

At a regular meeting of the Southampton County Board of Supervisors held in the Board Room of the Southampton County Office Center, 26022 Administrative Center Drive, Courtland, Virginia on November 26, 2007 at 6:00 PM

SUPERVISORS PRESENT

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

SUPERVISORS ABSENT

Walter L. Young, Jr., Vice-Chairman (Franklin)

OTHERS PRESENT

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

Chairman Jones called the meeting to order, and after the *Pledge of Allegiance*, Supervisor West gave the invocation.

Chairman Jones noted that Vice-Chairman Young was in the hospital and would not be here tonight, and Supervisor Faison would be a little late.

Mr. Robert Barnett, Director of Community Development, introduced Mr. Andy Johnson, the newest employee in the Building and Zoning Department. He advised that Mr. Johnson served in Iraq, and upon fulfilling his duties there, was employed at Lowes. Southampton County was lucky enough to hire him a few months ago as an inspector.

Mr. Andy Johnson stated that he was pleased to meet the Board and he looked forward to serving Southampton County.

Chairman Jones sought approval of the minutes of the October 22, 2007 regular session. They were approved as presented, as there were no additions or corrections.

Regarding highway matters, Chairman Jones recognized Mr. Joe Lomax, Residency Administrator of the Virginia Department of Transportation (VDOT) Franklin Residency.

Mr. Lomax advised that the Franklin Area Headquarters was working on Route 460 near the fire station and should finish this week. They had completed the ditch work on Route 616 prior to getting to the medical center. They had installed several driveways and were cutting trees and brush area-wide. They had repaired a cross drain on Route 460 at Hilltop. Other general maintenance was being performed. The Capron Area Headquarters was working on repairing the under drain trench on Route 58, as it had settled 3-4 inches in some areas. They were cleaning the culvert on Oak Trail. County-wide, the bridge and sign crew had installed "school bus stop ahead" signs on Routes 35 and 675. They installed 2 new "Deaf Child" signs on Route 1301 in Boykins and were waiting for "Watch For Children" signs to be made for Route 1308. They relocated a curve sign on Route 641 that was blocked by a cedar tree. They installed "No Outlet – State Maintenance" signs on Route 758. They had cleaned and painted the bridge barrier on Route 730 and tightened the bridge decks on Route 653.

Mr. Lomax mentioned that bids for construction/repair of the bridge on Route 58 Business next to International Paper would be advertised in February 2008. Construction would begin in Spring 2008. Although the bridge was in Isle of Wight County, he wanted to mention it because a lot of Southampton County residents traveled that route.

Supervisor West asked if there was going to be a turn lane going into the new truck stop on Route 460? Did the owner not obtain an easement? Mr. Lomax advised that a turn lane needed to be there and he would check with his staff. Mr. Robert Barnett, Director of Community Development, advised that the designer was in the process of installing a turn lane, but had to first relocate a water line.

Supervisor West mentioned that regarding Route 603, Isle of Wight County had moved from Windsor down to Blackwater Road coming towards the old steel bridge with asphalt. Mr. Lomax clarified that that area now belonged to the Waverly Residency – Waverly took it over when the Suffolk Residency closed. He noted that the asphalt was probably part of their scheduled work. Each residency put in for roads they would like to have repaved. When the budget was tight, a lot of the roads got kicked out for monetary reasons. Things were picking back up and he expected more paving to take place in Southampton County in the future. He would provide schedules when available.

Mr. Lomax clarified for Supervisor Brown that a speed study on Riverdale Road was underway.

Regarding reports, various reports were received and provided in the agenda. They were Financial, Sheriff's Office, Animal Control, Communication Center Activity Report, Traffic Tickets, Building Inspections, and New Housing Starts. Also Cooperative Extension, Treasurer, Delinquent Tax Collection, EMS and Fire Department Activity, Solid Waste Quantities, and Personnel.

In regards to solid waste quantities, Supervisor West commented that he was very pleased with the progress of the attended sites program – the sites were so much nicer.

Supervisor Brown agreed. He mentioned that practically an entire house and had been torn down and dumped on some property in his district. Mr. Robert Barnett, Director of Community Development, advised that they had located the owner, who resided in Isle of Wight County. They were waiting for the Isle of Wight Sheriff's Department to respond.

In regards to the personnel report, Mr. Johnson advised that Keith Travis was hired in the Sheriff's Office effective 11/01/07 at an annual salary of \$29,843. The annual salary of John T. Randall of the Commonwealth Attorney's Office was increased to \$59,088 due to a promotion.

Moving to financial matters, Mr. Johnson announced that included in the agenda was an appropriations resolution with a total appropriation of \$324,648.68. This sum represented the balance of local funding budgeted for school operations in FY 2007 that was not expended by the School Board. Consistent with their policy over the past 12 years, he was recommending that the funds be appropriated for the School Board's used in FY 2008. He noted that the money was divided for instructional costs for elementary and secondary schools and capital outlay for replacement of school buses.

The appropriations resolution is as follows:

At a meeting of the Board of Supervisors of Southampton County,
Virginia on Monday, November 26, 2007

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, 2007 through June 30, 2008 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 Costs-District Elem	137,241.84
61100-3000-003-9-100	Other Instructional Costs-District Sec	137,241.84
63400-8101	Capital Outlay Replacement - Buses	50,165.00
	TOTAL	<u>324,648.68</u>
	TOTAL APPROPRIATION	=====
		324,648.68

REVENUE APPROPRIATION NOVEMBER 2007
(REVENUE RECEIVED FOR ABOVE EXPENDITURES)

3-205-41050-0001	Transfer In From Other Funds	324,648.68
	TOTAL APPROPRIATION	=====
		324,648.68

GENERAL FUND ENTRIES FOR ABOVE APPROPRIATION:

4-100-93000-9200	Transfer out to Schools	324,648.68
3-100-41050-0005	Transfer in-General Fund Reserve	324,648.68

A copy teste: _____, Clerk
Michael W. Johnson

Southampton County Board of
Supervisors
11/26/2007

Supervisor Brown moved, seconded by Supervisor Felts, to adopt the resolution. All were in favor.

Mr. Johnson advised that bills in the amount of \$2,290,309.90 were received.

Supervisor Wyche moved, seconded by Supervisor Felts, that the bills in the amount of \$2,290,309.90 be paid with check numbers 84063 through 84580. All were in favor.

Moving to appointments, Mr. Johnson announced that included in the agenda was correspondence from Demetrios Peratsakis, Executive Director of the Western Tidewater Community Services Board, advising of two upcoming vacancies on their Board of Directors. Mr. James M. Wilson's current term would expire on December 31, 2007. Mr. Wilson had completed one term and was eligible for reappointment. According to Mr. Peratsakis, Mr. Wilson's term of service had been exemplary, and he was highly recommended for reappointment.

Supervisor Wyche advised that he had spoken with Mr. Wilson and he was willing to continue to serve.

Supervisor Wyche moved, seconded by Supervisor Brown, to reappoint Mr. James M. Wilson to another 3-year term, through December 31, 2010. All were in favor.

Mr. Johnson advised that Mr. Louis W. Clayton's current term would also expire on December 31, 2007. Because Mr. Clayton would be completing his third full term, he was ineligible for reappointment. While recognizing the Board's authority to select its own representative, Mr.

Peratsakis had recommended that Kathleen Holloway (12195 Tucker Swamp Road, Zuni) be considered to succeed Mr. Clayton.

Supervisor West advised that when he first spoke with Ms. Holloway, she initially said yes. He had not spoken with her again to confirm, but he was comfortable in making the recommendation.

Supervisor West moved, seconded by Supervisor Brown, to appoint Ms. Kathleen Holloway to a 3-year term beginning January 1, 2008 and ending December 31, 2010. All were in favor.

Mr. Johnson informed that Ms. Teresa Beale's and Mr. J. Edward Hatfield, III's respective terms on the Industrial Development Authority would expire December 31, 2007. Both were eligible for reappointment, although he had made no inquiries with regard to their interest. Appointments were for a 4-year term. Ms. Beale represented the Jerusalem District and Mr. Hatfield represented the Franklin District.

Supervisor Felts advised that she had spoken with Ms. Beale and she indicated that she had served 2 terms and would rather someone else be appointed. Supervisor Felts stated that she would seek an appointee and report back at the next meeting.

Mr. Johnson noted that Mr. Hatfield was in Vice-Chairman Young's District and we could look at that appointment as well next month.

(Note: Supervisor Faison arrived at this time.)

Moving forward, Mr. Johnson announced that Mrs. Syretha Wright, Principal of Meherrin Elementary School, had requested a few moments to discuss her recent experience in accepting a Federal Blue Ribbon Award from the U.S. Department of Education on behalf of the administration, faculty, staff and students at Meherrin Elementary. As they were aware, Meherrin Elementary was 1 of 7 schools from the Commonwealth recognized for high achievement.

Chairman Jones recognized Mrs. Syretha Wright.

Mrs. Wright advised that she went to Arlington, VA on November 11-13 to accept the Federal Blue Ribbon Award, which was awarded to Meherrin Elementary. Meherrin Elementary was the only school in the Commonwealth selected to do a presentation. She was not only representing Meherrin Elementary, but all Southampton County Schools. She advised that she had blue ribbon pins and pencils to present to the Board.

Mr. Charles Turner, Superintendent of Southampton County Schools, shared with the Board the plaque that was presented to Meherrin Elementary.

The Board commended Mrs. Wright for this astounding accomplishment.

Supervisor Brown stated that he thought the Board should present something with the Chairman's signature to Meherrin Elementary School recognizing this accomplishment. It was consensus of the Board to do so.

Moving to the citizen requests to address the Board, Chairman Jones recognized Mrs. Rita McCormick.

Mrs. McCormick advised that she was addressing the Board this evening as a last resort to try and resolve a problem with relentless and excessive barking of her neighbor's dogs. She and her husband lived on 28 acres on Appleton Road and this problem had existed for the past 5 years. They had not been able to come up with a solution. They had made verbal attempts through friendship and had been met with extreme hostility. They had spoken to Robert Barnett and John Jenkins of the Southampton County Building and Zoning Department. Mr. Jenkins came out and found no violations with regard to the kennel permit. Mr. Barnett had suggested that if all else failed, to call the Sheriff's Office. When she called the Sheriff's Office, the Animal Control Officer would be dispatched to the property, but he could not do anything about the dogs barking. She had also talked to Sheriff Francis. She did not understand why the Sheriff's Office would

address noise from a teenager playing loud music, but would not address dogs barking. They planted some trees 5 years ago to try and help drown out some of the noise. When her husband went to mow around the trees, he discovered a rat problem. He shot some of the rats and they noticed that the shots did make the dogs stop barking. However, they were met with extreme hostility from the neighbors. On July 14, 2002, she wrote a registered letter to the neighbors at 2:00 AM. The neighbors indicated that they would plant cedars and red tips, but never did. The neighbors told her that she knew the dogs were there when she moved there and this was the country. The neighbors also indicated that they would put up a fence, but never did. Mrs. McCormick noted that when she first moved there, the dogs were not much of a problem because there were not many of them. And also, the dogs used to be on one side of her, and now they were on both sides. She wanted sympathy from the Board to pass a noise ordinance.

Mrs. McCormick clarified for Supervisor Brown that the dog kennel on one side was about 500 feet away from her residence, and the dog kennel on the other side was about 1500 feet away from her residence. All of the dogs belonged to the same family.

Supervisor West stated that he had been to Mrs. McCormick's home. Sometimes people thought that if they lived in the country, they could have as many dogs as they wanted, and this was not true. Mrs. McCormick had a real problem and the Board needed to address this issue.

Supervisor Brown asked Mrs. McCormick how long she had lived in Southampton County? Mrs. McCormick replied since the '70s.

Supervisor Brown advised that they needed to be very careful about this because of the overall history of this County. Southampton was just as much a right-to-hunt county as it was a right-to-farm county.

Mrs. McCormick stated that she felt that her neighbors had no compassion for her situation. They were good people but had a blind spot when it came to the dogs and did not see it as an issue.

Supervisor Faison advised that he sympathized with her situation, but if the Board chose to do something about this situation, it would affect everyone throughout the County.

Mr. Johnson, County Administrator, advised that there was currently a noise ordinance on the books.

Supervisor Brown asked if the current noise ordinance applied to all types of noise? Mr. Johnson advised that he had not looked at the ordinance in a while, but he thought it applied to certain decibels of noise, which could be measured with a certain piece of equipment.

Mrs. McCormick stated that the way she and her husband had to live was just a horrible existence in your own home.

Supervisor Brown asked if a letter of warning to the neighbors from the County Administrator would be appropriate? Mr. Richard Railey, County Attorney, replied no – neither the Board of Supervisors nor the County Administrator was in that business. The proper course of action for Mrs. McCormick would be to bring forth a nuisance civil action suit against the neighbors and let a jury decide.

Mrs. McCormick commented that the neighbors had indicated that the dogs barked because of nocturnal animals, a full moon, and the Great Dane down the road.

Mrs. McCormick advised that she knew that she could bring forth a civil suit, but she would rather sell her house and move before taking her neighbors to civil court.

The Board did not take any action.

Continuing with citizen requests to address the Board, Chairman Jones recognized Mr. Robert Carey.

Mr. Carey stated that Mr. Johnson, County Administrator, had been very nice to him and he

appreciated that. He advised that he gave his son a piece of land and he put a trailer on it. His son did not pay the taxes as he should have and he did not find out about this until his son's death. He intended to pay all of the back taxes, but was requesting that the Board waive the collector's fee. His son's family was not interested in the property and was not offering any assistance.

Mr. Johnson explained that this had already been turned over to the attorneys (in which the County had a contract with to collect delinquent taxes). As a result, the County was responsible for paying the collector's fee, regardless of where the money to pay the fee came from. If Mr. Carey did not pay the fee, all of the taxpayers of Southampton County would essentially pay the fee.

Mr. David Britt, Southampton County Treasurer who was in the audience, clarified for Supervisor Brown that the taxes had been in arrears since 1998 and \$7,000 in taxes had accumulated since that time.

Supervisor Wyche advised that he sympathized with his situation, but his son was responsible for paying the taxes until his death. If they waived the collector's fee, they would be setting a precedent. He could not support this request.

It was consensus of the Board not to grant Mr. Carey's request.

Proceeding to the public hearings, Mr. Johnson announced that the first public hearing was being held to consider the following:

CUP 2007:09 Application filed by Robert H. Pope on behalf of FPM LLC, owner, requesting a conditional use permit for a borrow pit pursuant to Section 18-37 (22) of the Southampton County Code in order to extract sand from approximately 8.14 acres of an 843 acre tract. The property is zoned A-1, Agricultural and is located on the west side of River Road (Rt. 647), approximately 1.5 miles south of the intersection with Plank Road (Rt. 35). The property is further identified as a portion of Tax Parcel 43-19 and is located in the Capron Voting District and Jerusalem Magisterial District.

Mr. Jay Randolph, Assistant County Administrator and Secretary to the Planning Commission, reported that the Planning Commission held a public hearing on this application at its September 13, 2007 and deferred action. The Planning Commission considered the application again at its October 11, 2007 meeting and recommended approval, subject to the following conditions:

- Hours of operation to be from 8:00 AM – 5:00 PM
- Days of operation to be Monday – Friday
- Sand extraction area limited to 8.14 acres as designated on the plan
- Conditional use permit from Southampton County is contingent upon compliance with all regulations associated with the Virginia Department of Mines, Minerals, and Energy permit

Chairman Jones opened the public hearing.

Mrs. June Forrest spoke. She advised that she lived in Sebrell and she was against this sand pit. She had talked to VDOT herself and they said 18 feet of pavement was needed for the dump trucks. There was only 12 feet of pavement. Where were you going to get the other feet of pavement needed? There were three 90-degree turns on that road. Who was going to take the ditch? She could bet that a dump truck loaded with sand was not going to take the ditch and lose all that sand. VDOT said that they did not know if the road would hold up. VDOT had also suggested core samples. They were opening this up for someone in Southampton County to get hurt. It was a wreck waiting to happen. That road was not built for dump trucks. They were laughed at at the Planning Commission meeting because it was said that the children played in the road and they needed to keep the children out of the road. She stated that the children in Sebrell did not play in the road.

Mr. Jerry Flowers, partner of FPM LLC, owner, spoke. He advised that he grew up in Southampton County. He cared about the people here and did not want to hurt anybody. He and his partners bought the farm to preserve it. They wanted to mine 8 acres over a 5-year period. They were not going to get rich off of this. They wanted to preserve the farm for hunting and

recreational use. The area in which they wanted to mine would eventually fill up with water and become a pond, which would enhance the hunting and recreational use. He and his partners were at the courthouse when this property was being auctioned bidding against people from Northern Virginia who wanted to develop the property. They each decided to come together and bid to preserve the farm and to prevent it from being developed. He noted that the previous owner of the property hauled sand out of there left and right and nobody complained about it.

Mr. Bobby Pope, applicant, clarified that the proposed route of the dump trucks followed the logic that the dump truck driver would want to get to Route 35 as quickly as possible.

Mr. Pope clarified for Supervisor West that they approached the Planning Commission with the intent of having a commercial sand pit. However, it was also a conservation effort.

Mr. Pope advised that he was an owner/operator of Hancock peanuts for 20 years and they never had any issues with their trucks traveling along back roads. He was now an owner/operator of Mid-Atlantic Gin. They sent trucks on narrow, back roads all the time.

Mr. John Burchette of Sebrell spoke. He stated that he knew Mr. Flowers and Mr. Pope. He was not against the sand pit. He was against the traffic that would come along with it. Those roads were just not made for that kind of traffic. Approximately 500 trucks per year did not sound like many, but when construction of the new Route 460 would begin, there would be a great demand for sand. They said that they wanted 2 trucks per day, so he thought they should limit them to that if they approved this application. He hated to oppose Mr. Flowers and Mr. Pope, as he considered them to be his friends. He thought there were other alternatives than traveling along River Road if they looked hard enough.

Supervisor Faison asked Mr. Burchette if he saw any difference in the road on the Courtland end versus the Sebrell end? Mr. Burchette replied that if 2 dump trucks were to meet anywhere on the road, somebody was going off the road.

Mr. Dan Argimenti spoke. He stated that he was against the application and that they should all drive out and see just how narrow the road was.

Mr. Flowers advised that there was a lot of activity on all country roads. What was the difference in a truck load of logs or peanuts and a truck load of sand? Why were they attempting to discriminate against dump trucks loaded with sand? He clarified that they never said that only 2 dump trucks per day would haul sand. The state had estimated 2 dump trucks per day as an *average*, based on an 8-acre site being mined over 5 years. There may be a lot of activities for 1 week, and then no activity for 5 weeks, for example.

Chairman Jones closed the public hearing.

Supervisor Brown advised that the original deed of the property was 900 acres. There were burial grounds and Native American artifacts on the property where they were prosing to dig. We needed to maintain our ethno-history. We were tearing up the face of this County. This was A-1 land that had been farmed since the 1700s. There was also a safety issue in that the roads were narrow and winding. The 8 acres being requested would turn into more.

Supervisor Wyche stated that he had weighed all the pros and cons. He sympathized with the people concerned about the road and traffic. However, all back roads were winding and narrow. And the roads were a state issue.

Supervisor West advised that they did not need to permit something that would make a situation more dangerous. And he did not think they should take any action on this until they learned more about the Native American history Supervisor Brown talked about.

Supervisor Faison stated that there was a potential for an accident on any country road. And the property had new owners and they could do what they wanted with the property within the law.

Supervisor Felts advised that she agreed with Supervisor Faison. She added that sand pits were highly regulated by the state.

Supervisor Brown again stated the importance of preserving the ethno-history of the property.

Supervisor Wyche moved, seconded by Supervisor Faison, to accept the Planning Commission's recommendation and approve the conditional use permit, subject to the stated conditions. Chairman Jones and Supervisors Faison, Felts, and Wyche voted in favor of the motion. Supervisors Brown and West voted in opposition to the motion. The vote was 6-2 in favor of the motion, thus the motion passed.

Mr. Johnson announced that the second and final public hearing was being held to consider the following:

CUP 2007:10 Application filed by James H. Lee III on behalf of J. H. Lee and Sons, Inc., owner, requesting a conditional use permit for a borrow pit pursuant to Section 18-37 (22) of the Southampton County Code in order to extract sand from approximately 8 acres of a 134 acre parcel. The property is zoned A-1, Agricultural and is located on the south side of Country Club Road (Rt. 649), approximately ½ mile east of the intersection with Flaggy Run Road (Rt. 611). The property is further identified as a portion of Tax Parcel 61-29 and is located in the Jerusalem Voting District and Franklin Magisterial District.

Mr. Jay Randolph reported that the Planning Commission held a public hearing on this application at its October 11, 2007 meeting and recommended approval, subject to the following conditions:

- Hours of operation to be from 8:00 AM – 5:00 PM
- Day of operation to be Monday through Friday with an occasional Saturday
- Length of permit not to exceed 5 years
- Sand extraction area for pond to be limited to 8 acres as designated on the plan

Chairman Jones opened the public hearing.

Mr. Jimmy Lee, applicant, spoke. He advised that they did not need a permit to extract the sand, but to have it removed from the property. This would not be a commercial sand pit – they would have one end-user.

Mr. Lee clarified for Supervisor Brown that they wanted to remove the sand and dig a pond for irrigation purposes.

Chairman Jones closed the public hearing.

Supervisor Brown asked, regarding the previous sand pit application, what was going to be done with the skeletal remains they would dig up on the property?

Chairman Jones called for a vote on the current application.

Supervisor Felts moved, seconded by Supervisor Wyche, to accept the Planning Commission's recommendation and approve the conditional use permit, subject to all stated conditions. All were in favor.

Moving forward, Mr. Johnson announced that included in the agenda was an application for a fireworks display permit from Howard L. Vinson, Jr., pursuant to Section 10-73 of the *Southampton County Code*. The display was scheduled for Christmas Eve between 8:15 and 9:00 PM on the grounds of Hunterdale Baptist Church at 23099 Sedley Road, Franklin. The application was in order and a draft permit was included in the agenda for their consideration.

Supervisor Felts moved, seconded by Supervisor Brown, to issue the fireworks display permit to Howard L. Vinson, Jr. All were in favor.

Moving forward, Mr. Johnson announced that included in the agenda were two (2) FY 2008 capital funding requests from the Sedley and Courtland Volunteer Fire Departments. Sedley intended to apply the proceeds towards the purchase of a new truck, a 2007 Pierce pumper/tanker with a 6-man cab. Courtland would apply their funds towards debt service of their newest fire

engine. As they knew, beginning in FY 2000, the Board agreed to provide more than \$1.2 million over a ten (10) year period for capital improvements for fire and rescue. The allocable share for each fire department in FY 2008 was \$13,000 and for each rescue squad, \$6,500. Funds were earmarked annually for each department or squad and held in escrow pending specific approval by the Board of Supervisors. Escrowed funds continued to accrue for each department or squad if not drawn down. The table included in the agenda indicated the status of capital appropriations since FY 2000. Both departments were entitled to \$13,000. Through November 20, 2007, they had collectively appropriated \$951,000 for fire and rescue improvements and were holding in escrow an additional \$179,000. Both requests were in order.

Supervisor Felts moved, seconded by Supervisor West, to approve the FY 2008 capital funding request, \$13,000, from the Sedley Volunteer Fire Department. All were in favor.

Supervisor Felts moved, seconded by Supervisor Wyche, to approve the FY 2008 capital funding request, \$13,000, from the Courtland Volunteer Fire Department. All were in favor.

Moving to old business, Mr. Johnson announced that as they recalled, O'Berry Associates, LLC applied in late April to rezone approximately 20.54 acres between Black Creek Road and Oberry Church Road from Agricultural A-1 to Conditional Residential R-1 for the purpose of developing thirteen (13) residential building lots. The applicant voluntarily proffered to limit the use of the property to single-family dwellings and to pay \$1,728 per lot at the time of building permit issuance. The Planning Commission held its public hearing on June 14 and, following discussion, voted 7-1 to table the application. The following month, on July 12, after further discussion and consideration, the Commission voted 5-1 to recommend denial, citing concerns about the layout of the lots and the number of entrances along the respective public highways. The Board of Supervisors convened its public hearing on August 27, and following the close of its hearing, referred the matter back to the Planning Commission for additional review and consideration, with direction to the applicant to consider alternative layouts that might reduce the number of entrances and mailboxes on Black Creek and Oberry Church Road(s). The Planning Commission again considered the proposal on October 11. The applicant provided one amendment to the application, specifying that common driveway entrances of 30' to 40' in width would be utilized for each pair of lots, with a total of 7 entrances. Following discussion, the Planning Commission voted 7-1 to again recommend denial of the application, citing their continued concerns with the configuration of the lots along the existing roadways. He advised that copies of the relevant excerpts from the October 11 Planning Commission and August 27 Board of Supervisors meeting were included in the agenda. In accordance with Sec. 18-545 of the *Southampton County Code*, the Board was obligated to act upon the application within 1 year of the date of filing (April 30), otherwise the amendment was deemed approved.

Supervisor Brown stated that when the Board deferred this application back to the Planning Commission, the concern was the number of mailboxes and entrances. It appeared that the applicant had reduced those numbers. He was against piano-key development, but it already existed in this area and the Comprehensive Plan earmarked this area for development. The Planning Commission minutes indicated that "we had to start somewhere", but he thought they needed to stop piano-key development in areas where it did not already heavily exist.

Supervisor West advised that he agreed with Supervisor Brown. He thought that efforts had been made by the applicant, although perhaps there could be a more creative entrance into the proposed 13 lots. He respected the Planning Commission and liked to look to them for guidance. However, in this particular situation, piano-key development already existed around this property and he thought they should tow the line where it should be.

Supervisor Felts stated that she remembered hearing something about a cul-de-sac and one driveway.

Mr. Jay Randolph, Assistant County Administrator and Secretary to the Planning Commission, clarified that a cul-de-sac and one driveway was mentioned at a Planning Commission meeting as an alternative layout that the applicant could choose to utilize that would address the concerns with the number of mailboxes and driveways, but that would involve a substantial investment by the applicant, which the applicant was not willing to do.

Mr. Randolph clarified that the 7 shared driveways were part of the original plan that was submitted. The only amendment submitted by the applicant was that common driveway entrances of 30' to 40' in width would be utilized for each pair of lots. He acknowledged that the property was in a planning area as designated by the Comprehensive Plan. However, being in a planning area did not constitute by-right approval. The standards for development in the planning areas were set high with the expectation for investments by both the public and private sector. He sometimes received mixed signals from both the Board and the Planning Commission. The Board had indicated a desire to stop piano-key development, but yet thought it was ok in this area. There were areas surrounding this property that were not developed in piano-key style. How would they say no to future requests for piano-key style development in those areas?

Supervisor West advised that he respected Mr. Randolph's comments, but he looked at this particular situation differently.

Supervisor Brown stated that this area was already developed. Every situation was different and needed to be looked at.

Chairman Jones advised that he had talked to the applicant. A different design/layout could have reduced the number of entrances to 2. If he could have 13 lots with 7 entrances (instead of 13), the 7 entrances could be reduced even further.

Supervisor West moved, seconded by Supervisor Faison, to recommend approval of the conditional rezoning, subject to all voluntary proffers. Supervisors Brown, Faison, Felts, and West voted in favor of the motion. Chairman Jones and Supervisor Wyche voted in opposition to the motion. The vote was 4-2 in favor of the motion, thus the motion passed.

Supervisor Felts commented that although she voted in favor of the application, she done so with some reservations.

Moving to the First Reading, Mr. Johnson announced that following its public hearing on November 8, the Planning Commission had recommended certain amendments to Chapter 18 (Zoning) of the Southampton County Code relative to the regulation of dog kennels. He reminded that Mr. Randolph previewed the proposed changes at their October 22 meeting. He advised that included in the agenda was a copy of the proposed amendments. At the risk of oversimplification, the amendments:

- 1) add new definitions for private kennels and hunt club kennels and modify the current definition of commercial kennels, removing the qualification of "any place where more than five (5) adult dogs are kept;"
- 2) create certain development standards for private kennels of 6 to 20 dogs in A-1 and A-2 zoning districts that allow for administrative review and permit issuance, subject to the absence of written opposition from adjacent landowners within 30 days of official notice;
- 3) create certain development standards for private kennels of 21 to 50 dogs in A-1 and A-2 zoning districts that also allow for administrative review and permit issuance, subject to the absence of written opposition from adjacent landowners within 30 days of official notice;
- 4) create development standards for private kennels for more than 50 dogs in A-1 and A-2 zoning districts, subject to the issuance of a special exception by the Board of Zoning Appeals;
- 5) create development standards for hunt club kennels of up to 50 dogs in A-1 and A-2 zoning districts, subject to the absence of written opposition from adjacent landowners within 30 days of official notice; and
- 6) create development standards for hunt club kennels for more than 50 dogs in A-1 and A-2 zoning districts, subject to the issuance of a special exception by the Board of Zoning Appeals.

He advised that five dogs or less were permitted "by right" in the A-1, A-2, R-R, and R-1 zoning districts. Provided that the Board was satisfied with the language contained in the amendments, it was necessary to schedule and advertise a public hearing prior to further consideration.

Mr. Johnson clarified for Supervisors Brown and West that the proposed amendments did not address common law nuisance issues.

Supervisor Faison stated that it appeared there were proper checks and balances in place.

Supervisor Wyche remarked that at least this would try and address issues so that the Board would no longer have to spend so much of its time talking about dogs.

Supervisor Brown moved, seconded by Supervisor Wyche, to direct the County Administrator to advertise the subject amendments for public hearing on December 17, 2007. All were in favor.

Moving forward, Mr. Johnson announced that included in the agenda was correspondence from Dr. Bernard Einhorn, President of the Eastern Virginia Health Systems Agency, Inc. (EVHSA), seeking the consideration of all Hampton Roads localities in providing them with an appropriation equivalent to \$0.05 per capita, to bridge an urgent revenue shortfall created by the loss of State funding in FY 2008. There was also correspondence included in the agenda from Joe Frank, Mayor of Newport News and Chairman of the Hampton Roads Mayors and Chairs Caucus, which provided the background details. The State Health Commissioner had agreed to add the necessary funds back to his budget in the 2008-2010 biennium, but those dollars, if approved, would not be available until after July 1, 2008. The funding they were seeking now would allow them to continue to operate from January 1, 2008 until the end of the fiscal year on June 30. He advised that EVHSA was an appointed body that was required to review all Certificate of Public Need applications submitted by health care providers in the region. Their role was to assess community need and provide a forum for citizen input. A news account of one of their most recent deliberations was included in the agenda. Also included were several news articles from late 2006 indicating that EVHSA funding was temporarily cut off last year, after officials from the Peninsula complained to the State Commissioner that they were not adequately represented on the regional board. It was his understanding that the issue has been since resolved and funding (albeit insufficient) was restored. He stated that if they wished to consider this, the requested amount of \$0.05 per capita equated to \$902.25.

Supervisors Brown and West wondered how this would benefit Southampton County. Mr. Johnson advised that if Southampton Memorial Hospital wanted more beds, for example, EVHSA was the body that would here that request.

After further discussion, it was consensus of the Board to have Mr. Johnson invite an EVHSA representative to the December 17 regular session to explain the request and answer questions.

Moving forward, Mr. Johnson announced that as they recalled from last month, the Board adopted an emergency ordinance prohibiting open burning in Southampton County through December 21, unless subsequently repealed. As they were probably aware, Governor Kaine lifted the statewide burning ban on November 15 following several rain events that provided much needed moisture to Virginia's forests. Precipitation in the Chowan Basin for the six weeks ending November 15 remained below normal with only 3.49 inches received (average was 5.14 inches). For the year, precipitation in the watershed had been roughly 36% below normal. As of November 13, drought conditions in Southampton County remained severe to moderate, with the southern two-thirds of the county classified as severe. The Department of Forestry reported that recent rains had helped to reduce the overall threat of wildfire. While conditions had dropped below the critical stage, they remained dryer than normal for this time of year. Long range precipitation outlooks for the balance of November were generally in favor of above-normal precipitation statewide, but overall, total precipitation for the month was still expected to be below normal. He advised that since the Governor lifted the statewide ban, he had received a number of inquiries regarding the local ban, ranging from requests for bonfires and weenie roasts to controlled burns of cutover timber. He had advised each caller that, unless lifted by the Board, the local ban remained in effect until 12:01 AM, December 22. Accordingly, he had placed the matter on the agenda for discussion.

Supervisor Felts advised that she had received several phone calls from individuals who indicated that they been told by the Sheriff's Office that the burning ban had been lifted. She informed those individuals otherwise. Mr. Johnson advised that he would speak with the Sheriff.

After further discussion, it was consensus of the Board to keep the local ban in effect for now. The Board noted that conditions remained very dry.

Moving forward, Mr. Johnson announced that several members of the Board had inquired regarding their eligibility to enroll and participate in the County's health benefits program. As they knew, Southampton County participated in "The Local Choice" health benefits program which, among other things, included medical coverage by Anthem Blue Cross. "The Local Choice" covered more than 43,000 employees, retirees, and family members from 230 local jurisdictions across the Commonwealth. Program guidelines noted that all full time employees were eligible to participate and that "Elected Officials that make up the governing body of a Local Employer may be eligible as a special class of full-time employee. They may not, however, participate in the retiree classification. Temporary employees, appointed board members or appointed commissions were not eligible for coverage under The Local Choice." Because our application for FY 2007 did not specifically include elected officials, the earliest that elected officials may participate was July 1, 2008.

Mr. Johnson clarified that the current annual County contributions per subscriber of single coverage was \$4,656, dual coverage - \$6,612, and family coverage - \$9,012.

Supervisor West advised that he had interest because he was looking to retire. He noted that a citizen had brought it to his attention that he would be voting himself a pretty big raise, and he guessed that were true.

Mr. Johnson advised that the Board would have to adopt resolution during budget sessions if interested in participating. He clarified that adopting the resolution would make the medical coverage optional for all Board members.

Moving forward, Mr. Johnson announced that he intended to present a resolution for their consideration which would authorize him to complete, sign and submit a grant application to the Southern Rivers Watershed Enhancement Program. The deadline for proposals was mid-January, 2008. The program would award \$7,000,000 statewide in the upcoming round for wastewater treatment construction system grants, which may assist with planned improvements to the Courtland WWTP. He was requesting that this item be deferred to the December 17, 2007 meeting. It was consensus of the Board to defer the item.

Moving forward, Mr. Johnson advised that based upon their receipt and acceptance of the unsolicited proposal for infrastructure improvements last month, he had invited Chris Lloyd, a noted PPEA expert, to provide a general overview of the process. Chris was now a Senior Vice President and Director of Business Expansion Services for McGuire Woods Consulting and served for 5 years in the Office of the Secretary of Commerce of Trade under Governor(s) Allen and Wilder. He played a leading role in development and passage of The Public-Private Education Facilities and Infrastructure Act of 2002 and was a frequent speaker on the public private partnership process around the country.

Chairman Jones recognized Mr. Chris Lloyd.

Mr. Lloyd introduced himself to the Board and presented a brief PowerPoint presentation in which he provided an overview of the PPEA process. He advised that PPEA was built on the successes of the PPTA. It was an alternate procurement tool that allowed public entities to more efficiently develop infrastructure and achieve better value for the taxpayer, and it was a vehicle to use design-build practices. PPEA implementation across Virginia included pending school projects in Cumberland, Frederick, and Northumberland Counties, James City County recreational facilities, and a Northern Virginia Forensics Lab, to name a few. PPEA did not resolve all procurement issues and was not a way to get something for nothing. PPEA allowed for solicited and unsolicited proposals to develop or operate a qualifying project, which was defined as follows:

- education facility (public school and higher ed)
- equipment to enhance public safety and security at public buildings
- utility and telecommunications and other communications infrastructure
- recreational facilities
- technology infrastructure

- any building or facility that meets a public purpose and is developed or operated by or for any public entity
- any improvements necessary or desirable to any unimproved locally- or state-owned real estate

Mr. Lloyd explained the following PPEA process:

- Public body adopts PPEA guidelines
- Private entity submits proposal to public body or public body issues a solicitation for proposals
- Public body makes a written determination whether the project is developed using competitive bid or competitive negotiation
- Competitive negotiation can proceed if the public body determines that this method is “likely to be advantageous” because of the “proposed scope, complexity or urgency of the project” or “risk sharing, added value, an increase in funding or economic benefit from the project that would not otherwise be available”
- Private entity secures confidentiality agreement for FOIA protection
- Private entity submits a conceptual proposal for review (qualifications and experience, conceptual schedule and cost, public benefit)
- Open competition period of not less than 45 days (no minimum for solicited projects)
- Public body determines whether or how to proceed
- If public body moves forward, asks for a detailed submission (accelerated process permitted)
- At this phase, schedule and price become defined
- One proposer is elevated to the interim/comprehensive agreement stage

Mr. Lloyd discussed the following benefits of PPEA:

- Project selection based on a variety of factors, not just price
- Achieve cost and schedule benefits of design-build
- Single point of responsibility for complex projects
- Enhances public participation in procurement decisions
- Augments in-house staff capabilities to meet infrastructure needs

Mr. Lloyd advised that an open and collaborative process between public and private sectors, an atmosphere that encouraged innovation and creativity, including the public, press and other stakeholders, and ensuring that objectives were clear from the beginning were factors that made PPEA projects go well. He thanked the Board for the opportunity to share this information.

Regarding miscellaneous issues, Mr. Johnson announced that included in the agenda was a copy of correspondence from the Virginia Department of Environmental Quality announcing our FY 2008 Litter Prevention and Recycling Program Activities Grant in the sum of \$7,984. In addition, each of our 6 incorporated towns would received \$1,084 each.

Mr. Johnson advised that included in the agenda was a copy of correspondence from respective Council Members from the Cities of Norfolk and Virginia Beach seeking their support of legislation that would either prohibit smoking in restaurants statewide or would authorize localities to prohibit smoking in restaurants by local ordinance.

It was consensus of the Board to support the legislation. Accordingly, Mr. Johnson would draft an official resolution for their consideration at their December 17 meeting.

Mr. Johnson reported that included in the agenda were copies of the following public notices:

- 1) From the Virginia Department of Environmental Quality, public notice regarding the application of Hercules, Inc. to renew its VPDES permit;
- 2) From the Department of Health, Office of Drinking Water, copy of a notice of violation issued to the operator of the Nottoway Shores (Dockside area) waterworks for failure to distribute the annual consumer confidence report;
- 3) From the Department of Health, Office of Drinking Water, copy of a notice of violation issued to Jan’s Country Cooking for failure to collect the required bacteriological sample for the third quarter of 2007;

- 4) From the Department of Health, Office of Drinking Water, copy of a notice of violation issued to the 460 Hwy. Café for failure to collect the required bacteriological sample for the third quarter of 2007;
- 5) From the Department of Health, Office of Drinking Water, copy of a notice of violation issued to The Town of Courtland for exceeding the PMCL for fluoride;
- 6) From the Department of Health, Office of Drinking Water, copy of a notice of violation issued to Jan's Country Cooking for failure to perform a required public notification by deadline;
- 7) From the Virginia Department of Environmental Quality, public notice regarding the application of Realtec, Inc. (James City County) for a groundwater withdrawal permit;
- 8) From the Virginia Department of Environmental Quality, public notice regarding pending enforcement action against Hercules, Incorporated for a release of chemicals into the Nottoway River on July 16, 2007; and
- 9) From the Virginia Department of Environmental Quality, public notice regarding the application of JCC, LLC (James City County) for a groundwater withdrawal permit.

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

- 1) Correspondence from Mark Drumheller relative to proposed code amendments regarding private kennels;
- 2) Correspondence from Todd Haymore, Virginia Commissioner of Agriculture, confirming the U.S. Secretary of Agriculture's recent designation of Southampton County as a primary natural disaster area for losses caused by drought;
- 3) Correspondence from G. Elliott Cobb, Jr. to Dr. Alan W. Edwards, Chairman of the Planning Commission, relative to procedural issues associated with a pending matter of his client; and
- 4) Correspondence from Walter Kucharski, Auditor of Public Accounts, regarding his annual review of collections and remittances of the Treasurer, Commissioner of the Revenue, Sheriff, and Commonwealth's Attorney.

Mr. Johnson informed that outgoing correspondence and articles of interest were also included in the agenda.

Supervisor West asked if random drug testing was performed on all county employees? Mr. Johnson advised that all County employees with a commercial drivers license (CDL) were placed in a pool in which they were randomly selected for drug testing. Employees without a CDL were not tested.

Supervisor West advised that he thought all County employees, including teachers and other school personnel, should be subject to impromptu drug testing. Supervisor Brown agreed.

Mr. Johnson advised that the Board could only adopt such a policy for our employees. The School Board was responsible for adopting and implementing its own policies for its employees.

Supervisor Brown informed that he was contacted by a number of constituents who had not yet received their real estate tax bills. Chairman Jones advised that they would discuss that after the closed session.

Chairman Jones announced that it was necessary for the Board to conduct a closed meeting in accordance with the provisions set out in the Code of Virginia, 1950, as amended, for the following purposes:

Section 2.2-3711 (A) (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) (1) Discussion of performance and consideration of the salary of an employee in the Office of the Clerk of Court; and

Section 2.2-3711 (A) (1) Discussion of performance and consideration of the salary of employees in the Public Utilities Department; and

Section 2.2-3711 (A) (3) Discussion and consideration of the acquisition of real property for construction of a sewer pumping station where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

Supervisor Wyche moved, seconded by Supervisor West, to conduct a closed meeting for the purposes previously read.

Richard Railey, County Attorney, Julia Williams, Finance Director, and Julien Johnson, Public Utilities Director, were also present in the closed meeting.

Upon returning to open session, Supervisor Wyche moved, seconded by Supervisor West, to adopt the following resolution:

RESOLUTION OF CLOSED MEETING

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

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

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

**Supervisors Voting Aye: Dallas O. Jones
Walter D. Brown, III
Carl J. Faison
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.

Supervisor Wyche moved, seconded by Supervisor West, to classify the position of Dorothy Jarratt of the Clerk of the Circuit Court's Office to Grade 25, with an annual salary of \$46,250. All were in favor.

The Board then discussed the fact that many constituents had not yet received their real estate tax bills. The Commissioner of the Revenue's Office was later than normal getting the information to the Treasurer's Office so that the bills could be generated. The Treasurer's Office finally generated and mailed out the bills, which was still met the state requirement that real estate bills must be postmarked at least 2 weeks prior to the due date. However, there was a problem with the post office in Richmond who temporarily misplaced the bills. The Richmond post office was in the process of resolving the matter and bills were finally reaching the constituents. An article did appear in the *Tidewater News* informing citizens of the problem and that taxes were still due by December 5.

Supervisor Brown moved, seconded by Supervisor Wyche, to extend the deadline in which all real estate and personal property taxes were due from December 5 to

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December 12. Supervisor Brown and Supervisor Wyche voted in favor of the motion. Supervisors Faison, Felts, and West voted in opposition to the motion. The vote was 2-3 and the motion failed. (Chairman Jones did not vote).

There being no further business, the meeting was adjourned at 10:30 PM.

Dallas O. Jones, Chairman

Michael W. Johnson, Clerk