

VIRGINIA:

At a regular meeting of the Board of Supervisors of the County of Northampton, Virginia, held in the auditorium of the former Northampton Middle School, 7247 Young Street, Machipongo, Virginia, on the 14th day of December, 2010, at 4:00 p.m.

Present:

Laurence J. Trala, Chairman

Willie C. Randall, Vice Chairman

H. Spencer Murray

Oliver H. Bennett

Richard Tankard

Samuel J. Long, Jr.

The meeting was called to order by the Chairman.

Closed Session

Motion was made by Mr. Murray, 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

EMS

Solid Waste

(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.

All members were present with the exception of Mr. Long and voted “yes.” The motion was unanimously passed.

Mr. Long arrived during the closed session at 4:03 p.m.

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 paragraph 1 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.

Mr. Bennett offered the invocation.

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) Dr. Rick Bowmaster, Division Superintendent, Northampton County Public Schools, provided the Board with a written report detailing enrollment, the Annual Report to the Community and the National Board Teacher Certification Program.

Mr. Murray asked for the status of the FY 10 audit. Dr. Bowmaster replied that part of the remaining funds from FY 10 are on the Board’s agenda for consideration tonight.

Chairman Trala recognized School Board Vice Chair Mickey Merritt who responded to the Board’s request from last month that the School Board revisit the idea of across-the-board bonuses for certain staff with funding from the “Jobs Bill Funding” program. He called the 2.5% bonus a “one-time cost-of-living” adjustment, noting that it was the “right thing to do” and urging the Board to allow the transfer of funds as something that the school board staff deserve.

Consent Agenda:

(2) Minutes of the meetings of November 10 and 22, 2010.

(3) Consider approving the Abstracts of Votes Cast in the November 2, 2010 General Election and spreading same upon the minutes of this meeting.

Motion was made by Mr. Tankard, seconded by Mr. Long that the Consent Agenda be approved in its entirety. All members were present and voted “yes.” The motion was unanimously passed.

County Officials’ Reports:

(4) Ms. Glenda Miller, Director of Finance, distributed the following Budget Amendment and Appropriation which stated in part:

“The Sheriff has requested \$38,187 in funds be transferred from his inmate telephone commission fund balance to the Eastern Shore Regional Jail Operating Fund for the purchase of a van for prisoner transport. Correspondence from the Sheriff and Captain Kennedy is attached.

“A registration fee reimbursement of \$175 will be appropriated back to the Board of Supervisors’ budget, and a reimbursement of \$775 from the Department of Corrections will be reappropriated in the jail budget for prisoner release fees.”

| <u>Account Number</u> | <u>Account Description</u> | <u>Increase</u> | <u>Decrease</u> |
|-----------------------|------------------------------------|-----------------|-----------------|
| 225-3302-58650 | Motor Vehicles & Equipment | 38,187.00 | |
| 225-0044-48050 | Transfer from Forfeited Asset Fund | 38,187.00 | |
| 220-9600-57075 | Transfer – ESRJ Operating Fund | 38,187.00 | |
| 220-0045-49000 | Appropriated Fund Balance | 38,187.00 | |
| 100-1101-51800 | Travel – Tuition & Registration | 175.00 | |
| 100-0019-42400 | Recovered Costs – General | 175.00 | |
| 225-3302-51750 | Travel – Meals & Lodging | 775.00 | |
| 225-0019-42400 | Recovered Costs – General | 775.00 | |

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Motion was made by Mr. Tankard, seconded by Mr. Murray, that the Board approve the budget amendments and appropriations as set out above. All members were present and voted

“yes.” The motion was unanimously passed.

Ms. Miller then distributed a second memorandum which stated in part,

“I have attached a request from the School Board for the appropriation of \$241,58 in the County’s allocation of Federal Education Jobs Funding (a total of \$373,814) for funding 2.3% bonuses to eligible employees of the School Board. This request was tabled at the November work session. A total of \$55,747 was appropriated at that meeting in order to fund a partial year of costs for an additional Pre-K class in FY 11.

“Also attached is a second request for the appropriation of the 2010-2011 Career and Technical Education – Jobs for Virginia Graduates Grant in the amount of \$21,000.

“A third request from the School Board proposes the reservation and appropriation of unused funds from FY 10. The School Operating Fund returned a total of \$531,573 in unused funds at June 30, 2010 to the County’s General Fund Balance. The School Board has submitted a request to have the entire amount transferred back to the School Operating Fund. The request would reserve funds in the amount of \$203,000 for future sick leave retiree payouts. There is also a request to reserve a total of \$218,573 for t he FY 12 budget to prepare for the transition away from available stimulus funding. These funds would be transferred from the General Fund and budgeted in contingency. Also included is a proposal to appropriate \$50,000 for fuel, \$45,000 for dual enrollment and \$15,000 for the Superintendent search in the current (FY 11) budget. These funds would also be transferred from the General Fund Balance and appropriated in the corresponding categories.”

| <u>Account Number</u> | <u>Account Description</u> | <u>Increase</u> | <u>Decrease</u> |
|-----------------------|-----------------------------|-----------------|-----------------|
| 910-0025-43660 | Jobs for Virginia Graduates | 21,000.00 | |
| 910-6000-56555 | School Instruction Expenses | 21,000.00 | |
| 920-0034-45135 | Education JOBS Allocation | 241,158.00 | |
| 920-6500-55746 | Education JOBS Programs | 241,158.00 | |
| 910-6200-56570 | School Pupil Transportation | 50,000.00 | |

| | | |
|----------------|------------------------------------|------------|
| 910-6000-56555 | School Instruction Expenses | 45,000.00 |
| 910-6100-56560 | School Admin., Attendance & Health | 15,000.00 |
| 910-6000-59900 | Contingency | 203,000.00 |
| 910-6000-59900 | Contingency | 218,573.00 |
| 910-0044-48000 | Transfer from General Fund | 531,573.00 |
| 100-9600-56950 | Transfer – School Operating | 531,573.00 |
| 100-0045-49000 | Appropriated Fund Balance | 531,573.00 |

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With regard to the first request for \$241,158.00, Mr. Murray stated that he recognized the pitfalls of any merit pay system but believed that they are ways in which we can creatively award our best teachers. He was also concerned that we were still dealing with unaudited figures (a draft audit was later delivered) and noted that we do not have to spend these funds now. He felt that these funds may be needed in order to keep teachers or programs in place next year.

Mr. Tankard reiterated those comments by noting that the State may continue to cut local funding and that these funds in question may come in handy by preserving jobs. Indications are that funding will be even less next year.

Mr. Bennett said that these funds consisted of federal money – not local money – and did not see why we should wait to expend them, calling it an incentive to the staff and system. Mr. Long responded that federal funds are indeed local funds – everybody that pays into the federal government contribute to these funds – and that he was concerned about the precedent we would be setting with funds being perceived as “free money”.

Mr. Randall said that it was important to realize that school staff have not had a pay raise in three years and that the Board should consider the time spent by the staff in the district. In addition, these funds would be spent locally to help boost our local economy. He said that the Board needed to start looking at the morale of our teachers and would see better performance if bonuses are authorized.

Mr. Trala said that there would be no better incentive than to grant this request.

Mr. Tankard said that it is wiser to reward the best rather than provide across-the-board rewards.

Mr. Murray commented that the \$241,000 in question represented almost one-cent of our tax base and hoped that we would not have to raise taxes next year for the whole county. He urged the Board to retain the funding until later.

Motion was made by Mr. Bennett, seconded by Mr. Randall, that the budget amendment and appropriation be approved as requested. Mr. Bennett, Mr. Randall and Mr. Trala voted “yes”; Mr. Murray, Mr. Long and Mr. Tankard voted “no.” The motion failed.

With regard to the second request for \$21,000, motion was made by Mr. Murray, seconded by Mr. Bennett, that the budget amendment and appropriation be approved as requested. All members were present and voted “yes.” The motion was unanimously passed.

With regard to the third request for various uses of the \$531,573 remaining from FY 10, the Board acted on the individual items as follows.

Motion was made by Mr. Murray, seconded by Mr. Bennett, that the budget amendment and appropriation for \$203,000 for future sick leave retiree payouts be approved as requested. All members were present and voted “yes.” The motion was unanimously passed.

With regard to the request for \$218,573 being reserved for the FY 12 budget, Mr. Tankard said that this would circumvent the public hearing process and that none of the \$531K is being proposed for placement in the Capital Plan as has been done in the past when there were funds remaining at the end of the fiscal year. Mr. Murray agreed, noting that leaving the \$218 in the County’s General Fund for later appropriation would allow the School Board and the Board of Supervisors the most flexibility as well as the public to later express its views on allocation of

the funds. Mr. Tankard continued by saying that he would rather not tie the Board's hands now and urged the Board to let the funding remain with the County.

When questioned by Mr. Randall, Mr. Tankard responded that the funds would not be earmarked for school purposes but would remain in the undesignated fund balance of the County. Mr. Bennett confirmed that the funds must be appropriated prior to being spent for any purpose. Ms. Miller noted that the auditors have indicated that they believe the most appropriate location for the funding is to be shown as part of the County's Fund Balance. Ms. Nunez agreed, noting that this was the language contained in the FY 2011 Appropriation Resolution adopted by the Board last June.

Motion was made by Mr. Tankard that the request from the School Board for amendment and appropriation of \$218,573 be denied and that the funding should remain in the County's General Fund for appropriation at a later date. The motion failed for lack of a second.

Mr. Randall noted that staff needs to make a foot note that the \$218,573 should be part of the School's appropriation for next year so as to keep those funds from getting "mixed-up" with the County's funds.

Motion was made by Mr. Murray, seconded by Mr. Bennett, that the \$218,573 remain in the County's General Fund and be appropriated/earmarked for the FY 2012 budget (as part of the base contribution for the School System). All members were present and voted "yes." The motion was unanimously passed.

Motion was made by Mr. Tankard, seconded by Mr. Bennett, that the budget amendments and appropriations for \$45,000 (dual enrollment) and \$15,000 (Superintendent search) be approved as requested. All members were present and voted "yes." The motion was unanimously passed.

With regard to the request for budget amendment and appropriation of \$50,000 for fuel, motion was made by Mr. Tankard, seconded by Mr. Murray, that this request be denied. All members were present and voted “yes,” with the exception of Mr. Trala who voted “no.” The motion was passed. Mr. Tankard noted that funds should not be put into the Fuel Budget at this point in the budget year but could be considered later in the fiscal year.

Mr. Tankard distributed a chart indicating School Operating Fund Year-End Surpluses for the last three fiscal years (FY 08 - \$227,000; FY 09 - \$377,000; FY 10 - \$531,000). He stated that this justifies extra scrutiny by the Board of Supervisors.

(5) In the absence of Ms. Sandra Benson, Director of Planning, the County Administrator presented that departmental update which included activity reports for the following projects: Board of Zoning Appeals, Staff Activities, Town Edge Planning, Northampton County Planning Commission and Comprehensive Plan Review. Mr. Bennett requested information on TMDL and the County Administrator agreed to provide same.

The Board recessed at 6:30 p.m. for a dinner break.

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

The Pledge of Allegiance was given.

(6) Ms. Katie Nunez, County Administrator, presented the following work session agenda schedule for the Board’s information:

- (i) 12/27/10: Work session – *Cancelled*
- (ii) 1/24/11: Work session – Joint Meeting w/ School Board re: School’s Capital Plan
- (iii) 2/28/11: 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: December 9, 2010

RE: Bi-Monthly Update

I. PROJECTS:

A. Regional wastewater/water projects- Subcommittee Report:

A community meeting was held for the Fairview neighborhood to apprise them of the specifics of the Southern Node project and to solicit their input on the community surveys.

DEQ State Water Control Board was meeting on December 9 to act upon the funding list from the Revolving Fund Program – I will have an update at your meeting. Staff was recommending the inclusion of our project on the funding list.

The next Project Management Team meeting is currently scheduled for Wednesday, December 22 @ 7:00 p.m. but this may be altered due to holiday.

The next Public Service Authority meeting is Tuesday, December 21 @ 7:00 p.m.

Ms. Nunez read comments received from Mr. William Hughes with regard to this project as are set out below:

MEMORANDUM for the Northampton County Board of Supervisors

FROM: William A. Hughes

SUBJECT: Wastewater Treatment System

As a resident of Fairview, Virginia, I am writing to express my personal opinion and concerns regarding the issues surrounding the proposal of a mandated wastewater treatment system for Fairview residents.

For several years Fairview has received and utilized grant monies to rehabilitate and or construct 34 homes, to install 12 new septic systems and 14 wells in Fairview proper. Presently there is a push to get a countywide system with Fairview as a targeted community.

The citizens of Fairview do not want nor can they afford to have this treatment system constructed. We are an elderly community predominantly living on social security, welfare and otherwise fixed incomes. Any additional monthly expenses could very well require securing a second mortgage (which based on the economic conditions of Fairview residents would be problematic) and the very real eventuality of the loss of property. Additionally, many of these properties are headed by single females. Further indication that proceeding in the proposed manner has not been sufficiently researched is identified in the October 28, 2010 Cape Charles Town Hall meeting minutes where the fact that the monthly costs to be imposed on our residents

cannot yet be determined.

The idea of groundwater contamination by septic systems in Fairview, while promulgated as a basis for this proposal, has not been proven and in the unlikely event that it would be, less costly environmentally friendly corrective methods such as installation of new septic systems is a more viable solution than that currently proposed. An engineering report, currently on file in Eastville, Virginia, concluded that salt water intrusion is a greater danger than septic systems.

There is a critical need for Fairview and other communities to have relief from storm water drainage. That relief however, should not put residents at risk in other social economic areas as this current proposal would do.

I request that this memorandum be read into the minutes.

Sincerely,

signed
WILLIAM A. HUGHES

cc: Katherine H. Nunez, County Administrator
Willie Randall, District 1 Supervisor

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At this time, Mrs. Roberta Kellam, member of the Northampton County Planning Commission and also a member of the State Water Control Board, was recognized and provided an update to the Board on the 12/9/2010 meeting of the SWCB. She noted that the SWCB has approved a loan to Northampton County for \$10,920,746 at 0% interest for a 20-year term. She noted that three speakers addressed the SWCB and raised concerns of environmental impact and cost effectiveness. Those three speakers were G. F. Hogg, Jr., Bob Meyers, and Andrew Barbour. The speakers noted that there was a lack of data to support the project and the claim of groundwater contamination from septic systems. They also indicated that portions of the application were erroneous.

Mr. Murray said that he had been very clear from the beginning that this project should not be consultant-driven – it should be need-driven – and financially sound. He said that we have not agreed on the need or the science as to the real threat to our aquifer.

Mr. Tankard asked Mrs. Kellam about the public notification procedure for this grant and was told that notice had been provided to the County Administrator and that the projects are generally vetted locally before getting to the state level.

B. Construction Projects – Status Reports:

1.) County Administration Renovations:

The Geothermal Well Installation Contract has commenced. As of Monday, December 6, 2010, 18 of the 84 wells have been installed.

As soon as the geothermal well installation is complete, then the general contractor, Armada Hoffler, will commence their renovation work on the building. (*anticipated to be January 17, 2011*)

2.) Court Services/Probation Services Construction:

PMA, Inc. and County staff met with representatives from Armada Hoffler to value engineer the project and determine additional modifications to the scope of work to bring the project with our construction budget. We are anticipating having a final construction cost for the Board's approval on Tuesday at your meeting.

3.) Cheapside Waste Collection Center Construction: The project is substantially complete. We have advertised the waste collection attendant vacancies and are ramping up to open the site between January 2–15, 2011. Ads will be placed in the local papers indicating when the site will be opened and the green box site in Cheapside will be closed. Signage will also be placed at the green box site in Cheapside with this information also.

4.) Indiantown Park Soccer Field & Parking Lot Improvements: The soccer field work is completed; seeding of the field did have several days of warm weather before this cold spell hit so we will continue to monitor the grass conditions in early spring to see if we will need to re-seed. The playground equipment has been installed and the edging and mulch for the playground area was installed. Work is ongoing in the interior of the building and will continue throughout the winter.

C. Economic Development Contract – Chamber:

Several of the work products from our contract with the NC Chamber of Commerce are completed and some of them have been in effect for the last few months being “road-tested”.

1) Creation of Fact Sheets regarding key zoning processes for public information. These are available in the Planning & Zoning staff and are intended to provide basic information about the following: Zoning Clearance, Special Use Permit, Sign Permit, Variance, and Zoning Map Amendment.

2) Staff, with input from the Chamber, revised the zoning application to address several critiques: “The County doesn’t tell me everything I

need to do”; “Not sure I am submitting everything needed to satisfy the County”; “Zoning Ordinance is too difficult to know what I need to do”.

This document is still a work-in progress as we receive feedback from the public in the use and understanding of the application. The general thought process is to provide a comprehensive application with Sections A thru O that may or may not need to be completed, dependent upon the project being considered. Checklists have been developed to accompany each section of the application so that an applicant is aware of what must be submitted for an application to be considered complete.

Throughout this paperwork, we stress the importance of meeting with the Zoning Staff to discuss their project to ensure they are moving in the appropriate direction as to the approvals needed for their project.

Any comments or suggestions from the Board on these forms are appreciated.

- 3) Through the Chamber, we created a Vital Statistics Sheet which provides a quick snapshot of the county. This document will be used in marketing materials for the County and will be shared with the State for use at trade shows. I will be working with the Chamber to develop a targeted marketing mailing list of industries and companies that we will be focusing our attention on for outreach efforts.
- 4) Through the Chamber and County staff, we have developed a Business Guide that provides the general requirements at the federal, state and local level to open and operate a business in Northampton County. This has not been available yet while some of the forms referenced in the guide are being updated. We are looking to distribute this document in January 2011. This will be available at the County office as well as the Chamber office and will become part of our marketing materials.
- 5) I am still working with the Chamber on finalizing the remaining marketing pieces: an Employee Relocation Guide and 3 industry-specific marketing sheets. These should be finished by mid-January.

D. EMS Study:

In response to the Board’s request for a comprehensive review and study of our EMS services, the Office of Emergency Medical Services has responded that they their office typically participates in a comprehensive EMS & Fire Services Study which is conducted through the Fire Services Board. Due to limited funding constraints, they feel it would be difficult to provide this

limited study and would recommend that the County consider requesting the full study.

Therefore, I am requesting the Board to amend your vote from the November 22, 2010 Work Session to request a full study for both EMS and Fire Services from the Fire Services Board.

Motion was made by Mr. Murray, seconded by Mr. Tankard, that the Board request a full study for both EMS and Fire Services as recommended by the County Administrator. All members were present and voted "yes," with the exception of Mr. Trala who voted "no." The motion was passed.

Mr. Long indicated that there was a perception on the volunteer fire community that this study was a "power-play" on the part of the Board. He stressed that the Board communicate to the volunteer agencies how much they are appreciated and that the comprehensive study would provide needed information.

E. Governor McDonnell's Commission on Government Reform & Restructuring: In compliance with Executive Order #2, the Commission on Government Reform & Restructuring submitted its report outlining over 130 recommendations and observations to improve the efficiency and transparency of state (and to some extent, local) government. There are several recommendations that would impact local government and the manner in which we provide services. I have highlighted the ones that would impact either services or funding and will require diligence during the upcoming legislative session to track and offer our perspective of the pros and cons of implementation of a particular recommendation.

II. MEETINGS

III. GRANT OPPORTUNITIES

IV. OTHER

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Citizen Information Period:

Mr. Vincent Conroy shared with the Board a chart of municipal water systems vs. residential septic systems and his belief that residential systems posed the lesser environmental impact.

Mr. Bob Meyers submitted in writing comments he had made at the referenced State Water Control Board meeting and requested that they be made a part of the record. The comments are set out below.

“TO DEQ State Water Control Board
Richmond
Cindy.berndt@deq.virginia.gov
FOR Public Record Dec 9, 2010

Re: Virginia Clean Water Revolving Loan Fund
FY2011 Financial Assistance

Eligibility Issue for request from Northampton County, #16 on DEQ loan list.

There are two issues of which the SWCB needs to be aware.

1. The requestor, Hurt & Proffitt on behalf of Northampton County has omitted critical information from the DEQ requirement for economic analysis in the DEQ Manual Chapt II C.2. By doing so, they have severely biased their request in favor of the grant.

Accomack-Northampton Planning District Commission (ANPDC) is currently prepared for loans to renovate 75% of the low income homes shown in one community of the planned area. The project will ensure that all homes are fully compliant with VDH well and septic system requirements. The VDH compliance will be accomplished with less than 1/50th of the proposed funding you are considering today. That is a more cost effective use of taxpayer’s money. In addition, ANPDC works through a financial plan with every homeowner to assure that the loans can be repaid without bankrupting the families. The DEQ reviewing authority could have verified this information if they had conscientiously evaluated the applicant’s information.

In another area, Hurt & Proffitt together with Mr. Robert Panek seem to be prepared to use the Cape Charles sewage system to subsidize the wealthier residents of Cape Charles by charges made to the low income families outside the town. From Mr. Panek’s report to the Cape Charles Town Council as shown in their Minutes, October 28th: “Even at \$150K/year it would be a benefit to Cape Charles since it would be a revenue source outside of the rate payers and the Town could possibly reduce the rate paid by Cape Charles users.” This is referencing the processing charges to be made to the elderly and low /income residents outside Cape Charles boundaries.

A letter by Senator Northam to Director Paylor was composed from information provide to his aide by Mr. Panek. According to Northam’s aide in a phone conversation with me, the Senator’s comments were based solely on information and opinion provided to him by PSA Member Robert Panek. In addition to being the Town’s appointed PSA member, Mr. Panek is a paid consultant for the Town of Cape Charles. He presumably has both a professional and an employment/financial interest in this project.

The Senator's aide prepared the letter using incomplete and inaccurate information, and the same outdated data given to him by Mr. Panek, which the consultants had submitted in the grant request. He also indicated the Senator would not have given support if he had been made aware of the permanent burden the ever growing sewage costs would place on the backs of those who could least afford it.

2. The environmental review also required in the DEQ Manual Capt. II C.1. has been biased toward receiving the grant by omitting current information.

At the Oct. 13th funding agency meeting here, the primary reason that Walter Gills from DEQ-Construction Assistance Program and Carrie Schmidt from USDA stated for Northampton's ability to qualify for funding was to protect the sole source aquifer from septic system contamination. Although there have been several requests locally to provide evidence of this contamination from those who generated the request and an attempt by a DCR directed team to identify specific warm-blooded sources of contamination, no evidence has been forthcoming.

At the Northampton Board of Supervisors public meeting on 10 November, a Supervisor stated, :”On July 13th of this year, I challenged the engineering firm, (Eldon James from Hurt and Proffitt was here representing them at the podium) to do its homework and create a cost/benefit analysis that would utilize concrete data that could document the extent of environmental degradation in the area as well as the specific whereabouts of known failing systems.

Four months later, no progress has been made on this. The application is riddled with wording such as ‘A number of these units have been identified as failing’, or, ‘many septic tanks are’, or, ‘Some houses are still served by pit privies’, or this, “The overall goal of the project is to improve water quality in the Chesapeake Bay watershed and King’s Creek by replacing up to 495 failing or questionably functioning on-site septic systems.’ Four months ago I challenged the engineers to find just 25 failing septic systems. They have not.”

The grant application references outdated government agency studies using old testing methods for which scientists from VIMS and other laboratories will no longer give credence. Dr. Margolius from VDH, on the Eastern Shore provided a “To Whom It May Concern” letter, submitted with the grant request that made allegations of failing septic systems and pit privies threatening the drinking water sources. None of his statements on this matter have been substantiated. His representative James Davis from VDH has been asked several times to substantiate Dr. Margolius’ assertions, and he either cannot, or chooses not to, provide any data. **In fact, his agency, VDH, today approves wells and septic systems constructed to their standards to be within 100 feet of each other.**

A letter submitted by Mr. Laurence Trala referenced a 1992 study as supporting justification for the funding. Later studies published about 2004 were ignored. Even the data in those later studies is indicative of very poor science with extremely improbable results. The pollution sources for three different creeks in three difference watersheds have exactly the same percentage of the same pollutants to the tenth of a percent. The odds of that happening might be fairly compared to winning the Virginia lottery.

Your own internal DEQ reviewing authority, the Construction Assistance Program, has ignored the latest NOAA geological field work in Northampton County which clearly contradicts the biased documents chosen by the applicant. DEQ has experts who are very knowledgeable in this field and who are abreast of the current information. Tammy Stephenson, Supervising Program Coordinator, DEQ Office of Surface and Ground Water Supply Planning, participates frequently in seminars on this subject with the Eastern Shore Ground Water Committee.

In summary, the documentation selected to support providing this project is indicative of using outdated government information to provide a clear bias in favor of granting a large sum of taxpayer's money. You should also be aware that Mr. John Warwick, who entered a guilty plea on February 10th, was participating in the development of this application, according to meeting minutes, until he became a guest of the DOJ on June 25th.

Ref: <http://www.justice.gov/opa/pr/2010/June/10-crm-750.html>

The DEQ system for reviewing this request has made it apparent that it is severely lacking in expertise to properly evaluate the wide range of information it is given. It has also demonstrated that the effort to properly verify the data it receives using available internal DEQ sources is insufficient or nonexistent. DEQ is not meeting its own Manual Requirements for providing funding. With this shortcoming, DEQ falls easy prey to those seeking government funds using questionable data for financial gain.

I urge you to deny this funding.

Please enter this letter into the PUBLIC RECORD.

Thank you,

R H Meyers
Resident, Northampton County
757-442-3814/757-710-0154

Member, DCR TMDL team for Kings Creek
Member, Accomack-Northampton Ground Water Committee
Member, Northampton County Wetlands Board
Member, Northampton County Planning Commission
Chmn., Eastern Shore of Virginia Public Service Authority

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Ms. Joanna Frescoln complimented the County on its solid waste collection centers and recycling efforts and requested that the County consider opening the sites during the middle of the day as well as recycling of tires.

Mr. John Green, representing the United Coalition of Fairview, presented a petition with 34 signatures of residents, indicated that the citizens of Fairview do not find it in their best interests to participate in the proposed wastewater treatment project.

Mr. G. F. Hogg, Jr., made the following comments:

“My perspective on the State Water Control Board Meeting

To my knowledge and based upon the received date stamp of the FY11 VRLF Application, Hurtt and Profitt submitted the application to Mr. Gill's office, July 16, 2010. Mr. Gill, USDA, DHCD and others were present at a Project Managers Meeting, October 13, 2010, discussing financing of the project. At the State Water Control Board meeting on Thursday, Dec. 9, 2010, Mr. Gill defended the "request for approval of the loan" by stating he nor his staff had reviewed the application. After Mr. Gill's comments I really wanted to ask many of the questions of Board members but the comment period was over. Mr. Gill's request for funding of a \$11 M project without reviewing the application reminds me of Congress voting on Bills they never read or comprehended the effect of legislation.

I am not aware of his job description, however, in my view, by his action of requesting PUBLIC LOANS/FUNDING, Mr. Gill has or should have VERIFIED/certified justification for such appropriations. If, by his own admission, he nor others within his department have FAILED TO review this application; then Mr. Gill is GROSSLY NEGLIGENT in his position. His actions call into question HIS ETHICS, the ETHICS OF THE DEPARTMENT and border, if not cross the line of FRAUD. This lack of accountability is disturbing and brings into question the request for the other \$164 M in loans.

I am further amazed at the support he received from the Board after his acknowledgement of a lack of performance of his duty.

One might make the case, the application should have been in order prior to its delivery. This is true. Questions previously asked on **where were the failing septic systems and privies located** have not been answered. The application indicates King's Creek is contaminated by fecal coliform bacteria. Northampton County has been presented information that **the stormwater discharge from Northampton County's Bayview Trash Collection Station is a major contributor to the Fecal Coliform issue in King's Creek** as well as other establishments that attract wildlife. (Photos of the Quantities of Fecal Coliform) It was stated at the SWCB meeting, **"We know we have a problem with "POOP", the question is who's and where is it coming from?"** Ms. Benson of Northampton County has requested funding to identify the source, but have not received anything. Recently the Board and Town of Cheriton applied/diverted funds intended to repair individual septic systems and potential funding to determine problem areas and use for construction or other purposes. Pollution from the upper aquifer in the project service area drains directly to this creek and **COULD LIKELY BE A SOURCE OF THIS POLLUTION**. There has been no verification of this statement. The application indicates "... sewer services aim to help solve as many problems and as possible..." There has been an inquiry, **What and where are the problems?** In the continued Section E, Para. 1, 2nd sentence, (Critical Groundwater Area) "The purpose of this action was to protect the

groundwater from localized groundwater contamination and **prevent the limited aquifer sources from being overdrawn.**" Northampton County has been made aware of locations where developers have installed drainage pipes in the upper groundwater aquifer where groundwater continuously flows into bayside creeks which has a negative effect on the salinity level that is needed to propagate clams and other mollusks. **To date there has been no action taken to resolve that issue.** There is discussion that public sewer as of 1990 serves less than 15% and that others are served by cess pools and privies. What has Exmore been doing? What has ANPDC spent millions of taxpayer dollars on? **What have we been doing for the last 20 years?** Should Northampton County be submitting an application using 1990 data? While there are different methods of projecting population growth, Va. Employment Comm. by the Cohort Method predicts a population decline not an increase. These are some of the inconsistencies in the application that have been noted.

In defense of the consultant, Hurt and Proffitt, there have been several occasions when the response has been made, "WE WERE NOT TASKED WITH MAKING THAT DETERMINATION OR GATHERING OF THAT DATA". Although the PSA has requested Northampton County to define what the consultant was tasked to perform. As a member of PSA, I do not recall receiving any information on the tasks or the contract between Northampton County and Hurt and Proffitt.

In defense of Mr. Gill, there is in Section K - ASSURANCES AND CERTIFICATIONS, "... the information contained herein and the attached statements and exhibits are true, correct and complete to the best of their knowledge and belief." It has been signed by Northampton County. Although implied, the application didn't state that it had to be "**CURRENT OR UP TO DATE**"

The fact that Mr. Meyers, as a citizen of Northampton County, is involved in county planning, groundwater, King's Creek water quality study, and participant in the Wastewater Project Management Team meetings, he has the opportunity to better view how the pieces meld. Regardless of the capacity in which he acted, he would be negligent if he did not bring these facts to light, for further review.

I might also add after the meeting in a conversation with Dr. Ellen Gilinsky, her position is "everybody needs a sewage treatment plant". We agreed that we had a difference of opinion. On the salinity issue and the installation of the stormwater detention pond drainage pipe into the upper groundwater aquifer, her position is that's a DCR issue, we at (DEQ) are doing everything correctly, it's their problem. From a novice point of view, Dr. Gilinsky is not following her Guidance Memo No. 09-2006, "**2010 Water Quality Assessment Guidance Manual**", Pg 13 of 97, Part III Rules for the 2010 Water Quality Assessment, Rule 2. In the mean time the ship sinks!

It is obvious the regulatory agencies need guidance. There has been no definition to the Water Quality Equation. As I sat in the State Water Control Board hearing I looked at the panel. There were lots of academicians and lawyers in the room that had lots of knowledge about how to measure their piece of "WATER QUALITY" but neither had much knowledge on "HOW TO GROW A CLAM".

HELLO, DOES ANYONE REMEMBER THE QUESTION?? With all the talk, WE LOST SITE

OF THE OBJECTIVE, ***IMPROVE THE WATER QUALITY OF CHESAPEAKE BAY!*** *This group does not possess the same definition of Water Quality.*

Resolution to discharge of Groundwater into bayside creeks

In my view, there are three (3) competing natural resources under three different departments supervised by the Secretary of Natural Resources. VMRC, for maintaining an environment conducive to the propagation of shellfish, DEQ for the withdrawal of groundwater from a critical groundwater area and discharging groundwater as a waste product from development, and DCR due to the approval of installation of the discharge pipe at an elevation below the seasonal high groundwater table, discharging freshwater into a saltwater environment thereby diluting the salinity below the level needed to propagate clams and other mollusks, CBLAB for not performing the required review due to the discharge over shellfish beds.

The best way to resolve the issue is for the Secretary of Natural Resources to identify a priority of which resource has the highest to lowest environmental value. How can we get the right person to look at the “BIG PICTURE” and arrange the individual pieces in logical order??????

As it currently stands, every department meets their own criteria, but in the “BIG PICTURE”, the combination of criteria leads to catastrophe, a ship named, “TITANIC”.

Granville Hogg
Cheriton, Virginia 23316”

Public Hearings:

Chairman Trala called to order the following public hearing:

(7) Consider leasing of the following described property, to-wit:

A. All that certain business premises located on the east side of U. S. Route 13 in the Town of Eastville, same being more particularly described as the first office from south to north in the Old Addison Building containing 1,008 square feet. The Board proposes to lease same to Hungar's Episcopal Parish.

B. All that certain parcel of land situated at or near Oyster, located southeast of a parcel owned by Joseph J., III and Claudia D. Restein. The Board proposes to lease same to Joseph J., III and Claudia D. Restein.

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

Both Mr. Tankard and Mr. Murray indicated that they were members of Hungar’s Church but felt that they would be able to vote on this matter fairly.

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

Motion was made by Mr. Long, seconded by Mr. Murray, that the Board lease the Thrift Shop property to Hungar's Episcopal Parish and the Oyster Parcel to Joseph J. & Claudia D. Restein III, for 2011 for the same terms and conditions as are in place for 2010. All members were present and voted "yes." The motion was unanimously passed.

Chairman Trala called to order the next public hearing:

(8) Zoning Text Amendment 10-09: The Northampton County Planning Commission proposes to amend the Northampton County Code of Ordinances by adding a new section to be known as Section 154.114 *Standards for Wind Turbines and Windmills for On-Site Residential or Commercial Production and Use* and to amend Appendix A-Use Regulations to provide for these uses.

He asked if there were any present desiring to speak.

Ms. Sandra Benson, Director of Planning, indicated that the Planning Commission was recommending approval of the text amendment with modifications as discussed at the public hearing.

Mr. Bob Meyers said that there was a lot of discussion held by the Planning Commission in regard to noise levels generated by wind turbines. He referenced existing units currently in operation in Maryland.

Ms. Martina Coker, a member of the Planning Commission, said that these wind turbines are very expensive and would be scaled to the residential property in question.

Written comments had been received from Mr. Robert C. Richardson of Seaview and are set out below:

"December 14, 2010

To: Board of Supervisors, Northampton County

From: Robert C. Richardson
Seaview

Subject: Wind Generator Ordinance

The 'ordinance mill' has been busy again manufacturing work and expense to the county. This is a perfect example of an unneeded and unwanted ordinance in the county. With the price and expertise to operate the generators lacking, and approximately only one (1) in the county, there is no need for this ordinance.

An appropriate ordinance for the rising price of fuel and the continuing pollution from power plants would be an ordinance that encouraged and reinforced owners their right to build power generating devices that are powered by natural sources and not creating pollution. This ordinance is penalizing the people who are attempting to make major contributions to the county and country by erecting these wind powered, electric producing, and non polluting devices. Before bringing more restrictive ordinances to the public, it would be prudent to establish basic standards that include:

1. A compelling need
2. An ecological benefit
3. An economic benefit
4. A health or safety benefit
5. A standard of living benefit

I respectfully request that the Board of Supervisors reject this ordinance.

* * * * *

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

Motion was made by Mr. Tankard, seconded by Mr. Long, that Zoning Text Amendment 10-09 be approved with the amendments as discussed and recommended pursuant to public hearing. All members were present and voted "yes." The motion was unanimously passed.

Tabled Item:

(9) Consider request from Shore Christian Academy for Virginia tax exempt status. If the Board is agreeable, a public hearing can be scheduled for the January meeting.

Motion was made by Mr. Long, seconded by Mr. Randall, that this item be taken off the table. All members were present and voted "yes." The motion was unanimously passed.

Motion was made by Mr. Long, seconded by Mr. Bennett, that this matter be moved to public hearing in January 2011. All members were present and voted "yes." The motion was

unanimously passed.

Action Items

(10) Consider accepting all bids received during the October 14, 2010 Delinquent Tax Auction.

Motion was made by Mr. Tankard, seconded by Mr. Randall that the Board accept all bids received during the October 14, 2010 delinquent tax auction event. All members were present and voted “yes”, with the exception of Mr. Murray who abstained because his son had participated in the event. The motion was passed.

(11) Consider request from Delegate Lynwood W. Lewis, Jr., to adopt a resolution to request funding during the 2011 General Assembly for the Second Judicial District position which will become vacant with the retirement of resident Circuit Court Judge Glen A. Tyler.

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

Said resolution as adopted is set forth below:

RESOLUTION

WHEREAS, the Eastern Shore of Virginia is the only area of the Commonwealth not connected to the mainland of the Commonwealth; and

WHEREAS, the Counties of Accomack and Northampton comprise the Eastern Shore and are a part of the Second Judicial District, along with the City of Virginia Beach; and

WHEREAS, both the Circuit Court of Accomack County and the Circuit Court of Northampton County have significant caseloads; and

WHEREAS, the Circuit Court of Accomack County and the Circuit Court of Northampton County from time immemorial have had a resident judge based on geographical necessity, caseloads, the orderly administration of justice, statutory requirements, historical precedent, and other factors; and

WHEREAS, the General Assembly and the Governor have provided by the enactment of Section 17.1-501C, in contrast to provisions relative to other jurisdictions, that the power of appointment to local posts, boards, and commissions in Accomack and Northampton Counties is vested solely in the resident judge on the Eastern Shore of Virginia, and by virtue thereof any vacancy in such resident judgeship will necessarily result in time in vacancies in such appointed

posts, boards and commissions; and

WHEREAS, the resident Circuit Court Judge of Accomack and Northampton Counties hears not only docketed cases, but also must be available to act promptly on many diverse necessary, and oftentimes unanticipated matters every day and every week, unless his contemporaries in other jurisdictions who make provision for duty judges; and

WHEREAS, the Virginia State Bar Council, and the Supreme Court of Virginia have long recognized the unique geographical separateness of the Eastern Shore by insuring that an Eastern Shore member of the Bar is nominated and elected to one of the At-Large Council seats; and

WHEREAS, the General Assembly has decided that it does not intend to fill judicial vacancies occurring in 2011 in various courts around the Commonwealth because of fiscal constraints; and

WHEREAS, the Honorable Glen A. Tyler will reach mandatory retirement age on December 12, 2010 and will retire December 31, 2010, depriving the Shore of its resident judge and thus creating an unfunded vacancy; and

WHEREAS, there is at this time a vacancy as to one of the Circuit Court judicial positions in the City of Virginia Beach, which vacancy and logistics make it difficult for any of those judges to sit with any regularity in Accomack and/or Northampton County, Virginia; any requirement that they do so will necessarily impede the administration of justice in the City of Virginia Beach; and

WHEREAS, the Virginia state Bar Council at its February 27, 2010 Council meeting unanimously passed a Resolution urging the full funding of all vacant judicial positions; and

WHEREAS, should the General Assembly not fund the vacancy on the Eastern Shore of Virginia, occurring with the retirement of the Honorable Glen A. Tyler, given the foregoing circumstances an untenable situation will be created for the administration of justice on the Eastern Shore of Virginia and its citizens.

NOW, THEREFORE, BE IT RESOLVED, that the Northampton County Board of Supervisors affirmatively finds that should the General Assembly not fund the Circuit Court vacancy on the Eastern Shore of Virginia, the administration of justice will be materially and adversely affected in Accomack and Northampton Counties; and

BE IT FURTHER RESOLVED that the Northampton County Board of Supervisors strongly requests that the General Assembly fund such imminent vacancy in the resident Circuit Court Judgeship on the Eastern Shore of Virginia; and

BE IT FURTHER RESOLVED, that upon the funding of any such vacancy, that the General Assembly promptly act to fill such vacancy; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the members of the General Assembly of Virginia, the Governor, the Chairpersons of the Senate and House Courts of Justice Committees, the Supreme Court of Virginia, the Judicial Conference of Virginia, and the Virginia State Bar Council, expressing its great concern and the clear urgency of the impending situation as to the administration of justice in Accomack and Northampton Counties, Virginia.

* * * * *

(12) Consider approving a ProAccount-Plan Sponsor Agreement with Nationwide Investment Advisors, LLC, on behalf of the County's employees who participate in the Nationwide Investment Benefit.

Mr. Murray stated that he was concerned that the employees would think that the County was endorsing this particular advisory firm. Motion was made by Mr. Murray, seconded by Mr. Tankard, that the Board reject the sponsor agreement. All members were present and voted "yes", with the exception of Mr. Long who voted "no." The motion was passed. It was noted that the employees would still be able to participate in the Nationwide Plan, but would not have access to the management segment of the plan.

(13) Consider adopting mileage rate of fifty-one cents (.51) per mile for 2011 in accordance with IRS regulations.

Motion was made by Mr. Tankard, seconded by Mr. Randall, that the Board approve the mileage rate for 2011 to be fifty-one cents (.51) per mile. All members were present and voted "yes." The motion was unanimously passed.

(14) Consider approval of contract for construction of Juvenile & Domestic Relations Court Services Building.

Ms. Nunez indicated that the low bid received for this construction was \$492,000 from Armada-Hoffler. Following a value-engineering exercise, savings in the amount of \$22,981 have been identified and Ms. Nunez recommended that the Board award the construction contract for a sum of \$469,019.00. After reviewing the list of items, motion was made by Mr. Murray, seconded by Mr. Bennett, that the Board award the bid for construction of the Juvenile

& Domestic Relations Court Services Unit to Armada-Hoffler in accordance with its bid in the amount of \$492,000 less \$4,565.00 for the relocation of the pump station, for a total bid award of \$487,435.00. All members were present and voted “yes.” The motion was unanimously passed. The Board members indicated that while they appreciated staff’s efforts to lower the cost of the project, they felt that most of the value-engineering items selected would change the appearance or the integrity of the facility. The County Administrator cautioned the Board that unforeseen circumstances may cause the project to go over-budget given the new construction award figure.

Matters Presented by the Board Including Committee Reports & Appointments

Motion was made by Mr. Murray, seconded by Mr. Bennett, that Rev. James Davis be reappointed to the Community Services Board for a new term of office commencing January 1, 2011. The motion was unanimously passed.

Motion was made by Mr. Bennett, seconded by Mr. Murray, that Mr. William E. Denny be appointed as District Three representative to the Northampton County Recreation Board and Ms. Devin Allen be appointed as At-Large Representative to the Northampton County Recreation Board. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Bennett, seconded by Mr. Long, that Mr. Murray, Mr. Tankard and Mr. Randall be reappointed to the Accomack-Northampton Planning District Commission for new terms of office commencing January 1, 2011.

Motion was made by Mr. Randall, seconded by Mr. Murray, that Mr. Sam Long, Jr., be reappointed to the Purchase of Development Rights Committee for a new term of office commencing January 1, 2011. The motion was unanimously passed.

Mr. Tankard referenced a press release from VACo in regards to the \$250,000 Water Quality Improvement Fund RFP for NPS Grants. He said that a grant of this nature would be a “good fit for the ANPDC”. Funding available for septic system repair would have dovetailed with the Fairview and Culls Projects.

(16) Mr. Murray: (A) Jail Preservation – status of efforts. Mr. Murray stated that the APVA has been actively pursuing funds and has received pledges towards the stabilization of the two jail buildings. They are in the process of looking at the establishment of a Courthouse Green Preservation Fund to support the re-roofing of the 1899 jail and the stabilization of the 1914 building. A final report will be available in February/March. One of the Fund’s conditions would be that if the County decides to occupy the buildings, funds expected from the Preservation Fund would have to be reconstituted by the County. He also noted that the group has made application for Tourism Infrastructure grant funding.

(B) Hospital Task Force Report. Mr. Murray presented the following report:

Northampton County Board of Supervisors
December 13, 2010

Report of the Hospital Task Force

Richard Tankard, Supervisor District #6
H. Spencer Murray, Supervisor District #4

On November 18th Supervisors Tankard and Murray met with Mr. Bill Downey, COO of Riverside and Caramine Kellam, Chairman of the local Riverside Shore Memorial Board.

Background: We thanked both Mr. Downey and Chairman Kellam for agreeing to meet with us. We assured them that we did respect Riverside’s decision to locate the in-patient hospital where they believed it would best serve both counties of the Eastern Shore and best assure financial viability in the future. We acknowledged that a large hospital like Nassawadox will not be built in Northampton again and we are not urging retention of the same model, but rather looking at a different model for health services on the entire Shore.

We asked if both Riverside, the towns and Northampton County could work together to determine a configuration of both in-patient hospital and emergency services that better serves the northern portion of Accomack and the southern portion of Northampton. We endorse a whole Shore approach rather than a county-centric approach.

Both Mr. Downey and Chairman Kellam expressed their appreciation for our offer to work cooperatively. We agreed that our mutual focus should be on the **Need**, not simply replacing the **Old** with the **New** in a different location.

Our Objective: Integration of ALL medical services within a configuration supported by all communities.

Primary Care: ESRH

EMS Ambulance and Advanced Life Support (ALS): Coverage for the ES

In-patient and Acute Care: New facility and a Critical Access Hospital (CAH)

Cheaper: Convert Shore Memorial to a CAH, build a smaller in-patient hospital in Accomack. Use Federal and state funds, Medicare FLEX..... (Northampton is solving the Nassawadox Waste Water issue—NOW)

Faster: Per Ken Cook, VDH has funding for two CAH studies.

Similar to the mountainous areas of VA, access drive times are not “as the crow flies” Distances between hospitals may not be an issue. See Maps.

Better: This configuration will maximize market share for Riverside. If properly presented to Accomack officials, they will not feel that they “lost” but that the entire ES has gained. This configuration also supports the changing medical services trend that keeps patients out of the hospital, not in the hospital. EMS response times are improved and reliance on “across the bay” emergency services are eliminated. CAH staffing requirements are easier to accommodate and more compatible with our ability to attract medical professionals.

Lastly, we provided maps showing that EMS drive times from the necks in Northampton to an emergency facility in north Accomack will double as distances cannot only be measured on Rt. 13 but from point of origin. We explained that Northampton County will be required to add incremental EMS and ambulances due to turn-around time, especially if injured or critical patients must be transported across the bay. While we recognize that north Accomack EMS has been required to drive to Nassawadox for years, there is no reason to transfer this condition to south Northampton if it can be avoided.

Our meeting ended with much greater understanding of Riverside’s decision and the issues facing Northampton.

We will follow-up with Riverside to determine our next steps in working together.

For the record:

Richard Tankard and Spencer Murray

December 13, 2010

* * * * *

Adjourn:

Motion was made by Mr. Bennett, seconded by Mr. Long, that the meeting be adjourned.

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

The meeting was adjourned.

_____ CHAIRMAN

_____ COUNTY ADMINISTRATOR