

VIRGINIA:

At a regular meeting of the Board of Supervisors of the County of Northampton, Virginia, held in the Board Chambers of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, on the 14th day of May, 2013, at 4:00 p.m.

Present:

Willie C. Randall, Chairman	Laurence J. Trala, Vice Chairman
Richard L. Hubbard	Larry LeMond
Oliver H. Bennett	

The meeting was called to order by the Chairman.

Closed Session

Motion was made by Mr. Bennett, seconded by Mr. Trala, that the Board enter Closed Session in accordance with Section 2.2-3711 of the Code of Virginia of 1950, as amended:

(A) Paragraph 1: Discussion or consideration of employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees or employees of any public body.

Appointments to boards, committees.

(B) Paragraph 3: Discussion or consideration of the condition, acquisition, or use of real property for public purpose, or of the disposition of publicly held property.

Eastville Inn

(C) Paragraph 5: Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

(D) Paragraph 7: Consultation with legal counsel and briefings by staff members, consultants, or attorneys pertaining to actual or probable litigation, and consultation with legal counsel employed or retained by the Board of Supervisors regarding specific legal matters requiring the provision of legal advice by counsel.

All members were present and voted “yes.” The motion was unanimously passed.

After Closed Session, the Chairman reconvened the meeting and said that the Board had entered the closed session for those purposes as set out in paragraphs 1, 3 5 and 7 of Section 2.1-3711 of the Code of Virginia of 1950, as amended. Upon being polled individually, each Board member confirmed that these were the only matters of discussion during the closed session.

The Chairman read the following statement:

It is the intent that all persons attending meetings of this Board, regardless of disability, shall have the opportunity to participate. Any person present that requires any special assistance or accommodations, please let the Board know in order that arrangements can be made.

Board and Agency Presentations:

Dr. Walter Clemons, Division Superintendent of the Northampton County Public Schools distributed copies of the latest Capital Improvement Plan for the School System. Ms. Brook Thomas, Director of Finance, discussed two hand-outs illustrating the draft CIP’s Equalized Funding Schedule and Funding Schedules. These documents are on file in the office of the County Administrator.

Mr. Bennett stated that he was still concerned with maintenance of existing structures, although he specified that it was not the custodial staff he was referencing. In response to Mr. Bennett’s concern relative to building condition, Dr. Clemons offered to arrange a tour of the high school and the Board indicated that they were agreeable.

Ms. Nunez said that in late June (following analysis by the County’s financial advisors), staff will be prepared to meet jointly with the School Board to discuss the County’s financial capabilities for funding capital needs.

Dr. Clemons also distributed a memorandum providing the School Board’s

understanding, including pros and cons, of the proposed twice-annual real estate tax billing being proposed by the Board under public hearing this evening. The letter will be entered into the record at that time.

In response to a question from a prior meeting relative to loss of enrollment, Dr. Clemons said that, following analysis, he had noticed a trend with enrollment at Occohannock Elementary and the high school remaining relatively stable but there was a significant loss at Kiptopeke Elementary. He believed that there were several factors including more migrant population, and shifts to home schooling and Christian schooling, that accounted for this trend.

Consent Agenda:

- (1) Minutes of the meetings of April 3, 4, 9, 22, and 29, 2013.

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the Consent Agenda be approved as presented. All members were present and voted “yes.” The motion was unanimously passed.

County Officials’ Reports:

(2) Mrs. Leslie Lewis, Director of Finance, presented the following budget amendments and/or supplemental appropriations for the Board’s consideration:

TO: Board of Supervisors
FROM: Leslie Lewis, Director of Finance
DATE: May 6, 2013
RE: Budget Amendments and Appropriations – FY 2013

Your approval is respectfully requested for the following budget amendments and supplemental appropriations:

\$2,056.89 – This represents an insurance claim reimbursement as a result of damage

sustained to a Sheriff's vehicle. Please transfer these funds to the Sheriff's Vehicle Equipment & Supplies line item (100-3102-55600).

\$555.75 - This represents an insurance claim reimbursement as a result of damage sustained to a Sheriff's vehicle. Please transfer these funds to the Sheriff's Vehicle Equipment & Supplies line item (100-3102-55600).

\$1,752.80 - This represents an insurance claim reimbursement as a result of damage sustained to a Sheriff's vehicle. Please transfer these funds to the Sheriff's Vehicle Equipment & Supplies line item (100-3102-55600).

\$559.28 – This represents an increase in the FY 2013 “Four-for-Life” payment for emergency medical services. Please transfer these funds to State Categorical Aid – Other (Four-for-Life Funds) 100-0026-44075.

\$107.80 – This represents a transfer of funds from the Commonwealth Attorney's Asset Forfeiture Account to pay for hotel accommodations for out-of-town witnesses for a criminal trial. Please transfer these funds from 220-0026-44600 to the Commonwealth Attorney's lodging line item (100-2201-51750).

\$1,490.23 – This represents a stormwater management grant obtained through the A-N Planning District Commission and will be expended for computer equipment for the Planning & Zoning Dept. Please transfer these funds to the Information Technology's hardware line item (100-1240-55450).

\$50,000.00 – This represents the proceeds from the sale of the Oyster right-of-way parcel and will reside in the Undesignated Fund Balance line item (100-32000).

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Motion was made by Mr. Bennett, seconded by Mr. LeMond, that the foregoing budget amendments and supplemental appropriations be approved as presented. All members were present and voted “yes.” The motion was unanimously passed.

TO: Board of Supervisors
FROM: Leslie Lewis, Director of Finance
DATE: May 8, 2013
RE: Budget Amendments and Appropriations – FY 2013

Your approval is respectfully requested for the following budget amendments and supplemental

appropriations as requested by the Northampton County Public Schools:

\$134.54 – This represents an appropriation increase for the 2012-2013 School Operating Budget and reflects an additional allocation of 2012-13 Title III, Part A, Limited English Proficiency grant funds.

\$24,000 - This represents an appropriation increase for the 2012-2013 School Operating Budget and reflects an additional allocation of 1003(g) School Improvement Grant Funds for Education Online, a real-time online tutoring service which will be used for Math and Reading.

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Motion was made by Mr. Trala, seconded by Mr. Hubbard, that the foregoing budget amendments and supplemental appropriations be approved as presented. All members were present and voted “yes.” The motion was unanimously passed.

TO: Board of Supervisors
FROM: Leslie Lewis, Director of Finance
DATE: May 8, 2013
RE: Budget Amendments and Appropriations – FY 2013

Your approval is respectfully requested for the following budget amendment and supplemental appropriation:

\$10,548.00 – This represents a request from the Sheriff’s Office for a transfer from their Asset Forfeiture Account in the amount of \$10,548.00. This includes \$9,000.00 for the purchase of one Labrador Retriever to be used for narcotics detection (to be transferred into 100-3102-55925 [K-9] and \$1,548.00 for four weeks’ of meals and lodging to cover the training associated with the animal (to be transferred into 100-3102-51750 [Meals & Lodging])

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Motion was made by Mr. LeMond, seconded by Mr. Hubbard, that the foregoing budget amendments and supplemental appropriations be approved as presented. All members were present and voted “yes.” The motion was unanimously passed.

TO: Board of Supervisors

FROM: Leslie Lewis, Director of Finance
DATE: May 14, 2013
RE: Budget Amendments and Appropriations – FY 2013

Your approval is respectfully requested for the following budget amendment and supplemental appropriation:

\$19,037.00 – transfer of funds from County Capital Projects Fund, Contingency Account (303-9900-59900) to County Capital Projects Fund, Solid Waste Services Contingency Account (303-4204-59900).

\$156,496.00 – transfer of funds from County Capital Projects Fund, Contingency Account (303-9900-59900) to County Capital Projects Fund, Solid Waste Services Construction Improvement Account (303-4204-57850).

\$17,107.00 – transfer of funds from County Capital Projects Fund, Facilities Management Construction Improvement Account (303-4302-57850) to County Capital Projects Fund, Solid Waste Services Construction Improvement Account (303-4204-57850).

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Motion was made by Mr. Trala, seconded by Mr. Bennett, that the foregoing budget amendments and supplemental appropriations be approved as presented. All members were present and voted “yes.” The motion was unanimously passed.

At this time, Mrs. Lewis and the County Administrator continued discussions with the Board regarding the FY 2014 County Budget.

One of the reports illustrated the FY 2014 Contributions to Other Agencies. Now that information has been received from Accomack County with regard to its FY 2014 contributions, there were several organizations on which staff needed guidance relative to the County’s proposed contribution for next fiscal year. It was the consensus of the Board to provide contributions in keeping with the historic shared funding ratios with Accomack County, specifically for Eastern Shore Agency on Aging (an increase of \$182); Eastern Shore

Community Services Board (a decrease of \$3,653); Eastern Shore RC&D Council (an increase of \$1,064) and Eastern Shore Public Library (a decrease of \$2,265).

The next document was a page from the County’s Transient Occupancy Tax, specifically showing the use of funds. Motion was made by Mr. Trala, seconded by Mr. Bennett, that the ordinance be advertised for public hearing, to remove the specific designation of funding to the Eastern Shore Tourism Commission and to use language which allowed the County flexibility in use of those funds as contributions towards tourism and travel or marketing of tourism or initiatives that attract travelers to the locality. All members were present and voted “yes”, with the exception of Mr. LeMond who voted “no.” The motion was passed. Mr. LeMond stated that he did not believe that our ordinance was erroneous and should not be amended in order to effect a change in how Accomack makes contributions.

The Board then discussed uses of surplus funds identified in the proposed FY 2014 budget as set out below:

DESCRIPTION	ITEM or COST	RUNNING BALANCE
General Fund as of 4/19/2013, Surplus	\$ 167,716.00	\$ 167,716.00
School Contribution - recommended changes that would reduce what would come from the County's general fund and would increase the General Fund surplus, as of 4-30-13:	\$ 119,640.69	\$ 287,356.69
Increase Solid Waste Tipping Fees by \$2 per ton, per BOS Meeting of 4-22-13:	\$ 13,990.00	\$ 301,346.69

Correction to Cost Allocation Revenue from the Social Services Fund to the General Fund, as of 4-30-13:	\$ (11,397.54)	\$ 289,949.15
Provide 3% Cost of Living Allowance, effective August 1, 2013, for all Board employees	\$ (52,131.15)	\$ 237,818.00
Correction to Constitutional Officers Revenue, certified by Comp Board 5-1-2013	\$ (29,862.00)	\$ 207,956.00
Contribution to Public Service Authority for a Southern Commercial Area Wastewater Project	\$ (130,000.00)	\$ 107,818.00
BOS Raises	\$ (5,300.00)	\$ 102,518.00
Emergency Management Stipends	\$ (10,000.00)	\$ 92,518.00
Simulcast Funding (911 Project) (25% of request - 1st contribution over the next 4 years)	\$ (34,000.00)	\$ 58,518.00
Overtime Pool for Law Enforcement	\$ (58,518.00)	\$ 0.00

Items not contained in the New World Systems Budget Document but recommended by KHN and LL are highlighted in mint green

School Contribution

Original Request for Operations: \$7,800,19.37

Original Request for Bus Replacement: \$427,864

TOTAL ORIGINAL REQUEST: \$8,227,883

Correction to Bus Lease Costs: (-\$19,267.69)

KHN Recommended Change to
Contribution re: Sick Leave Bank: (\$100,373)

New School Contribution: \$8,108,242.31

FY2014 Bus Lease Schedule

FY09 Lease (Last Year)	\$102,934.00
FY10 Lease (Last Year)	\$76,532.50
FY11 Lease (Year 4 of 5 Years)	\$46,891.13
FY12 Lease (Year 3 of 5 Years)	\$ 52,170.29
FY13 Lease (Year 2 of 5 Years)	\$ 54,155.26
FY14 Projected Lease (Yr 1 of 5 Yrs) - 5% Int. Rate	\$108,913.13
TOTAL FOR FY2014 BUS LEASE CONTRIBUTION	\$441,596.31
Less Reduction of FY09 Lease from Insurance Payoff of Bus #6 that was still on this lease	(\$18,732.79)
Apply the rest of the remaining insurance proceeds from the 2 bus accidents	(\$14,267.21)
ADJUSTED TOTAL FOR FY2014 BUS LEASE CONTRIBUTION	\$408,596.31
Difference between the School Board Request and the Adjusted Total for the FY2014 Bus Lease Contribution:	\$19,267.69

The last report shared with the Board was the projected Tax Rate Schedule for 2013 as set out below:

Category	2012 Tax Rate	Proposed 2013 Tax Rate
Real Estate	\$.54 per \$100.00	\$.68 per \$100.00
Mobile Homes	\$.54 per \$100.00	\$.68 per \$100.00
Tangible Personal Property	\$3.85 per \$100.00	\$3.85 per \$100.00
Boats	\$.99 per \$100.00	\$.99 per \$100.00
Machinery & Tools	\$2.00 per \$100.00	\$2.00 per \$100.00
Farm Machinery & Equipment	\$1.43 per \$100.00	\$1.43 per \$100.00
Heavy Construction Equipment	\$2.86 per \$100.00	\$2.85 per \$100.00
Solar Installations	\$.49 per \$100.00	\$.49 per \$100.00
Wind Generation		\$.49 per \$100.00

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The Board agreed with staff’s recommendation for \$.49 per \$100.00 for the new category of “Wind Generation” as well as the remaining tax rates. These will be advertised, as well as the proposed FY 2014 County Budget of \$25,092,091.00, for public hearing on June 11, 2013.

Ms. Nunez referenced the “Board of Supervisors’ Raises” – one of the uses of the surplus funds. She reminded the Board that there are two methods allowed under the Code of Virginia for setting Board members’ salaries: the use of an ordinance which caps the salaries at \$4,000 per member (based on population and also includes a 5% inflation factor and additional stipends for the Chairman and Vice Chairman), and a simple motion with no cap but with limitations as to when it can be imposed (only in an election year and not effective until the following year).

Chairman Randall said that the Board’s salary had not increased since 2000 and in light of the many other commitments of the Board members (outside meetings, etc.), he was in favor of an increase. The Board agreed.

At 6:30 p.m., the Board recessed for supper.

At 7:00 p.m., the Chairman reconvened the meeting.

The invocation was offered by Rev. Charles Peterson of Cheriton Baptist Church.

The Pledge of Allegiance was recited.

(3) Ms. Katherine H. Nunez, County Administrator presented the following bi-monthly report for the Board's review.

- (i) 5/28/13: **Tuesday** (Monday is Memorial Day): SWMP Public Hearing
- (ii) 6/3/13: Reassessment public hearing
- (iii) 6/24/13: Work Session: topic to be announced
- (iv) 7/22/13: Work Session: topic to be announced

The County Administrator's bi-monthly report was presented as follows:

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: May 10, 2013
RE: Bi-Monthly Report

I. Projects:

A. Public Service Authority:

The Public Service Authority met on April 22, 2013 and reviewed the recommendation from their Economic Development Subcommittee regarding the southern commercial node project and voted to recommend to the Board of Supervisors a project that services both Business Rte. 13 and US Rte. 13 from the Cape Charles light north towards Cheriton and to eliminate the connection to the Fairview Mobile Home Park. In addition, the PSA is recommending the funding proposal that would create a special tax district that would pick up 75% of the cost of this project and seek the remaining 25% from the general fund of the county.

B. Eastville Waste Collection Site:

The contract has been fully executed with Branscome Construction and we are proceeding forward with construction.

C. Ditch Maintenance:

A meeting was held with representatives from VDOT, Steve Sturgis from Farm Bureau, County Attorney Bruce Jones and myself to discuss where the main drainage issues are as a result of non-maintenance of ditches, the process that VDOT follows when they are cleaning out a ditch and the relationship to supporting ditches and outfall areas and the need for a comprehensive clean-up in an area to make the effort effective. VDOT provided an update on the Virginia Street ditch issue in Exmore and

they are waiting on the Town to clean out the outfall before they will clean the ditches out. We will work with VDOT to identify and develop a specific plan of action for each significant drainage area in the county and involve the Farm Bureau for assistance when a drainage issue falls across private, agricultural property.

D. Request from SPCA Eastern Shore, Inc.:

Enclosed is correspondence received from SPCA Eastern Shore, Inc. seeking a contribution from Northampton County of \$2,500 to match grant funding they have received to establish a broader spay/neuter program. They have made a similar request to Accomack County as well. Without the financial support of both counties, they will not receive the \$5,000 grant. **Board direction is requested.**

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the Board approve a contribution of \$2500.00 to the SPCA Eastern Shore, Inc. as match funds for the Spay/Neuter grant program as requested. All members were present and voted "yes." The motion was unanimously passed.

E. Landfill Gas Monitoring Well:

In a prior monthly report, I informed the Board that one of our gas monitoring wells is not functioning properly and does not provide any results when samples are pulled and tested. DEQ has taken note of this improperly functioning gas well and we have engaged our engineers, Draper Aden, to develop a plan of action. Said plan was submitted to DEQ for review and comment and they have indicated that our course of action is acceptable – we will go through one more round of testing in June 2013 to see if the well is functioning (we believe it is impacted by our high water table at this time); if it continues to malfunction, then the county will proceed with installing a new gas monitoring probes which would take about 7 to 10 days to get materials and install will take about a day with an estimated cost of \$10,000 (depending upon whether DEQ will require a survey as well as a minor permit modification to the Landfill Gas Management Plan and the Post-Closure Care Plan.

II. **OTHER**

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Citizen Information Period:

Mr. Robert C. Richardson of Seaview said that he was interested to hear about the drainage meeting under the County Administrator's Report, noting that originally, the local ditches had been maintained by the farmers in the winter.

Mr. G. F. Hogg, Jr., asked that in the future, when reports are referenced in the Board's

minutes, that those reports be included as well.

(4) Rick Tomlin – U.S. Coast Guard Auxiliary – Proclamation Proclaiming May 18 through May 24, 2013 as “National Safe Boating Week”.

Motion was made by Mr. Bennett, seconded by Mr. Hubbard, that the following Proclamation be adopted. All members were present and voted “yes.” The motion was unanimously passed. Said proclamation as adopted is set forth below:

PROCLAMATION
PROCLAIMING
MAY 18 THROUGH MAY 24, 2013
as
NATIONAL SAFE BOATING WEEK

Recreational boating is fun and enjoyable, and we are fortunate that we have sufficient resources to accommodate the wide variety of pleasure boating demands. However, our waterways can become crowded at times and be a place of chaos and confusion. While being a marvelous source of recreation, boating – to the unprepared – can be a risky sport. Not knowing or obeying the Navigation Rules or the nautical “Rules of the Road”, drinking alcohol or taking drugs while operating a boat, or choosing not to wear your life jacket when doing so is clearly NOT the smart thing to do, and are all examples of human error or a lack of proper judgment. One particular behavior that can reduce the number of boats who lose their lives by drowning each year by approximately 80% is the wearing of a life jacket. It is a simple task that has the potential to reduce terrible loss in lives.

WHEREAS, on average, 700 people die each year in boating-related accidents in the United States; nearly 70% of these are fatalities caused by drowning; and

WHEREAS, the vast majority of these accidents are caused by human error or poor judgment and not by the boat, equipment or environmental factors; and

WHEREAS, a significant number of boaters who lose their lives by drowning each year would be alive today had they worn their life jackets; and

WHEREAS, modern life jackets are more comfortable, more attractive and more wearable than styles of years past and deserve a fresh look by today’s boating public; and

WHEREAS, U. S. Coast Guard Auxiliary Flotilla 12-02 Painter, provides safe boat instruction for persons of all ages in order to prevent boating accidents and to teach rescue and survival techniques in case one does occur.

NOW, THEREFORE, I, Willie C. Randall, Chairman of the Northampton County Board of Supervisors, do hereby support the goals of the North American Safe Boating Campaign and proclaim May 18-24, 2013, as National Safe Boating Week, and the start of the year-round effort to promote safe boating. And I encourage all boaters to wear their life jackets, boat responsibly, and enroll in a safe boating class.

In Witness Whereof, I urge all those who boat to “Boat Smart. Boat Safe. Wear it.”, and practice safe boating habits.

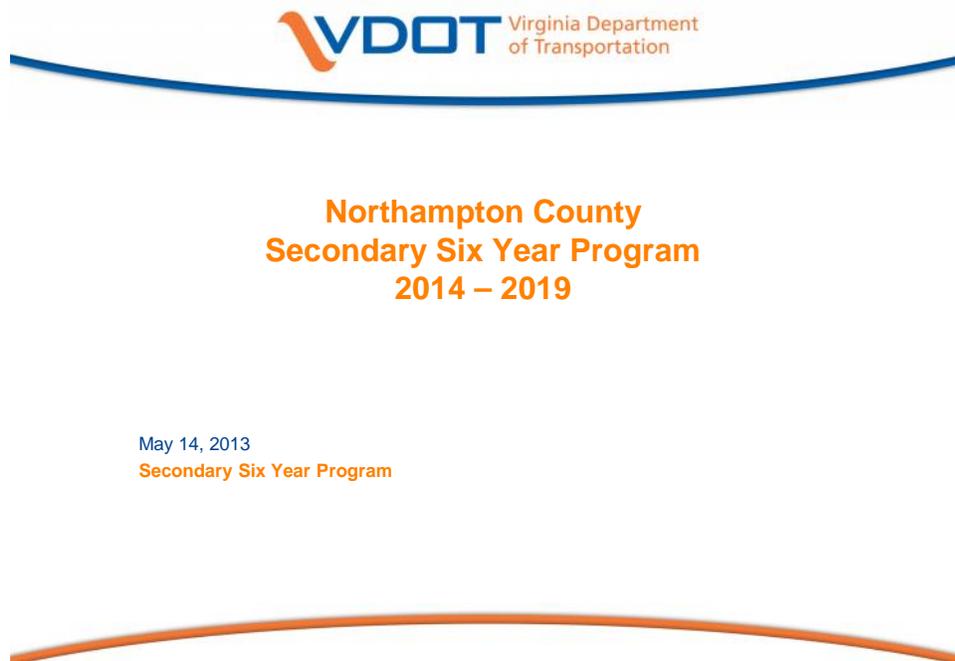
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Public Hearings:

(5) Conduct a joint public hearing with the Virginia Department of Transportation on the proposed Secondary Road Six Year Plan: 2014-2015 to 2018-2019, and Improvement Priorities for Fiscal Year 2013-2014 for Northampton County

The Chairman recognized Mr. Tony Gibson and Mr. Chris Isdell from VDOT, called the joint public hearing to order, and asked if there were any present desiring to speak.

Mr. Gibson presented the following powerpoint presentation:



Estimated Program Allocations

Fiscal Year	Regular Construction	Formula Secondary	Total
2014	\$36,546	\$0	\$36,546
2015	\$38,032	\$0	\$38,032
2016	\$38,032	\$0	\$38,032
2017	\$38,032	\$72,380	\$110,412
2018	\$38,032	\$89,324	\$127,356
2019	\$38,032	\$107,122	\$145,154
Total	\$226,706	\$268,826	\$495,532

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Advertisement Dates for Current Six Year Plan Projects County's #1 Priority

Per County Resolution dated February 12, 2013

#1 Priority - UPC 103391
Route 642 – Old Cape Charles Road
From: Route 1117
To: Route 184

VDOT is working on a new estimate based upon the revised plans

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**Allocations, Estimates, and Expenditures for
Current Six Year Plan Projects**

	UPC	ALLOCATIONS	ESTIMATE	EXPENDED	REMAINING BALANCE
#1	103391	\$1,272,785		\$0	
#2	1850	\$474,310	\$6,009,346 PE - \$474,310 RW - \$2,394,703 CN - \$3,140,333	\$98,984 As of 2/6/2013	(\$5,535,036)
#2	1851	\$35,554	\$494,788 PE - \$35,554 RW - \$269,040 CN - \$190,194	\$29,133 As of 2/6/2013	(\$459,234)

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As shown, Mr. Gibson stated that the available funding has been allocated to the County's Priority #1 – the old Cape Charles Road. Priority #2 - Rt. 602 (Cemetery Road) and Priority #3 – Rt. 618 (New Connector Road) remain in place from last year.

Mr. Robert C. Richardson said that there is a bad corner on Cemetery Road that needs attention.

Mr. John Reiter urged the Board to focus attention on Cemetery Road as it is becoming a hazard with areas that flood, erosion of shoulders and a “wash-boarding” effect.

Ms. Hedy Leutner detailed her experiences with Cemetery Road including its narrow width when encountering farm machinery (guard-rails needed near the ditches) and the “turtle-backing” effect noted earlier and asked for an estimated time of construction.

Mr. G.F. Hogg, Jr., referenced comments from past years in regard to the need for a service road at the Cape Charles Food Lion intersection and asked what could be done to bring

this project forward.

Mr. Gibson clarified that with the extremely limited funding available, it would be some time before Cemetery Road could be addressed.

Mr. Trala questioned whether some of the items noted earlier could be considered safety issues and addressed immediately. Mr. Isdell responded that some of these could be addressed through routine maintenance and asked the Board to consider adopting a resolution to that effect. He also stated that he was not aware of any available funding for the Cape Charles Food Lion issue.

There being no further speakers, the public hearing was closed.

Motion was made by Mr. Trala, seconded by Mr. LeMond that the Board approve the Secondary Road Six Year Plan: 2014-2015 to 2018-2019, and Improvement Priorities for Fiscal Year 2013-2014 for Northampton County as outlined below and adopt the following resolution therefor. All members were present and voted "yes." The motion was unanimously passed.

- Priority #1 – Rt. 642 (Old Cape Charles Road)
- Priority #2 - Rt. 602 (Cemetery Road)
- Priority #3 – Rt. 618 (New Connector Road)

RESOLUTION

WHEREAS, the Virginia Department of Transportation and the Northampton County Board of Supervisors have jointly established the Six Year Plan for Fiscal Years 2014-2015 to 2018-2019 and Improvement Priorities List for the Fiscal Year 2013-2014; and

WHEREAS, the Virginia Department of Transportation and the Northampton County Board of Supervisors have jointly held a Public Hearing on the Six Year Plan for Fiscal Years 2014-2015 to 2018-2019 and Improvement Priorities List for Fiscal Year 2013-2014.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Board of Supervisors hereby approves the Six Year Plan for Fiscal Years 2014-2015 to 2018-2019 and Improvement Priorities List for Fiscal Year 2013-2014.

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The Chairman called to order the following public hearing:

(6) Consider the possible sale of property located on the west side of US Route 13 between Nassawadox and Exmore and more specifically identified as Tax Map 15C, double circle A, parcels 5 and 6. Each parcel is 0.19 acre in size. The Board is considering sale of these two parcels to Mr. Elmer L. Collins.

Chairman Randall asked if there were any present desiring to speak.

The County Administrator indicated that this proposed sale was the result of the Board's initiative to dispose of surplus real property.

Mr. Robert C. Richardson encouraged the Board to sell its surplus property and to apply the sales proceeds against County debt.

There being no further comments, the public hearing was closed.

Motion was made by Mr. Bennett, seconded by Mr. Hubbard, that the Board sell the two referenced parcels to Mr. Elmer L. Collins for the sum of \$1,000.00. All members were present and voted "yes." The motion was unanimously passed.

Chairman Randall called the following public hearing to order:

(7) Pursuant to the Code of Virginia, the Board will hear public comments on an amendment to its FY 2013 County Budget. The proposed amendment is a request from the Northampton County School Board for an increase of \$1,946,836.51 in order to appropriate the balances remaining in certain Federal awards after all FY 2012 reimbursements are processed.

<u>Account Description</u>	<u>Funds Remaining From Prior Year Awards</u>
Title I, Part A (Basic Programs)	\$ 338,157.64
Title I, Part C (Migrant)	\$ 216,949.00
Title VI-B, Special Education (Sect. 611)	\$ 172,603.08
Learn-2-Succeed CIG	\$ 10,414.23
Title VI-B Sped Pk (Sect. 619)	\$ 16,963.80
Title VI-B Rural and Low Income Schools	\$ 37,978.24
Title III, Part A (Language Acquisition)	\$ 34,909.38
Title IIIA Immigration & Youth	\$ 2,833.63
Title II, Part A (Teacher Quality)	\$ 111,695.82
School Improvement 1003G	\$ 982,245.78
CTE/Perkins Grant	\$ 15,503.14

Education Jobs Fund

\$ 6,582.77
\$ 1,946,836.51

The Chairman asked if there were any present desiring to speak.

The County Administrator noted that the public hearing was triggered by the amount of the School Board's request; the Code of Virginia stipulates that amendments exceeding one percent of the total expenditures of the adopted budget must be accomplished through a public hearing process. The requests represent federal grant awards.

Mr. Robert C. Richardson stated that the School Board keeps coming back for additional funding and that possibly new leadership is needed on the School Board.

There being no further comments, the public hearing was closed.

Motion was made by Mr. Bennett, seconded by Mr. Hubbard, that the budget amendments and supplemental appropriations be approved as presented. All members were present and voted "yes." The motion was unanimously passed.

Mr. Bennett stated that if the School Board does not supply some kind of plan for the maintenance of school properties, the Board may use its ability to withhold funding in the future.

Chairman Randall called to order the following series of public hearings (all ordinance amendments).

(8) An Ordinance to Amend an Ordinance Entitled, "Ordinance Establishing Biennial County Supervisor Elections"

The purpose of this amendment is to correct wording as a result of the 2010 Redistricting which reduced the Board membership from six members to five, and will amend Section 30.04 of the Northampton County Code.

**AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED,
"ORDINANCE ESTABLISHING BIENNIAL COUNTY SUPERVISOR ELECTIONS"**

BE IT ORDAINED by the Board of Supervisors of Northampton County, that AN ORDINANCE ESTABLISHING BIENNIAL COUNTY SUPERVISOR ELECTIONS be amended as follows:

1. That Section 3. be amended to read as follows:

Section 3. Beginning with the election in November of 2009, members of the Northampton County Board of Supervisors shall be elected biennially for staggered four-year terms with three members **being elected at that time followed by the remaining two members in November 2011** ~~to be elected at each election.~~

2. Said amendment affects Section 30.04 of the County Code.

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(9) An Ordinance to Repeal an Ordinance Entitled, “An Ordinance to Require Applicants Seeking a Concealed Handgun Permit to be Fingerprinted”

The purpose of this ordinance is to repeal the ordinance because these provisions are now regulated by the State Code.

**AN ORDINANCE TO REPEAL AN ORDINANCE ENTITLED,
“AN ORDINANCE TO REQUIRE APPLICANTS
SEEKING A CONCEALED HANDGUN PERMIT TO BE FINGERPRINTED”**

WHEREAS, the Northampton County Board of Supervisors adopted AN ORDINANCE TO REQUIRE APPLICANTS SEEKING A CONCEALED HANDGUN PERMIT TO BE FINGERPRINTED on July 15, 1997; and

WHEREAS, provisions have now regulated by the Code of Virginia and the Board finds that this ordinance is no longer necessary.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Board of Supervisors does hereby repeal AN ORDINANCE TO REQUIRE APPLICANTS SEEKING A CONCEALED HANDGUN PERMIT TO BE FINGERPRINTED effective the ____ day of ____, 2013, as codified in the Northampton County Code of Ordinances, Section 31.01.

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(10) An Ordinance Regulating Solid Waste Management and Prescribing Penalties for Violation Thereof.

This is a re-write of the County’s solid waste ordinance, necessitated by revisions to reflect how the solid waste program has changed since the ordinance’s initial adoption in

1988 including closure of the landfill, operation of a transfer station and manned waste collection sites. This will amend Chapter 50 of the Northampton County Code.

**AN ORDINANCE REGULATING
SOLID WASTE MANAGEMENT
AND PRESCRIBING PENALTIES FOR
VIOLATION THEREOF**

BE IT ORDAINED by the Board of Supervisors of Northampton County, Virginia, that:

Section 1. Previous Ordinance Repealed. A certain ordinance of the Board of Supervisors entitled, "An Ordinance Regulating Solid Waste Management and Prescribing Penalties for Violation Thereof", adopted the 18th day of November, 1988 and subsequently amended on the 8th day of May, 1989, the 11th day of October, 2005, and the 9th day of December, 2008, is hereby repealed.

Section 2. Authorization. This ordinance is enacted pursuant to authority contained in Sections 15.2-927 et seq., and 33.1-346 and Chapter 14, Title 10.1 of the Code of Virginia, 1950, as amended.

Section 3. General.

Section 3.1. Citations. For purposes of enforcement and reference, this Ordinance shall be known as the "Northampton County Solid Waste Ordinance."

Section 3.2. Severability. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 3.3. Definitions. For the purpose of this Ordinance, the following words and phrases shall have the meaning respectively ascribed to them by this section:

"**Board of Supervisors**" means Northampton County Board of Supervisors.

"**Convenience Center**" – see definition for "Waste Collection Site".

"**County**" means Northampton County.

"**Disposal**" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any Solid Waste into or on any land or water so that such Solid Waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"**Federal Acts**" means any act of Congress providing for Waste management and any regulations promulgated thereunder.

"**Hazardous Material**" means a substance or material in a form or quantity which may pose an unreasonable risk to health, safety or property when transported, and which the Secretary of Transportation of the United States has so designated by regulation or order.

"**Hazardous Substance**" means a substance listed under United States Public Law 96-510, entitled the Comprehensive Environmental Response Compensation and Liability Act.

"**Hazardous Waste**" means a Solid Waste or combination of Solid Waste which, because of its quantity, concentration or physical, chemical or infectious characteristics, may:

1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, Transported, disposed of, or otherwise managed.

"**Household Waste**" means those items of Solid Waste that can reasonably be expected to be generated from within a home by the day-to-day operation of the household. The term "Household Waste" specifically excludes demolition debris and yard debris generated by clearing/cleanup activities such as shrub and tree parts, grass clippings, leaves, fencing, etc.

"**Mixed Low-Level Radioactive Waste**" means low-level Radioactive Waste that contains a substance which renders the mixture a Hazardous Waste.

"**Open Dump**" means a site on which any Solid Waste is placed, discharged, deposited, injected, dumped or spilled so as to create a nuisance or present a threat of a release of harmful substances into the environment or present a hazard to human health.

"**Person**" includes an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"**Radioactive Waste**" or "**Nuclear Waste**" includes:

1. "Low-level Radioactive Waste" material that:
 - a. Is not high-level Radioactive Waste, spent nuclear fuel, transuranic Waste, or by-product material as defined in section 11e (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014 (e) (2)); and
 - b. The Nuclear Regulatory Commission, consistent with existing law, classifies as low-level Radioactive Waste; or
2. "High-level Radioactive Waste" which means:

a. The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid Waste produced directly in reprocessing and any solid material derived from such liquid Waste that contains fission products; and

b. Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

"Resource Conservation" means reduction of the amounts of Solid Waste that are generated, reduction of overall resource consumption and utilization of recovered resources.

"Sanitary Landfill" means a Disposal facility for Solid Waste so located, designed and operated that it does not pose a substantial present or potential hazard to human health or the environment, including pollution of air, land, surface water or groundwater.

"Sludge" means any solid, semisolid or liquid Wastes with similar characteristics and effects generated from a public, municipal, commercial or industrial Wastewater Treatment plant, water supply Treatment plant, air pollution control facility or any other Waste producing facility.

"Solid Waste" means any garbage, refuse, Sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

"Transfer Station" means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration or resource recovery.

"Transport" or **"Transportation"** means any movement of property, and any packing, loading, unloading or storage incidental thereto.

"Treatment" means any method, technique or process, including incineration or neutralization, designed to change the physical, chemical or biological character or composition of any Waste to neutralize it or to render it less hazardous or nonhazardous, safer for Transport, amenable to recovery, or storage or reduced in volume.

"Waste" means any solid, hazardous or Radioactive Waste as defined in this section.

"Waste Collection Site" (also known as a "Convenience Center"), means a collection point for the temporary storage of solid waste provided for individual solid waste generators who choose to transport solid waste generated on their own premises to an established centralized point, rather than directly to a disposal facility. To be classified as a Waste Collection Site, the

collection point may not receive waste from collection vehicles that have collected waste from more than one real property owner. A Waste Collection Site shall be on a system of regularly scheduled collections.

"Waste Management" means the collection, source separation, storage, Transportation, transfer, processing, Treatment and Disposal of Waste or resource recovery.

Section 4. General Prohibitions.

Section 4.1. Authorized Use. Use of Northampton County's Solid Waste Management facilities, to include the Sanitary Landfill, the Transfer Station and the Waste Collection Sites, is limited to Persons residing in Northampton County or Accomack County, or those Persons conducting business within the Counties of Northampton and Accomack as a result thereof.

Section 4.2. Open Dumps. No Person shall dispose of Solid Waste in Open Dumps.

Section 4.3. Private Sanitary Landfills. It shall be unlawful for any Person to operate a private Sanitary Landfill within the County unless permitted by the Virginia Department of Solid Waste Management or such other agencies of the Commonwealth of Virginia as may be authorized by law or regulation to permit such activity.

Section 4.4. Hazardous Waste. It shall be unlawful for any Person to dispose of Hazardous Waste within the County.

Section 4.5. Scavenging. Solid Waste disposed of at the County Sanitary Landfill, the Transfer Station or the Waste Collection Sites shall become the property of the County. Scavenging and unauthorized removal of any material from the County's Sanitary Landfill, the Transfer Station or the Waste Collection Sites is prohibited with the exception of items left in the designated "Take It or Leave It" areas of the Waste Collection Sites.

Section 5. Trespassing.

Section 5.1. Sanitary Landfill. It shall be unlawful for any Person, other than County employees actually engaged in the course of their employment, and law enforcement officers in the performance of their official duties, to enter or cause another to enter upon the County Sanitary Landfill except during normal business hours of operation.

Section 5.2. Restrictive Access. During the hours of normal operation, County employees shall direct Persons to specific areas of the Landfill and/or shall prohibit access to specified areas of the Sanitary Landfill. It shall be unlawful for any person to disobey such directive.

Section 5.3. Transfer Station/Waste Collection Sites. It shall be unlawful for any Person, other than County employees actually engaged in the course of their employment, and law enforcement officers in the performance of their official duties, to enter or cause another to enter upon an area controlled and operated by the County as a Transfer Site or Waste Collection Site,

except during hours of operation.

Section 5.4. Parking. It shall be unlawful for any Person, other than a County employee or law enforcement officer actually engaged in the course of his employment, to stop or park a motor vehicle on the County Sanitary Landfill site, the Transfer Station, or the Waste Collection Sites except temporarily for the purpose of unloading Solid Waste in accordance with the provisions of this Ordinance and the regulations promulgated thereunder.

Section 6. Littering.

Section 6.1. General. It shall be unlawful for any Person to dispose of or cause to be disposed of any Waste by littering in or upon any property within Northampton County.

Any person who disposes of Solid Waste by placing same inside a container provided by the County for the purpose of collecting said Solid Waste shall be deemed to be in compliance with the requirements of this section.

Section 6.2. Waste Collection Sites. It shall be unlawful for any Person to drop, deposit, discard or otherwise dispose of Solid Waste or other material in, on, or around any Waste Collection Site except in refuse containers provided for the purpose of Solid Waste collection. Any article found so placed outside a refuse container and bearing a Person's name and/or address shall be presumed to be the property of such Person whose name and/or address appears thereon and, further, that such Person placed or caused to be placed such article outside of the refuse container; provided, however, that such presumption may be rebutted by competent evidence.

Section 6.3. Transportation of Solid Waste. It shall be unlawful for any person to collect or Transport Solid Waste in a vehicle unless such Solid Waste shall be enclosed or securely covered by a canvas, screen wire, or by other means necessary to prevent its loss from the vehicle in transit.

Section 7. Burning of Solid Waste. It shall be unlawful for any Person to burn Solid Waste within 100 feet (100 ft.) of a residence, whether occupied or unoccupied, garage, stable, outbuilding, or fence made of flammable material, unless said Solid Waste is confined in a closed container of galvanized iron or other fire proof material or unless the fire is attended by an able bodied Person until such time as the embers thereof are burned out or the burning embers are extinguished.

Section 8. Discharge of Firearms. It shall be unlawful for any Person willfully to discharge or cause to be discharged a firearm into or upon the property of the Sanitary Landfill; provided that this section shall not apply to any law enforcement officer in the performance of his official duties nor to any other Person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property.

Section 9. County Sanitary Landfill/Transfer Station.

Section 9.1. Public Landfill/Transfer Station. The Sanitary Landfill/Transfer Station shall be owned and operated by the County for the use of the general public. Such landfill/transfer station shall be operated under permits from the Department of Environmental Quality and in accordance with rules and regulations promulgated by said Department. The term "general public" as used in this section shall mean persons owning or leasing property in the Counties of Northampton or Accomack and persons conducting business within the Counties of Northampton or Accomack. Only Solid Waste collected within the Counties of Northampton or Accomack will be accepted.

Section 9.2. Hours of Operation. The Sanitary Landfill/Transfer Station shall be open to the general public on a regular schedule. The County Administrator is authorized to set the days and hours of operation. Said operating schedule shall be conspicuously posted at the Sanitary Landfill/Transfer Station entrance.

Section 9.3. Landfill/Transfer Station/Waste Collection Site Attendants. Sanitary Landfill/Transfer Station/Waste Collection Site activities and Persons using the Sanitary Landfill/Transfer Station/Waste Collection Sites shall be supervised and controlled by County employees at all times. It shall be unlawful for any person to willfully disobey, ignore, or improperly carry out any legal and proper order or direction of any such employee directed toward the proper use of the County Sanitary Landfill, Transfer Station, or a Waste Collection Site.

Section 9.4. Unacceptable Wastes. Except as hereinafter provided, the following Wastes are unacceptable at the County Sanitary Landfill, Transfer Station or Waste Collection Site:

1. Hazardous Wastes including asbestos material and infectious Waste.
2. Animal carcasses, including fowl, other than pets (i.e., cats and dogs) and road killed animals.
3. Liquids. Liquids are those Wastes which qualify as liquids under the Environmental Protection Agency definition. Any Waste containing less than 25% solids, by weight, is also considered liquid Waste.
4. Vehicles. Automobiles, trucks, buses, trailers, farm equipment, construction vehicles such as bulldozers, cranes, and other like motor vehicles and equipment.
5. Cable, wire, rope, wire fencing, etc., over three feet (3 ft.) in length.
6. Rigid items over eight feet (8 ft.) in length (i.e., pipe, timber, metal, construction materials, etc.)
7. Closed drums.
8. Slaughterhouse Waste.

9. Unapproved seafood by-product Waste.
10. Unapproved industrial process Waste.
11. Unapproved sewage Sludge.
12. Improperly prepared containers such as paint cans and pesticide containers.

Section 9.4.1. Unapproved Solid Wastes. The County Administrator is authorized to establish procedures for authorizing Persons wishing to dispose of unapproved Wastes such as pesticide containers, industrial process Waste, and sewage Sludge to request approval for disposal of same at the County Sanitary Landfill. Persons wishing to dispose of unapproved Waste shall make application for same to the County Administrator.

Section 9.5. Material Separation. For acceptance at the Sanitary Landfill and Transfer Station, the following types of Solid Waste shall be separated from other acceptable Waste: tree stumps, brush, tires, batteries, and such other materials as may from time to time be so designated by the County Administrator. Brush shall be piled in an area which will prevent interference with normal landfill operations and shall be covered or burned periodically. Tree stumps shall be placed in an area which will prevent interference with normal landfill operations and shall be covered periodically. Unsplit tires, batteries and such other items as may from time to time be designated by the County Administrator shall be placed in a temporary storage area for subsequent disposition.

Section 9.6. Fees. The Board of Supervisors may, by resolution, establish and from time to time change user fees for disposal of Solid Waste for any class or type of Solid Waste at the County Sanitary Landfill and/or Transfer Station. Any such fees collected shall be deposited with the County Treasurer and used for construction, expansion, and/or operation of the County's solid waste management facilities.

Section 9.6.1. Fee Structure

Section 9.6.1.A. With the exception of the exclusions in Section 9.6.1.B., a fee for the use of the County Sanitary Landfill and Transfer Station shall be charged for all Solid Waste entering the site in accordance with the provisions set forth herein. Said fee for materials accepted other than tires and batteries at the Sanitary Landfill shall be determined on weight of material accepted and shall be at rates set from time to time by the Board of Supervisors.

Section 9.6.1.B. Exclusions

1. County of Northampton
2. Northampton County School System when collected and transported in or by vehicles owned and operated by the School System or the County.
3. Riverside Shore Memorial Hospital when collected and transported in or by vehicles

owned and operated by the County.

4. Virginia Department of Transportation when disposing of litter collected along the highway, road-killed animals, gutter-pulling (ditch cleaning) and debris such as limbs and brush removed from rights-of-way after a storm.

5. Virginia Division of Game & Inland Fisheries when disposing of road-killed animals.

Section 9.6.1.2. Persons disposing of Solid Waste at the Sanitary Landfill or Transfer Station, the weight of which does not exceed Four Hundred (400) pounds, shall not be charged. Should the weight of Solid Waste exceed Four Hundred (400) pounds, the rates set by the Board of Supervisors shall apply to the excess over Four Hundred (400) pounds.

This waiver of fee and weight shall be limited to the first entrance per customer per day and shall not apply to Persons Transporting Solid Waste For Hire or to credit customers.

Section 9.6.1.3. Tires. There shall be a per tire fee for tires disposed of at the County Sanitary Landfill, as established from time to time by the Board of Supervisors.

Section 9.6.1.4. Batteries. There shall be a per battery fee for batteries disposed of at the County Sanitary Landfill, as established from time to time by the Board of Supervisors, shall be based on battery size.

Section 9.6.2. Credit Accounts. The County Administrator is authorized to arrange credit accounts for persons making regular use of the County Sanitary Landfill.

Section 9.7. Vehicle Identification Tag. Commercial Solid Waste Use Permit holders and credit customers must display a Vehicle Identification Tag on each Solid Waste Transport vehicle, trailer, and roll-off container entering the Sanitary Landfill. The Vehicle Identification Tag shall be prominently displayed on the driver's side of the vehicle on or immediately forward of the driver's door in the case of a motorized vehicle. When displayed on a trailer or roll-off container, the Vehicle Identification Tag shall be placed on the left side near the front left corner as near to eye level as possible. Identification Tags are available at the Office of the County Administrator for a fee of One Dollar (\$1.00) each.

Vehicles operated by the County of Northampton, Northampton County School Board and municipal corporations shall be provided Vehicle Identification Tags at no charge. The Virginia Department of Transportation and Virginia Division of Game & Inland Fisheries are not required to display Vehicle Identification Tags.

Section 10. Permit. It shall be unlawful for any Person engaged in the business of collecting, Transporting, and/or disposing of Solid Waste in the County to use the County's Sanitary Landfill without first obtaining a Commercial Solid Waste Use Permit.

Section 10.1. Permit Application. A Commercial Solid Waste Use Permit may be obtained by making application to the Office of the County Administrator. Such application

shall be accompanied by a non-refundable processing fee of Twenty-Five dollars (\$25.00). Only one permit per firm is required.

Section 11. Waste Collection Sites.

Section 11.1. Establishment. The Board of Supervisors from time to time may authorize establishment of Waste Collection Sites at locations deemed appropriate to serve the residents of the County. Sites shall be selected with due regard for convenience of residents and economy of Solid Waste management.

Section 11.2. Hours of Operation. Transfer sites shall be open to the general public on a regular schedule. The County Administrator is authorized to set the days and hours of operation.

Section 11.3. Use. Waste Collection Sites shall be available for use by Persons residing or conducting business in Northampton County. Transfer sites are for disposal of limited quantities of household Waste with such disposal being limited to volumes as established by the Board from time-to-time through policy.

Section 11.3.1. Restrictions. Commercial Solid Waste Use Permit holders and credit customers may not dispose of Solid Waste at Waste Collection Sites. Solid Waste transported by these persons must be disposed of in the County Sanitary Landfill or Transfer Station.

Section 11.4. Unacceptable Wastes. It shall be unlawful for any person to dispose of the following Wastes at Waste Collection Sites:

1. Commercial Waste;
2. Industrial process Waste;
3. Construction materials or demolition debris such as, but not limited to, timbers, bricks, metal rods, shingles and concrete;
4. Trees, brush, stumps, soil and other debris from land clearing, road building, and similar activities;
5. Tires
6. Improperly prepared containers such as paint cans and pesticide containers;
7. Animal carcasses of any kind;
8. Sewage Sludge;
9. Ashes, coals and embers from solid fuel fired devices.

Section 11.5. Boxes. Empty cardboard boxes, crates, and similar containers shall be cut and flattened prior to placement in Solid Waste containers at Waste Collection Sites.

Section 12. Privately Licensed Solid Waste Facilities. Provisions of this Ordinance shall not apply to those Persons licensed or permitted by the Virginia Department of Environmental Quality or the Northampton County Health Department or any other state agency authorized by law or regulation to control such facilities. Nor does it apply to the Disposal of such items as are approved by those agencies for Disposal in an approved private Sanitary Landfill or Waste Disposal facility.

Section 13. Penalties.

Section 13.1. The violation of any provision of this Ordinance shall be deemed to be a Class I misdemeanor and, upon conviction, shall be punishable by a fine of not more than \$2,500.00 or not more than twelve months in jail, or both. Each day of violation shall constitute a separate offense.

Section 13.2. Open Dumps. In addition to any penalties provided herein, whenever the Board of Supervisors deems it necessary, said Board of Supervisors may, after thirty (30) days written notice, have such Solid Waste in Open Dumps removed by its own agents or employees, in which event the cost or expense thereof shall be chargeable to and paid by the owner or owners of such property on which such Solid Waste was located and may be collected by the County as taxes and levies are collected. Every charge authorized by this section and with which the owner of such property shall have been assessed and which remains unpaid shall constitute a lien against such property.

Section 14. Effective Date. The effective date of this ordinance shall be _____.

* * * * *

(11) An Ordinance to Amend an Ordinance Entitled, “Northampton County Purchase of Development Rights Ordinance”

The purpose of this amendment is to reflect changes made on the County’s zoning map and will amend Chapter 155 of the Northampton County Code.

**AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED,
“NORTHAMPTON COUNTY PURCHASE OF DEVELOPMENT
RIGHTS ORDINANCE”**

BE IT ORDAINED, by the Board of Supervisors of Northampton County, Virginia, that that certain ordinance entitled “Northampton County Purchase of Development Rights Ordinance” be amended to read in full as follows:

Sec. 1. Title

This ordinance shall be known as the “Northampton County Purchase of Development Rights Program.”

Sec. 2. Purpose

The purpose of this Ordinance is to further goals of Northampton County’s Comprehensive Plan for the protection of productive farmland and associated forest lands, groundwater recharge areas and surface water, as a foundation for a strong rural community, a healthy environment and a

thriving economy.

Sec. 3. Background and History

An important goal of the County Comprehensive Plan, adopted in 2001, is to “Ensure the preservation and development of progressive alternative and environmentally compatible agriculture and related industries as important components of Northampton County.” The Plan’s implementation strategies also include a mandate to “Support programs and efforts to protect the County’s prime agricultural lands from conversion to non-compatible land uses.”

In support of these goals, the County Board of Supervisors endorsed the development of a Purchase of Development Rights (PDR) Program through its approval of the Delmarva Conservation Corridor Plan in April 2003. It was the Board’s charge that:

- The PDR program be a strictly voluntary program, designed to benefit the County, its citizens and landowners.
- The procedure and standards for determining which sites to purchase be equitable and transparent.
- Public and private funding (including donated value) be leveraged to the maximum extent possible for purchases of development rights under this program.

Sec. 4. Program Definitions

Agriculture - For the purpose of this PDR program, includes real estate devoted to agricultural and horticultural use. The following is a list of qualifying activities: production for sale of plants and animals useful to man, or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government; production for sale of fruits, nuts, berries, vegetables, nursery and floral products. Land producing sod, feed grains or hay also qualifies as agricultural.

A-1 A/RB Agricultural zone – Permits density of housing units as currently defined in Northampton County’s zoning ordinance.

Conservation District – A land use category which includes barrier islands, tidal marshes, and designated upland conservation areas such as the ES National Wildlife Refuge, state park, and state Natural Areas.

Conservation Easement – A voluntary legal arrangement between the owner of a property and a non-profit organization or government agency endorsed by the Northampton County Board of Supervisors, in which the owner agrees to restrict future uses of the land in perpetuity. The easement document specifies the rights of holder to monitor and enforce the agreement and records the restrictions on land use. Subsequent owners must comply with the provisions of the easement.

Delmarva Conservation Corridor Plan – A multi-state demonstration program adopted in June

2003 with a goal of preserving farmland and habitat.

Development Rights – An interest in real property established under a purchase of development rights program which is made severable from the parcel and which may be sold or donated as provided for in a PDR program.

Purchase of Development Rights (PDR) Program – A comprehensive program providing for the establishment and purchase of development rights. The program established by this ordinance includes most of the components suggested in the Virginia Department of Agriculture and Consumer Services Model PDR program 2003 guidance.

Value of Development Rights – Difference between the value of the property at its highest and best use under current zoning and its value if it continues in its current use, as determined by a professional appraiser with training in valuing conservation easements.

Violations – Defined in Northampton County Code of Ordinances or other State or Federal regulations applicable to activities on agricultural or forest land.

Sec. 5. Purchase of Development Rights Program

There is hereby established a Purchase of Development Rights Program for Northampton County by which the County can acquire, in accordance with the provisions of the Ordinance and to the extent of available funding, the development rights on eligible parcels of farmland located in ~~A-1~~ **A/RB** or Conservation Districts. The acquisition of development rights shall be accomplished by the purchase of conservation easements upon such parcels.

Sec. 6. Applicability

The PDR Program shall be available for all qualifying lands in the County, except those lands under the ownership or control of the United States of America, the Commonwealth of Virginia, or an agency or instrumentality thereof. Any conservation easement acquired pursuant to this chapter shall be voluntarily offered by the owner. Nothing in this Ordinance shall be construed as a limitation upon the County's authority to acquire land for public purposes other than those set forth in this Ordinance. Participation in this program is subject to the conditions described in Section 7 and the current *Northampton County PDR Program Procedures* as adopted by the Northampton County Board of Supervisors and attached hereto.

Sec. 7. Eligibility criteria

Purchase of Development Rights may be considered only on properties which meet all of the following criteria:

- a) At least 50% of the tract's soils are prime agricultural soils (Bojac or Munden) based on the most recent soil maps used by the County's Planning and Zoning Department.
- b) The tract is located in either the ~~A-1~~ **A/RB** Agriculture or the Conservation zoning district

and is in the Agriculture/Forest Land Use Area as mapped on the Future Land Use and Development Map in the County's Comprehensive Plan.

- c) There must be no existing violations on the easement parcel. Applicants found to have violations may reapply after these are satisfactorily resolved.
- d) A permanent conservation easement will apply to the entire parcel of land on which development rights are being donated or sold.

Tracts which meet the minimum criteria will be scored and ranked to develop a priority list for purchase as funds become available. A description of the ranking process and factors are contained in the current *Northampton County PDR Program Procedures*.

Sec. 8. Purchase of Development Rights (PDR) Committee Established; Powers and Duties

(a) *Establishment*. The PDR committee is hereby established, as follows:

(1) The committee shall consist of five or more members appointed by the Northampton County Board of Supervisors. Each member shall be either a property owner in Northampton County, or a member of a conservation easement holding agency and conservation organization or both. Committee members should have expertise in one or more of the following fields: land and water conservation or management, farming, forestry, horticulture, conservation biology, and planning.

(2) The initial terms of the members shall be as follows: One-third serves for three years; one-third serves for two years; and the remainder serve for one year. After the initial term each term runs three years.

(3) The members of the Committee shall serve without pay, but the Board may, in its discretion, reimburse members for actual and necessary expenses incurred in the performance of his/her duties.

(4) The Committee shall elect a chairman, vice chairman and secretary at its first meeting each calendar year. The secretary need not be a member of the committee.

(5) The Board will appoint a non-voting technical advisor with agricultural experience.

(6) The PDR program administrator shall be an ex officio member of the committee.

(b) *Powers and duties*. The PDR committee shall have the powers and duties to:

(1) Help the PDR program administrator promote the program to the public and Northampton County landowners

(2) Review the ranked applications and supporting documentation and approve each pool

of properties recommended to the Board of Supervisors for purchase of development rights. A majority of the members is required for approval. Evaluations and calculation of scores for each parcel will be conducted according to the current *Northampton County PDR Program Procedures*. Assignment of points will be done by County staff.

(3) Annually review the program's eligibility and ranking criteria and recommend to the administrator any changes needed to maintain the program's consistency with the comprehensive Plan, or to improve the administration, implementation and effectiveness of the program.

(4) Establish procedures for the conduct of Committee meetings.

(5) Determine standard provisions and restrictions for deed easements.

(6) Members of the Committee will abstain from reviewing or ranking any parcel in which he or she has a financial interest.

Sec. 9. Designation of Program Administrator; Powers and Duties

(a) *Designation.* The PDR Program administrator shall be appointed by the County Board of Supervisors.

(b) *Powers and duties.* The administrator shall work with the PDR Committee to ensure the following tasks are completed by the appropriate parties:

(1) Maintain reasonable and standard procedures, guidance, and forms for the administration and implementation of the program.

(2) Provide staff support to the PDR committee and the Northampton County Board of Supervisors.

(3) Coordinate the evaluation of all applications to determine their eligibility and ranking score and insure that all ranking determinations are made by qualified individuals with appropriate technical certifications or credentials.

(4) Provide ranked applications and supporting information to the PDR committee.

(5) Negotiate conservation easement terms with landowners offering to sell development rights.

(6) Coordinate with landowner on appraisal to determine value of easement.

(7) Present the Committee's recommended pool of properties for purchase of development rights to the Board of Supervisors.

(8) Prior to each offer to purchase, verify the price of each easement and the percentage of total value donated.

(9) Identify possible county, state, federal and private resources available to fund the

program. Maximize the number of parcels and acres in the program by fully utilizing and leveraging those sources.

(10) In cooperation with the PDR committee, publicize the benefits of the program and provide information to landowners to help them evaluate opportunities from sale and/or donation of development rights.

(11) For each conservation easement accepted into the program, establish baseline data, terms and conditions of the easement, and a monitoring plan. Verify that the easement is accurately recorded on the deed and on zoning plats.

(12) Ensure that the monitoring program is implemented through regularly scheduled inspections.

(13) Establish a procedure for correcting easement violations and initiate enforcement actions as required.

(14) Develop annual program budgets for pre- and post-acquisition costs associated with screening, evaluating, appraising, acquiring and monitoring easements. Maintain records on the expenditures associated with the program and develop a range of cost estimates for possible enforcement actions.

(15) Coordinate with county planning staff to prepare an annual report which shows the parcels of land protected through PDR and other easements in order to determine the effectiveness of the program and suggest changes in procedures.

Sec. 10. Application, Evaluation and Purchase Offers

Applicants are encouraged to review the application process, evaluation and ranking criteria, and other program information contained in the current Northampton PDR Program Procedures. Applications evaluated according to the procedures described in this document will be ranked for purchase, subject to the availability of funds. Recommendations for purchases will be made by the PDR Committee and submitted to the Northampton County Board of Supervisors for approval.

Sec. 11. Nature of Rights Acquired

No interest in land other than a perpetual conservation easement shall be acquired by the County pursuant to the provisions of this Ordinance, and no such interest shall be acquired by the exercise of the power of eminent domain.

The acquisition of a conservation easement by the County shall not extinguish any rights of the landowner except for the right to develop the property for any use other than an agricultural use, and shall not confer upon the public any right of entry or access, or any other rights, express or implied.

In order to ensure that land is being used in accordance with the terms of the PDR agreement, an agent of the Purchase of Development Rights Committee will make annual or bi-annual

inspections of the property. These inspections will be pre-arranged with the property owner.

Sec. 12. Conservation easement terms and conditions.

Each conservation easement shall conform to the requirements of the Open-Space Land Act of 1966 (Code of Va., §10.1-1700 et seq.). The deed of easement shall be in a form approved by the county attorney, and shall contain, at a minimum, the following provisions:

(a) *Restriction on new dwellings.* The maximum density, footprint and location of new dwellings shall be determined on a case-by-case basis with the Virginia Outdoors Foundation.

(b) *Conservation easement duration.* A conservation easement acquired under the terms of this chapter shall be perpetual. There are no provisions for repurchase of these rights or future exchange of properties.

(c) *Other restrictions.* In addition to the foregoing, the parcel shall be subject to standard restrictions contained in conservation easements pertaining to uses and activities allowed on the parcel. These standard restrictions shall be delineated in the deed of easement and shall include, but not necessarily be limited to, restrictions pertaining to: (i) accumulation of trash and junk; (ii) display of billboards, signs and advertisements; (iii) blasting (iv) conduct of industrial or commercial activities on the parcel; and (v) monitoring of the easement.

(d) *Designation of easement holders.* The Virginia Outdoors Foundation or another public body as defined in Section 10.1-1700 of the Code of Virginia; or an organization eligible according to Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, shall be the easement holder.

(e) *Enforcement.* The deed of easement shall provide that the rights acquired by the Virginia Outdoors Foundation or other easement holder or by their successors in interest by the deed of easement may be enforced in any lawful way including but not limited to the assessment of damages and injunctive relief and that the grantor of the easement or its successor in interest shall bear the costs of litigation, including but not limited to attorney's fees, in any case in which the grantor or its successor in interest is found to have violated the terms of the easement.

Adopted this ___ day of _____, 2013.

Northampton County PDR Program Procedures

Section I. Application and evaluation procedure

(a) The submission of an application to offer a conservation easement for sale under the Purchase of Development Rights (PDR) program is not a binding contractual offer to convey any interest in the landowner's property, but shall be revocable at will by the landowner prior to the execution of an option agreement or purchase agreement, without penalty. The following steps describe the application process:

(1) Applicant obtains and reviews a package of information, including application form and ranking factors (contained in Appendix A).

(2) Applicant submits a complete application package with a non-refundable processing fee no later than December 14th. No incomplete applications will be processed. A complete checklist of information and documents required is contained in the application package. The following information or documents are required to complete an application form:

- County tax map and parcel number and the zoning designation of the parcel
- Applicant's proof of ownership and acreage in production over the past 2 years
- Copy of lease with a farm operator if land is rented
- Copies of any certified nutrient management plan(s), conservation plan, and/or forestry plan
- Record of any existing conservation easements, or copy of management plan for habitat (usually prepared/endorsed by a conservation organization or agency), if any
- Other supporting documentation, including deeds or surveys
- Signature of all landowners if parcel has more than one owner
- Permission from the landowner for the following individuals to enter the property, upon reasonable notice: the program administrator, an independent appraiser, and other staff or technical specialists assigned to evaluate or appraise the property.

(b) The following describes the process for evaluating and ranking eligible parcels for Purchase of Development Rights offers.

(1) The Program administrator will coordinate the activities required for determining the eligibility of parcels and ranking all applications. A ranking form to facilitate this process is contained in Appendix A.

(2) Some of the information needed to score the ranking factors can be obtained from public records. Other information will be determined as follows:

- Acreages and distances to specified features will be calculated using Geographic Information System databases maintained by USDA's Farm Service Agency.
- Verification of Best Management Practices will be determined through site visits conducted by the NRCS certified technical service providers or other certified professionals designated by the PDR committee.
- Evaluation of habitat supporting threatened or endangered species will be verified through Virginia Department of Natural Heritage databases and staff.
- The preliminary estimated value of development rights will be determined by a land appraiser certified in appraising conservation easements.

(3) Prior to final score determination, owners will have the opportunity to review the calculations and provide any missing information which affects their score. The landowner will be informed of the ranking of their land with regard to the score of the #1 ranked property to provide a basis for the landowner to decide whether or not to continue to compete in the PDR evaluation process. When the preliminary value has been documented, a landowner must also submit what percentage of the development rights value, if any, they wish to donate before a final score can be calculated.

(4) After a property receives a final score under the ranking system, the complete evaluation and application will be presented to the PDR committee. The committee may request an explanation of how a score was determined by any of the agencies, departments, or independent entities conducting the evaluation and scoring.

(5) After reviewing each scored application and documentation of the evaluation, the Committee will approve the ranking that determines the order of offers to purchase development rights. Based on the rankings, they will recommend a pool of properties which the program manager will present to the Board of Supervisors for decisions on funding.

(6) Up to six ranked parcels will comprise a pool of candidates for each round of funding. The highest ranking property will be eligible for purchase first if enough money is available for the entire tract. In the event there are not sufficient funds to purchase the highest ranking property, the committee and landowner will endeavor to locate alternative sources of funds for the purchase. After 18 months, if funding is still not available, the Committee will decide if it is still viable to continue with this purchase or move to an alternate property. All qualifying applications not selected will be returned

to the applicants to be updated and resubmitted in future rounds at the landowner's discretion. Changes to the ranking process will only apply to applications submitted in subsequent application rounds.

(7) If a reliable source of future funding is established, the PDR Committee may allow purchase of development rights through a series of annual payments.

Section II. Calculation of the Value of Development Rights

(a) *Calculation.* The value of the development rights of any tract or parcel is calculated by determining the fair market value of the property subject to the existing zoning, easements or land use regulations, and subtracting the value of the property without development rights and without provision for repurchasing those rights or exchanging properties at a future date.

(1) The specific terms of the easement agreement must be established before the value of development rights can be calculated.

(2) The PDR program administrator shall arrange for an appraisal of the property by an independent appraiser with experience in valuing conservation easements for the County's option or purchase agreement.

(3) Completed appraisals shall be reviewed and approved by the PDR committee and the agency to which the easement will be conveyed.

Section III. Purchase of Development Rights and Establishment of Conservation Easement

(a) *Purchase offer.* The formal offer to purchase will be jointly made to the landowner in writing by the prospective grantee of the easement and the County Administrator after approval by the Board of Supervisors.

(1) The amount of the offer will be subject to available funding. It shall be conditioned upon the absence of any defects in title or other restrictions or encumbrances which may, in the opinion of the prospective grantee's counselor the County attorney, adversely affect either party's interests in accomplishing the purposes of this ordinance.

(2) The amount of each offer will be based upon the appraised value of the conservation easement, adjusted by any portion of that value that will be donated, if any, to the grantee. The offer shall include the purchase price, a schedule of payments if they are to extend over several years, the proposed deed of easement, and the date by which a written acceptance must be received by the County administrator.

(3) The Board of Supervisors may only approve purchase agreements for which there is available funding, or option agreements contingent upon funding

becoming available based on priority rankings determined through the evaluation process described herein and in Appendix A.

(b) *Conservation Easement.* Once an offer to purchase a conservation easement has been accepted by the landowner, the following actions will occur to establish and record the conservation easement.

(1) The owner and an authorized representative(s) of the holder(s) of the easement each sign the deed of easement.

(2) The deed shall be recorded in the office of the clerk of the circuit court of Northampton County. A single conservation easement may be established for more than one parcel under the same ownership.

(3) Within 30 days after the acquisition of development rights, the Planning and Zoning Director shall note the acquisition and date thereof on the official zoning map.

(c) *Allocation of costs.* The applicant shall pay the grantor's tax, if any, and other costs, including: surveys (if required), recording costs, and other charges associated with closing on properties for which an easement is purchased. Additional costs for which applicant is responsible are: independent appraisals or legal, financial, or other advice, or expenses or fees in connection with the release and subordination of liens to the purchased easement.

(d) *Purchase offers not accepted.* If an owner elects not to accept a purchase offer, then the county administrator may make an offer to purchase to the owner(s) of the next highest prioritized parcel(s) remaining on the list of parcels referred by the Board of Supervisors.

Qualifying Factors	Each tract must meet these qualifications to be considered and ranked.
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Prime Agricultural Soils – Bojac or Munden (determination based on 2002 Soils Maps)	At least 50% of tract’s soil’s must have these soil types
Located in A A/RB or Conservation District	
No existing violations on tract	Applicants found to have violations may reapply after these are fixed.

Ranking Factors for Prioritizing Northampton County Parcels for Purchase of Development Rights

Scored Factors	POINTS	Clarifications/Notes
Factors that affect Farmland Productivity (43 possible points)		
Parcel Size	(circle one)	
50-99 acres	3	
100-199 acres	6	
200-299 acres	8	
300 or more acres	10	
Percent of tract in pasture or crop production (Includes field grown ornamentals and/or land with greenhouses)	(circle one)	
50% or more	4	Average over last three years
60% or more	6	
80% or more	10	
Proximity to unique commercial (open to public) agricultural support services (such as grain elevators, fertilizer or agricultural chemical mixing & distribution facilities, and packing houses)	(circle one)	
Within 1 mile	1	

Within ½ mile	2	
Contiguous	3	
Farm owner interest in farming	(circle one)	
Owner has at least a 3 year contract with farm operator/leasee	4	
Owner has financial interest in farm operation (examples: investment in conservation practices, irrigation, drainage or share in a crop.)	6	
Tract is farmed by owner or immediate family (father, mother, brother, sister)	10	

Ranking Factors for Prioritizing Northampton County Parcels for Purchase of Development Rights

Scored Factors	POINTS	Clarifications/Notes
Proximity of tract to other farms with perpetual easements	(circle one)	
Within 1 mile	4	
Within ½ mile	6	
Contiguous	10	
Land Management Factors for Sustainable Agriculture (21 possible points)		
BMPs and other conservation measures (add points for each practice verified and calculate total)	(circle each one that applies)	Field verification by NRCS/SWCD or certified technical specialist
Irrigation	2	Capacity exists to irrigate at least 50% of cropland (based on average rainfall). No points unless farm also has adequate collection of runoff.
Collection of runoff	2	Use NRCS methods to calculate adequate retention
Certified Nutrient Management Plan	3	Plan implemented in last two years by DCR certified evaluator

Integrated Pest Management Practices	2	Verifiable evidence of good practice, including scouting and records of pesticide use
Conservation tillage practices	4	Including mulch, ridge-till, no-till and strip till, 60% coverage for past 2 of 3 years
Grass filter strips	4	Continuously vegetated, unbreached, 20' wide from top edge of ditch (field side)
100' wide riparian buffer	4	Continuous along bank of shoreline
Factors Protective of Drinking Water and other Resources (27 possible points)		
Groundwater Recharge Protection Acres within recharge area	(circle one)	
50-99 acres	4	
100-199 acres	8	
200-299 acres	10	
300 or more acres	13	
Proximity to non-farm protected areas, including state or federal parks, wildlife refuges, wildlife management areas or other sensitive natural areas identified in County Comprehensive Plan.	(circle one)	
Within 1 mile	2	
Within ½ mile	4	
Contiguous	6	

Ranking Factors for Prioritizing Northampton County Parcels for Purchase of Development Rights

Factors Protective of Drinking Water and other Resources (continued – 27 possible pts)		
	(circle each one that applies)	
Includes or is adjacent to a perennial stream	2	

Contains a Resource Protection Area	2	
Contains Threatened or Endangered species or Natural Heritage Site	2	DCR Natural Heritage Database
5% or more of tract has protection for habitat	2	Habitat is part of conservation easement program or managed according to a plan prepared by conservation organization/agency
Cost effectiveness of Offer (5 points)		
Percentage of development rights value donated	(circle one)	Values determined by procedure established by PDR program managing entity
0 – 8%	1	
9-16%	3	
17-25%	5	

* * * * *

(12) An Ordinance to Amend Chapter 151: Wetlands, of the Northampton County Code.

The purpose of this amendment is to bring this ordinance into compliance with the Code of Virginia.

**AN ORDINANCE TO AMEND
CHAPTER 151: WETLANDS
OF THE NORTHAMPTON COUNTY CODE**

BE IT ORDAINED by the Board of Supervisors of Northampton County, that Chapter 151: Wetlands of the Northampton County Code be amended as follows:

1. That the definitions of “Person”, “Vegetated Wetlands”, and “Nonvegetated Wetlands” contained under Section 151.02 Definitions, be amended to read as follows:

(c) "Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

(e) Vegetated wetlands" means lands lying between and contiguous to mean low water

and an elevation above mean low water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the county, city, or town in question, and upon which is growing any of the following species: saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* spp.), sea lavender (*Limonium* spp.), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), sea oxeye (*Borrchia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Scirpus validus*), spikerush (*Eleocharis* sp.), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattail (*Typha* spp.), three-square (*Scirpus* spp.), buttonbush (*Cephalanthus occidentalis*), bald cypress (*Taxodium distichum*), black gum (*Nyssa sylvatica*), tupelo (*Nyssa aquatica*), dock (*Rumex* spp.), yellow pond lily (*Nuphar* sp.), marsh fleabane (*Pluchea purpurascens*), royal fern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggar's tick (*Bidens* sp.), smartweed (*Polygonum* sp.), arrowhead (*Sagittaria* spp.), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), or switch grass (*Panicum virgatum*).

(g) Nonvegetated wetlands" means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water.

2. That Section 151.03 Permitted Uses and Activities, Section (H), be amended as follows:

(H) The normal maintenance, repair or addition to presently existing roads, highways, railroad beds, or the facilities abutting on or crossing wetlands, provided that no waterway is altered and no additional wetlands are covered;

3. That Section 151.20 Permit Required, Section (A)(3) be amended to read as follows:

(A) (3) A nonrefundable processing fee to cover the cost of processing the application shall accompany each application, with such fee to be in accordance with the fee schedule adopted by the Northampton County Board of Supervisors.

4. That Section 151.20 Permit Required, Sections (B)(2) and (B)(3) be deleted.

5. That a new Section (C) be added to Section 151.25 Decision Regarding Permit, to read as follows:

(C) In fulfilling its responsibilities under this ordinance, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation.

6. That Sections (B) and (C) of Section 151.48 – Reporting, site inspections and notice to comply, be amended to read as follows:

(B) Upon receipt of a sworn complaint of a substantial violation of this chapter, VA Code Title 28.2, Chapter 13, from the designated enforcement officer, the Chairperson may, in conjunction with or subsequent to a notice to comply as specified in division (A) of this section, issue an order requiring all or part of the activities of the site to be stopped until the specified corrective measures have been taken. In the case of an activity not authorized by this chapter, or ~~aforementioned~~ subsequent chapters, or where the alleged permit noncompliance is causing, or is in imminent danger of causing, significant harm to the ~~subaqueous bottoms~~, wetlands or the coastal primary sand dunes protected by this chapter or ~~aforementioned~~ subsequent chapters such an order may be issued without regard to whether the person has been issued a notice to comply as specified in division (A) of this section. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority, permit holder or the resident owner, occupier or operator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Upon completion of corrective action, the order shall immediately be lifted. Nothing in this section shall prevent the Chairperson from taking any other action contained in this chapter.

(C) Upon receipt of a sworn complaint of a substantial violation of this chapter, VA Code Title 28.2, Chapter 13, from a designated enforcement officer, the Wetlands Board may order that the affected site be restored to pre-development conditions if the Wetlands Board deems restoration necessary to recover lost resources or to prevent further damage to resources. Such an order shall specify the restoration necessary and establish a reasonable time for its completion. The orders shall be issued only after a hearing with at least 30 days notice to the affected person of the time, place and purpose thereof, and they shall become effective immediately upon issuance by the Wetlands Board. The Wetlands Board shall require such scientific monitoring plans as it deems necessary to ensure that such projects result in the successful reestablishment of the wetlands, ~~subaqueous bottoms~~ or coastal primary sand dunes protected by this chapter or ~~aforementioned~~ subsequent chapters and may require that prepaid contract acceptable to the Wetlands Board be in effect for the purposes of carrying out the scientific monitoring plan. In addition, the Wetlands Board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it securing to the Commonwealth compliance with the conditions set forth in the restoration order. The appropriate court, upon petition by the Wetlands Board, shall have authority to enforce any such restoration order by injunction, mandamus or other appropriate remedy. Failure to complete the required restoration shall constitute a violation of this chapter.

7. That Section 151.49 Violations be corrected to read:

“Any person who knowingly, intentionally, negligently or continually violates any order, rule or regulation of the Wetlands Board established by this chapter or violates any provision of this chapter or any provision of a permit granted by the Wetlands Board pursuant to this chapter shall be guilty of a Class I misdemeanor. Following a conviction, every day the violation continues shall be deemed a separate offense.

8. That a new Section 151.51 Emergency Permit be added to read:

151.51 Emergency Permits

The Commission shall, in conjunction with local wetlands boards and other affected state and federal agencies, develop an expedited process for issuing general wetlands permits to be used by applicants during emergency situations in which a determination has been made that there is a threat to public or private property, or to the health and safety of the public. The development of the general wetlands permit shall be in accordance with subdivision A 8 of §2.2-4006.

This ordinance shall be in full force and effect as of its adoption date by the Northampton County Board of Supervisors.

* * * * *

(13) An Ordinance to Amend Chapter 152: Coastal Primary Sand Dunes, of the Northampton County Code.

The purpose of this amendment is to bring this ordinance into compliance with the Code of Virginia.

**AN ORDINANCE TO AMEND
CHAPTER 152: COASTAL PRIMARY SAND DUNES
OF THE NORTHAMPTON COUNTY CODE**

BE IT ORDAINED by the Board of Supervisors of Northampton County, that Chapter 152: Coastal Primary Sand Dunes of the Northampton County Code be amended as follows:

1. That Section 152.01 Authority, be amended to read as follows:

The Northampton County Board of Supervisors, acting pursuant to VA Code Title 28.2, Chapter 14, for the purposes of fulfilling the policy and standards set forth in such chapter, adopts this chapter regulating the use and development of coastal primary sand dunes. Whenever coastal primary sand dunes are referred to in this chapter, such references shall also include beaches.

2. That the definition for “Coastal Primary Sand Dune” under Section 152.02 Definitions, be amended to read as follows:

COASTAL PRIMARY SAND DUNE. Hereinafter referred to as DUNE, shall

mean a mound of unconsolidated sandy soil which is contiguous to mean high water, whose landward and lateral limits are marked by a change in grade from 10% or greater to less than 10%, and upon any part of which is growing, any one or more of the following.....

3. That Section 152.25 Decision on Application, be amended by the addition of a new section (C) as follows:

(C) In fulfilling its responsibilities under this ordinance, the board shall preserve and protect coastal primary sand dunes and beaches and prevent their despoliation and destruction. However, whenever practical, the board shall accommodate necessary economic development in a manner consistent with the protection of these features.

That all remaining portions and provisions of Section 152 – Coastal Primary Sand Dunes of the Northampton County Code are reenacted and reaffirmed hereby.

* * * * *

The Chairman called to order the public hearing and asked if there were any present desiring to speak with regard to either of the ordinances as detailed in items #8-13 above.

The County Administrator indicated that for the most part, the ordinances were being amended to reflect changes in the Code of Virginia as well as staff recommendations. She did note that on agenda item #12 – the Wetlands Ordinance – legal counsel was recommending the elimination of paragraph #8.

Mr. Robert C. Richardson addressed each of the ordinances with comments as follows:

On #8, this ordinance will work well; he was in favor;

On #9, he was in favor of the repeal;

On #10, he was not sure of the County’s ability to enforce this ordinance;

On #11, he said that this affects our tax base by removing properties from the tax rolls;

On #12, he said that property owners should be notified by certified mail if this ordinance affects them;

On #13, he said that the entire County was a sand dune at one time and this was a “tricky

deal” and needed serious consideration.

There being no further speakers, the public hearing was closed.

Motion was made by Mr. Trala, seconded by Mr. Trala, that the foregoing ordinances be adopted as set forth above (as Agenda Items #8 through #13), with the exception of the elimination of paragraph #8 of the Wetlands Ordinance as recommended by counsel. All members were present and voted “yes.” The motion was unanimously passed. The Wetlands Ordinance, which was adopted as amended, is set out below:

**AN ORDINANCE TO AMEND
CHAPTER 151: WETLANDS
OF THE NORTHAMPTON COUNTY CODE**

BE IT ORDAINED by the Board of Supervisors of Northampton County, that Chapter 151: Wetlands of the Northampton County Code be amended as follows:

1. That the definitions of “Person”, “Vegetated Wetlands”, and “Nonvegetated Wetlands” contained under Section 151.02 Definitions, be amended to read as follows:

(c) "Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

(e) Vegetated wetlands" means lands lying between and contiguous to mean low water and an elevation above mean low water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the county, city, or town in question, and upon which is growing any of the following species: saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* spp.), sea lavender (*Limonium* spp.), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), sea oxeye (*Borrichia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Scirpus validus*), spikerush (*Eleocharis* sp.), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattail (*Typha* spp.), three-square (*Scirpus* spp.), buttonbush (*Cephalanthus occidentalis*), bald cypress (*Taxodium distichum*), black gum (*Nyssa sylvatica*), tupelo (*Nyssa aquatica*), dock (*Rumex* spp.), yellow pond lily (*Nuphar* sp.), marsh fleabane (*Pluchea purpurascens*), royal fern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggar's tick (*Bidens* sp.), smartweed (*Polygonum* sp.), arrowhead (*Sagittaria* spp.), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), or switch grass (*Panicum virgatum*).

(g) Nonvegetated wetlands" means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water.

2. That Section 151.03 Permitted Uses and Activities, Section (H), be amended as follows:

(H) The normal maintenance, repair or addition to presently existing roads, highways, railroad beds, or the facilities abutting on or crossing wetlands, provided that no waterway is altered and no additional wetlands are covered;

3. That Section 151.20 Permit Required, Section (A)(3) be amended to read as follows:

(A) (3) A nonrefundable processing fee to cover the cost of processing the application shall accompany each application, with such fee to be in accordance with the fee schedule adopted by the Northampton County Board of Supervisors.

4. That Section 151.20 Permit Required, Sections (B)(2) and (B)(3) be deleted.

5. That a new Section (C) be added to Section 151.25 Decision Regarding Permit, to read as follows:

(C) In fulfilling its responsibilities under this ordinance, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation.

6. That Sections (B) and (C) of Section 151.48 – Reporting, site inspections and notice to comply, be amended to read as follows:

(B) Upon receipt of a sworn complaint of a substantial violation of this chapter, VA Code Title 28.2, Chapter 13, from the designated enforcement officer, the Chairperson may, in conjunction with or subsequent to a notice to comply as specified in division (A) of this section, issue an order requiring all or part of the activities of the site to be stopped until the specified corrective measures have been taken. In the case of an activity not authorized by this chapter, or ~~aforementioned~~ subsequent chapters, or where the alleged permit noncompliance is causing, or is in imminent danger of causing, significant harm to the ~~subaqueous bottoms~~, wetlands or the coastal primary sand dunes protected by this chapter or ~~aforementioned~~ subsequent chapters such an order may be issued without regard to whether the person has been issued a notice to comply as specified in division (A) of this section. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority, permit holder or the resident owner, occupier or operator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Upon completion of corrective action, the order shall immediately be lifted. Nothing in this section shall

prevent the Chairperson from taking any other action contained in this chapter.

(C) Upon receipt of a sworn complaint of a substantial violation of this chapter, VA Code Title 28.2, Chapter 13, from a designated enforcement officer, the Wetlands Board may order that the affected site be restored to pre-development conditions if the Wetlands Board deems restoration necessary to recover lost resources or to prevent further damage to resources. Such an order shall specify the restoration necessary and establish a reasonable time for its completion. The orders shall be issued only after a hearing with at least 30 days notice to the affected person of the time, place and purpose thereof, and they shall become effective immediately upon issuance by the Wetlands Board. The Wetlands Board shall require such scientific monitoring plans as it deems necessary to ensure that such projects result in the successful reestablishment of the wetlands, ~~subaqueous bottoms~~ or coastal primary sand dunes protected by this chapter or ~~mentioned~~ subsequent chapters and may require that prepaid contract acceptable to the Wetlands Board be in effect for the purposes of carrying out the scientific monitoring plan. In addition, the Wetlands Board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it securing to the Commonwealth compliance with the conditions set forth in the restoration order. The appropriate court, upon petition by the Wetlands Board, shall have authority to enforce any such restoration order by injunction, mandamus or other appropriate remedy. Failure to complete the required restoration shall constitute a violation of this chapter.

7. That Section 151.49 Violations be corrected to read:

“Any person who knowingly, intentionally, negligently or continually violates any order, rule or regulation of the Wetlands Board established by this chapter or violates any provision of this chapter or any provision of a permit granted by the Wetlands Board pursuant to this chapter shall be guilty of a Class I misdemeanor. Following a conviction, every day the violation continues shall be deemed a separate offense.

This ordinance shall be in full force and effect as of its adoption date by the Northampton County Board of Supervisors.

* * * * *

Chairman Randall called to order the following public hearing:

(14) An Ordinance Providing for the Semi-Annual Collection of Real Estate Taxes

The purpose of this ordinance is to establish twice-a-year tax billing for real estate taxes.

**AN ORDINANCE PROVIDING FOR THE SEMI-ANNUAL
COLLECTION OF REAL ESTATE TAXES**

WHEREAS, pursuant to the provisions of Va. Code Ann. §58.1-3916, as amended, a County may by ordinance establish due dates for the payment of local taxes and may provide that payment of such local taxes be made in a single installment or in two equal installments; and

WHEREAS, the Board of Supervisors of Northampton County deems the establishment of semi-annual payment dates to be reasonable and necessary.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF NORTHAMPTON COUNTY, VIRGINIA:

1. A new section be added to the Northampton County Code as follows:

§33.016 Due date of real estate taxes; when same deemed delinquent; penalty for failure to pay taxes when due; interest.

(A) All taxes assessed on real estate within the territorial boundaries of the County subject to taxation for County purposes under the Constitution and the laws of the Commonwealth of Virginia, shall be due and payable to the County Treasurer, without discount, on or before June 5 of the year in which assessed, but may be paid in two equal installments the first to be paid not later than June 5 and the last installment not later than December 5, but if the first installment of such real estate tax is not paid on or before June 5, the amount of such installment shall be delinquent as of that date, and if the second installment is not paid on or before December 5, the amount of such second installment shall be delinquent as of that date.

(B) Penalties and interest, administrative cost, attorney's and collection fees.

(1) Penalties. To all real estate taxes that may be delinquent, there shall be added as of the date of delinquency and collected as a part thereof penalties as provided in §33.009.

(2) Interest. In addition to such penalties, interest shall be imposed on such delinquent taxes including penalties from the first day following the day such tax installment is due at the rate of ten percent per year; and thereafter at the rate 10 percent or the rate of interest established from time to time pursuant to section 6621 of the Internal Revenue Code of 1954, whichever is greater.

* * * * *

The Chairman asked if there were any present desiring to speak.

Ms. Nunez indicated that this was being brought forward at the request of the Board of

Supervisors to initiate twice-annual billing for real estate taxes. Personal property taxes would remain on an annual cycle. She reminded the Board that this new method of collections would result in an accelerated budget process.

Mr. Robert C. Richardson said that he was in favor of the ordinance believing that it would create a better flow of funds to the County.

The letter from the Northampton County School Board was read into the record as follows:

TO: Northampton County Board of Supervisors
FROM: Northampton County School Board
DATE: May 14, 2013
RE: Advantages and Disadvantages to NCPS of Twice-Annual Real Estate Tax Billings

Based on preliminary discussions with Mrs. Nunez, it is the School Board's understanding that in order for tax bills to go out in May of 2014 for the first half of the 2014 tax year, the County's Budget for FY 15 (July 1, 2014 – June 30, 2015) will need to be finalized by early April 2014. This means that the School Board's budget would be due to the County in late 2013 or early 2014 (rather than April 1, 2014).

Advantages:

1. Having a proposed budget for FY 15 finalized early will allow newly elected School Board members an opportunity to become familiar with school finance over the course of the coming year. This will also allow for a greater instructional focus as these new members take office.
2. Having an adopted budget in April will enable NCPS to take earlier action in issuing contracts and work agreements to teachers and other employees.

Disadvantages:

1. FY 15 is the start of the next biennium for the Commonwealth of Virginia. In preparation for the new budget cycle, guidance and funding levels are developed by the Department of Education. However, these documents are released very close to the anticipated budget deadline, which could require last minute changes to the District's budget proposal.

- a. The Local Composite Index (LCI) will be recalculated for fiscal years 2015 and 2016. In the past, NCPS has not received notice of the new LCI figure until mid-November.
- b. The Governor will be proposing a new biennial budget. Historically, we have not received notice of the new budget (which will also incorporate recalculation of our composite index) until late December.

For this reason, the School Board requests that the deadline for the School Board's Proposed Budget be scheduled no earlier than December 31 of each year. An early to middle January deadline (January 15th) would be ideal.

2. The District's budget is based largely around estimated student enrollment, so the accuracy of these figures is important when planning for staffing and supply needs. The closer we get to the end of any school year, the better we are able

Thank you for your consideration of the impact this change may have on Northampton County Public Schools. In closing, please be assured that the School Board will support whichever method of tax collection the Board of Supervisors feels is in the best interest of the residents of Northampton County.

* * * * *

Mr. Hubbard stated that he was somewhat concerned about mortgage holders and their escrow accounts; i.e., that they may be "short of funds" by the earlier June deadline.

There being no further comments, the public hearing was closed.

Motion was made by Mr. Trala, seconded by Mr. LeMond, that AN ORDINANCE TO PROVIDE FOR THE SEMI-ANNUAL COLLECTION OF REAL ESTATE TAXES be adopted. All members were present and voted "yes". The motion was unanimously passed.

Chairman Randall then called to order the remaining public hearings, all dealing with modifications to Section 33 of the County Code of Ordinance – Finance & Taxation.

(15) Penalties and fees imposed on delinquent taxpayers to cover administrative costs and reasonable collection and attorney's fees associated with collection of delinquent taxes

**AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED,
"AN ORDINANCE PROVIDING FOR THE IMPOSITION ON DELINQUENT
TAXPAYERS OF A FEE TO COVER THE ADMINISTRATIVE COSTS AND
REASONABLE ATTORNEY'S FEES ASSOCIATED WITH THE COLLECTION OF
DELINQUENT TAXES"**

WHEREAS, pursuant to the provisions of Va. Code Ann. §58.1-3916 and 58.1-3958, as amended, a county may impose on delinquent taxpayers a fee to cover the administrative costs and reasonable attorney's or collection agency's fees associated with the collection of delinquent taxes; and

WHEREAS, the Board of Supervisors of Northampton County deems such imposition of cost and fees reasonable and necessary; and

WHEREAS, the provisions contained in "AN ORDINANCE PROVIDING FOR THE IMPOSITION ON DELINQUENT TAXPAYERS OF A FEE TO COVER THE ADMINISTRATIVE COSTS AND REASONABLE ATTORNEY'S FEES ASSOCIATED WITH THE COLLECTION OF DELINQUENT TAXES" are codified as Section 33.009 of the Northampton County Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF NORTHAMPTON, VIRGINIA, that Section 33.009 of the Northampton County Code be modified as set out below:

§ 33.009 PENALTIES AND FEES IMPOSED ON DELINQUENT TAXPAYERS TO COVER ADMINISTRATIVE COSTS AND REASONABLE COLLECTION AND ATTORNEY'S FEES ASSOCIATED WITH COLLECTION OF DELINQUENT TAXES

(A) *Penalty for delinquent payment.*

(1) The penalty for failure to pay a tax or installation when due shall be 10% of the tax past due on such property or the sum of \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due.

(2) Penalty for failure to pay any tax may be assessed on the day after the tax or first installment is due.

(3) No penalty for failure to pay any tax shall be imposed for any assessment made later than two weeks prior to the day on which the taxes are due, if the assessment is made thereafter through the fault of a local official, and if the assessment is paid within two weeks after the notice thereof is mailed.

(B) *Administrative costs and fees.*

(1) Administrative costs in addition to all taxes and penalties, shall be imposed at the rate of \$30 for taxes or other charges collected 30 days after final notice of delinquency but before any judgment, and \$35 for taxes collected subsequent to judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be \$150 or 25 percent of the cost, whichever is less; however, in no event shall the fee be less than \$25. Such administrative costs shall be in addition to all penalties and interest.

(2) Attorney's or collection agency's fees shall be 20% of the delinquent taxes or other charges so collected. Attorney's or collection agency fees shall be added if the matter has been given to an attorney or collection agency for collection.

(3) No tax assessment or tax bill shall be deemed delinquent and subject to the imposition of administrative costs and collection fees during the pendency of any administrative appeal under VA Code § 58.1-3980, so long as the appeal is filed within 90 days of the date of assessment and 30 days after the date of the final determination of the appeal.

* * * * *

(16) County Sales Tax; Refund of Local Taxes or Classes of Taxes Erroneously Paid; Property Tax Order of Payment; Exempting Merchants Capital; Tax on Purchases of Utility Services

**AN ORDINANCE TO AMEND THE
NORTHAMPTON COUNTY CODE
SECTION 33 – FINANCE AND TAXATION**

BE IT ORDAINED by the Northampton County Board of Supervisors that the following provisions of Section 33 – Finance and Taxation – of the Northampton County Code are amended as set out below:

§33.001 County Sales Tax

General retail sales tax for the county. Pursuant to VA Code §58.1-605, as amended from time to time, a local general sales tax at the rate of 1% to provide revenue for the General Fund for the County of Northampton is levied. The tax shall be added to the rate of the state sales tax imposed by the Code of Virginia, as amended from time to time. It shall be subject to all applicable provisions of the Code of Virginia, all the amendments thereto, and the rules and regulations published with respect thereto.

§33.002 Refund of Local Taxes or Classes of Taxes Erroneously Paid. This section is deleted in its entirety.

§33.014 Property Tax Order of Payment

All payments of local levies received shall be credited first against the most delinquent local account, the collection of which is not subject to a defense of an applicable statute of limitations.

§33.030 Exempting Merchants Capital. This section is deleted in its entirety.

Tax on Purchases of Utility Services:

§33.040 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL OR INDUSTRIAL USER. The owner or tenant of property used for commercial, industrial and all purposes other than residential, including apartment buildings, who pay for utility service for said property

PERSON. Individuals, firms, partnerships, associations, corporations, and combinations of individuals of whatever form and character.

PURCHASER. Every person who purchases a utility service.

RESIDENTIAL USER. The owner or tenant of private residential property who pays for utility service in or for the property,.

SELLER. Every person, whether a public service corporation or otherwise, who sells or furnishes a utility service.

UTILITY SERVICES. Electrical service, and gas service, furnished within the County of Northampton.

§ 33.041 IMPOSITION; RATE; COLLECTION.

(A) There is imposed and levied by the county, upon each purchaser of a utility service, with the exception of electrical service, a tax in the amount of 20% of the charge, exclusive of any federal tax thereon, made by the seller against the purchaser with respect to each utility service, which tax in every case shall be collected by the seller from the purchaser and shall be paid by the purchaser to the seller for the use of the County of Northampton at the time the purchase price or payment for such charge shall become due and payable under the agreement between the purchaser and the seller; provided, however, that in case any monthly bill of a residential user shall exceed \$15, no tax shall be computed on such excess, and in case any monthly bill of a commercial user shall exceed \$100, no tax shall be computed on such excess. In case bills are submitted by any seller for two months service, no tax shall be computed on so much of said bill as shall exceed \$30 for a residential user or \$200 for a commercial or industrial user. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

(B) In accordance with the provisions of VA Code § 58.1-3814, all taxes on consumers

of utility services provided by electric utility suppliers are to be based on kilowatt hours (kwh) delivered, including customer charges.

(C) Effective with the first bill for electric energy rendered for meter readings on or after January 1, 2001, the rate of tax on the electric energy delivered to an ultimate consumer shall be as follows:

(1) Residential customer: \$0.015 per kilowatt hour (kwh), plus a minimum tax of \$1.40 per month with a maximum tax of \$3 per month;

(2) Commercial customer: \$0.015 per kilowatt hour (kwh) plus a minimum tax of \$1 per month with a maximum tax of \$20 per month;

(3) Industrial customers: \$0.015 per kilowatt hour (kwh) plus a minimum tax of \$1 per month with a maximum charges of \$20 per month.

§ 33.042 COLLECTION; REMISSION; REPORT OF COLLECTIONS.

It shall be the duty of every seller in acting as the tax collecting medium or agency for the county to collect from the purchaser, for the use of the county, the tax imposed and levied by § 33.041 at the time of collecting the purchase price charged for a utility service. The taxes collected during each calendar month shall be reported by each seller to the Commissioner of the Revenue and each seller shall remit the amount of tax shown by said report to have been collected to the County Treasurer on or before the last day of the first calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax. The required reports shall be in the form prescribed by the Commissioner of the Revenue. The tax levied or imposed under this section with respect to the purchase of any utility service shall become effective on charges first appearing on bills rendered on September 1, 1980, and thereafter.

§ 33.043 SELLER'S RECORDS.

(A) Each seller shall keep complete records showing all purchases in the county, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof and the date of payment thereof and the amount of tax imposed hereunder.

(B) Such records shall be kept open for inspection by the duly authorized agents of the county at reasonable times, and the duly authorized agents of the county shall have the right, power and authority to make transcripts thereof during such times as they may desire.

§ 33.044 EXCEPTIONS.

(A) *Exceptions as to governmental agencies.* The United States of America, the State of Virginia, and the political subdivisions, boards, commissions and authorities thereof are exempted from the payment of the tax imposed and levied by this section with respect to the purchase of utility services used by such governmental agencies.

(B) *Exceptions as to sales of electric utility services for resale.* The tax imposed and levied by § 33.041 shall not apply to sales of electricity service for resale.

(C) *Exceptions as to sales of bottled gas.* The tax imposed and levied by § 33.041 shall not apply to the purchase of bottled gas.

§ 33.045 FAILURE TO PAY TAX IMPOSED.

(A) Any purchaser failing, refusing or neglecting to pay the tax imposed or levied by § 33.041 and any seller violating the provisions of this subchapter and any officer, agent or employee of any seller violating the provisions of this subchapter shall, upon conviction, be subject to a fine of not more than \$100.

(B) Each failure, refusal, neglect or violation and each days continuance thereof shall constitute a separate offense.

* * * * *

(17) Proration of Personal Property Tax

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED,

**“AN ORDINANCE TO PROVIDE FOR
PRORATION OF PERSONAL PROPERTY TAX”**

BE IT ORDAINED, by the Board of Supervisors of Northampton County, that the Ordinance entitled, "AN ORDINANCE TO PROVIDE FOR PRORATION OF PERSONAL PROPERTY TAX", codified as Section 33.005 in the Northampton County Code be amended as follows:

(A) There shall be a personal property tax at a rate established each year by the Board of Supervisors on motor vehicles and trailers, (hereafter referred to in this section as "taxable property") which have a situs within the county on January 1 of each year ("the tax day") and which acquire a situs within the county on or after January 2 of each year. Such tax shall be prorated on a monthly basis. For purposes of proration, a period of more than one-half of a month shall be counted as a full month and a period less than one-half of a month shall not be counted. All taxable property shall be assessed as of January 1 of each year if it has a situs within the County as of that date or as of the date it acquires a situs in the County. The situs date shall be determined in accordance with the records of the Department of Motor Vehicles.

(B) When any person sells or otherwise transfers title to a motor vehicle or trailer with a situs in the County after the tax day or date upon which it acquires a situs, the tax shall be relieved, prorated on a monthly basis, and the appropriate amount of tax already paid shall be (i) refunded or (ii) credited against the tax due on any motor vehicle or trailer owned by the taxpayer during

the same tax year by the County Treasurer. Such refund shall be made within thirty days of the date such tax is relieved. No refund of less than five dollars shall be issued to a taxpayer, unless specifically requested by the taxpayer. No refund shall be made if the motor vehicle or trailer acquires a situs within the Commonwealth in a nonprorating locality.

(C) When any person, after the tax day, acquires a motor vehicle or trailer with a situs in the County, the tax shall be assessed on the motor vehicle or trailer for the portion of the tax year during which the new owner owns the motor vehicle or trailer and it has a situs within the County.

(D) Any person who moves from a nonprorating locality to a prorating locality in a single tax year shall be entitled to a property tax credit in the prorating jurisdiction if (a) the person was liable for personal property taxes on a motor vehicle and has paid those taxes to a nonprorating locality and (b) the owner replaces for any reason the original vehicle upon which taxes are due to the nonprorating locality for the same tax year. The prorating locality shall provide a credit against the total tax due on the replacement vehicle in an amount equal to the tax paid to the nonprorating locality for the period of time commencing with the disposition of the original vehicle and continuing through the close of the tax year in which the owner incurred tax liability to the nonprorating locality for the original vehicle.

(E) Any person who fails to pay personal property taxes on or before the date due shall incur a penalty as provided in §33.999, shall be subject to payment of interest, administrative fees and attorneys fees as provided in §33.009 hereof.

(F) The Treasurer of Northampton County may, on or after December 15 of each year, bill all personal property taxes assessed for a portion of the tax year less than the full year which have not been otherwise billed. Taxes so billed shall be due no later than 30 days after the date of the tax bill.

* * * * *

(18) Bank Franchise Tax

**AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED,
“AN ORDINANCE TO PROVIDE FOR A
BANK FRANCHISE TAX
IN THE COUNTY OF NORTHAMPTON”**

WHEREAS, pursuant to the provisions of Chapter 12 of Title 58.1 of the Code of Virginia, the Northampton County Board of Supervisors may impose a Bank Franchise Tax upon each bank located in the County.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF NORTHAMPTON COUNTY, that the ordinance entitled, “An Ordinance to Provide for a Bank Franchise Tax in the County of Northampton”, codified as Section 33.006 of the Northampton

County Code, be amended as follows:

§ 33.006 BANK FRANCHISE TAX.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BANK. As defined in VA Code § 58.1-1201.

NET CAPITAL. A bank's net capital computed pursuant to VA Code § 58.1-1205.

(B) *Imposition of county bank franchise tax.*

(1) Pursuant to the provisions of VA Code Title 58.1, there is imposed upon each bank located outside any incorporated town but otherwise within the boundaries of this county a tax on net capital equaling 80% of the state rate of taxation set forth in VA Code § 58.1-1204, as amended from time to time.

(2) In the event that any bank located within the boundaries of this county but outside any incorporated town located herein and is not the principal office but is a branch extension or affiliate of the principal office, the tax upon such branch shall be apportioned as provided by VA Code § 58.1-1211.

(C) *Filing of return and payment of tax.*

(1) On or after January 1 of each year, but not later than March 1 of any such year, all banks whose principal offices are located within this county but outside any incorporated town herein shall prepare and file with the Commissioner of the Revenue a return as provided by VA Code § 58.1-1207 in duplicate, which shall set forth the tax on net capital computed pursuant to VA Code Title 58.1, Chapter 12. The Commissioner of the Revenue shall certify such returns and transmit such certified copy to the State Department of Taxation.

(2) In the event that the principal office of a bank is located outside the boundaries of this county or within this county, in addition to the filing requirements set forth above, any bank conducting such branch business shall file with the Commissioner of the Revenue of this county a copy of the real estate deduction, apportionment and other items which are required by VA Code §§ 58.1-1211, 58.1-1212 and 58.1-1213.

(3) Each bank, on or before June 1 of each year, shall pay into the Treasurer's office of this county all taxes imposed pursuant to this section.

(D) *Penalty for failure to comply.* Any bank which shall fail or neglect to comply with any provisions of this section shall subject to a penalty of five percent of the tax due.

* * * * *

(19) Biennial Assessment of Real Estate

**AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED,
“AN ORDINANCE PROVIDING FOR THE BIENNIAL
ASSESSMENT OF REAL ESTATE IN NORTHAMPTON COUNTY”**

BE IT ORDAINED by the Board of Supervisors of Northampton County, that the Ordinance entitled, “An Ordinance Providing for the Biennial Assessment of Real Estate in Northampton County”, codified as Section 33.015 in the Northampton County Code, be amended as follows:

§ 33.015 BIENNIAL ASSESSMENT OF REAL PROPERTY.

(A) Commencing July 1, 2011, there shall be established, under the Office of the Commissioner of Revenue, a division of real estate assessment.

(B) All real estate shall be assessed and equalized biennially in accordance with Va. Code §58.1-3253, as amended from time to time. The first biennial reassessment shall take effect January 1, 2013.

* * * * *

(20) Exemption from Taxation of Real Estate for Certain Elderly or Handicapped Persons

**AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED,
“AN ORDINANCE TO PERMIT EXEMPTION
FROM TAXATION OF REAL ESTATE
OF CERTAIN ELDERLY OR HANDICAPPED PERSONS”**

BE IT ORDAINED by the Board of Supervisors of Northampton County, Virginia, that the Ordinance entitled, “An Ordinance to Permit Exemption from Taxation of Real Estate of Certain Elderly or Handicapped Persons”, codified as Section 33.027 of the Northampton County Code, be amended follows:

**§ 33.027 EXEMPTION FROM TAXATION OF REAL ESTATE OF CERTAIN
ELDERLY OR HANDICAPPED PERSONS.**

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMISSIONER OF THE REVENUE. Commissioner of the Revenue of the County

of Northampton, Virginia or any of his duly authorized deputies or agents.

DWELLING. The full-time residence of the person or persons seeking the exemption.

EXEMPTION. Exemption from the county real estate tax according to the provisions of this section.

NET COMBINED FINANCIAL WORTH. All assets of the owners of the dwelling who reside therein, and of the spouse of any such owners, including equitable interests, excluding the value of the dwelling and the land in an amount not to exceed one acre upon which it is situated. For determination of value of real estate properties, the fair market value shall be used.

PERMANENTLY AND TOTALLY DISABLED. Unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

PROPERTY. Real property.

TAXABLE YEAR. The calendar year, from January 1 through December 31, inclusive, for which exemption is sought.

TOTAL COMBINED INCOME. Total income from all sources of the owners of the dwelling residing therein and of any relative of the owners who reside in the dwelling. However, if a person has already qualified for exemption under this section, and if the person can prove by clear and convincing evidence that after so qualifying the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if a relative does then move in for that purpose, then none of the relative's income shall be counted towards the income limit.

TREASURER or COUNTY TREASURER. Treasurer of the County of Northampton, Virginia, or any of his duly authorized deputies or agents.

(B) *Administration.* The exemption shall be administered by the Commission of the Revenue or his authorized delegate according to the general provisions contained in this section. The Commissioner is authorized and empowered to prescribe, adopt and enforce rules and regulations, including the requirements of answers under oath, as may be reasonably necessary to determine qualifications for exemption. The Commissioner may require reproduction of certified tax returns and appraisal reports to establish income and financial worth.

(C) *Eligibility for exemption.* Exemption shall be granted to persons subject to the following provisions:

(1) The title to the property for which exemption is sought is held or partially held, on December 31, immediately preceding the taxable year by the person or persons seeking the

exemption. If the ownership of the property for which application for exemption is made is not held solely by the applicant or jointly with the applicant's spouse, then the amount of the tax exemption hereunder shall be in proportion to the applicant's ownership interest in the subject real property, as the ownership interest may appear;

(2) The head of the household occupying the dwelling and owning title or partial title hereto is 65 years or older on December 31 of the year, immediately preceding the taxable year. Such dwelling must be occupied as the sole dwelling of the person or persons seeking the exemption;

(3) The total combined income of the owners during the year immediately preceding the taxable year shall be determined by the Commissioner of the Revenue to be an amount not to exceed \$22,000. Total combined income shall include income from all sources of the owners, spouses, and of the owners relatives living in the dwelling for which exemption is claimed; provided, however, that the first \$3,000 of annual income of the owners' relatives living in the dwelling other than the spouse's shall be excluded in computing total combined income;

(4) The net combined financial worth as of December 31 of the year immediately preceding the taxable year of the owners and of the spouse of any owner shall be determined by the Commissioner of the Revenue to be an amount not to exceed \$80,000. Net combined financial worth shall include the value of all assets, including equitable interest of the owners and the spouse of any owner, excluding the fair market value of the dwelling and the land, not to exceed one acre, upon which it is situated and for which exemption is claimed;

(5) The levies against the property seeking relief be current and that the levy for the year the relief is granted be paid timely.

(D) *Application for exemption.*

(1) Annually after January 1, and before April 1 of the taxable year, the person or persons claiming exemption shall file with the Commissioner of the Revenue, on forms supplied by such Commissioner of the Revenue, an affidavit under oath and subject to the penalties of perjury, setting forth the location and assessed value of the property and the names of all the related persons occupying such real estate; the total combined income of the persons as specified in division (C)(3) above; and the net combined financial worth of the persons as specified in division (C)(3) above. If such person is under 65 years of age, such form shall have attached thereto a confirmation by the Social Security Administration, the Veterans' Administration, or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors licensed to practice medicine in the Commonwealth, to the effect that such person is permanently and totally disabled, as herein defined. The affidavit of at least one of such doctors shall be based upon a physical examination of such person by said doctor.

(2) The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Services Commission which is relevant to the standards for determining permanent and total disability as herein defined. The Commissioner of the Revenue

shall also make such further inquiry of persons seeking exemption requiring answers under oath as may be reasonably necessary to determine qualifications therefor, including qualifications as permanently and totally disabled. The Commissioner of the Revenue is authorized to require the reproduction of certified tax returns to establish the income or financial worth of any applicant for exemption from tax hereunder.

(3) If, after audit and investigation, the Commissioner of the Revenue determines that the person or persons are qualified for exemption he or she shall so certify the same, and shall determine the percentage of exemption allowable and issue non-negotiable exemption certificates in the amount of the exemption determined to be applicable to the claimant's real estate tax liability.

(4) Such exemption certificate shall apply only to the tax year for which issued. The person or persons to whom an exemption certificate has been issued shall, on or before the past due date established for payment of such real estate tax, present such exemption certificate to the Treasurer, together with payment of the difference between such exemption and the full amount of the tax payment due on the property for which the exemption was issued. Any exemption certificate not presented in settlement of such taxes on or before the date specified for payment shall be null and void and unusable thereafter and the Commissioner of the Revenue may not reissue a certificate for such tax year.

(5) An exemption certificate may be renewed by the Commissioner of Revenue annually for two years, provided the person holding the exemption files an affidavit, under oath and subject to the penalties of perjury, that no information contained in the last preceding affidavit or written statement has changed.

(E) *Exempt schedule.*

(1) Where the person or persons seeking exemption conforms to the standards and does not exceed the limitations contained herein, the real estate tax exemption shall be as shown on the following schedule:

<i>Total Combined Income From All Sources</i>	Tax Exemption Net Worth
	0 - 80,000
0 - 16,000	90%
16,001 - 17,500	80%
17,501 - 19,000	70%
19,001 - 20,500	60%

20,501 - 22,000	50%
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(2) Provided, however, that the maximum annual exemption on any one property shall not exceed \$400.

(F) *Additional provisions.*

(1) The fact that persons who are otherwise qualified for tax exemption are residing in hospitals, nursing homes, convalescent homes or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which the exemption is sought does not continue to be the sole dwelling of such person/persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

(2) Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided in this section shall nullify any exemption for the then current tax year immediately following.

(3) For purposes of this section, a mobile home shall be real estate if the owner's intention that it be permanently affixed is shown by the facts that:

(a) It is located on land belonging in whole or in part to the owner of the mobile home, his spouse, parent or child, and is connected to permanent water and sewer lines or facilities; or

(b) Whether or not it is located on land belonging to persons described in subsection (a), it rests on a permanent foundation, and consists of two or more mobile units which are connected in such a manner that they cannot be towed together on a highway or consists of a mobile unit and other connected rooms or additions which must be removed before the mobile unit can be towed on a highway.

* * * * *

The Chairman asked if there were any desiring to speak.

The County Administrator indicated that these ordinances were being amended in order to bring them into compliance with the Code of Virginia.

Mr. Robert C. Richardson provided the following comments with regard to each of the ordinance amendments:

On #15 – he was in favor

On #16 – he said that the elderly population does have trouble paying their taxes

On #17 – he was in favor of public advertisements on this.

On #18 – no comment

On #19 – he was in favor

On #20 – he was in favor.

He also stated that he felt that the sale of real estate for delinquent taxes should be handled by a clerk in the Treasurer’s Office and that the County could save some money by eliminating the lockbox process.

There being no further comments, the public hearing was closed.

Motion was made by Mr. LeMond, seconded by Mr. Hubbard that the foregoing ordinances, designated as Agenda Items #15 through #20 be adopted as presented. All members were present and voted “yes.” The motion was unanimously passed.

Action Items:

(21) Consider approval of a fireworks permit to Cherrystone Campground for fireworks display on May 26, 2013.

Motion was made by Mr. Bennett, seconded by Mr. Trala, that the Board approve the request from Cherrystone Campground for a fireworks permit to be held on May 26, 2013 (rain date: May 25, 2013). All members were present and voted “yes.” The motion was unanimously passed.

In a late-arriving item, Ms. Nunez requested the Board’s consideration of the following resolution, pertaining to the Culls Community Development Block Grant program:

RESOLUTION

WHEREAS, it becomes necessary from time to time for the County of Northampton to obtain land use permits from the Virginia Department of Transportation to install, construct, maintain and operate certain public works and public utilities projects along, across over and upon highway systems of the Commonwealth of Virginia; and,

WHEREAS, expense, damage or injury may be sustained by the Commonwealth of Virginia growing out of granting to the County of Northampton by the Virginia Department of Transportation of said permits for the work aforesaid.

NOW, THEREFORE, BE IT RESOLVED by the Northampton County Board of Supervisors this 14 day of May, 2013:

Section 1: That the provisions of Section 1.064 of the Land Use Permit Regulations of the Virginia Department of Transportation, the County of Northampton does hereby grant assurances to the Virginia Department of Transportation (VDOT) that it shall in all respects comply with all of the conditions of the permit or permits that have been, or will be, granted to the County of Northampton and that said jurisdiction does hereby certify that it will carry liability insurance for personal injury and property damage that may arise from the work performed under permit and/or from the operation of the permitted activity as follows: up to one-million dollars (\$1,000,000) each occurrence to protect the Commonwealth Transportation Board members and the Virginia Department of Transportation's agents or employees; seventy-five thousand dollars (\$75,000) each occurrence to protect the Commonwealth Transportation Board, the Virginia Department of transportation or the Commonwealth of Virginia in the event of suit.

Section 2: That the County Administrator be and hereby is authorized to execute on behalf of the County of Northampton all land use permits and related documents of the Virginia Department of Transportation.

Section 3: That this resolution shall be a continuing resolution and shall not be revoked unless and until sixty (60) days written notice of any proposed revocation be submitted to the Virginia Department of Transportation.

Section 4: That the County of Northampton shall, if requested by the Virginia Department of Transportation, provide a letter that commits to using the surety provided by its contractor or to have the contractor execute a dual obligation rider that adds the Virginia Department of Transportation as an additional obligee to the surety bond provided to the locality, with either of these options guaranteeing the work performed within state maintained right-of-way under the terms of the land use permit for that purpose.

BE IT STILL FURTHER RESOLVED that the County Administrator be and hereby is authorized and directed to procure insurance required by Section 1 herein.

* * * * *

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the foregoing resolution be adopted. All members were present and voted “yes.” The motion was unanimously passed.

In a second late-arriving item, Ms. Nunez requested the Board’s approval of a housing elevation contract in the community of Oyster as part of the County’s Hazard Mitigation Grant Program for property located at 6433 Broadwater Circle, said contract being in the sum of \$38,405.00. Motion was made by Mr. Bennett and seconded by Mr. LeMond. All members were present and voted “yes.” The motion was unanimously passed.

Matters Presented by the Board Including Committee Reports & Appointments

Motion was made by Mr. Trala, seconded by Mr. Bennett, that Mrs. Jackie Chatmon be reappointed to the Eastern Shore of Virginia Housing Alliance for a new term of office commencing July 1, 2013. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Trala, seconded by Mr. Bennett, that Mr. Roland “Butch” Bailey be reappointed to the Accomack-Northampton Planning District Commission as Citizen Representative for a new term of office commencing July 1, 2013. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Bennett, seconded by Mr. LeMond, that Rev. Charles Kellam be reappointed to the Accomack-Northampton Planning District Commission as Citizen Representative for a new term of office commencing July 1, 2013. All members were present and voted “yes.” The motion was unanimously passed.

It was the consensus of the Board to send a congratulatory letter to H. M. Terry Bros., Inc. in Willis Wharf for its achievement in receiving the 2013 Virginia Small Business Award for Family-Owned Business of the Year.

Board members also thanked the County Administrator for the comprehensive content of the agenda package.

The County Administrator reminded the Board of an upcoming event for Virginia's fallen firefighters and emergency medical services personnel to be held on June 4th at Nandua High School.

Mr. Bennett thanked Mr. Charles McSwain, the County's Director of Economic Development, for his attendance at a blind taste-testing demonstration held in Mr. Bennett's class last week.

Recess

Motion was made by Mr. Trala, seconded by Mr. LeMond, that the meeting be recessed until 5:00 p.m., Tuesday, May 28, 2013 in the Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, in order to conduct the regular work session. All members were present and voted "yes." The motion was unanimously passed. The meeting was recessed.

_____ CHAIRMAN

_____ COUNTY ADMINISTRATOR