

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 9th day of October, 2012, at 4:00 p.m.

Present:

Oliver H. Bennett, Chairman

Willie C. Randall, Vice Chairman

Richard L. Hubbard

Larry LeMond

Laurence J. Trala

The meeting was called to order by the Chairman.

Closed Session

Motion was made by Mr. Trala, seconded by Mr. Randall, 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/Commissions

(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.

(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.

District Four Waste Collection Site – condemnation status

*G. F. Hogg, Jr., lawsuit – status
EMS Office Lease
Exmore-Willis Wharf School Property Status*

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:

(1) Mr. Nick Pascaretti, Executive Director of the Eastern Shore Broadband Authority, noted that the fibre backbone has been installed as well as most of the Towns were now connected with Chincoteague being completed at this time. All of the Shore’s public schools, libraries, Eastern Shore Rural Health, Riverside Shore Memorial Hospital and Community Services Board facilities are also connected. Lastly, it was noted that the Authority is now on the State’s approved vendors list.

(2) Ms. Carol Vincent of the Eastern Shore Public Library, was not present.

Although not on the agenda, Dr. Walter Clemons, Division Superintendent for the Northampton County Public Schools, was recognized and provided an accreditation status report to the Board. He said that Occohannock Elementary School has achieved full accreditation; Kiptopeke Elementary School’s status was still to be determined, and the graduation rate at the

high school was still an issue.

Consent Agenda:

(3) Minutes of the meetings of September 11 and 24, 2012.

(4) Consider a resolution to change the date of the regular November meeting due to a conflict with the annual meeting of the Virginia Association of Counties

RESOLUTION

BE IT RESOLVED by the Northampton County Board of Supervisors, this 9th day of October, 2012, that the regular meeting of the Board, scheduled for Tuesday, November 13, 2012 at 4:00 p.m., in the Board Chambers of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, be changed to Tuesday, November 20, 2012 at 4:00 p.m. in the Board Chambers of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia; and

BE IT FURTHER RESOLVED that the work session scheduled for Monday, November 26, 2012, commencing at 5:00 p.m. in the Board Chambers of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, be cancelled; and

BE IT FINALLY RESOLVED that, following this meeting, the date, time and place of the regular meeting of the Northampton County Board of Supervisors shall revert to the second Tuesday of each month in the Board Chambers, 16404 Courthouse Road, Eastville, Virginia, at 4:00 p.m.

Motion was made by Mr. Trala, seconded by Mr. LeMond, that the consent agenda be approved as presented. All members were present and voted "yes." The motion was unanimously passed.

County Officials' Reports:

(5) Mrs. Leslie Lewis, Director of Finance, distributed the following budget amendment and appropriation requests:

MEMORANDUM

TO: Board of Supervisors

FROM: Leslie Lewis, Director of Finance

DATE: October 3, 2012

RE: Budget Amendments and Appropriations – FY 2013

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

\$2,825.00 – an additional appropriation to the State Categorical Aid – Litter Control line item (100-0026-43950) as a result of a Litter Prevention and Recycling Program grant award for FY 2013. A total grant award of \$10,825.00 was received; the County had already budgeted the sum of \$8,000.00 as an anticipated grant award.

Thank you for your attention to this matter.

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

MEMORANDUM

TO: Board of Supervisors

FROM: Leslie Lewis, Director of Finance

DATE: October 3, 2012

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 School Board in the 2012-2013 School Operating Budget:

\$25,068.00 – Race to GED grant to the Eastern Shore Community College as awarded by the Virginia Department of Education and the Public Schools has once again agreed to act as fiscal agent for the grant. This grant will be tracked separately as State Revenue and expenditures will be classified under the School Operating Fund within the category of Instruction.

\$12,741.25 – Correct funding amount for the VPSA Technology Funding available for reimbursement. This grant is tracked separately as State Revenue and expenditures will be

classified under the School Operating Fund under the category of Instruction.

Thank you for your attention to this matter.

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

Lastly, Mrs. Lewis read the opening memorandum from the September 30, 2012 Quarterly Financial Report as follows:

TO: Board of Supervisors, Northampton County
FROM: Leslie M. Lewis, Director of Finance
DATE: October 4, 2012
SUBJECT: September 30, 2012 Financial Statement Package

Enclosed, please find the monthly financial package as of September 30, 2012. In the General Fund, 11% of budgeted revenues and 18% of expenditures have been recorded for the year compared to 10% and 22% last year at the same time. First quarter expenditures exceeded revenues by \$10,094,343 compared to \$9,989,480 at the same time last year. Using the modified accrual basis of accounting, for the first sixty days of FY13 revenue collected relating to FY12 may be adjusted for some funds to be properly recorded in FY12. Furthermore on the expenditure side, the first payroll and part of the second payroll of July 2012 and other FY12 expenditures paid during July and August were charged back to that fiscal year using the modified accrual basis of accounting.

For the current fiscal year, the School Operating Funds reflect revenue collections at 21% of the budget and expenditures at 17% compared to 20% and 17% respectively last year. The Social Services operating fund reflects revenue collections of 24% and expenditures of 18% of the adopted budget compared to 17% and 19% last year. The Eastern Shore Regional Jail Fund shows that 24% of revenues have been collected while 19% of expenditures have been recorded compared to 23% and 19% respectively last year. Information on all capital projects' budget performance for the year and life-to-date is included behind the Capital Projects Performance Report divider.

A chart depicting the County's cash flow pattern is included in the report after the Treasurer's statement of account. At September 30, 2012, operating cash balances were \$5,906,177 compared to \$5,510,966 last year at the same time. I am very pleased to state that Delinquent tax collection increased by 111% in the first quarter of FY13 as compared to the first quarter of FY12. Delinquent tax collection revenues for the first quarter of FY13 were \$899,470 as compared to \$425,383 at the same time last year. This is a \$475,087 increase in delinquent tax collections. For information on delinquent tax collections, please see the Delinquent Tax Report section of this report.

If you have any questions about the financial reports or need more information, please give me a call at 678-0440.

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(6) Mrs. Sandra Benson Thornton presented the departmental update from the Planning & Zoning office which referenced the Board of Zoning Appeals, Staff Activities, Comprehensive Plan Advisory Committee, Comprehensive Plan Review and the Northampton County Planning Commission – Other Projects. Noting that Mrs. Thornton would be retiring at the end of the month, the Chairman and Board members thanked her for her 17+ years of service.

At 6:00 p.m., the Board recessed for supper.

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

The invocation was offered by Mrs. Thornton.

The Pledge of Allegiance was given.

(7) The following work session agenda schedule was presented for the Board's information:

- (i) 10/22/12: Work session (topic to be announced)
- (ii) 11/26/12: Work session (topic to be announced)
- (iii) 12/24/12: Work session (to be moved or cancelled ?)

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

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: October 4, 2012
RE: Bi-Monthly Update

I. PROJECTS:

A. ESVA Public Services Authority Update:

The PSA is working to obtain detailed water and sewer usage from the commercial properties on Route 13 between Cape Charles & Cheriton. Staff is working on the draft application to USDA for the Exmore/Nassawadox area. Their next meeting is on Tuesday, October 16, 2012.

B. 2013 Legislative Program: Enclosed is a memo with the proposed 2013 Legislative Priorities for your review and potential adoption. VACo is hoping to receive copies of all counties' legislative priorities prior to our annual conference in November 2012.

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: October 5, 2012
RE: Proposed Legislative Priorities

Listed below are items for your consideration to be adopted as our legislative priorities for the 2013 General Assembly Session that would be submitted to our representatives (Lynwood Lewis, Ralph Northam) as well as to VACo.

1. Transportation Funding – support legislation to establish stable and consistent revenues to meet Virginia's long-term transportation infrastructure needs and to oppose any legislation or regulations that would require the transfer of responsibility to the counties for construction, maintenance or operation of new and existing secondary roads.
2. Eliminate the program of "Local Contribution/Aid to the Commonwealth" – Since Fiscal Year 2010, the State has had a program called "Local Contribution/Aid to the Commonwealth" which has required localities across the state to provide financial support to the Commonwealth in the form of either direct payments from each locality to the state or commensurate reductions in state aid to the locality. Since the inception of this program, this county has contributed to the state \$847,209 and will be making another payment in December in the amount of \$186,494 which will bring the total to \$1,033,703. This program should be eliminated in light of the state's surpluses in FY2010, 2011 and 2012.
3. Equal Taxing Authority – Eliminate the distinction in the taxing authority of Virginia's cities and towns versus counties and provide counties with all of the same provision to establish local excise taxes, including the cigarette tax and the meals tax.
4. Local Government Revenues and State Tax Reform – oppose legislation to eliminate or reduce specific local tax revenues, including local business taxes such as the Machinery & Tools Tax.

5. State Funding for Compensation Board– support full restoration of state funding for the Compensation Board and restore its required funding for the constitutionally mandated offices of Commissioner of Revenue, County Treasurer, Sheriff, Clerk of Courts and Commonwealth Attorney.
6. State Funding for Education – support full restoration of state funding for the Standards of Quality (SOQ).

The Board may want to consider these additional items that would assist local staff in the administration of our responsibilities:

1. Support legislation to extend the electronic meeting privileges provided at the state level to the county level.
2. Support legislation to revise public hearing notification provisions to include a county government run website as a legal posting method, similar to a local paper of record.
3. Support legislation to extend in the imposition and collection of the local transient occupancy tax to state owned parks and campgrounds that provide for lodging.
4. Support legislation to require mandatory certification from the local treasurer that real estate taxes are current prior to the sale and recordation of sale of real property.

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Motion was made by Mr. Randall, seconded by Mr. Trala, that all ten legislative issues be adopted as the Board’s Legislative Agenda for 2013 as outlined above. All members were present and voted “yes.” The motion was unanimously passed.

C. Enterprise Zone Map: As part of our Enterprise Zone program, the County is allowed to make changes to the map for inclusion or deletion of property on an annual basis. Our last amendment to the map was done in October 2011 so we will have the ability to amend our map, if needed, as early as next month. My office will notify the towns of this process and solicit if they have any changes they would like to see to this map and I am requesting the Board to provide any requests changes to my office by October 31, 2012 to be part of a comprehensive consideration. We will bring a copy of our large map that shows the existing Enterprise Zone for your review, if needed.

D. Department of Emergency Management Grant Award: The County has been awarded \$327,750 (FEMA will provide \$245,813; VDEM will provide \$65,550; and the property owners will provide \$16,388) to elevate 3 residential structures. ***The Board will need to vote to accept the grant and to authorize the Chairman and/or the County Administrator to execute any and all necessary documents.***

In addition, the Board will need to vote to enter into a contract with the Accomack-Northampton Planning District Commission (ANPDC) to

administer this grant on behalf of the County. Said contract will need to be negotiated by the County Administrator with the ANPDC Executive Director within the constraints of the grant agreement.

Motion was made by Mr. Randall, seconded by Mr. Hubbard that the Board accept the grant award as outlined above and that the Chairman and/or County Administrator be authorized to execute all necessary documents. All members were present and voted "yes." The motion was unanimously passed.

Motion was made by Mr. Hubbard, seconded by Mr. LeMond, that the County Administrator be authorized to negotiate a contract with the ANPDC for administration of the grant as noted above and that the Chairman and/or County Administrator be authorized to execute all necessary documents. All members were present and voted "yes." The motion was unanimously passed.

E. Regional Tourism Commission Agreement: I have received communication from Accomack County Administrator Steve Miner indicating that the Accomack Board of Supervisors recently took up the joint resolution for the Regional Tourism Commission that was meant to be a clarifying resolution that incorporated all of the adopted changes over the last seven years into one document and they expressed concerns with the document and the desire to discuss modifications and/or changes to the joint resolution. The issues raised were: (1) the # of members and the representative of said members and whether it is reflective of all of the industries involved in tourism; (2) the increased representation based upon funding contributions from the two counties – in particular, concern was expressed that it is unclear if the calculations include town contributions as part of the county's contribution in this consideration; and (3) concerns were expressed that there are no defined provisions for reporting, performance measures, and accepted goals. Please advise if you wish to meet with Accomack to consider revising this joint resolution.

It was the consensus of the Board to schedule a joint meeting with the Accomack Board of Supervisors.

F. Erosion and Sediment Control Ordinance and the Chesapeake Bay Act: Staff from the Virginia Department of Conservation and Recreation will be on-site the week of October 15, 2012 to conduct a review of the county's Erosion and Sediment Control Ordinance as well as our ordinances for compliance with the provisions of the Chesapeake Bay Act. The state conducts this periodic review about every 4 to 5 years.

G. Fiscal Year 2012 Audit: Our auditors will be on-site the week of October 15, 2012 to conduct all of the fieldwork for our Fiscal Year 2012 audit.

II. OTHER:

- A. Governor’s Agriculture and Forestry Industries Development Fund: Enclosed is information on an economic tool from the state which is focused on providing grants or loans to political subdivisions to attract new and expanding agriculture and forestry processing/value-added facilities using Virginia-grown products.

- B. Cross the Bay Marketing Initiative Grant from the Virginia Tourism Corporation: In response to a query from Supervisor Randall at our last meeting, the participating partners in this grant with the County are YMCA Camp Silver Beach, Chatham Vineyards, Town of Cape Charles, Sunset Beach Resort & Hotel, Bay Creek Resort & Club, and Northampton County Chamber of Commerce. In addition, we solicited additional contributors at a lower financial requirement for inclusion in the “rack” card and the Coupon Offering Program and they are: Barrier Island Center, Blue Crow Mall, Eastern Shore Bed & Breakfast Association, Holly Grove, Island House, Machipongo Trading Company, Southeast Expeditions, Virginia Originals, Machipongo Clam Shack and Blue Crab Bay.

- C. Stormwater Management Program: The county, in conjunction with Accomack County through the ANPDC, has submitted a grant application to the Virginia Department of Conservation & Recreation for funding to assist in the development of an ordinance and any associated regulations for the Eastern Shore to comply with the Virginia Stormwater Management Act.

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Citizen Information Period:

Mr. Robert Richardson of Seaview asked the Board to consider increasing the time for citizen comment from three minutes to five minutes. He also said that the Board would soon be developing another budget when the previous year’s problems have not been solved, including the Sheriff’s Office/Regional Jail, Bayview Water and Sewer System and the Hospital write-off. Lastly, he said that the Board should not have to approve the sale of properties as a result of delinquent taxes – an item to be considered later in the evening.

Public Hearing:

Chairman Bennett called to order the following public hearing:

(8) Subdivision Text Amendment 2012-01: The Northampton County Board of Supervisors has filed to amend the Northampton County Code, Chapter 156: Subdivision Code, specifically **§156.009 Family Subdivisions**, to allow for family subdivision of property held in trusts pursuant to Section 15.2-2244.2 of the Code of Virginia (1950, as amended).

DRAFT

AN ORDINANCE AMENDING AN ORDINANCE ENTITLED,
“AN ORDINANCE ESTABLISHING THE
NORTHAMPTON COUNTY SUBDIVISION ORDINANCE”

BE IT ORDAINED by the Board of Supervisors of Northampton County, that “AN ORDINANCE ESTABLISHING THE NORTHAMPTON COUNTY SUBDIVISION ORDINANCE” as adopted November 15, 2006 be amended as follows:

1. That the following section be modified as set out below:

§ 156.009 FAMILY SUBDIVISIONS.

(A) A single division of a lot or parcel to a member of the immediate family of the property owner is permitted subject to the provisions of the Code of Virginia Ann., 1950, as amended, and the requirements of this subchapter. ~~No person who has previously received a conveyance of land as a grantee under VA Code §§ 15.2-2244, 15.2-2244.1, 15.1-466(A)(12) or (13) or 15.1-466(G) or any predecessor section of the Code of Virginia shall be eligible to be a grantee of a lot or parcel created pursuant hereto.~~

(B) For the purpose of this section, “a member of the immediate family” is defined as any natural person who is a natural or legally defined child, **stepchild**, grandchild, spouse, **sibling**, ~~brother, sister,~~ parent or grandparent of the property owner; and “property owner” is defined as the natural person(s) who is the sole owner of the property.

(C) ~~Such~~ **A** conveyance to a member of the immediate family may be made to such member and his or her spouse if title is conveyed to them as tenants by the entirety.

(D) Each lot proposed to be created **pursuant to this section** shall comply with all applicable requirements of the Zoning Ordinance.

(E) ~~The~~ **Any** family subdivision must not be sought for the purpose of circumventing the spirit and intent of this chapter applicable to subdivisions.

(F) The trustee or trustees holding land may make a single division of a lot or parcel of such land to a beneficiary of such trust pursuant to this section so long as all beneficiaries of the trust (i) are immediate family members of each other as that term is defined above, (ii) agree that the property should be subdivided, and (iii) agree to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years.

2. That all remaining portions and provisions of “AN ORDINANCE ESTABLISHING THE ‘NORTHAMPTON COUNTY SUBDIVISION ORDINANCE’” are reenacted and reaffirmed hereby.

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

Ms. Sandra Benson Thornton indicated that the Planning Commission was recommending approval of this petition.

Mr. Herman Walker asked for the Board’s favorable consideration of this application indicating that 900+ parcels in the County were currently held in trusts and that this situation would not be the only occurrence of this issue.

Mr. Robert Richardson said that he supported this petition and requested that the Board adopt same.

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

Motion was made by Mr. Randall, seconded by Mr. Hubbard that AN ORDINANCE AMENDING AN ORDINANCE ENTITLED, “AN ORDINANCE ESTABLISHING THE NORTHAMPTON COUNTY SUBDIVISION ORDINANCE”, be approved as presented. All members were present and voted “yes.” The motion was unanimously passed.

The Chairman called to order the next public hearing as follows:

(9) Zoning Map Amendment 2012-01: Margaret D. Hoinski and John B. Hoinski, Jr., have applied to rezone two (2) parcels from the ESD-RVR Existing Subdivision District-Rural Village Residential to the A/RB Agriculture/Rural Business District to allow use of a parcel for shellfish washing and packing. The properties are identified as Tax Map 85-2-4 and 85-2-5 and are located in the Seaview vicinity on the west side of Seaside Road (SR 600) across from Narrow Channel Drive.

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

Mrs. Thornton indicated that the Planning Commission was recommending approval of

this petition.

Mr. David Bell indicated that he had been in the seafood industry for eighteen years and requested the Board's favorable consideration.

Mr. Robert Richardson said that he supported the application.

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

Motion was made by Mr. Trala, seconded by Mr. Randall, that the Board approve the petition as requested. All members were present and voted "yes." The motion was unanimously passed.

Chairman Bennett called to order the next public hearing as follows:

(10) Zoning Text Amendment 2012-10: The Northampton County Board of Supervisors has filed to amend the Northampton County Code, Chapter 154: Zoning Code, §§**154.003, 154.040, and 154.127** (A), as well as Appendix A Use Regulations, as follows: amend the definition of **HOME OCCUPATION**; revise the Zoning Clearance process to exclude certain very-low-impact uses; to allow home businesses and home offices by right if specified criteria are met; to add a new category of home occupation to be known as *micro-business/office* which would be exempt from the zoning clearance process if specified criteria are met; and to revise Appendix A for consistency with existing and proposed regulations in other sections of the zoning code. The proposed amendments to Appendix A include the following: eliminate the "Z" designation for consistency with prior amendments to §154.040; add a designation to be known as "E" for very-low-impact uses that would be exempt from the zoning clearance process; and to change those uses currently designated as "Z" to one of the following: "R" to indicate a use by right, "E" to indicate a use proposed to be exempt from the zoning clearance requirement, or "M/S" to indicate a use requiring a minor special use permit.

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

Mrs. Thornton indicated that the Planning Commission was recommending approval of this application.

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

Motion was made by Mr. Randall, seconded by Mr. Trala, that the Board approve Zoning Text Amendment 2010-10 as recommended and revised by the Planning Commission. All members were present and voted "yes." The motion was unanimously passed.

Motion was made by Mr. Randall, seconded by Mr. Hubbard, that this matter be taken off the table. All members were present and voted “yes.” The motion was unanimously passed.

The Chairman called to order the final public hearing as follows:

(11) Consider the possible sale of property located at Oyster Harbor, more specifically identified as a thirty (30) foot public right-of-way (landing) between Tax Map 85A-3-5 and Tax Map 85A-3-6 located on the north side of Sunnyside Road (State Route 639) in the Village of Oyster. The Board is considering sale of the property to Sugar Run, LLC.

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

The County Administrator provided background information on this matter, indicating that the Board had received an offer for the property and it believes the sale of this parcel would be conducive to commercial development at Oyster Harbor. The purpose of this public hearing was to solicit any other interested offers.

Mr. Robert Richardson of Seaview said that this was a tricky right-of-way matter and questioned whether VDOT may have an interest in the property. He did not believe that the Board has the legal right to sell the property.

Mr. Granville F. Hogg, Jr., questioned the amount of the offer that was made to the Board and asked if the public has any right to the property as well as how the Board acquired clear title to it.

Mr. Gregory McGee, a resident of Oyster, informed the Board that the bulkhead on the property has severely deteriorated and asked if the sale of the property could be conditioned on the repair of the facility.

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

Mr. Randall stated that all of the questions posed by the public have been considered by the Board and thought that the Board should consider the offer as received.

Motion was made by Mr. Randall, seconded by Mr. LeMond that the Board sell the Oyster property as outlined above to Sugar Run, L.L.C., for the sum of Fifty Thousand Dollars (\$50,000.00). All members were present and voted “yes.” The motion was unanimously passed.

Action Item

(12) Consider acceptance of bids received during the September 5, 2012 delinquent tax auction event.

Motion was made by Mr. Trala, seconded by Mr. Randall, that Board accept certain bids received from the September 5, 2012 delinquent tax auction event, *with the exception of the \$2000 bid received on the Dennis Gerwitz parcels.* All members were present and voted “yes.” The motion was unanimously passed. At the recommendation of the County Administrator, it was the consensus of the Board to table action on this matter of the Gerwitz parcels, pending consultation with legal counsel.

(13) Consider executing the Option Agreement for the Oliver PDR

Motion was made by Mr. Hubbard, seconded by Mr. Randall, that the Board execute that certain PDR Option Agreement for the Stuart Oliver property (Tax Map 28-A-12). All members were present and voted “yes.” The motion was unanimously passed.

(14) Consider approving the Holiday Schedule for 2012.

Motion was made by Mr. Randall, seconded by Mr. Trala, that the Board approve additional holiday leave for Board employees as set out below:

Close at noon, Wednesday, November 21, 2012

Closed all day, Monday, December 24, 2012

Closed all day, Monday, December 31, 2012

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. Randall, seconded by Mr. Trala, that Mr. David Kabler be reappointed to the Northampton County Recreation Board for a term of office expiring December 31, 2015. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Hubbard, seconded by Mr. Randall, that Mr. Bill Shockley, Ms. Carmie Duer and Mr. Dave Harris be reappointed to the PDR Committee for new terms of office commencing January 1, 2013. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Hubbard, seconded by Mr. Randall, that the Board authorize the County Administrator and the County Attorney to negotiate a renewal of the lease with Mr. George Drummond for the EMS office space. All members were present and voted “yes”. The motion was unanimously passed.

At the request of Mr. Trala, it was the consensus of the Board to request the Virginia Department of Transportation to review drainage issues on Virginia Street in Exmore.

At the request of Chairman Bennett, it was the consensus of the Board to work with the County of Accomack on the issue of ditch maintenance and the possible use of Accomack’s “spider” equipment.

Following a question from Chairman Bennett with regard to properties being acquired through the delinquent tax auction events which could not be found, the County Administrator advised him that her office would be glad to research this matter pending receipt of the appropriate documentation.

At the request of Mr. Trala, it was the consensus of the Board to request a report on the numbers and status of derelict structures located on Rt. 13.

Motion was made by Mr. Randall, seconded by Mr. Trala, that the Board request a speed study on Courthouse Road (in front of the Administration Complex). All members were present and voted “yes.” The motion was unanimously passed.

Mr. Hubbard notified the Board that the Town of Eastville will be submitting a boundary adjustment in the near future. He also noted that the Town of Eastville will be commencing stricter speed enforcement in the vicinity of the Courthouse. Mr. Hubbard also mentioned a request from the Town for a formal water and sewer agreement; Ms. Nunez responded that the Town should submit a written request in this regard.

At the request of Chairman Bennett, the County Administrator was directed to request a status report from the Town of Eastville concerning the condition of the 1899 small jail and the 1914 old jail buildings.

(15) Mr. LeMond – Director of Development

Mr. LeMond said that he felt that the job title of the new department head should be “Director of Economic Development” instead of “Director of Development”, noting that, to him, the two titles do not convey the same meaning. The rest of the Board members concurred but all indicated that the job description did accurately reflect the skills sought in the position.

(16) Mr. Randall – discussion of industrial development authorities and economic development authority.

The County Administrator shared the following memorandum with the Board:

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: October 2, 2012
RE: Discussion regarding the Industrial Development Authority(ies) and potential creation of a new Economic Development Authority

Pursuant to a request from Supervisors Randall and LeMond, I am supplying you the following

information to assist in the discussion regarding our existing IDAs and the possibility of forming a new EDA.

Joint Industrial Development Authority of Cape Charles-Northampton County

The first IDA formed by the County was by ordinance on June 5, 1972 and called the Joint Industrial Development Authority of Cape Charles-Northampton County. The ordinance provided for this authority to have all of the powers of the Code of Virginia as provided in the Industrial Development and Revenue Bond Act (Chapter 33 of Title 15.1 which has since been re-organized and is now known as Chapter 49 of Title 15.2). As required by the Code of Virginia, there are 7 directors; however, there was no language included in the forming ordinance to indicate how many directors were appointed by the County vs. the town nor was there any language dictating that appointments were to be made in accordance with magisterial districts or voting districts. The assumed primary purpose for the formation of this IDA was to serve as a financing vehicle for Northampton-Accomack Shore Memorial Hospital and subsequent medical facility construction needs but this does not preclude this IDA from exercising all of the powers granted under the Code of Virginia.

My office has now reviewed the entire outstanding bond obligations issued through this IDA and cannot locate any outstanding bond obligations. There had been several bonds issued in the mid 1990's through this IDA but they were paid off as part of a refinancing that occurred first in 2002 which was issued through the County's other Industrial Development Authority. Subsequent to the 2002 refinance, once Shore Memorial Hospital entered into an affiliation agreement with Riverside, they initiated and completed another refinance of the 2002 refinance bond which was executed on May 28, 2010, again through the County's other Industrial Development Authority.

The current directors of this IDA are: Stewart Sturgis, Stephen Warren, Charlie Dickinson, George Gowen, Jr., William Hughes, Dr. Drury Stith and one vacant slot.

If the Board wishes to consider dissolution of this authority, it would have to be in compliance with Section 15.2-4914, "Dissolution of authority; disposition of property" which states:

"Whenever the board of directors of the authority by resolution determines that the purposes for which the authority was formed have been substantially complied with and all bonds theretofore issued and all obligations theretofore incurred by the authority have been fully paid, the then members of the board of directors of the authority shall thereupon execute and file for record with the governing body of the locality which created the authority, a resolution declaring such facts. If the governing body of the locality which created the authority is of the opinion that the facts stated in the authority's resolution are true and that the authority should be dissolved, it shall so resolve and the authority shall stand dissolved. Upon such dissolution, the title to all funds and properties owned by the authority at the time of such dissolution shall vest in the locality creating the authority and possession of such funds and properties shall forthwith be delivered to such locality."

Therefore, a meeting of the Board of Directors of this IDA would need to meet and make said declarations as stated in the Code and then file that with both Northampton County and the Town

of Cape Charles would need to accept this declaration and vote a resolution to dissolve this IDA. The statute does not specifically state that a public hearing is required to accomplish this but I would recommend that approach since it comports with how we create, amend or dissolve other ordinances of the County.

Joint Industrial Development Authority of Northampton County and its Incorporated Towns

The second IDA was formed on March 21, 1995 and subsequently amended on February 14, 2000 and is composed of the County and the towns of Exmore, Cheriton and Cape Charles. The ordinance creating this authority was more comprehensive, especially in addressing the appointment of directors by its respective political subdivisions. The ordinance provides for this authority to have the full authority as allowed under the Code of Virginia, Section 15.2-4905.

The current directors of this IDA are: Mark Bundy, William Parr, Stephen Warren, Charlie Dickinson, William Hughes, John Burdiss (Cape Charles appointment), Norma Spencer (Cheriton appointment), and a vacant slot (Exmore appointment). Please note that the ordinance contains provisions when a town appointment is not made that allows the Board of Supervisors to make said appointment.

This IDA does have remaining financial bond obligations that preclude its dissolution in accordance with Section 15.2-4914. These bond obligations are as follows:

1. May 28, 2010 – Riverside Shore Memorial Bond Refinancing in the amount of \$5,440,067.57. These bonds are set to be fully paid by May 1, 2015.
2. 2003 Bond Series – Northampton County Schools Qualified Zone Academy Bonds (QZAB) in the amount of \$2,142,167. These bonds are set to be fully paid by December 21, 2018.
3. 2006 Bond Series - Northampton County Schools Qualified Zone Academy Bonds (QZAB) in the amount of \$2,214,428. These bonds are set to be fully paid by December 28, 2022.

Other Information for Consideration

From the presentation that was made by Sandi McNinch, General Counsel of the Virginia Economic Development Partnership, at the Board work session on September 24, 2012, I wanted to ensure that the Board is aware of 2 items that may not have been conveyed through that presentation.

The first is that, pursuant to Code of Virginia Section 15.2-4903 (B) and (C), the name of this type of entity can be either an Industrial Development Authority or an Economic Development Authority. The name must be specified in the ordinance of creation and so adopted; therefore, the Board could consider re-naming Joint Industrial Development Authority of Northampton County and its Incorporated Towns to reflect its purpose as an Economic Development Authority – it would require amending the IDA ordinance at the county level and at each of the participating towns. I have enclosed a copy of the Code of Virginia that details the scope of

authority provided to an IDA/EDA. The County currently has an authority in place that has been minimally utilized since the sale of the Sustainable Technologies Industrial Park (STIP) that can easily be re-engaged without requiring the creation of a new authority.

The second is to clarify that the existing Joint Industrial Development Authority of Northampton County and its Incorporated Towns has not been solely utilized as a financing agent for governmental and educational projects for Northampton County. As stated above, the Joint IDA has been utilized by our medical community (these financings provide a modest amount of administrative revenue to the IDA) and has been used by other organizations, such as Virginia Wesleyan College and UJFT Community Capital, LLC (these borrowings were paid off in May 2007 and April 2006, respectively).

* * * * *

Following discussion by the Board and Ms. Nunez, motion was made by Mr. Randall, seconded by Mr. Hubbard, that the Board move ahead with the process as outlined above for the elimination of the older IDA and the renaming/reissuance of new charge for the second IDA to become an economic development authority. All members were present and voted “yes.” The motion was unanimously passed.

Recess:

Motion was made by Mr. Randall, seconded by Mr. Trala, that the meeting be recessed until 5:00 p.m., Monday, October 22, 2012, at 16404 Courthouse Road, Eastville, Virginia, to conduct the regular monthly work session. All members were present and voted “yes.” The motion was unanimously passed.

The meeting was recessed.

_____CHAIRMAN

_____ COUNTY ADMINISTRATOR