



Board of Supervisors of Northampton County
P.O. Box 66 • Eastville, Virginia 23347

BOARD OF SUPERVISORS
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Laurence J. Trala, Vice Chairman
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Larry LeMond

Katherine H. Nunez
County Administrator

PHONE: 757-678-0440
FAX: 757-678-0483

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: April 5, 2013
RE: Bi-Monthly Report

I. Projects:

A. Public Service Authority:

The Public Service Authority Economic Development Subcommittee met on April 2, 2013 and discussed the revised cost projections as well as to develop a recommendation regarding the pricing options for the Southern Node wastewater project. The subcommittee is recommending to the PSA the pricing model that would establish a service district that pays 75% of the cost and a tax increase on the general real estate tax that would cover the remaining 25% cost of the project. The project would entail the commercial area from Cheriton south beyond the Cape Charles light to the Corner Mart on Route 13. The Fairview Mobile Home Park has been priced separately to run a connection from Route 13 to the mobile home park and is not included in the main project cost. At the suggestion of Supervisor LeMond, I am running a pricing model that will have the sewer line run up US Route 13 instead of Business Rte 13.

This recommendation from the PSA Economic Development Subcommittee will be presented to the full PSA at their meeting on April 16, 2013 @ 7:00 p.m.

Therefore, at the Board's April 22, 2013 work session, I will provide the Public Service Authority's full recommendation regarding a pricing structure as part of our budget deliberations.

B. Facilities Management Renovation Project:

As reported at the last meeting, Facilities Management is completely moved into their new location on Stumptown Road. The renovation of that property is complete and I have enclosed the budget from that project for your review. As you will see, we have come in under budget and will be providing a budget amendment to the capital fund at the May meeting for your consideration.

C. Eastville Waste Collection Site:

Bids have been received for the construction of this project (see the action items on the April 9, 2013 agenda). As noted above, we will be providing a budget amendment to the capital fund at the May meeting for this project budget.

D. Update of the County's Solid Waste Management Plan

In accordance with solid waste regulations, each solid waste planning unit must update its Solid Waste Management Plan every five years. The last plan, adopted in 2009, is due for review & update by June 20, 2013. The County's planning unit includes all five incorporated towns.

Our engineers, Draper Aden Associates, have provided a draft of the plan, which is currently being reviewed by county staff. We are anticipating the public hearing for consideration of the Solid Waste Management Plan to be held at the work session in May 2013.

E. Correspondence re: Request for County to issue Request for Proposals for a Free-Standing Emergency Department

A meeting is being scheduled with all concerned parties for Monday, April 29, 2013 to discuss this request in greater detail and determine how to proceed.

F. Landfill Gas Monitoring

As part of the compliance requirements associated with a landfill (active or capped), there are gas wells located around the landfill that we test quarterly. We have received notification from our testing agent, the Hampton Roads Sanitary District (HRSD), that one of the gas wells has not provided gas samples, most likely a result of a higher than average water table in the area. We have retested over the last two months but have not been able to secure the required gas tests to meet our reporting requirements to the Department of Environmental Quality (DEQ).

DEQ is now requiring action by the county to correct this problem. Our engineering firm, Draper Aden Associations, has developed the following plan of action:

1. Conduct second quarterly 2013 landfill gas monitoring during May 2013.
Waiting until May is to allow groundwater potentiometric surface levels to return to normal.
2. If samples are obtained in all probes, continue monitoring on the normal quarterly frequency.
3. If samples cannot be obtained in all probes, conduct another monitoring event in June 2013.
4. If samples can be obtained during the contingency event in June, continue monitoring on the normal quarterly frequency.
5. If samples cannot be obtained from all probes during the June event, construct new landfill gas monitoring probes in the vicinity of the probes that could not be sampled. Probe construction logs will be submitted to the Department with a request for a minor permit modification to include the newly constructed probes in the compliance network.

This proposed course of action has been submitted to DEQ for review and approval. Draper Aden has based this course of action on the belief that the conditions at our landfill do not endanger health or the environment due to the fact that methane has not been detected in any of the probes at the landfill since the monitoring program began in December 2000; high groundwater levels impede subsurface migration of landfill gas, if migration is occurring; and the low flow readings obtained during the first quarter of 2013 was only the second occurrence since the probes were installed in 2000.

G. Tall Ships 2013:

Enclosed is the required progress report pursuant to our contract with ESVAF, Inc. for the Tall Ships Initiative.

H. Ditch Maintenance:

Pursuant to Board discussions regarding ditch maintenance, I am scheduling a team meeting of involved parties (VDOT, Public Works, Legal, etc.) and have pulled forward the maps that former Extension Agent Bill Shockley provided to the County in the early 2000's outlining the ditch issues by voting district. The intent of the meeting is to update the maps to see where there are existing ditch issues, review and identify the responsible parties and to develop a plan of action.

Enclosed is correspondence received from the Town of Exmore in response to forwarding the complaints from Supervisor Bennett regarding Virginia Street.

I. Request from the Randy Custis Memorial Fund/Park:

Tim Holloway, representative for the Randy Custis Memorial Park, has requested the Board to send correspondence to Virginia Logos, the agency hired by the state to oversee the sign programs(s) on state maintained roads, indicating the County's support that signage for the Randy Custis Memorial Park should be granted the exception status as a municipal park under the supplemental sign category. Enclosed is the proposed letter.

J. VDEM – Redistribution of the Local Emergency Management Grant Program:

The state has announced that the Local Emergency Management Grant program is transitioning from a competitive grant program to an allocated grant award to each locality in the Commonwealth. There is a match component to this program as well as certain requirements that must be adhered to in order to qualify for the allocation. I have enclosed the correspondence from VDEM for your review. Ms. Hollye Carpenter, in her capacity as Emergency Management Coordinator, is attending a training session on this program on April 18, 2013 and we will have additional information on this in order to make an appropriate decision about opting in or out of this program, as required.

K. USDA Request for Proceeds from Sale of the former STIP in Cape Charles:

Enclosed is correspondence from USDA indicating that since we have not fulfilled the agreement regarding the \$599,734.80 (part of the negotiation in 2008 & 2009 to

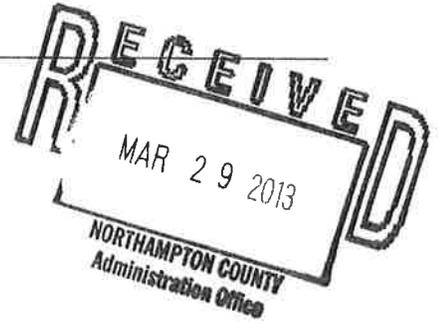
fulfill the grants provided for the development of the STIP project), then they are seeking these funds be repaid to USDA.

As you may recall from our June 22, 2012 Board meeting, I provided an update on our capital plan, including a discussion about the former Middle School property and seeking a direction from the Board on the intended use of the property. As part of that discussion, I included a reminder to the Board that we still needed to resolve our obligation to USDA and discussions with USDA previously regarding a re-use of this property for location of the EMS facility as well as other additional community uses (cafeteria, auditorium, classrooms for EMS training, etc.) appeared to meet the program requirements for these funds to be spent on. Please note that there are sufficient funds assigned to the renovation of the former Middle School and relocation of the EMS into this facility within our capital fund to meet our obligation to USDA. However, if we are obligated to repay USDA, we would need to discuss where that source of funding would come from since the capital funds would not qualify this payment as eligible. See note below pulled from my report on June 22, 2012:

Please note that the improvements considered for the former Middle School property were going to serve another obligation of the County – meeting our outstanding obligation to USDA relative to three outstanding grants associated with the former STIP property. More specifically, the County needs to expend \$599,734.80 on a project that meets the requirements of USDA in a manner similar to which the original grant proceeds had been extended. If the County fails to do this, then USDA will require us to re-pay \$599,734.80 to them to resolve the remaining grant obligations. The conversion of the former middle school into a mixed use community center (public safety, recreation, office space, community meeting rooms) meets the USDA qualifications and is in keeping with our bond requirements. If the Board chooses not to proceed forward with the former middle school, we would need to determine how we will meet this outstanding obligation to USDA.

I will be reaching out to USDA to see if we can obtain a reprieve from the March 26, 2013 correspondence. If we are able to obtain said reprieve, I am sure that we will need to have a very definite timeline and project scope defined and submitted in writing to USDA; therefore, we will need to move this matter forward in our priorities

II. OTHER



March 26, 2013

Ms. Katherine H. Nunez
County Administrator
County of Northampton
P. O. Box 66
16404 Courthouse Road
Eastville, Virginia 23347

Subject: Port of Cape Charles Sustainable Technology Park
Request for Proceeds from the Sale of Property

Dear Ms. Nunez:

This letter is a follow-up to the telephone call held with B. J. Fulcher on March 13, 2013, regarding the sale of a portion of the Port of Cape Charles Sustainable Technology Park to South Port Investors, LLC, of Eastville, Virginia.

In a letter dated **May 20, 2009**, (copy attached) we advised the County that the 2002 Farm Bill, contained language allowing grantees that dispose of property funded with Rural Community Assistance Program (RCAP) funds could utilize the federal portion of the proceeds funds for other RCAP eligible projects. RCAP projects include those funded through our Rural Business Enterprise Grant, Community Facilities and the Water and Environmental programs. As of this date, Rural Development has not received any request to utilize those funds for another RCAP project. Since, the request was not met, Rural Development is requiring that you return the amount owed and payable to the agency in the amount of \$599,734.80, for the reasons outlined in the letter dated **April 29, 2009**, (copy attached).

If the County of Northampton can show that it does not currently have the funds available to pay the full amount, you may request to pay the amount in installments. This debt can be amortized for a period not to exceed 15 years. The interest rate charged will be fixed at the 26-week Treasury Bill rate in effect of the date of this letter. You will be required to execute a debt instrument to evidence this receivable. If you fail to pay this debt it will be referred to the Department of Treasury Offset Program for collection.

If you believe the Agency decision is incorrect, or the facts used in this case are in error, you may request an informal review, mediation or an appeal. Please read the attachment document, "Attachment 1-B, Attachment to Letter Notifying Customers of an Adverse Decision that is Appealable."

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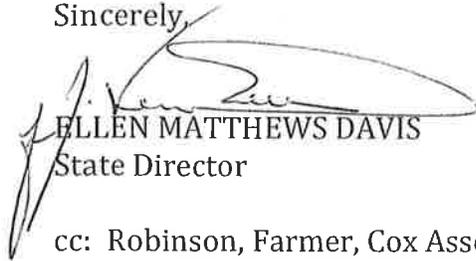
To file a complaint of discrimination, write USDA, Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410 Washington, DC 20250-9410 or call toll-free (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Fed-relay) or (800) 845-6136 (Spanish Fed-relay).



United States Department of Agriculture

Please contact Mr. Kent Ware, Director, Community, Business and Cooperative Programs, at 804.287.1604, should you have any questions regarding this matter.

Sincerely,



ELLEN MATTHEWS DAVIS
State Director

cc: Robinson, Farmer, Cox Associates
Certified Public Accountants
401 Southlake Blvd., Suite C-1
Richmond, Virginia 23236

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Enclosure to Letter Notifying Customer of an Adverse Decision that is Appealable

The decision described in this letter does not grant you the assistance you requested. If you believe this decision or the facts used in this case are in error, you may pursue either or both of the following two options.

Option 1 – Request an Informal Administrative Review

If you have any questions concerning this decision or the facts used in making it and desire further explanation, you may write this office to request an informal review.

There is no cost for an informal review. This written request must be received no later than 15 calendar days from the date when you received this adverse decision letter. You must present any new information, evidence, and possible alternatives along with your request. You may also have a representative or legal counsel participate in the process at your cost. The informal review may be conducted by telephone or in person at the discretion of the Agency. Please include a daytime telephone number in your request to arrange for the review.

When the informal review is concluded, you will be notified of the result and your right to request an appeal hearing, if applicable. If you request an informal review prior to filing for an appeal, the number of days you will have to request an appeal hearing will be 30 calendar days from the adverse decision minus the number of calendar days you take to request an informal review. An informal review does not take the place of, or limit your rights to, an appeal to the National Appeals Division (NAD); however, an appeal will take place only after an informal review. You may skip this step in the process and request an appeal hearing. If you do, you will automatically waive your right to an informal review.

Option 2 – Request an Appeal Hearing

You may request an appeal hearing by NAD rather than an informal review. There is no cost for an appeal hearing. Your request for an appeal must be made no later than 30 calendar days from the date you received this adverse decision letter. You must write to the Director, NAD, at the following address.

National Appeals Division
Regional Office
P.O. Box 68806
Indianapolis, IN 26268-0806

Your request must state the reasons why you believe the decision is wrong, be personally signed by you, and include a copy of this letter.

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United States Department of Agriculture

A copy of your request must also be sent to Rural Development at the following address.

State Director
Attn: Ellen Matthews Davis
USDA Rural Development
1606 Santa Rosa Road, Suite 238
Richmond, VA 23229

You, or your representative or counsel, may contact this office anytime during regular office hours to examine or copy the Agency's record relative to this adverse decision. Photocopies will be provided to you. Your representative or counsel must have your written authorization to represent you and review your file. The NAD Hearing Office will contact you regarding a time and place for the hearing.

Equal Credit Opportunity Act

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants based on race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program. No agency, officer, or employee of the United States Department of Agriculture shall, on the grounds of race, color, religion, national origin, sex, age, marital status, familial status, sexual orientation, or disability, or because all or part of an individual's income is derived from any public assistance program, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the United States Department of Agriculture. No person shall be subjected to reprisal for opposing any practice prohibited by 7 C.F.R. part 15, or for filing a complaint or participating in any other manner in a proceeding under that part.

The Fair Housing Act prohibits discrimination in real estate-related transactions or in the terms and conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. If an applicant or borrower believes he or she has been discriminated against for any of these reasons, that person can write to the Secretary of Agriculture, Washington, D.C. 20250. Applicants also cannot be denied a loan because the applicant has in good faith exercised his or her rights under the Consumer Credit Protection Act. If an applicant believes he or she was denied a loan for this reason, the applicant should contact the Federal Trade Commission, Washington, D.C. 20580.

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**United States Department of Agriculture
Rural Development**

Virginia State Office

May 20, 2009

Ms. Katherine H. Nunez
County Administrator
PO Box 66
16404 Courthouse Road
Eastville, VA 23347

Subject: Port of Cape Charles Sustainable Technology Park
Request for Proceeds from the Sale of Property

Dear Ms. Nunez:

As a result of a conversation Kent Ware had today with our National Office, we have learned that there may be a solution to the County's request that Rural Development consider forgiving the demand amount. Apparently, in the 2002 Farm Bill, there is language allowing for entities that dispose of property funded with Rural Community Assistance Program (RCAP) funds to utilize these funds for RCAP eligible projects. This language has not yet been included in our regulations. It is because of this discovery that I am rescinding the demand letter dated April 29, 2009.

RCAP funds include our Rural Business Enterprise Grant, Community Facilities, Business and Industry Guaranteed Loan, and Water and Environmental programs. Hopefully, the County can find project(s) that are eligible under these programs, for which the amount listed as due to the Agency in the above-referenced letter can be utilized. Please note that approval of a request to utilize the funds for another RCAP eligible project must be approved by our National Office. By separate e-mail, you will be sent the information regarding the 2002 Farm Bill pertaining to this subject.

Please contact Kent Ware, Director of Rural Business-Cooperative Programs, at 804.287.1557 to discuss the possible uses for the funds.

Sincerely,

J. Vern Orrell
Acting State Director

Jerry King, National Appeals Division, 193 Downing Street, Roanoke, VA 24019

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14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD)



Q.K.
K. Ware
4.27.09

United States Department of Agriculture
Rural Development

Virginia State Office

April 29, 2009

Ms. Katherine H. Nunez
County Administrator
PO Box 66
16404 Courthouse Road
Eastville, VA 23347

Subject: Port of Cape Charles Sustainable Technology Park
Request for Proceeds from the Sale of Property

Dear Ms. Nunez:

In a letter dated April 23, 2009 you, on behalf of the Northampton Board of Supervisors, requested an informal review of the decision detailed in our letter dated April 8, 2009. In particular, you requested that:

- 1) We reconsider the amount owed to government by allowing 10% of the proceeds to be considered selling expenses, which would reduce the amount owed to the government to \$599,734.80.
- 2) The Agency give consideration to forgiving the demand amount.

I understand that in a telephone conversation held on April 28, 2009, that you discussed these issues with Kent Ware, Director of Rural Business-Cooperative programs. With respect to the amount owed, we agree the amount due and payable immediately to the agency shall be \$599,734.80.

With regards to forgiving the debt, we have no authority in the Virginia State Office to forgive the debt and our National Office has stated that it would not entertain forgiving the debt for a public body. As we have stated previously, if the County can show that it does not currently have the funds available to pay the full amount, you may request to pay the amount in installments. This debt can be amortized for a period not to exceed fifteen years. The interest rate charged will be fixed at the 26-week Treasury Bill rate in effect of the date of this letter. You will be required to execute a debt instrument to evidence this receivable. If you fail to pay this debt it will be referred to the Department of Treasury Offset Program for collection.

You indicated that you intend to appeal our decision. If that is your decision, I advise you to take the proper steps in accordance with our letter dated April 8,

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2009. Please contact Kent Ware, Director of Rural Business-Cooperative Programs, at 804.287.1557 should you have any questions regarding this matter.

Sincerely,

J. Vern Orrell
Acting State Director

Attachment