

At a regular meeting of the Southampton County Board of Supervisors held in the Board Room of the Southampton County Office Center at 26022 Administration Center Drive, Courtland, Virginia on September 27, 2004 at 6:00 p.m.

SUPERVISORS PRESENT

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

SUPERVISORS ABSENT

None

OTHERS PRESENT

Michael W. Johnson, County Administrator  
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  
Julien Johnson, Director of Utilities

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

Chairman Jones advised that the minutes of the regular meeting held on August 23, 2004 meeting would be included in the Supervisors' October packet.

Chairman Jones recognized Mr. Randolph Cook, Resident Engineer, Virginia Department of Transportation.

Mr. Cook reported that all the railroad crossings under CSX have been rebuilt and were in good shape for a while. He noted that on Saturday morning at 10:00 a.m., the entire railroad crossing with the three sets of tracks on Route 186/Boykins will be closed for replacement of the entire crossing. It would hopefully open back up on Monday, he advised.

Mr. Cook also stated that the Three Bees Road had one bidder and it came in too high. He advised that VDOT would go back out for rebid in November/December. He noted that the road may not get hard-surfaced before February or March.

The Resident Engineer thanked Supervisor Wyche for meeting with him and the residents on Whitehouse Road. He felt that the meeting was very productive. He believed that December would be the earliest time to go to advertisement. He felt that the road should be hard-surfaced before June of 2005.

Mr. Johnson, County Administrator, noted that included within the agenda was a copy of the Franklin Residency's quarterly report which was a new communication designed to provide brief updates for projects under construction, projects going to advertisement, and major maintenance activities. He noted that for Southampton County, the report provides a status update on the Route 671 (General Thomas Highway) highway widening project and the Route 460 Location Study.

The County Administrator also pointed out the correspondence received from James McDaniel, a Linden Street resident, regarding chronic stormwater drainage problems in the vicinity of Court and Rochelle Street(s) in the Town of Courtland. He advised that after consulting with Chairman Jones, he had responded to Mr. McDaniel's concerns in writing, a copy of which was attached in

the agenda. He added that the county was trying to work jointly with Mr. Cook and his staff in trying to resolve those issues.

Supervisor Carter inquired if any more contact or communication had been received from the Dockside area with regard to water. Mr. Cook responded that he had not received any more communication from Dockside.

Supervisor Young commented that not a single person had called him about the Isaac/Delaware Roads railroads but, he stated, he appreciated what Mr. Cook had done in contacting the railroads each month.

Supervisor West wanted to know if Mr. Cook had any new information about New Road, surfacing and resurfacing.

Mr. Cook commented that he hoped we would have a decent fall season. He noted that there had been twelve to fifteen inches of rain in the last three months in that area of the county.

Supervisor West inquired if rock and gravel was anticipated and Mr. Cook responded that it would be patching which would be better in that situation.

Supervisor West inquired if there were any funds available for building up from the crest of the road to the shoulders.

The Resident Engineer responded that there were some funds but he did not know whether those funds had been prioritized .

Mr. Johnson reminded the Board that the term of Morgan Munford on the Board of Building Code Appeals would expire on September 30, 2004.

Supervisor Felts advised that she had spoken to Mr. Munford and reported that he was more than happy to serve another term on the Board of Building Code Appeals.

**Supervisor Felts moved, seconded by Supervisor Young, that Morgan Munford be reappointed to the Board of Building Code Appeals for a four year term commencing October 1, 2004 and ending September 30, 2008. The motion was approved unanimously.**

Mr. Johnson stated that an appointment needed to be made to the Southeastern Tidewater Opportunity Project, Inc. (STOP). He related that notwithstanding the appointment of Bob Hinson in July, the Board would recall that two other vacancies exist on this Board for Southampton County. He pointed out that these positions were actually filled by the STOP Board, but that Mrs. Jones, the STOP Director, had informed him that she would welcome any recommendations from the Board. One of the appointees must represent business, industry, labor, religious organizations, social services, education or a community group. He related that the other appointee should adequately represent the low-income population of Southampton County.

The County Administrator continued by stating that he had received a call earlier this month from Ruby Worrell who expressed an interest in one of these appointments as a representative of a community group, the Coffey Coasters. He stated that he had indicated to Mrs. Worrell that he would relay her interest in this appointment to the Board of Supervisors and seek direction from them. He noted that as Mrs. Worrell is wife of Van Worrell, a candidate for the Board of Supervisors, he was unsure of what the Board's position may be, given the discussion last month regarding the interest by Walt Brown.

Supervisor Carter pointed out that Mrs. Worrell was a very highly qualified person to serve on the STOP Board as she had been involved in the problems of Newsoms for a number of years. He asked if a decision on the appointment could be postponed until after the election because she was in fact the wife of one of the

four who were running to be elected as Supervisor representing the Newsoms District.

Mr. Johnson reported that there certainly was no deadline on the STOP appointment. He noted that the same discussion was held last month about Mr. Brown. He remarked that it may be that after the election, the Board would want to give Mr. Brown further consideration.

**It was the consensus of the Board that a decision on the STOP appointment be tabled and postponed until after the November General Election.**

Monthly reports were received from Communication Center, Animal Control, Building Inspections, Cooperative Extension, Delinquent Tax Collections, Daytime E.M.S. Contract, and Public Safety Radio System Status Report.

Under Personnel, the County Administrator reported that J. Travis Felts was employed in the Sheriff's Department effective September 16, 2004 at an annual salary of \$20,398; Earl E. Skeete was employed in the Sheriff's Department effective September 16, 2004 at an annual salary of \$23,854; and Melinda R. Cannon was employed in the Buildings and Grounds Department, part-time, effective August 30, 2004. The salary of Denise Edwards, Boykins Wastewater, had been increased effective September 1, 2004 at an annual salary of \$22,057 for a License Increase. He advised that Donna M. Newbold had been terminated from the Treasurer's Office effective September 3, 2004. Mr. Johnson reported that the county still has two employees who were on active military leave, Raymond E. Merkh as of January 24, 2003 and Derek W. Ayers as of September 1, 2004. He asked that they be kept in our thoughts and prayers.

The County Administrator reported that included in the Board's agenda was a copy of project pay application # 1 for work completed through September 8 on the HVAC Modifications at the Southampton Office Center. He advised that the pay application had been certified by the project engineer for \$12,889.41, which represented completion (at the time) of roughly 47.5% of the project. He noted that the project has remained on schedule with the contractor working each weekend since August 28. He reported that as of September 22, work is substantially complete with final completion expected by mid- to late-October. He stated that a motion was required from the Board to approve pay application # 1.

**Supervisor Young moved, seconded by Supervisor Faison that Project Pay Application # 1 in the amount of \$12,889.41 for work completed through September 8 on the HVAC Modifications at the Southampton Office Center be approved for payment. The motion was approved unanimously.**

Mr. Johnson also pointed out that, attached in the agenda for reference, were e-mails exchanged with our industrial hygienist regarding the retesting of indoor air quality. He advised that he was hopeful that the hygienist would return next week for further samples. He stated that he was unconvinced that the piping modifications alone had sufficiently addressed the source of the mold. He noted that there had been only modest improvement in indoor humidity levels, and what was seen could be entirely attributable to the changing of the seasons.

The County Administrator continued by stating that he had asked the county's consulting engineer to prepare plans and cost estimates to have reheat coils installed throughout the facility for humidity control. He noted that this would likely be a major capital project and he would keep the Board informed as cost estimates became available. In the meantime, he stated, visible mold growth that appears was continually spot cleaned and surface treated with a sprayed-on mold inhibitor.

Supervisor Wyche inquired and the County Administrator advised that mold has been found, particularly in the Health Department, as many times as three times during the past month. But, he stated, that is the area in the building where we run

the highest levels of humidity, anywhere from 60% to 80% relative humidity in that space. He noted that it was almost equivalent to what outside humidity is.

Supervisor Carter stated that he had received another call from the same person that had spoken to the County Administrator before. He remarked that he was certainly left with the impression that the situation had not improved a whole lot and they were very upset. He noted that he knew it was appreciated that the County Administrator was on top of the issue.

Supervisor West inquired with regard to capital outlay potential cost.

Mr. Johnson responded that in very broad general discussions, the idea was to look at trying to install multiple reheat coils for many more sub-zones so there would be better control of the temperature and humidity in smaller spaces. He noted that there was a lot of disparity in the temperature in the current spaces. To do that, he added, we would be looking at some significant control work, significant piping work and he estimated, building-wise, the potential cost would be in excess of \$100,000.

Supervisor West inquired and Mr. Johnson responded that the present equipment was fine and worked fine. He noted that the problem was that we reach the set point on temperature before we remove all the humidity from the air and the way the control system works, when you reach that point in the temperature it sends the message to the air conditioner to cut off until it warms up again and then come back on. He pointed out that it was not efficient use of energy because you would actually run heat and air conditioning at the same time. But, he stated, it is, in some cases, the only way that you can remove the humidity and maintain a comfortable space temperature.

Chairman Jones commented that the potential cost was certainly cheap compared to someone getting sick and the county having to pay for that. Mr. Johnson commented, in addition to paying for cleaning up mold and those types of issues, not to mention the loss of hours of productivity.

Bills in the amount of \$1,127,631.93 were received.

**Supervisor Young moved, seconded by Supervisor West, that bills in the amount of \$1,127,631.93 be paid and that checks # 64816 through checks # 65398 be drawn in payment of bills. The motion was approved unanimously.**

Mr. Johnson presented for Board consideration a proclamation in honor of Ms. Ethel Fenimore who would celebrate her 100<sup>th</sup> birthday on October 12. He pointed out that Ms. Fenimore is a retired public educator with 47 years service, serving the last 39 as an elementary school principal. He advised that former students have arranged a reception for Ms. Fenimore on Sunday, October 17, 2004 at the Hunterdale Elementary School from 3:00 to 5:00 p.m.

Mr. Johnson stated that Ms. Fenimore's career actually began in Rockbridge County, but she moved to Southampton County in 1936 when she accepted the principalship at Black Creek School, a three-room rural schoolhouse. He advised that in 1942, she began a 23-year tenure as principal at the Sedley Elementary School, where she stayed until Hunterdale Elementary School was opened in 1965. He advised that Ms. Fenimore retired as principal of Hunterdale Elementary in 1970, but continued working there for the next seven years as a part-time music teacher.

The County Administrator assured that Ms. Fenimore had touched the lives of several generations of Southampton County students and affectionately refers to them all as "her children." Mr. Johnson stated that with the Board's blessing, he would like to present the following proclamation on the Board's behalf:

#### A PROCLAMATION

To all to whom these presents shall come – Greeting

WHEREAS, Ms. Ethel Fenimore moved to Southampton County in 1936, teaching the fifth and sixth grades for 6 years while also serving as principal at Black Creek School, a three-room rural schoolhouse; and

WHEREAS, Ms. Ethel Fenimore moved to Sedley Elementary School in 1942, serving there, with honor and distinction, as teacher and principal for the next 23 years; and

WHEREAS, Ms. Ethel Fenimore moved to Hunterdale Elementary School when it was opened in 1965, serving there, with honor and distinction, as teacher and principal until her retirement in 1970; and

WHEREAS, following retirement, combining her love of children and music, Ms. Ethel Fenimore continued to teach music on a part-time basis to children at Hunterdale Elementary School for 7 more years; and

**WHEREAS, over the course of her long career, Ms. Ethel Fenimore touched the lives of several generations of Southampton County students, instilling and imparting in them the virtue of character and the value of hard work; and**

**WHEREAS, Ms. Ethel Fenimore will celebrate her 100<sup>th</sup> birthday on October 12, 2004, achieving prominence and special recognition as one of Southampton County's few centenarians; and**

**WHEREAS, in gratitude for her countless hours of dedication and service to others, her former students have organized a reception in her honor on Sunday, October 17, 2004.**

**NOW, KNOW YE THAT we do by these presents proclaim and declare that October 17, 2004 shall be known henceforth and forever more as**

## **“Ethel Fenimore Day”**

**AND FURTHER KNOW YE that this Board calls upon all its residents to pause, reflect upon, and celebrate Ms. Ethel Fenimore's tireless devotion to public education and her influence upon generations of Southampton County students, by participating in the activities incident to this occasion.**

**IN TESTIMONY WHEREOF, it is ordered that a copy of this proclamation shall be spread upon the minutes of this Board on the twenty-seventh day of September 2004, forever preserving and recording this Board's gratitude to Ms. Ethel Fenimore and, further ordered that the Seal of the Southampton County Board of Supervisors shall be hereunto affixed as visual representation of the high esteem in which she is held by the people of Southampton County.**

**WITNESS the Honorable Dallas O. Jones, Chairman of the Board of Supervisors of Southampton County, Virginia on this twenty-seventh day of September, two thousand four.**

**Supervisor Felts moved, seconded by Supervisor Wyche, that the proclamation honoring Ms. Ethel Fenimore on her 100<sup>th</sup> birthday be adopted and that the County Administrator present the proclamation in the Board's behalf. The motion was approved unanimously.**

Chairman Jones recognized Mr. Van Rowe who was present to address the Board. Mr. Rowe's request was consistent with Section 2-45 of the *Southampton County Code*.

Mr. Rowe stated he was present to request Board consideration for amending certain provisions of the *Southampton County Zoning Ordinance* and to further discuss meeting rules and procedures.

Mr. Rowe distributed to the Board his prepared statement and a folder of photographs which, he stated, was evidence of the issues he wanted to address tonight. He prefaced his prepared statement by stating that it was difficult for him sometimes to contain his emotions on this matter because it was one that had been very personal to him and had created a lot of strife and aggravation. He continued as follows:

“First I want to thank you for allowing me this opportunity to address this assembly. Even though I speak as an individual small business owner, I represent the plight of all business owners in Southampton County. You are all aware by now of the issues of zoning concerns that I have with the Department of Zoning Administration. These issues have caused me to have to shut my business down and consider relocating to another county that is more small business friendly. This is compelling to say the least. Especially when I reviewed Southampton County's Vision, Mission and Values Statement on the Internet web site. In part it states that your mission is to provide the highest level of leadership and services in the most cost-effective manner. Is it cost effective to force small businesses out of business? As to services, I have not received one letter or phone call from any of the members of this board even though I have written each of you at least twice and provided my phone numbers. The vision statement states we are a progressive community exhibiting leadership in agriculture and economic development. I question the sincerity of this statement when you have ordinances on the books that prohibit the displaying of a simple Welcome, Open or Sale Flags and all temporary signs. (Inserted verbally - The only flags he was allowed to fly at his business were the United States Flag, the Virginia Flag or a corporate flag. All other flags, banners, streamers, pennants, whirling devices, as well as all temporary signs are prohibited. He stated that this was hard for him to comprehend.) When it comes to displaying and storing of ANY sale items, this is also not permitted unless they are screened from view. (He noted that the county ordinance calls for a screened fence at least six foot fence in height, a solid concrete wall or a hedge, basically screening all items of concern from view.) I sought clarifications on this from Mr. Johnson and Mr. Barnett and they assured me there were no exceptions to this rule. Think about this for just a minute and you'll realize that nearly every business in Southampton County violates this rule, from the storage of tractors, cars, ice machines, produce such as pumpkins and watermelons, newspaper racks, farming supplies, vending machines and much more. How these ordinances have remained on the books since 1991, I don't understand. Why is it that just now, others and I are being targeted on these issues? As a county we list our values as Honesty, Knowledge, Teamwork, Spiritual, Community and Perseverance. These are noble ideals and goals to strive for. Lets work towards these together. I recommend that a civic organization of small business be formed to review our zoning ordinances and adjust them to be more in line to the needs of small businesses. I had asked Mr. Johnson to recommend just such a plan and he assured me he would give it consideration. Ms. Cindy Cave has said she would be willing to help and lend advice. Will the board act on such a motion this evening?”

Mr. Rowe continued by stating that he was shutting his business down because he could not comply with these ordinances. He could not comply or stand in some state of limbo waiting for somebody to approve his operation. He remarked that he could not buy stock to resupply because it would be foolish to do so knowing that he might have to remove it. He advised that he sold concrete lawn ornaments; bird baths, fountains, concrete chickens, etc. He noted that the Board members may have some of these items at their homes in their own yards. He advised that to suggest, to eliminate the problem of not having these items stored, that he take the items in and out every night - two tons of concrete. He stated that he could not and would not do this. He also stated that he sold carports and to suggest that such an item be put behind his building where nobody sees it was ridiculous. He advised that these were ordinances for which he had been cited and the threat had been passed along to the County Attorney for compliance. That action was withheld pending his appearance before the Board of Supervisors this evening. He related that he had spoken with many of the business owners on Route 58 and other locations and they all have issues with the County Zoning Administration in the enforcement, arbitrarily, of these ordinances. Mr. Rowe remarked that one of the photographs that the Board members were examining shows the new Food Lion with all the banners and streamers. He noted that under county ordinances, this was illegal. He advised that he was not putting the photographs before the Board as a complaint, he was merely trying to bring to light what he saw as a serious problem with the administration of ordinances that are anti small businesses. Why he was singled out, and he did not know that he was singled out, he stated, because others received letters as well. He seemed to make an issue because it impacted him more than anybody else. He stated that he was shutting his business down and he did not think it was fair or reasonable that these ordinances were on the books and are there for the arbitrary application whenever it is the whim of the administrator to impose these laws upon you. He argued that it was not fair. He felt it was not reasonable to expect small businesses to operate underneath these guidelines. He asked that the Board please reconsider these issues and address them so that the small businessman in this county can move ahead and try to have a positive impact on this county. He did not believe that any Board member wanted to see him go out of business but apparently the end result is that he would have to go out of business. He pointed out that every one of the photographs that the Board had examined represented a violation. He did not know that any of the Board members had the need to review and personally look at the zoning ordinances that affects signs and businesses.

He asked that the Board for the support and courage to form a civic organization to review these ordinances so that these same issues would not happen in the future. He remarked that the Board could do something about this if the Board chose to do something about this. He stated he was present to ask the Board's support. He asked that somebody on the Board respond to his request.

Chairman Jones noted that in looking over the photographs he found one in the Town of Capron. He advised that the Board of Supervisors had no control at what happens in Capron.

Chairman Jones inquired what Mr. Rowe was cited for.

Mr. Rowe responded (1) all temporary signs are prohibited and must be removed; (2) flashing signs, pennants, banners, streamers and all other fluttering, spinning or similar type signs and devices are prohibited; (3) a carport was erected at the flea market shop without the required permit and was encroaching on the required front yard setback; (4) outside storage of sale items not permitted.

Mr. Rowe added that in a subsequent meeting with Mr. Johnson and Mr. Barnett he had been told that he could keep his temporary sign and he was certainly grateful for that. But, he stated, their generosity was in contrast to what the ordinance says. He remarked that he was not trying to cut off his foot but he wanted to be fair - if there is going to be an ordinance on the books, let it apply equally to everyone.

Mr. Rowe stated that with regard to the second item regarding flashing signs, pennants, banners, streamers and all other fluttering, spinning or similar type signs and devices - but again he was told he could have them and he appreciated that also.

Mr. Rowe pointed out that item (3) a carport was erected at the flea market shop with the required permit. He stated that a permit could not be issued because it does not meet the setback standards. He noted that there was a carport there prior and he assumed that it was all right to put one back there. But, he stated, now to suggest that it is there and that he move it to the back of the building where nobody can see it was ludicrous.

Mr. Rowe stated that item (4) outside storage of sale items not permitted was a really illogical. He stated that when he questioned Mr. Barnett about this and asked if there were any exceptions, Mr. Barnett had responded in the negative. Mr. Rowe suggested to Mr. Barnett that he needed to go up and down Route 58 and have all these items removed, including John Deere combines, automobiles, ice machines, vending machines, newspaper racks, hanging baskets, fertilizer goods, fencing goods, pumpkins and watermelons. All of these items for sale, he stated, are stored in front of businesses. And, he remarked, he had been explicitly told by Mr. Barnett that there were no exceptions. Apparently, he stated, there are many, many exceptions, but not for himself. Why, he asked, was he cited for all these violations when all up and down the county there is evidence that the same thing is going on by everybody else and they are not being threatened with letters such as he had received. He stated that he had spoken to many of the business owners and one had said if he had to remove all the pumpkins, he would raise the dickens.

Mr. Rowe commented that we would either have to make exceptions, which is contrary to the law, or change the law. He asked that the Board please review and reconsider the ordinances and make them more small business friendly. He felt that it was urgent and the Board could not expect businesses to operate with these threats hanging over their head. He stated that he had never seen a person or business that sells these concrete lawn ornaments hidden from the public. To suggest that these ornaments had to be stored out of view of the public is contrary to common sense, he claimed. He commented that laws are great and are based upon things that are natural. He remarked that he so enjoyed Clarence Thomas' presentation on the issues of natural laws being our foundation. He noted that natural common sense tells you that you cannot put your stuff behind a screen and try to sell it.

Mr. Rowe presented a second letter to the County Administrator which requested permission to attend the October meeting of the Board of Supervisors to discuss Personnel matters.

Chairman Jones reported that Mr. Rowe's comments would be taken under advisement, would be discussed, and see what could be done.

Mr. Rowe stated that he would be back next month with the Board's permission.

Chairman Jones responded that Mr. Rowe could come back as many times as he liked.

Supervisor Faison mentioned that the Board was not disregarding anything he had said because the Board had heard all of his comments. But, he stated, he did appreciate the opportunity for the Board to discuss the matter.

Mr. Rowe inquired if the idea of setting a civic committee of small business owners to sit with the Southampton County Planning Commission or the Board of Zoning Appeals had any merit with any Board member.

Supervisor West thought it was a great idea.

Supervisor Young stated that he had not realized there were as any discrepancies as the photographs presented indicated. He thought a committee would be excellent.

Supervisor West commented that he could appreciate some of the situations for he knew when the carport was set out front and the setback rules were not adhered to, that does create a problem. He added that it would have to be mounted or put into the ground in a way to make it safe from the elements. Therein, he stated, you come within the setback rules of Route 58. He felt that the county is not after him to remove the carport, it was common sense. He thought that these issues needed to be studied, more input was needed from the community, and he felt that small business owners would be an asset to all. He looked forward to the appointment and having these people involved in the process.

Mr. Rowe thanked the Board for hearing his presentation.

Supervisor Jones advised that the next agenda item was consideration of a jointly funded Waste Generation Study.

The County Administrator reported that during budget deliberations last spring, while discussing the escalating volumes of solid waste deposited at our mini-transfer stations, there seemed to be interest among the Board in comprehensively evaluating the means and methods by which solid waste is collected and disposed of, and the revenue sources to pay for that collection and disposal.

Mr. Johnson noted that presently solid waste collection and disposal is funded entirely through the county general fund, which derives its revenue from property taxes. He remarked that the fiscal year 2005 annual budget includes more than \$1.25 million for collection and disposal of trash.

The County Administrator continued by stating that our present method of collection which is fourteen unattended mini-transfer stations is subject to widespread abuse. In fact, he stated, Southampton County leads the SPSA region in waste generated per person, generating on average, 63% more waste per person. A table illustrating the eight SPSA communities from Virginia Beach back to Southampton County shows that each person in Southampton County generates 5.84 pounds of trash per day. He advised that if our per capita waste generation rate was simply equivalent to Isle of Wight County's or the City of Franklin's, quantities would be reduced by roughly 37.5%, equating to annual disposal savings of more than \$325,000.

Mr. Johnson remarked that there was also an issue out there related to equity in paying for the disposal of the waste. He noted that all property owners pay a proportionate share of the cost based on the **value of property they own, not the quantity of waste they generate**. In an attempt to look at this issue more closely, the County Administrator had discussed with SPSA officials the possibility of having a waste generation study performed for Southampton County that would estimate the quantities of waste generated for different categories of non-residential properties. This date could then be used to develop a new solid waste utility fee that could be assessed to the various waste generators (residential and non-residential), he advised. If the Board were to consider a waste generation fee, the Board could also consider at the same time a comparable reduction in the real property tax rate, he advised.

Mr. Johnson presented a copy of a proposal for a waste generation study submitted by SCS Engineers, which has extensive experience in Virginia and has performed similar solid waste studies for SPSA, Montgomery County, MD and the Rivanna Solid Waste Authority (VA). He noted that the estimated cost of the study is slightly less than \$13,000 and SPSA has offered to share in the cost 50/50.

The County Administrator also advised that several discussions at staff level regarding comprehensive changes in the way we manage our solid waste had been held. He reported that these ideas would be continually developed and he hoped to submit recommendations for Board consideration either at or prior to the FY 2006 budget deliberations. He specifically asked that the Board consider the proposal by SCS Engineers.

Supervisor Carter clarified that the total estimated cost is \$13,000 but that SPSA will pay half so the county's portion would be \$6,500.

Supervisor West commented about the 5.84 pounds per person in Southampton County. He asked if this was determined by the tipping fee.

Mr. Johnson responded that the rate comes by the weigh tickets for FY 2004. We had 18,857 tons of trash that crossed the scale and when you divide that by a population of 17,700 you come up with 5.84 pounds of trash per day per person.

Supervisor West commented that Isle of Wight County was 2.19 pounds less. He pointed out that they were in a rural setting. He could not imagine how Southampton County has so much more trash other than we were being abused.

Mr. Johnson felt that Southampton County was being abused by residents and non-residents alike. He noted that with unattended sites, we have absolutely no control over what is dumped at the sites.

Supervisor West welcomed the study and look forward to sharing the cost with SPSA.

Supervisor Carter commented that he commuted from Newsoms to Boykins back to Newsoms. He had been by there many times and seen pickups and automobiles from North Carolina dumping whatever they wanted to at the dump site. He felt that was also a part of the problem.

Supervisor West stated that he would like to see some citizen input from those citizens that live close by any of these sites.

Mr. Johnson stated that there are two issues - the issue of control is one but the study addresses the equity issue. He noted that right now all of your revenue that pays for the collection and disposal of trash comes from the property tax which goes right back to the value of the property that people own. He noted that you could own millions of dollars worth of farms that generate absolutely no trash and you are paying a disproportionate share because of the value of your farms. He advised that what the study would do would be look at a way to establish a fee that would go to the waste generator. This would make it much more equitable in paying for the collection and disposal of trash.

**Supervisor Faison moved, seconded by Supervisor Carter, to accept the proposal for a waste generation study from SCS Engineers, not to exceed \$13,000 in total, the cost of which will be shared equally between Southampton County and SPSA. The motion was approved unanimously.**

Chairman Jones recognized Mr. David K. Britt, Treasurer, Southampton County.

Mr. Britt stated that he was seeking consideration in abating \$342.60 in delinquent real estate taxes owed by R. A. Ballard, Jr. He explained that Mr. Ballard partitioned three building lots from a 170-acre parent tract sometime in 1999, which went undetected by the Commissioner of the Revenue's Office until two years later. While trying to remedy the situation, there was apparent miscommunication between the Treasurer's and Commissioner of the Revenue's respective offices when the supplemental tax bills were sent, resulting in confusion by all parties on exactly what was owed.

Mr. Britt stated that Mr. Ballard was fully cooperative and remitted additional payments in April and June 2001 for \$58.80 and \$131.10, respectively, at the request of the Treasurer. Notwithstanding his cooperation, because of the confusion, the account remains unsettled with \$342.60 in delinquent taxes accruing since 2001.

Mr. Britt maintained that Mr. Ballard has already responded twice in good faith, that the delinquency was not the fault of the taxpayer, and that the total taxes collected on the supplemental bills represents almost twice the amount of delinquent taxes remaining. Accordingly, Mr. Britt sought indulgence in resolving this matter by abating the remaining delinquent taxes.

Chairman Jones inquired of the County Attorney if he approved the request for abatement of delinquent real estate taxes in the amount of \$342.60.

The County Attorney responded that the abatement was valid and was a good precedent.

**Supervisor Carter moved, seconded by Supervisor Faison, to abate \$342.60 in delinquent real estate taxes from 2001 on property owned by R. A. Ballard, Jr. The motion was approved unanimously.**

The County Administrator presented correspondence from Towne Development Corporation seeking the Board's cooperation in requesting the extension of utilities from the City of Franklin to a proposed new phase of development in the Regency Estates subdivision.

Mr. Johnson reminded the Board that Regency Estates was developed in the mid- 1990's and straddles the City of Franklin/Southampton County line. Fourteen residential building lots were initially developed in the county in 1998, and a total of 35 more lots are now proposed in Southampton County, as indicated on a preliminary plat of Section 4 (17 lots - currently under review by the Planning Commission) and preliminary sketch of Section 5 (18 lots ). Development of Section 5 will be subject to the availability of municipal utilities (water, sewer, electricity) from the City of Franklin.

The County Administrator stated that when submitting their initial request on August 31, Towne Development proposed 50 additional lots in Phase 5 with average lot sizes of 7,379 square feet. By letter dated September 16, they have amended their initial submittal by scaling the project back to 18 new lots in Phase 5 with all lots apparently exceeding the minimum area of 20,000 square feet (Residential R-1 zoning).

Mr. Johnson stated that the City of Franklin has favorably responded to a request by the County in 1994 on behalf of the original developer to extend utilities to the initial 14 lots contained in Section 3.

Supervisor Young commented that he had received a number of calls and had several visits but he did not think there were any County concerns. He clarified that the request was to direct the County Administrator to request the extension of utilities.

**Supervisor Young moved, seconded by Supervisor Faison, that the County Administrator be directed to officially request from the City of Franklin an extension of utilities to serve Section 5 (maximum of 18 lots) of Regency Estates subdivision on behalf of Towne Development Corporation. The motion was approved unanimously.**

A public hearing was held pursuant to §33.2-70.01, *Code of Virginia*, 1950, as amended to receive public comment on the Priority List for Proposed Improvements to the Secondary and Unpaved Roads of Southampton County and the FY 2006 Secondary and Unpaved Road Construction Budget.

The County Administrator reported that the FY 2006 budget provides \$817,951 for regular construction of secondary roads and an additional \$206,260 for improvements to unpaved roads. He stated that based on the priorities that this Board had established in years past there are six highways that are listed under the secondary improvements. They are, in the current order of priority

**1. Route 671 - continued widening or five-laning of**

General Thomas Highway from Route 687  
(Delaware Road) to Route 650 (Shady Brook

Trail at  
Hercules)

\$3  
,076,830

**2. In Boykins District -Fullers Mill Road - 0.70 mile improvement beginning at its intersection with Route 671 and carried across the railroad to the**

vicinity of Chapman Lumber Company

\$2,341,684

**3. Governor Darden Road - Jerusalem District -**

1<sup>st</sup> phase would run from the corporate limits of the Town of Courland 2.5 miles down

Route 646 towards Sedley

\$1,795,000

**4. Governor Darden Road - Jerusalem District -**

2<sup>nd</sup> phase of the same project which would

carry it all the way out to Route 661 - Sedley Road

\$1,765,000

**5. Protective ditches at the railroad crossing outside**

of Courland on Route 661 - Governor Darden Road

\$600,000

**6. Berkeley District - Proctor's Ridge Road -**

first phase i.e. 1.79 mile section from

the four corporate linkups to Route 617

\$1,775,000

**7. Berkeley District - Proctor's Ridge Road -**

second phase i.e. 2.0 mile from Route 661 to

the four corporate linkups

\$25,000

Mr. Johnson continued by stating that the second part of the plan was the proposed priorities for proposed roads. They were

A.	Route 671 - Old Pass Road - 2.6 mile	\$550,000	\$
B.	Route 674 - Berkeley Road - 7 mile	250,000	\$
C.	Route 675 - Indian Town Road - 1.2 mile	260,000	\$
D.	Route 676 - Beaman Road - .75 mile	260,000	\$
E.	Route 675 - Backhoe Quarter Road - 1.6 mile	275,000	\$
F.	Route 677 - Delaney Road - 3.1 mile	900,000	\$
G.	Route 676 - Old Lamb Road - 1.67 mile	260,000	\$

Mr. Henshick Cook advised the Board that Route 675 (Whitehorse Road and Route 75) (Three River Road) was not on this plan. He stated that both of these roads were financed with enough money to complete and they will be completed by July 1, 2005.

Mr. Cook stated that he would be unable to attend before the Board and said that he had brought some funds but that this was not the case. He stated that funds had gone about 10%.

No person appeared in favor of an application to the Priority List for Proposed Improvements to the Secondary Highway System or the Priority List for Proposed Improvements to Upland Roads.

Chairman Edwards stated the public hearing closed.

Mr. Johnson presented the following resolution for consideration:

**RESOLUTION REGARDING PRIORITY LIST PROPOSED IMPROVEMENTS TO THE SECONDARY HIGHWAY SYSTEM**

WHEREAS, in accordance with Section 71-701 of the Code of Virginia, as amended, the Southampton County Board of Supervisors and the Virginia Department of Transportation had a joint public hearing in Southampton County at 7:00 p.m. on Monday, September 27, 2004 to present a Priority List of road improvement to use in formulating the 2005-06 through 2010-11 Six Year Secondary Road Improvement Plan and Priority List of Improvements to Upland Roads;

WHEREAS, it is the desire of this Board to approve the Priority List of projects for the 2005-06 through 2010-11 Secondary Road Improvement Plan and 2005-06 Priority List of projects for the Secondary Road Improvement Plan;

NOW, THEREFORE, BE IT RESOLVED that the Board does go on record as approving the 2005-06 through 2010-11 Priority List of Improvements to the Secondary Road System and the 2005-06 Priority List of projects for the Secondary Road Improvement Plan as attached herewith.

Supervisor Young moved, seconded by Supervisor Wicks, that the Resolution Regarding Priority List Proposed Improvements to the Secondary High System be adopted. The motion was approved unanimously.

The County Administrator presented the following resolution for consideration:

**RESOLUTION REGARDING PRIORITY LIST PROPOSED IMPROVEMENTS TO UNPAVED ROADS**

WHEREAS, it is the desire of this Board to establish a priority list of the proposed roads in Southampton County to provide a guide for the Virginia Department of Transportation in developing the Six Year Plan and Construction Budget; and

WHEREAS, the priority list for proposed roads for Southampton County was presented by the Virginia Department of Transportation based upon present information adopted by this Board, as may be amended;

NOW, THEREFORE, BE IT RESOLVED that the Board does go on record as approving the 2005-06 through 2010-11 Priority List of Improvements to the Secondary Road System and the 2005-06 Priority List of projects for the Secondary Road Improvement Plan as attached herewith.

Supervisor Young moved, seconded by Supervisor Adams, that the Resolution Regarding Priority List for Proposed Improvements to Upland Roads be adopted. The motion was approved unanimously.

Chairman Dr. Alan Edwards of the Southampton County Planning Commission called the Planning Commission meeting to order.

**COMMUNIST PARTY PRESENCE**

Dr. Alan Edwards, Chairman

Richard Wicks, Chairman

Supervisor Young, Chairman

Supervisor Wicks, Chairman

Supervisor Adams, Chairman

Chairman Edwards advised the Southampton County Board of Supervisors was holding a joint public hearing with the Southampton County Planning Commission pursuant to § 15-2-427, Code of Virginia, 1950, as amended to receive public comment on a proposed ordinance to designate an ordinance which was duly adopted as an emergency measure on August 23, 2004 that amends and revises Chapter 7, Article IV, Section 7-41 through 7-74 of the Southampton County Code "Land Application of Biosolids." Board members provided that the law regarding registration the land application of biosolids is properly implemented and advised.

Originally adopted as an emergency ordinance, it is presently enforceable through October 25, 2004. The purpose and intent of this public hearing is to consider registration of the ordinance as emergency with the provisions of Section 15-2-427 of the 1950 Code of Virginia, as amended, that it may remain enforceable in perpetuity, unless repealed or amended by the Board of Supervisors of Southampton County.

The County Administrator advised there is a letter was received from the Virginia Department of Agriculture and Forestry. He stated that generally Virginia is in support of the proposed ordinance for the state's protection of the Virginia Association of Counties model ordinance, which is the provision that states that biosolids can only be applied as a program if it is used Agricultural A-1. In discussion with Mr. Richardson today, the County Administrator stated that he could not be sure but he had the opportunity to do so with respect.

He advised that the opinion was received on March 29, 2005 to the County Attorney for Sussex County which required a final opinion. He stated that the gist of that particular opinion was that in light of the nature and comprehensive nature program regarding the use of biosolids, it was apparent that the state accepted the fact of usage despite alleged, common and management could be the applied that a final ordinance could be applied as a final ordinance as a program before applying or being made in the County as proposed by the Comprehensive Land Program. It was the Administrator's opinion that the fact of only applying biosolids to land area Agricultural would be better. Mr. Administrator stated that this was a provision of the Virginia model ordinance.

Mr. Wicks stated that he disagreed with the interpretation. He advised that the Attorney General was exactly right - a conditional use permit is entirely different. He stated that you could just add A-1 - there was a world of difference.

Supervisor Wicks stated that the Board does not have to change or modify it in any way.

Mr. Johnson stated that he was not aware of the particular provision had been challenged. He stated that he was not aware in the particular case that the initial application is pending before the Department of Health but in Southampton County. He advised that there are no funds that are prepared for the application that are actually used historical, just outside the Town of Courland - adjacent to Norfolk Southern Railroad. Although Agriculture is a non-entirely use as these parcels and they have been cultivated for years, they are somewhat mixed industrial and based on the strict interpretation of the ordinance it is not strictly back to the Department of Health but he indicated that it would not be consistent with the ordinance that was being considered tonight.

Supervisor Wicks stated that the proposed ordinance could be modified.

The County Administrator responded that the board of directors had been heard.

Mr. Wicks advised that he was saying that the ordinance upon the Attorney General's opinion was returned. If the Board wants to say it can be industrial area or an A-2 area, A-1, this was the choice of the Board of Supervisors. He was saying that Attorney General's opinion, in his judgment, was misplaced.

Supervisor Wicks stated that Mr. Richardson would be saying and had a reasonable interpretation. Supervisor Wicks stated that he was not willing to go that far just.

Supervisor Adams stated that the Board would be determining zoning an ordinance without limitations.

Supervisor Wicks stated that the ordinance was not adopted.

Supervisor Carter inquired of the County Attorney if he was any reason why the ordinance couldn't be modified as was originally done earlier in September.

Mr. Wicks stated that he did not see any reason. He did not think that there was any prohibition, that he was aware of that the Board cannot adopt the ordinance just like the Board already had adopted the emergency ordinance.

Chairman Edwards inquired of any comments on the Planning Commission had any comments.

Chairman Edwards, Southampton County Planning Commission Chairman, commented that he thought the ordinance looked pretty good before. He advised that the Board of Supervisors was considering just bringing it Agricultural and not bringing A-1 or A-2.

The County Administrator responded that the reason - the wording in the ordinance was just Agricultural Zoning Districts. Based on the wording in the ordinance, it would be consistent to apply biosolids in an A-2 Zoning District.

Chairman Edwards inquired of this was what the people want. Do you want it right next to the area. Could you make it another district with a conditional use permit?

Mr. Wicks responded that he did not want a conditional use permit.

Mr. Johnson advised that he hoped that the ordinance was developed by the Virginia Association of Counties and has the model ordinance to facilitate to consider. He commented that he was not saying that the ordinance would be a total A-1 but he would be designed of doing major revision and thinking it would be without any type of cover districts.

Commissioner Berkman inquired how much biosolids would there be in Southampton County, how many places in Southampton County would it come from?

The County Administrator stated that the biosolids would actually be brought to Southampton County from other places. He stated that he could see the hearing fairly comprehensive because it was an ordinance to consider fertilizer and it has substantial nutrient status. He informed the Board that the application was based on a nutrient management plan that is specifically developed for each site, depending on the crops that are proposed to be planted and the soil type. He advised that the model biosolids would be applied to the land as a fertilizer or a conditioner for the soil.

Commissioner Berkman asked if there had any previous problems with having biosolids in an A-2 zone, right behind residential areas and biosolids residential areas.

Mr. Johnson stated both the Board and Commissioner that each application that is considered by the Department of Health, the Board of Supervisors will have the opportunity to provide initial comment. If there are concerns about the proximity to residential areas, the concern could certainly be made known asking for additional buffer space between the areas that would be done. But, he stated, he did not know that it could be taken a zoning district.

Supervisor Wicks stated that the biosolids application would be very well managed by the Department of Health.

Mr. Johnson commented that the process in the field but the priority is to consider to address to other in the State, County, County, he stated, when any problem with tracking of the biosolids, then we change that with the adoption of the ordinance you would have the ability to monitor, work with the company doing the application and try to get those things resolved as quickly as possible.

Commissioner Mann stated that the Commission questioned whether land application had to also apply to property under Agricultural A-2.

Commissioner Bryan stated that he was in favor of having to regulate the application.

Mr. Wicks stated that he thought the word was being pushed by you could certainly, under Prohibitive Practice, 7-45, it could be added.

The County Administrator commented that he did not think that he was willing to register applications of the land. He thought if all you were empowered to do under the general public process to make sure that they follow state and federal regulations. He stated that he had been challenged in Agriculture County as well as another County. He commented that he would be very cautious about going any further than the model ordinance would say. He pointed out that this particular ordinance had been challenged. He stated that he would be in the State and federal levels and not on the local level. They simply give you the authority to monitor and make sure that they fully comply with the state and federal regulations.

Mr. Wicks stated that he thought that the fact that the whole ordinance would become in effect because of an attempt to do something that is not permitted.

Supervisor Young commented that if it was like most other areas, being in it in each a lot of the business, but it is not always something that you have a permit. He remarked that as far as the A-2 zone, he thought the application is going to determine how close the biosolids will be placed to adjacent property. Supervisor Young commented that a lot of chicken and pig waste can be spread but there was a limit as to what could be done as far as an ordinance comment.

Commissioner Edwards stated that the Planning Commission's major concern was the Agricultural A-2 zone and the proximity to houses and schools. Otherwise, he stated, the Commission makes sure there was a vehicle but they could do.

No person appeared in favor of an application to the proposed Biosolids Ordinance.

Commissioner Berkman moved, seconded by Commissioner Bryant, that the following Biosolids Ordinance be approved and recommended to the Southampton County Board of Supervisors for adoption. The motion was approved unanimously.

**BIOBOLDS ORDINANCE**

**AN ORDINANCE AMENDING THE SOUTHAMPTON COUNTY CODE, BY THE ADOPTION OF ARTICLE IV, CHAPTER 7.1 AND APPLICATION OF BIOBOLDS**

Sec. 7-41. Findings: The Board of Supervisors finds that improper collection, disposal or management of Biosolids without appropriate regulation, control and monitoring may result in adverse effects to the general health safety and welfare of the inhabitants of the County and to agricultural lands, water supplies, wildlife, livestock, water of streams and the environment.

Sec. 7-42. Purpose and intent: This ordinance is intended to ensure laws and regulations governing the land application of Biosolids are properly implemented and enforced, and to ensure and protect the health, safety and welfare of the county's citizens to ensure the creation of a public nuisance and to prevent pollution of the waters and soils of the county related to land application of Biosolids. In carrying out this ordinance the County will not and neither the application of Biosolids in agricultural land within the boundaries of the County and to regulate the collection, disposal and management of Biosolids in the County and to regulate the collection, disposal and management of Biosolids in the County and to regulate the collection, disposal and management of Biosolids within the jurisdiction of the County and to ensure compliance with applicable laws and regulations. This ordinance is intended to regulate the land application of animal waste to streams or to accepted quality biosolids.

Sec. 7-43. Authority and enforceability:

This ordinance is adopted pursuant to the authority granted by the Code of Virginia, including but not limited to sections 15.2-209 or eqg, 15.2-209 or eqg, 15.2-220 or eqg, 15.2-144.2 or eqg, to the extent that any portion of this ordinance is declared void for any reason, such decision shall not affect the remaining portions of the ordinance, which shall remain in full force and effect, and for this purpose the provisions of this ordinance are hereby declared to be severable.

Sec. 7-64. Definitions.

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

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

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

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

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

Land application of biosolids means the spreading, placement or distribution of Biosolids upon, or incorporation into, the land.

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

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

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

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

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

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

Sec. 7-65. Prohibited Practices.

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

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

- A. Land application of Biosolids is authorized only in Agricultural zoning districts.
- B. Not prior to preparing or intending to land apply Biosolids to land in the County shall notify the County Biosolids Monitor in writing at least 14 days prior to any intended land application of Biosolids, or as otherwise required by state law or regulation.
- C. The notice provided to the Biosolids Monitor shall include the following information (if not already submitted to the Biosolids Monitor):
  - 1. The name, address and telephone number of the Permittee or Applicator;
  - 2. The acreage number of the parcel where land application will occur;
  - 3. The name, address and telephone number of the Owner of the property where the land application will occur;
  - 4. The name, telephone number and address of the monitor of the biosolids;
  - 5. The estimated date range in which land application will occur and the duration of the planned application;
  - 6. A copy of the nutrient management plan and other state or federal permits authorizing the land application;
  - 7. A copy of a Nutrient Management Plan (NMP) as required by state law and regulation;
  - 8. Information on geographical context and alternative land uses on the property.
- D. The county shall review the documentation provided with the notice and shall notify the applicant in writing of any deficiencies in the submitted within 10 business days of receipt. The applicant will have 10 business days to correct and amend the deficiencies unless otherwise permitted by the county in writing.

Sec. 7-67. Monitoring and Sampling.

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

Sec. 7-68. Compliance Response.

- A. The Biosolids Monitor shall notify the Virginia Department of Health or Department of Environmental Quality if the Permittee or Applicator fails to comply with the requirements of this ordinance. The Permittee or Applicator shall be responsible for the cost of any investigation or enforcement action initiated by the Virginia Department of Health or Department of Environmental Quality.
- B. The Biosolids Monitor shall notify the Permittee of any failure to follow the requirements of the Permit resulting in the improper application of Biosolids or in the spillage of Biosolids onto public streets or rights-of-way or on property outside the area authorized by the Permit.
- C. The Permittee shall respond to biosolids appropriate corrective action for: improperly applied Biosolids, or to clean up Biosolids spilled onto public streets, roadways or other supervised areas, immediately upon receiving such notification.
- D. In the event that the Permittee does not respond to notification of spillage or improper application and the County conducts the cleanup of spilled Biosolids, the Permittee shall compensate the County for the actual costs of such cleanup.
- E. The Permittee is responsible for ensuring that the tracking of Biosolids from land application sites onto public roads is minimized and that Biosolids that are dragged or washed out from land application sites are promptly removed from public roads and highways.

## Sec. 7-69. Scheduling.

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

## Sec. 7-70. Storage.

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

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

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

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

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

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

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

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

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

Chairman Edwards declared the Southampton County Planning Commission portion of the public hearing on the Biosolids Ordinance closed.

Chairman Jones declared the Southampton County Board of Supervisors portion of the public hearing on the Biosolids Ordinance closed.

**Supervisor West moved, seconded by Supervisor Young, that the recommendation of the Southampton County Planning to adopt the Biosolids Ordinance be approved. The motion was approved and the ordinance was adopted unanimously.**

A public hearing had been scheduled to receive public comment on a joint enterprise zone application by the counties of Isle of Wight and Southampton and the City of Franklin.

The County Administrator advised the Board that official notice had been received last week that the 2004 application round for Enterprise Zone designation had been suspended by the Virginia Department of Housing and Community

Development and applications will not be accepted at this time. We will await their direction on when they will open those applications back up.

Mr. Johnson advised that the federal government shares in the administrative costs of case management for eligible foster children that have been removed from their homes. He stated that in an attempt to maximize efficiency and recover the maximum amount of eligible federal dollars, the Western Tidewater Community Services Board and the Department of Social Services in Suffolk, Isle of Wight, Franklin and Southampton are proposing to enter into partnership.

Mr. Johnson pointed out that the following two documents were within the agenda:

*A Memorandum of Agreement* between the Department(s) of Social Services in the Counties of Isle of Wight and Southampton and the Cities of Franklin and Suffolk relative to the claiming of administrative costs under the Title IV-E Foster Care Program; and

*A Memorandum of Agreement* between the Isle of Wight County Department of Social Services (Fiscal Agent) and the Western Tidewater Community Services Board (WTCSB).

He continued by stating that the agreements are interrelated and set forth the following working arrangement between the parties:

- 15. The WTCSB is responsible for providing administrative services in the support of foster care of pre-placement preventive services;**
- 16. The WTCSB documents all expenditures it incurs and submits quarterly claims to the Isle of Wight DSS which serves as fiscal agent for the 4 agencies listed in paragraph 1 above;**
- 17. Isle of Wight DSS monitors the administrative support services provided by the WTCSB and coordinates Title IV-E administrative claims with the State DSS;**
- 18. Isle of Wight DSS received administrative funding from the Virginia DSS and distributes the proceeds to all parties based on an agreed-upon formula that is tied to the client population in each locality.**

The County Administrator remarked that because the Board of Supervisors is not party to the agreements, a specific motion to approve them is not required. However, because Title IV-E funds flow through the county budget, and the Title IV-E reimbursements are a significant source of costs recovered through our annual cost allocation plan, he wanted to make the Board aware of this arrangement. He advised that Mrs. Julia Williams, Finance Director, has met several times with all parties and does not object to this arrangement.

Mr. Johnson reminded the Board that at the July meeting they had declared seventy (70) various items or groups of items from the Sheriff's Office as surplus property. The sale is scheduled for Wednesday, October 13 at the Southampton Jail Farm at 10:00 a.m.

The County Administrator stated that it had come to his attention last week that the Department of Public Works is custodian of three additional pieces of equipment that are no longer in serviceable condition.

Mr. Johnson presented the following resolution declaring this county-owned equipment as surplus and ordering it to be sold or otherwise disposed of:

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.

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

1. **John Deere 1050 Diesel Tractor (CH10505023623)**
2. **John Deere 25A Flail Mower (P00025A636586)**
3. **Hudson Triple Axle Trailer (1984) (10HHTR185E100005)**
4. **Chevrolet Dump Truck (1974) (CCE614V128306)**
5. **Chevrolet Pickup Truck (1984) (2GBGC24MXE1101352)**

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 a cost-effective manner; and

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

Adopted, this 27<sup>th</sup> day of September, 2004.

**Supervisor Wyche moved, seconded by Supervisor Faison, that the Resolution Declaring Surplus Property for Sale be adopted. The motion was approved unanimously.**

The County Administrator stated that § 2.2-4304, *Code of Virginia*, provides that competitive negotiation, as opposed to competitive sealed bids, may be utilized for procuring certain goods, if a determination is made in advance, in writing, by the governing body that competitive sealed bidding is not practicable or fiscally advantageous to the public.

Mr. Johnson advised that competitive negotiation involves issuance of a written Request for Proposals indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal. Selection is then made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal. Negotiations are then conducted with each of the contractors so selected. Price may be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the County selects the offeror which, in its opinion, made the best proposal, and awards the contract to that offeror.

The County Administrator presented for Board consideration the resolution that is requisite in utilizing competitive negotiation for procurement of a new telephone system for the Southampton Courthouse. The existing telephone system was proprietary (manufactured and services exclusively) when it was purchased in 1996. Unfortunately, the equipment provider (Executone) went out of business shortly thereafter leaving us with no source of replacement parts and phones, no service and no support. The equipment itself is not dated, lacking common business features such as voice mail and voice messaging, conference calling, and interoffice transfer capability.

Mr. Johnson advised that we have no funds budgeted for the project but stated that Judge Parker has requested that proposals be sought in order to get an idea of what equipment is available and what it may cost. Thereafter, we may evaluate deferring some other capital project in FY 2005 and proceed with the purchase, or defer action until FY 2006.

The County Administrator presented the requisite resolution for consideration:

A RESOLUTION AUTHORIZING COMPETITIVE NEGOTIATION  
AS THE METHOD OF PROCURING REPLACEMENT  
TELECOMMUNICATIONS EQUIPMENT FOR THE SOUTHAMPTON COURTHOUSE

WHEREAS, the existing telecommunications equipment in the Southampton County Courthouse is obsolete and near the end of its useful life; and

WHEREAS, Southampton County is considering replacement of said telecommunications equipment;

and

WHEREAS, Southampton County recognizes that prospective offerors may utilize different equipment, techniques, and methods in meeting its needs, with equal success; and

WHEREAS, Southampton County seeks to encourage innovation, efficiency, and superior levels of performance in procurement of such equipment; and

WHEREAS, there are many factors in addition to price that must be considered when procuring telecommunications equipment, including, but not limited to the financial stability of the offeror, the qualifications of project personnel, a demonstrated experience in installing the equipment, and the offeror's ability to support and maintain such equipment; and

WHEREAS, the process of competitive sealed bidding does not lend itself to the consideration of these and other factors when considering award of the contract.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Southampton County, Virginia that, in its judgment, competitive sealed bidding is not fiscally advantageous to the citizens of Southampton County for the reasons described herein above; and

BE IT FURTHER RESOLVED that this Board intends to utilize competitive negotiation to procure such goods and services and authorizes its County Administrator to publish and distribute a Request for Proposals, with such proposals to be received and evaluated by a committee appointed by the County Administrator; and

BE IT FURTHER RESOLVED that such committee shall competitively negotiate with such offerors it deems to be fully qualified and best suited based upon the evaluation criteria contained in the RFP, and shall make a recommendation to this Board for action at a future regular meeting.

Adopted this 27<sup>th</sup> day of September 2004.

**Supervisor Young moved, seconded by Supervisor Wyche, that the Resolution Authorizing Competitive Negotiation as the Method of Procuring Replacement Telecommunications Equipment for the Southampton Courthouse be adopted. The motion was approved unanimously.**

Mr. Johnson advised that an invitation for the grand opening of Food Lion store # 2111 at 28334 Southampton Parkway, Courtland on Wednesday, September 29, 2004 at 8:00 a.m. He stated that Chairman Jones would be officially welcoming them to Southampton County and make a few brief remarks on the Board's behalf.

The County Administrator reported that correspondence from Walter Kucharski, Virginia's Auditor of Public Accounts, had been received following his annual review of constitutional officers. His report contained one finding in the Treasurer's Office relative to remission of Sheriff's fees. Attached for Board information was the Treasurer's response to Mr. Kucharski.

Correspondence was received from the American Civil Liberties Union regarding a change in the state statutes relative to the posting of political signs. Temporary nonilluminated election campaign signs are exempted from the provisions of the Southampton County Zoning Ordinance.

The County Administrator presented a notice from the Suffolk Shelter for the Homeless regarding their "Harvest for the Homeless Reception and Auction" on Friday, October 15, 2004 at the Holiday Inn, Suffolk. Mrs. Barbara Greene, Southampton County's Board representative, is seeking Board consideration in either sponsoring the event or purchasing event tickets. He stated that sponsorships are available at the \$1,000 and \$500 levels and individual tickets are \$25 each. He reminded the Board that the FY 2005 budget provided \$1,000 for the Shelter and the Board further approved the purchase of 10 tickets at \$50 each last spring to the Shelter's "Night of Jazz." Mr. Johnson stated that he thought the Suffolk Shelter for the Homeless was looking at establishing a shelter location in the Franklin/Southampton County area.

Supervisor West stated that he was glad to see that they were moving into this area. He knew that Mrs. Greene is very active and he would like to see the Board support her and the Suffolk Shelter as well.

Supervisor Wyche inquired and was advised that the \$1,000 that had been budgeted had already been sent to the Shelter.

**After a short discussion, Supervisor West moved, seconded by Supervisor Wyche, that fourteen tickets at \$25 each be purchased and used by Board members, spouses, and County staff. The motion was approved unanimously.**

Mr. Johnson advised that information relative to the upcoming annual meeting of the Virginia Association of Counties being held November 7-9 in Bath County was received. It is necessary for the Board to designate its representative prior to November 1 to cast its votes at the annual business meeting. He noted that all Supervisors are registered for the conference, with the exception of Supervisor Carter. Correspondence was also received relative to reelection of Philip Bradshaw to the VACo Board, and from Accomack County relative to the election of Donald Hart as VACo's Secretary/Treasurer.

Supervisor Carter clarified that he would be delighted to attend the VACo annual meeting but in November, he would no longer be on the Board of Supervisors at the time that the VACo meeting was being held, therefore he would not be attending. He did not feel that it fair to take advantage of that situation.

**Supervisor Felts moved, seconded by Supervisor Wyche, that Chairman Dallas O. Jones be designated as the county's voting delegate and that Vice Chairman Walter L. Young, Jr. be designated as the alternate delegate. The motion was approved unanimously.**

The County Administrator reported on two items discussed last month which had been effectively resolved;

1. Received was a copy of the signed agreement for emergency medical services with the City of Franklin;
2. Received was a copy of the notice of preclearance from the U. S. Department of Justice for the polling place change in the Newsoms District, Blackwater Precinct.

Copies of six environmental notices from the Department of Environmental Quality and Virginia Department of Health were attached in the agenda for Board information. They were

19. **From DEQ, notice of an application for groundwater withdrawal from the Virginia Department of Veteran's Services for a seasonal withdrawal of up to 1.6 million gallons at the new Veteran's cemetery in Suffolk;**

20. **From VDH to Southampton County, notice that August water samples at the Southampton Business Park exceeded the federal limits for total**

coliform bacteria;

21. From VDH to the Town of Courtland, notice that August water samples for the Town of Courtland water system exceeded the federal limits for total coliform bacteria;
22. From VDH to D. C. Magette, notice of failure to collect the required repeat bacteriological samples from the Darden's Mill Estates water system following a positive sample in August;
23. From VDH to the Town of Courtland, a notice of violation for exceeding the federal limits for fluoride in drinking water;
24. From VDH to the Girl Scout Council, notice that the quarterly water samples at the Camp Darden water system exceeded the federal limits for total coliform bacteria.

Under incoming correspondence, the County Administrator had listed the following:

1. From the Virginia Department of Emergency Management, notice that the *Burdette, Ivor, Boykins, and Dockside hazard mitigation grants have been satisfactorily completed and officially closed. There is also correspondence confirming that the Narricot floodproofing project has been withdrawn and officially closed as well;*
2. From Southeast RCAP, a note of thanks for the county's recent contribution;
3. From the Western Tidewater Community Services Board. A note of thanks for approving their FY 2005 performance contract and budget;
4. From Charter Communications, correspondence regarding improvements to their high-speed Internet services;
5. From Draper Aden Associates, a statement of completion for the recent Southampton Business Park waterline extension;
6. From Waverly Coggsdale, confirmation regarding the purchase of a new solid waste refuse truck and refuse containers;
7. From Draper Aden Associates, a statement of completion for the Thomaston Road pump station and sewer;
8. From VDHCD, notice of final closeout of the Dry Well Replacement Program;
9. From the HRPDC, copies of comments regarding review of environmental impact reports for the Deerfield Correctional Center expansion, and an Incidental Take Permit for red-cockaded woodpeckers associated with the harvest of 75 acres of timber near the Southampton/Sussex border;
10. From Isle of Wight County, copies of issues of interest from Phillip Bradshaw, VACO's Region 1 representative.

Under late arriving matters, the County Administrator presented a request from Courtland Volunteer Rescue Squad for capital funding in the amount of \$5,000. He advised that they are seeking their annual appropriation (\$5,000) to assist with debt service associated with their new ambulance.

Supervisor Young moved, seconded by Supervisor Wyche, that the request made by Courtland Volunteer Rescue Squad for their annual capital funding appropriation in the amount of \$5,000 be approved. The motion was approved unanimously.

Mr. Johnson presented for Board consideration correspondence from Tim Drewry with Pulley & Rowe regarding delinquent real and personal property taxes owed by Mr. Keith Jordan. Because Mr. Jordan recently filed for bankruptcy protection, Mr. Drewry advised earlier this month that the delinquent personal property taxes would likely not be collectible (although the real estate likely would be). Mr. Drewry advised that the personal property items (farm equipment) were disposed of several years ago and that the associated delinquent taxes would likely be discharged in bankruptcy.

The County Administrator stated that a third party, Mr. Charles Hood, has recently expressed interest in acquiring Mr. Jordan's real property on which the county has the judgment lien. He offered to pay all of the delinquent real estate taxes and half of the delinquent personal property taxes if Southampton County would be willing to release the lien on the real estate.

Accordingly, Mr. Johnson requested consideration on an instrument of partial release releasing the judgment lien on the real estate. He stated that Mr. Hood has already paid to Mr. Drewry all the delinquent real estate taxes through 2002, and half of the delinquent personal property taxes (\$3,743.87). He noted that the 2003 and 2004 real estate taxes will be paid by Mr. Hood at closing.

Supervisor Carter recused himself from any action to be taken because he represented both Mr. Jordan and Mr. Hood.

Supervisor Young moved, seconded by Supervisor West, that the Instrument of Partial Release, releasing the judgment lien on the real estate be approved.

SUPERVISORS VOTING AYE:	Dallas O. Jones	Walter L. Young, Jr. Carl J. Faison Anita T. Felts Ronald M. West Moses Wyche
SUPERVISOR ABSTAINING:	E. Beale Carter, Jr.	

The motion was approved.

Supervisor Young moved, seconded by Supervisor Carter, that a closed meeting in accordance with the provisions set out in the *Code of Virginia, 1950*, as amended, be held for the following purposes:

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

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

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

Section 2.2-3711(A)(3) Discussion or consideration of acquisition of real property (community water system) for a public purpose where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; and

Section 2.2-3711(A)(3) Discussion or consideration of acquisition of real property (future school site) for a public purpose where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

The motion was approved unanimously.

Those remaining for closed session were Michael W. Johnson, County Administrator, J. Waverly Coggsdale, III, Assistant to the County Administrator, Richard E. Railey, Jr., County Attorney, Julia Williams, Finance Director, Cynthia L. Cave, Community/Economic Development Director, Julian Johnson, Director of Utilities and Joe Hines and Judy Ding with Timmons Group.

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

Supervisor Young moved, seconded by Supervisor Carter, that the following resolution be adopted:

#### RESOLUTION OF CLOSED MEETING

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

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

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

SUPERVISORS VOTING AYE:	Dallas O. Jones	Walter L. Young, Jr. E. Beale Carter, Jr. Carl J. Faison Anita T. Felts Ronald M. West Moses Wyche
SUPERVISORS VOTING NAY:	None	

The resolution was adopted unanimously.

Supervisor Young moved, seconded by Supervisor Wyche, that the salary of Arthur L. Banks be increased from Grade 12 to Grade 16, salary from \$22,057 to \$23,160, effective October 1, 2004. The motion was approved unanimously.

Supervisor Wyche stated that Mr. Van Rowe stated that he would be back before the Board next month. He thought the Board should look at some of the items that Mr. Rowe had brought up. He stated that everybody should be treated alike. He commented that Mr. Rowe had brought up some very good points that should be examined.

A lengthy discussion was held with regard to the request made by Mr. Rowe to address the questions and concerns brought forward to the Board of Supervisors and that the Board consider amending the Southampton County Zoning Ordinance along with the possibility of naming a business committee to review the ordinance.

Supervisor Wyche moved, seconded by Supervisor Young, that the ordinance which regulates zoning regulations and land issues be referred to the Southampton County Planning Commission for review and evaluation and then make a recommendation to the Board of Supervisors regarding the questions raised by Mr. Van Rowe, a small business operator in Southampton County. The motion was approved unanimously.

The meeting was adjourned at 10:05 p.m.

Dallas O. Jones, Chairman

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Michael W. Johnson, Clerk