Ronald D. Moss, owner/applicant, addressed the Board. He stated that he was a contractor from Suffolk, VA. He wanted it rezoned so that he may be able to sell some lots and build some houses.

Supervisor West asked what type of homes he anticipated building? Mr. Moss replied homes around \$200,000. He clarified that he had 3,000 feet of road frontage and he was figuring about 20 lots, all along the roadway. He would leave 2 lots open in case he ever wanted to put any roads back there.

Chairman Gilliam closed the public hearing.

Mr. Johnson confirmed for Vice-Chairman Gray that the only reason this parcel was zoned Industrial was because of the meat packing plant. (*Note: Beales Packing House had it zoned Industrial when they were operating there. Mr. Moss bought the farm and thought that it was all Agricultural, but found out that this parcel was Industrial.*)

Supervisor West asked Mr. Johnson if the property had any potential for industrial continuation in the future? Mr. Johnson replied minimal.

Supervisor West and Chairman Gilliam advised that they had not heard any objections. **Supervisor West then made a motion that the request to rezone from Industrial M-1 to Agricultural A-1 be granted. Supervisor Jones and Vice-Chairman Gray seconded the motion. All were in favor.**

Mr. Coggsdale announced that the third public hearing was to consider the following:

REZ 0903:02 Application filed by T.R. Drake, Jr. requesting a rezoning of approximately 34 acres +/- from Agricultural District (A-2) to Agricultural District (A-1) and a Conditional Use Permit. The property is identified as Tax Map 47, Parcel 38, and is located off the east side of Sedley Road (Route 641) and approximately 100 feet north of its intersection with Governor Darden Road (Route 646). The applicant is requesting a Conditional Use Permit to permit a "firewood operation" pursuant to Section 18-37(24) of the County Zoning Ordinance. Said property is located in the Jerusalem Magisterial District and the Jerusalem Voting District.

Mr. Coggsdale advised that the Planning Commission held a public hearing on this application at its September 11, 2003 meeting. They recommended that it be approved with the following conditions: 1) No operation of chain saws prior to 7:00 AM or after 9:00 PM Monday through Saturday, nor prior to 1:00 PM or after 9:00 PM on Sunday; 2) Decibel level not to exceed more than 85 dBA at the property lines; and 3) Operation must be kept in existing location on the property.

Chairman Gilliam opened the public hearing and asked that anyone in favor of or opposed to the application to come to the podium and state their case.

Vice-Chairman Gray advised that this was in his district. It had been operational for some time and he had not seen any problems or heard any complaints. **Vice-Chairman Gray then moved, seconded by Supervisor Young, that the application be approved. All were in favor.**

Mr. Coggsdale announced that the fourth public hearing was to consider the following:

CUP 0903:03 Application filed by Jerry B. Flowers, III requesting a Conditional Use Permit on property identified as Tax Map 59, Parcel 46, owned by John C. Vargo, III & Maria B. Vargo, located off the southeast side of Meherrin Road (Route 35) and approximately 750 feet south of its intersection with Indian Town Road (Route 651). The applicant is requesting a Conditional Use Permit to allow the placement of a "commercial dog kennel" pursuant to Section 18-34(21) of the County Zoning Ordinance. Said property is located in the Newsoms Magisterial District and the Capron Voting District.

Mr. Coggsdale advised that the Planning Commission, at its September 11, 2003 meeting, conducted a public hearing in regard to this application. They recommended its approval with the following conditions: 1) The number of dogs be limited to twenty (20) at this site; 2) The kennel be as shown on the site plan; and 3) The conditional use permit be reviewed in twenty (20) years.

Mr. Richard Railey, County Attorney, advised that he owned an adjoining piece of property, thus he thought he should stand aside from this discussion.

Chairman Gilliam opened the public hearing and asked that anyone in favor of or opposed to the conditional use permit to approach the podium and state their case.

No persons desired to speak. Chairman Gilliam then closed the public hearing.

Vice-Chairman Gray moved, seconded by Supervisor Young, that the application be approved. All were in favor.

Mr. Coggsdale announced that the fifth public hearing was to consider the following:

REZ 0903:04 Application filed by Anthony and Victoria Scodes requesting a conditional rezoning of 55.43 acres from Agricultural District (A-1) to Industrial District (M-1) "Conditional" and a Conditional Use Permit. The property is identified as a portion of Tax Map 24, Parcel 43, and is located approximately 1400 feet off the south side of New Road (Route 622) and approximately 1 ¼ miles northwest of its intersection with Tucker Swamp Road (Route 635). The applicant is requesting a Conditional Use Permit to permit a motorcycle and ATV dirt racetrack pursuant to Section 18-282(49) of the County Zoning Ordinance. Said property is located in the Berlin/Ivor Magisterial District and the Berlin/Ivor Voting District.

Mr. Coggsdale advised that the Planning Commission held a public hearing on this application at its September 11, 2003 meeting and recommended denial of the rezoning. Accordingly, no action was needed in regard to the conditional use permit.

Chairman Gilliam opened the public hearing and asked that anyone in favor of or opposed to the rezoning to approach the podium and state their case.

Mr. Nelson Britt of 12800 Chester Drive, Disputanta, VA addressed the Board. He advised that he was there to speak on behalf of his mother, Alice Oaks, who lived 1 mile down from the subject property, and his brother, Russell D. and his wife Virginia P. Britt, who lived about ½ mile down. They were both property owners and he would be an heir to property that was adjacent to the subject property. He was there to express their opposition to the motorcycle track. He stated that the track would be detrimental to the residents in that area. They had safety concerns due to traffic that would increase on New Road. The original proposal stated that racing would occur approximately 150 times per year. They also had safety concerns regarding spectators that could wander onto neighboring properties. They were concerned that outdoor activities at Tucker Swamp Baptist Church would be hindered. He noted that Ivor had no restaurants or hotels so it was unlikely that the county would reap any tax benefits from the track. They were also concerned about the volunteer fire department and rescue squad being overburdened. They urged the Board to deny the application. He thanked them for their time and consideration.

Chairman Gilliam asked that comments be limited to 2-3 minutes.

Mr. Robert Pritchard, attorney from Virginia Beach representing Anthony and Victoria Scodes, applicants, addressed the Board. He stated that he came from a farming family and understood Mr. Britt's comments. He also understood that the Scodes' bought the property after 2 other counties told them that they did not want a motorcycle track. They came to this county and were told by a staff member that it was a great idea. They were the first to come forward and ask to do it legally. He advised that he knew, and thought that some Board members probably knew, that there had been races conducted in this county for several years at a couple locations. He would remain silent on the record of who was running these tracks and where they were, but that information was readily available on the Internet. He noted that Mr. Britt had mentioned that he was concerned with noise from the track interfering with church services. Mr. Pritchard stated that Tucker Swamp Baptist Church was 1 ½ miles away, and he did not think you would be able to hear much from that distance, especially since the area was surrounded by dense vegetation and trees. He then showed the board a picture illustrating the Scodes' property and the location of the dirt track. He advised that it was for children and families and was a safe environment.

He continued that that if the Board was worried about the increased traffic or overburdening of the fire and rescue, he was just not aware of any problems that had occurred here in the past when the other races had been run. Mr. Scodes wanted to do this legally. He had built the track and anybody here was welcome to come out and look at it. He was not going to have volumes of people coming out there clogging up the roads. He was looking at 15-30 families a weekend. That was not much traffic for the road system. Considering the square footage of his property (the property was over 300 acres) and the distance that people lived from it, they would not hear that much. He stated that last year, the Planning Commission voted 4-3 to approve it. After which, Mr. Scodes was advised by his attorney to step back and let emotions die down and come back later for Board approval. He advised that the Scodes' were willing to abide by conditions and wanted to be reasonable to his neighbors.

But they should be reasonable and let him use his land, which he spent over \$600,000 for, for a useful purpose he wanted to use in his retirement years. They were not talking about a big operation. They were talking about a “mom and pop” family park environment where families could come and watch their children ride. They were asking for the Board’s favorable consideration.

Mr. Gordon Calhoun spoke in opposition to the application. He advised that he had a horse breeding operation on Seacock Chapel Road. He could hear the noise from the track and that noise could be detrimental to his horses. It had been proven that noise could cause a horse to abort her young. He did not think a motorcycle track belonged in that area. He asked the Board to deny the application.

Mrs. Victoria Scodes, co-applicant addressed the Board. She advised that to correct an earlier statement that was made, they were not going to have 150 races a year. They would only have maybe 4 competition races in an entire year. The rest of the time, on a Saturday, they would close around 4:00 or 5:00. There would only be about 15 bikes at the most at the track, and that would be later on in the year when they were more established. If it were not for their track, children in the area would not have anywhere to ride and practice for big competition races in other localities. She commented that there were people riding and racing bikes in this county where they were not supposed to. She stated that some people thought it was going to be some huge out-of-hand thing, but it was not. It was just a family thing. It was not as bad as some people seemed to think. People should come out and look at their property, as it was really a beautiful place.

Mrs. Diane Kropewnicki of 35437 Seacock Chapel Road addressed the Board. She presented Chairman Gilliam with a petition with 168 names of people residing in and/or owned land in that area who were opposed to this motorcycle track. She presented the Board with pictures showing her home and its close proximity to the track and pictures of conditions at a similar track. She also presented a picture of a sign that the applicants had put in their yard to try and intimidate neighbors to cease their opposition to this track. The sign stated “Pig Farm Coming Soon.” She advised that as noted in a letter she had previously sent to the board, she was opposed to the track and her 4 major issues were overburdening of the rescue squad, contamination by gas and oil, traffic issues, and noise levels. She stated that if you heard a chainsaw operating during the cleanup from Hurricane Isabel, you knew how loud that could be and that the noise traveled quite a distance. That noise was similar to the noise that *one* motorcycle would make. She noted that to the east, west, and south of the track, there was only small brush and cutover 10 feet in height. She advised that many in the area did not have to imagine what the noise would be like, as they had already experienced a sample of it. On Saturday, September 7, 2002, she was in her home with the doors and windows closed, air condition on, and television on, when she heard a noise that sounded like a motorcycle was in her yard. She stepped outside and realized that it was coming from the Scodes’ property. Her horses were charging the fences trying to get away from the noise. She went out and starting bringing them into the barn. Her daughter came home before she was done and they had to shout to hear each other. She advised that in October 2002, the Scodes’ started building the track illegally. In December 2002, she got another taste of what the noise would be like, which was the same as her experience in September. She filed a complaint with the county about the illegal construction and operation of the track. In February 2003, the Scodes’ admitted that they had been building and operating a track illegally. The court issued an order that all construction and riding on the track be stopped until such time that they complied with the laws. She went on to advise of health problems that could result from exposure to loud noise. She strongly urged the Board to deny the application.

Mr. Robert Smith spoke in opposition to the application. He stated that he owned property next to the Kropewnicki’s. He chose that area for the peace and quiet. He advised that there was a stream that ran beside his property and he had noticed that since the Scodes’ had started building the track, there was sand and foam in the stream that had not been there before.

Mrs. Victoria Scodes, co-applicant, briefly addressed the Board again. She showed a map illustrating that the stream Mr. Smith just spoke about was quite a distance from their property. She stated that foam was present in all the streams due to all the heavy rain.

Mr. Bob Orr of 10730 New Road spoke in opposition to the motorcycle track. He stated that his brother and sister-in-law were down visiting him over the weekend. They lived in a highly congested area near Philadelphia. His brother was sitting on the deck and said this was beautiful. It is so quiet here. He told his brother that depending on what the Board of Supervisors did, it may not be.

Mr. Anthony Scodes, co-applicant, addressed the Board. He stated that he apologized for coming in this county and trying to do something right. He was told by his lawyer that this was going to go over and he had spent a lot of money. His lawyer told him to let things cool down and that things

were going to work out. It looked like they were not working out, but he wanted everyone to know that across the road, behind all of these people here, a track had been going on for 15 years with 300 people going and coming for a whole week and nobody said anything. Right down the street at the end of Tucker Swamp Road, there was another racetrack that had been going for 15 years and there was going to be a big race. You could read about it all on the Internet. He did not see anybody in this county saying anything to anybody. It was like it was a secret and nobody wanted to say anything or disturb it. He had been told that there was a deal with the fire department receiving 1/3 of the profits from these races. He advised that his lawyer told him to go ahead and go back there and build his track, as this had been going on in the county. He was going by what his lawyer and real estate agents told him. They told him that if he could agree to conditions, they would get him the permit he needed. He did not come into the county to disturb it. He came in good faith and spent a lot of money, and this was what he got. He stated that he put the pig sign up to see how the neighbors would react if a big stink farm was put there. He was upset.

Mr. Dempsey Britt spoke in opposition to the application. He showed a map he had drawn to give the Board an idea of how many people would be affected by the track. He stated that Tucker Swamp Baptist Church would also be affected. He commented that Mr. Scodes' should have looked before he leaped.

Supervisor West made a motion to deny the rezoning and the conditional use permit. Supervisor Jones seconded the motion.

Supervisor West said that he had lived there for 57 years and was not aware of a race that was going on and was not aware of a deal with the fire department. He was aware of an arrangement of riding, not racing, on the property across the road from him, but he thought that had ceased.

A gentleman in the audience stood up and asked if this county had a double standard? Chairman Gilliam advised him that the public hearing had been closed.

Supervisor Young stated that someone had mentioned that a Planning Commission member had attended one of the races. He asked if that was fact? Supervisor Jones replied that he thought a Planning Commission member went over and looked at the land.

Chairman Gilliam called for a vote. **All were in favor of the motion.**

Mr. Coggsdale announced that the sixth and final public hearing was to consider the following:

REZ 0903:05 Application filed by Kenneth D. McClelland, applicant, and Robert S. & Mary Ellen Beale, Trustees, owners, requesting a rezoning of 10.14 acres from Agricultural District (A-1) to Residential District (R-1). The property is identified as a portion of Tax Map 63, Parcel 12, and fronts on both Black Creek Road (Route 611) and O'Berry Church Road (Route 635) approximately 725 feet southwest of the intersection of said roads. Said property is located in the Franklin Voting District and the Franklin Magisterial District.

Mr. Coggsdale advised that the Planning Commission conducted a public hearing in regard to this application at its September 11, 2003 meeting and recommended its approval. He informed that the applicant contacted him over the weekend and stated that due to environmental concerns related to perk sites, he was asking that the application be withdrawn.

Supervisor Young moved, seconded by Supervisor Jones, to accept withdrawal of the application. All were in favor.

Moving forward to the request for surplus stove, Mr. Johnson announced that included in the agenda was correspondence from the Town of Branchville seeking the Board's consideration of donation of a residential gas stove that the county had retained as surplus property since its Housing Rehabilitation Program in 1997-98. The gas stove was originally purchased for a rehab project in the Boykins-Branchville area but was never used when it was discovered that the property owner had previously utilized and preferred an electric stove. An electric stove was substituted and the gas stove had been in storage since. **Section 15.2-951, Code of Virginia**, permitted counties to "sell or otherwise dispose of" personal property. He informed that Mayor Harris had asserted that the Branchville Community Center served as an assembly point in times of emergency and natural disaster and had been utilized for such on several occasions during the past year. He advised that he could attest to that and agreed that donation of the stove to the Town of Branchville would be of significant benefit to the residents of the Branchville community and wholly consistent with the County's Emergency Operation Plan.

Supervisor Faison moved, seconded by Supervisor West, to donate the surplus gas stove to the Town of Branchville for use in the Branchville Community Center. All were in favor.

Proceeding to first readings, Mr. Johnson announced that included in the agenda was an ordinance that had been recommended by the Planning Commission to permit general advertising signs (billboards), limited in area to 200 square feet and 25 feet in height, in the Industrial M-1 Zoning District, provided that a special exception was approved by the Board of Zoning Appeals. Presently, general advertising signs were permitted in the Business B-2 and B-3 and Agricultural A-1 and A-2 zoning districts. The ordinance would amend Section 18-282 of the Southampton County Code by adding general advertising signs as a new permitted use, number 26.1, subject to the restrictions described above.

Vice-Chairman Gray moved, seconded by Supervisor Jones, to authorize the County Administrator to advertise the proposed ordinance for public comment at the Board's regular session in November. All were in favor.

Accordingly, a first reading was held on the following ordinance amendment:

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18 OF THE SOUTHAMPTON COUNTY CODE TO ADD PERMITTED USES IN THE INDUSTRIAL DISTRICT, LIMITED, (M-1)

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

ADD the following uses to Section 18-282. Permitted Uses.

(26.1) General advertising sign, limited in area to two hundred (200) square feet and to a height of twenty-five (25) feet, with a special exception.

This ordinance shall be effective immediately upon adoption.

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

Mr. Johnson announced that for some time now, the State had required localities to pay a 1% levy on all building permits they issued to support the costs associated with operating the Virginia Building Code Academy. Effective October 1, the levy was increased by the State to 1.75%. Up to this point, this levy had not been passed on to the permit applicant because of the relatively insignificant amount of money involved. However, with the increase, it now amounted to more than \$1,000 annually. As a result, he had prepared an ordinance, included in the agenda, which would impose the levy *on top of the building permit fee* and be charged to the permit applicant.

Supervisor Jones moved, seconded by Supervisor Young, to authorize the County Administrator to advertise the proposed ordinance for public comment at the Board's regular session in November. All were in favor.

Accordingly, a first reading was held on the following ordinance amendment:

AN ORDINANCE TO AMEND CHAPTER 4 OF THE SOUTHAMPTON COUNTY CODE BY PROVIDING A NEW SECTION 4-27.1 TO PROVIDE FOR A 1.75% LEVY ON ALL BUILDING PERMITS

BE IT ORDAINED by the Board of Supervisors of Southampton County, Virginia that the Southampton County Code be, and hereby is, adding Section 4-27.1 to read as follows:

Sec. 4-27.1 Levy on building permits.

There is hereby imposed a 1.75% levy on all fees charged for permits issued under the provisions of the Virginia Uniform Statewide Building Code. The proceeds from such levy shall be collected and transmitted quarterly to the Virginia Department of Housing and Community Development to support training programs of the Virginia Building Code Academy.

A copy teste: _____, Clerk
Southampton County Board of Supervisors
Adopted: November 24, 2003

Moving forward to surplus vehicles, Mr. Johnson announced that included in the agenda was a resolution for the Board to consider declaring certain vehicles owned by the county as surplus and ordering them to be sold or otherwise disposed of. Those vehicles included the following: **1)** a 1995 Chevrolet Cavalier (1G1JC5248S7157996) – 114,526 miles – engine runs poorly; **2)** a 1993 Dodge Pick-Up (1B7HE16YXPS205248) – 195,170 miles – motor and transmission in poor condition; and **3)** a 1989 Chevrolet Pick-Up (1GCBS14Z2k2146358) – 210,356 miles, motor in poor condition, broken windshield, body in poor condition.

The resolution is as follows:

Whereas, § 15.2-951, Code of Virginia, provides broad authority for counties, cities and towns to acquire and dispose of personal property for the purpose of exercising their powers and duties; and

Whereas, the following listing of personal property items owned by Southampton County no longer serve any useful purpose.

NOW, THEREFOR, BE IT RESOLVED by the Board of Supervisors of Southampton County that the following items are hereby declared surplus property:

- | | | |
|----|-------------------------|-----------------------|
| 1) | 1995 Chevrolet Cavalier | VIN 1G1JC5248S7157996 |
| 2) | 1993 Dodge Pick-Up | VIN 1B7HE16YXPS205248 |
| 3) | 1989 Chevrolet Pick-Up | VIN 1GCBS14Z2K2146358 |

AND BE IT FURTHER RESOLVED that the County Administrator is directed to proceed with the sale of the aforementioned items by public auction or sealed bids, with notice of the date, time and place of the sale to be advertised, in advance, in *The Tidewater News*;

AND BE IT FURTHER RESOLVED that the County Administrator is directed to dispose of any such property which may remain after the sale in the most cost-effective manner; and

BE IT FURTHER RESOLVED that the proceeds from the sale of this property shall be deposited in the county General Fund.

Adopted, this 27th day of October, 2003.

BOARD OF SUPERVISORS

Reggie W. Gilliam, Chairman

ATTEST:

Michael W. Johnson, Clerk

Vice-Chairman Gray moved, seconded by Supervisor West, that the resolution be adopted. All were in favor.

Regarding voting credentials, Mr. Johnson announced that included in the agenda was information relative to the upcoming annual meeting of the Virginia Association of Counties (VACo). It was necessary for the Board to designate its representative prior to November 1 to cast its votes at the annual business meeting. With the exception of Vice-Chairman Gray, all Supervisors were registered for the conference, November 9-11, in Bath County. He noted that a conference agenda was also included in the agenda.

Vice-Chairman Gray moved, seconded by Supervisor Jones, to designate Chairman Gilliam as the voting delegate and Supervisor Sykes as the alternate delegate. All were in favor.

Mr. Johnson informed that that Supervisor Jones would be receiving his service award for 20 years service to the people of Southampton County.

Proceeding to the radio needs assessment proposal, Mr. Johnson announced that as directed by resolution at the Board's August 25 session, Mr. Coggsdale prepared and published a Request for Proposals for professional services to perform a radio needs assessment, radio system evaluation and design, and ultimately, contract administration for installation of a new public safety radio system. He advised that they received proposals from 3 consultants, each of whom were interviewed on October 16 by a 6-person panel that included himself, Vice-Chairman Gray, Sheriff Francis, Lieutenant Gentry, Waverly Coggsdale, and Frank Britt, representing the Fire and Rescue Association Communications committee. It was the overwhelming consensus of the committee that the proposal with the most merit was submitted by Atlantic Technology Consultants (ATC) of Ashland, VA. In accordance with the Virginia Public Procurement Act, they had negotiated the contract, included in the agenda, for the Board's consideration. He informed that the contract consisted of the following 3 distinct phases:

PHASE 1 – NEEDS ASSESSMENT – to begin in early November and conclude by the end of the calendar year. Includes:

- a) a complete evaluation of public safety radio coverage performance for mobile and hand-held equipment with recommendations of interim solutions for addressing coverage issues;
- b) an evaluation of existing and planned towers in Southampton County and neighboring counties;
- c) a radio frequency analysis to determine optimal coverage as a function of existing/proposed antenna support structures;
- d) a cost/benefit analysis to assist County in evaluating options for improving system coverage; and
- e) a comprehensive written report detailing the findings above and identification of alternative plans.

COST: \$12,425

PHASE 2 – EVALUATION AND DESIGN – Begins in early January and concludes by May 31. Includes:

- a) a detailed system design and specifications for the recommended conceptual design in Phase 1 above;
- b) assistance in preparing a required frequency coordination, FAA and FCC license applications;
- c) preparation of procurement documents for distribution to vendors;
- d) coordination of pre-proposal conference and site visits for vendors;
- e) evaluation of vendor proposals; and
- f) negotiation of a purchase/lease agreement with the selected vendor.

COST: \$39,500

PHASE 3 – IMPLEMENTATION – begins in June and ends by December 2004. Includes:

- a) supervision of new system installation;

- b) acceptance testing of new equipment; and
 - c) resolution of any problems that may arise during the installation.
- COST: \$71,400

Mr. Johnson stated that while the fees for service were substantial, ATC was serving as the “architect” and “contract administrator” for a capital project that would likely cost around \$2 million. With that perspective, the fees were certainly reasonable, at roughly 6% of the total estimated project cost. He reminded that they set aside \$15,000 for the needs analysis and an additional \$50,000 for the radio system upgrade in the FY 2004 Building Fund budget. Those 2 sums were currently available for Phases 1 and 2 of this contract. Funding for Phase 3 would need to be included in the FY 2005 budget along with funding for debt service to purchase the new radio system.

Supervisor West made a motion to authorize the County Administrator to sign the contract with ATC. Supervisor Jones seconded the motion. All were in favor.

Moving forward to the “no smoking designation”, Mr. Johnson announced that Wes Alexander contacted him earlier this month and requested that the Board reconsider the designation of smoking areas within the Cooperative Extension Office. In November 1990, the Board designated the classroom area, the SEVAMP office, and Mr. Alexander’s office as “smoking permitted” areas of the building. (The minutes designating such were included in the agenda.) Mr. Alexander had indicated that his staff, excluding the SEVAMP employee, would prefer that all spaces inside the facility be designated as “no smoking permitted” with appropriate signage installed. Mr. Johnson informed that the Virginia Indoor Clean Air Act provided that localities, “shall provide reasonable no-smoking areas, *considering the nature of the use and the size of the building . . .*” Based upon the size of the Extension office, and considering that a central HVAC system served the facility, there was no real way to provide a smoking area inside the facility without the permeation of smoke into no-smoking areas. He advised that accordingly, Mr. Alexander was seeking the Board’s consideration in the following policy amendment:

- 1) Smoking shall be prohibited inside the Cooperative Extension Office.
- 2) Conspicuous signs shall be posted throughout the facility designating it as a smoke-free facility.
- 3) Reasonable smoking areas shall be identified around the exterior of the office and shall be equipped with an urn, ashtray and trash receptacle.
- 4) It is expected that all employees and visitors to the facility will voluntarily comply with the smoke-free environment within the building. When individuals are found to be smoking within the building, any staff member may inform the individual about the smoke-free policy and request that the individual refrain.
- 5) Employees are expected to set examples of compliance with this policy. When an employee violates this policy, their immediate supervisor shall address the matter and seek disciplinary action, if necessary.
- 6) Chronic abuse of this policy may necessitate consideration of a legally enforceable ordinance by the Board of Supervisors which may provide for a civil penalty of \$25 for each violation.

Vice-Chairman Gray moved, seconded by Supervisor West, to amend the policy as outlined. All were in favor.

Regarding miscellaneous issues, Mr. Johnson announced that he regretted to inform that Dr. Lawrence W. Gernon had resigned as District Director for the Western Tidewater Health District to accept a position with the U.S. State Department. Dr. Mark Dembert, a regional medical consultant for the Eastern Region, had been named acting director, until a successor could be appointed.

Mr. Johnson announced that included in the agenda was a notice that Charter Communications was reorganizing the ownership of cable systems owned by its various subsidiaries. Falcon Cablevision, franchise holder in Southampton County, was transferring ownership to Charter Communications VI, LLC. Because Falcon Cablevision and Charter Communications VI were commonly owned and managed, this transaction did not require approval by the Board of Supervisors under the terms of the franchise agreement. There would be an internal accounting change that should not have an impact on system operations, employees or management.

He announced that included in the agenda was a proposed consent order between Atlantic Wood Industries, Inc. of Newsoms and the Virginia Department of Environmental Quality (VDEQ). Comments on the consent order would be accepted by VDEQ through December 3, 2003. The order

was in settlement of a civil enforcement action by VDEQ against the company for alleged violations of its stormwater runoff permit. The order provided for a civil penalty of \$6,200 and further bound Atlantic Wood Industries to comply with all requirements of their permit. The order further provided that Atlantic Wood Industries neither admitted nor denied the violations occurred.

Continuing with miscellaneous issues, Mr. Johnson informed that the following environmental notices were received:

- 1) From the Department of Health, Office of Drinking Water, to Adell Moseley, proprietor of the Kingsdale-Moseley water system, a Notice of Violation for total coliform exceedence in samples collected in August 2003;
- 2) From the Department of Health, Office of Drinking Water, to D. L. Phillips, Environmental Engineer with the Department of Corrections, a Notice of Violation for total coliform exceedence in samples collected in August 2003 at the Southampton Correctional Center;
- 3) From the Department of Health, Office of Drinking Water, to Clyde C. Pulley, proprietor of the Nottoway Trailer Court water system, a Notice of Violation for fluoride exceedence in samples collected between April 1 and June 30, 2003;
- 4) From the Department of Health, Office of Drinking Water, to Rick Bachelor, Manager of the Southampton Power Station, a Notice of Violation for failing to collect a bacteriological sample in August 2003;
- 5) From Robert E. Croak, our Utility Systems Supervisor, to VDEQ, notice that wastewater plant operations were totally interrupted from September 19 through September 22 when the Bryant Avenue pump station succumbed to floodwaters from Hurricane Isabel;
- 6) From Robert E. Croak to VDEQ, notice that approximately 150,000 gallons of sewage overflowed per day during this period and that pump station environs were disinfected as soon as the floodwaters receded;
- 7) From Robert E. Croak to VDEQ, notice that pump station 5 (Boykins Manor) overflowed approximately 15,000 gallons between September 18-21, following loss of power at the pump station, and that the pump station environs were disinfected;
- 8) From Robert E. Croak to VDEQ, notice that pump station 6 (Newsoms) overflowed approximately 150,000 gallons between September 18-23, following loss of power at the pump station, and that the pump station environs were disinfected;
- 9) From Robert E. Croak to VDEQ, notice that pump station 1 (Branchville) overflowed approximately 40,000 gallons between September 20-24, following loss of power at the pump station, and that the pump station environs were disinfected;
- 10) From the Department of Health, Office of Drinking Water, to Massey Joyner, Mayor of Ivor, a Notice of Violation for total coliform exceedence in samples collected in October 2003.

He informed that the following incoming correspondence was received:

- 1) From Demetrios Peratsakis, Executive Director of the Western Tidewater Community Services Board, a note of thanks to Julia Williams Mike Johnson, for attending the open house ceremonies for the Independence House on General Thomas Highway;
- 2) From Mary G. Camp, Planning and Mitigation Division Director, Virginia Department of Emergency Management, notice that 3 of our 1999 Hazard Mitigation Grant Programs have been officially closed out – 3 down, 3 to go;
- 3) From LeClair Ryan, a copy of the SCC Order inviting comments on the application of Mecklenburg Electric Cooperative for review of their tariffs, terms, and conditions of service;
- 4) Notice from VDHCD to the STOP Organization that their response to earlier findings associated with IPR contracts was acceptable;
- 5) From Senior Services of Southeastern Virginia, a summary of implications of funding shortfalls to their service disciplines throughout the region;
- 6) From Charles E. Turner, Division Superintendent, Southampton County Schools, a note of apology for failing to invite Board members and staff to their opening day luncheon;
- 7) From Charles E. Turner, documentation that Ivor and Boykins Elementary School properties were effectively conveyed to the Board of Supervisors on December 2, 2002;
- 8) From Arthur B. Harris, Chief, Branchville Volunteer Fire Department, to Supervisor Faison, a letter of concern relative to radio communications for fire and rescue services;
- 9) A note of thanks from Chris and Renae Hewett for our cooperation in locating a generator for the Sedley water system following Hurricane Isabel;

- 10) From LeClair Ryan, a copy of the SCC Order inviting comments on the application of Prince George Electric Cooperative for review of their tariffs, terms, and conditions of service;
- 11) From Dominion Power, a copy of the Order and Application of Virginia Electric and Power Company to apply for membership in the regional transmission organization known as PJM Interconnection, LLC, to facilitate development of competitive wholesale and retail electricity markets;
- 12) From the Genieve Shelter, notice that their "Abuse Knows No Politics" celebrity roast has been rescheduled for March 20, 2004;
- 13) From the Virginia Auditor of Public Accounts, notice that all of our constitutional officers complied with state regulations in the handling of state monies in FY 2003;
- 14) A note of thanks from Jane B. Maddrey for cooperation and assistance afforded to Southampton County Department of Social Services during the days following Hurricane Isabel.

Finalizing miscellaneous issues, Mr. Johnson advised that outgoing correspondence and various news articles of interest were included in the agenda.

Several Board members inquired about the costs associated with Hurricane Isabel. Mr. Johnson informed that he could not give a bottom line figure, but the debris removal had cost in excess of \$1 million. Supervisor West mentioned that there was a huge pile of mulch in the City of Franklin. Mr. Johnson advised that that was a result of the debris that was being grinded in the City of Franklin. The county had opted to burn the debris, as opposed to grinding, because it was cheaper to do so.

Supervisor Jones informed that he just got back from the Southeastern Public Service Authority (SPSA) Conference in St. Louis and had a great time. He advised that Southampton County was advanced in public works and was not behind anybody.

Supervisor Faison brought up the motorcycle track public hearing that was held this morning. He stated that Mr. Anthony Scodes made some accusations that he thought the county needed to look into.

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

Section 2.2-3711 (A) (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 concerning the potential disposition of property in the Berlin-Ivor District formerly used as an elementary school where discussion in an open meeting could adversely affect the bargaining position or negotiating strategy of the governing body;

Section 2.2-3711 (A) (7) Consultation with legal counsel and briefings by staff members relative to legal matters associated with a real estate option agreement.

Vice-Chairman Gray made a motion to conduct a closed meeting for the purposes aforementioned. Supervisor Young seconded the motion. All were in favor.

Richard Railey, County Attorney, Waverly Coggsdale, Assistant County Administrator, and Cindy Cave, Community/Economic Development Director, were present in the closed session.

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

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

RESOLUTION OF CLOSED MEETING

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

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

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

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

The motion was approved unanimously.

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

Vice-Chairman Gray made the following motion:

BE IT RESOLVED by the Board of Supervisors of Southampton County that:

- 1. The County Administrator is hereby authorized to execute the option agreement, as printed herein below, with the Turner Land Trust on behalf of Southampton County; and**
- 2. The general welfare of Southampton County and good zoning practice are sufficient cause for this Board to hereby initiate an application to change the zoning classification of that certain property owned by Turner Land Trust, identified as Tax Map 92-18, from Agricultural District A-1 to Industrial District, General, M-2.**

Supervisor Young seconded the motion. All were in favor.

The option agreement is as follows:

DRAFT

THIS OPTION AGREEMENT, made this _____ day of August, 2003, by and between TURNER LAND TRUST, Grantor, hereinafter referred to as “Owner,” and the COUNTY OF SOUTHAMPTON, acting by and through its County Administrator, Grantee, hereinafter referred to as “County.”

WHEREAS, OWNER is the owner in fee simple of the following real property, located in the Franklin Magisterial District, Southampton County, Virginia, to wit:

SEE SCHEDULE “A” ATTACHED

WHEREAS, County desires to enter into an option agreement to purchase property to develop prospective industrial building sites;

WHEREAS, the parties have engaged in discussions concerning the terms and conditions for the granting of such an option and wish to reduce their agreement to writing.

WITNESSETH:

That for and in consideration of FIVE THOUSAND DOLLARS (\$5,000.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, OWNER hereby grants to COUNTY an exclusive option to purchase up to two hundred (200) acres in the aggregate, or in separate parcels of not less than twenty-five (25) acres each, subject to the terms and conditions hereinafter specified:

1. Said option may be exercised any time on or before August 31, 2008, but said consideration of Five Thousand Dollars shall be forfeited if this option is not executed by August 31, 2008. In the event of exercise of this option by COUNTY, the Five Thousand Dollar consideration for this option shall be applied to the purchase price.
2. This option may be exercised only by the delivery of a written statement executed on the behalf of SOUTHAMPTON COUNTY to TURNER LAND TRUST, c/o Charles F. Groom, Jr., Esquire, 525 Oyster Point Road, Suite B, Newport News, VA 23602, in person or by registered mail, on or before August 31, 2008.
3. If this option is exercised by COUNTY in accordance with its terms, OWNER shall sell and convey said real estate to COUNTY, and COUNTY shall purchase and accept said real estate from OWNER, pursuant to the terms and conditions contained in this option.
4. Purchase price for this real estate is as follows:
 - A. At the time of the closing, the purchase price shall be paid in cash or, at the option of the OWNER, in the form of one or more promissory notes, the terms and provisions of which shall be subject to negotiation and mutual agreement of the parties.
 - B. Purchase price of the subject property shall be computed by multiplying the number of acres contained in the subject parcel(s), times the sum of FIVE THOUSAND DOLLARS (\$5,000.00).
 - C. COUNTY shall select and employ a professional land surveyor licensed as such by the Commonwealth of Virginia to survey the subject parcel(s) and to prepare a map of same. Upon completion, said map shall be submitted to OWNER. If no written objections are made as to said survey and map within thirty (30) days of its receipt by OWNER, then the map and survey shall conclusively bind the parties as to the findings of said survey and the representations of the map including but not limited to acreage and boundaries. Prior to the expiration of said thirty day period, OWNER may state written objections to said map and survey and the parties shall in good faith attempt to resolve said objections.
5. Should COUNTY elect to exercise this option, at closing, OWNER shall deliver to COUNTY a good and sufficient general warranty deed for said real estate, in fee simple and with marketable title. All taxes are to be pro rated as of the date of closing and the closing is to be held within thirty (30) days from the date that said option is exercised pursuant to paragraph 2 unless the provisions of paragraph 11 apply, it being specifically agreed between the parties hereto that time is of the essence in this transaction.
6. The parties contemplate that COUNTY shall, through its agents, employees, and/or independent contractors, make certain engineering, soil, wetlands, environmental and other tests and/or studies to determine the desirability of the subject tract. OWNER warrants that COUNTY shall have reasonable access to the property for such purposes. In conducting such tests and studies, COUNTY agrees as follows:

- A. To notify the tenant in possession of said property prior to any entry upon the subject property in connection with the above described tests and/or studies;
 - B. To indemnify and forever hold harmless OWNER as to any liability or responsibility arising out of accidents, bodily injuries, death or property damages incurred or happening as a result of such tests and/or studies;
 - C. To maintain adequate insurance coverage to render COUNTY financially responsible in the event of any accident, bodily injury, death or property damage regarding and/or arising from the above described tests and/or studies; and to provide coverage, if necessary, as to any damage to the subject property arising out of the negligence and/or wrongful acts of COUNTY's agents, employees, and/or independent contractors in connection with the subject tests and/or studies; and
 - D. The costs incurred in the performance of all such tests and/or studies shall be the sole responsibility of COUNTY.
7. The parties acknowledge that part of the consideration to OWNER in this option is the improved ability to develop those portions of the parcel not subject to the terms and provisions of this agreement (the "residue"), due to future water and sewer availability, which COUNTY expects to undertake, but makes no express warranty as to the nature and extent of future water and sewer availability. At COUNTY's option, OWNER agrees to convey the following to COUNTY, for a total sum of three thousand four hundred and fifty dollars (\$3,450.00):
- A. One 100' x 200' lot for purposes of constructing an elevated water tank and pump control building; and
 - B. One 100' x 100' lot for purposes of constructing a sewage pumping station.
8. COUNTY agrees, that in the event that this option is exercised, OWNER may reserve sufficient easements to provide for a right-of-way for access to the residue of the parcel from Rose Valley Road (S.R. 688) and for a right-of-way for rail access to the residue of the parcel from the CSX railway. The locations of such easements shall be clearly delineated on the plat or survey map described in paragraph 4 (c) herein above.
9. OWNER and COUNTY agree that in the event that subject option is exercised, they will adopt a set of mutually agreeable restrictive covenants to govern all conveyances of property described in Schedule "A" hereinabove, such that the future use of said property for business, industrial and commercial purposes does not adversely impact the development of the residue and development of the residue does not adversely impact development of the property by COUNTY.
10. The parties agree that, following the signing of this agreement, but prior to exercise of any option, COUNTY will initiate a rezoning of the entire parcel as described in Schedule "A," which is attached hereto, to an Industrial District, General, M-2, and OWNER shall not oppose such zoning change.
11. If title to the real estate, which is the subject of this option, is not good as shown by the opinion of the title examiner for COUNTY, OWNER shall have thirty (30) days after receiving written notice of the specific defect or defects by said title examiner in which to cure the defect or defects and said notification must be received by OWNER within two (2) weeks from the date said option is exercised pursuant to paragraph 2. OWNER agrees to use reasonable diligence to cure any defect or defects and if the defect or defects are cured within said thirty-day period, the transfer will be consummated as above provided. If the title is not good and cannot be made good within said thirty day period, COUNTY may, at its election, either renegotiate its contract with OWNER or cancel its contract to purchase said real estate with OWNER. In the event that COUNTY elects to cancel said contract as herein provided, all money paid to OWNER by COUNTY shall be returned to it.

- 12. With regard to costs of closing, OWNER shall pay the expenses of preparing the deed and the recordation tax applicable to Grantors. Except as otherwise provided, all other expenses incurred by either side in connection with the closing shall be borne by the party incurring same.
- 13. This option agreement shall not be assigned.
- 14. This option agreement shall be executed in duplicate original.

Witness the following signatures and seals:

TURNER LAND TRUST

BY _____ (seal)

SOUTHAMPTON COUNTY

BY _____ (seal)

Michael W. Johnson
County Administrator

Commonwealth of Virginia

City/County of _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2003 by _____
On behalf of TURNER LAND TRUST.

My commission expires _____.

Notary Public

Commonwealth of Virginia

City/County of _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2003 by _____
On behalf of SOUTHAMPTON COUNTY.

My commission expires _____.

Notary Public

There being no further business, the meeting was adjourned at 11:21 AM.

Reggie W. Gilliam, Chairman

Michael W. Johnson, Clerk