

Virginia: At an Adjourned Meeting of the Board of Supervisors for the County of Accomack held in the Board Chambers on the 22<sup>nd</sup> of October, A. D., 2008.

Members Present: Ron S. Wolff, Chair  
Steve D. Mallette, Vice Chair  
Wanda J. Thornton  
Grayson C. Chesser  
John C. Gray  
Sandra Hart Mears  
Laura Belle Gordy  
Donald L. Hart, Jr.  
E. Philip McCaleb

Others Present: Steven B. Miner, County Administrator  
Michael Mason, Acting Finance Director  
Yvonne N. Pennell, Administrative Assistant  
Mark B. Taylor, County Attorney

### **Call to Order**

The meeting was called to order and opened with the reciting of The Lord' Prayer after which the Pledge of Allegiance to the Flag was recited.

### **Financial Update**

County Administrator Steven B. Miner gave opening comments related to the current shortfall in the budget, cash flow issues, etc.

Acting Finance Director Michael Mason presented a PowerPoint presentation depicting the current status of the County's financial status.

Issues in the presentation included the following topics of discussion:

- Cash Flow & Management
- Summary of Fiscal Year 2008 Financial Results – General Fund
- FY09 Financial Issues (what we started with)
- Recommended Actions

Mr. Mason also reviewed with the Board

A discussion took place with Mr. Mason and Mr. Miner responding to questions.

Mr. Mallette made a motion to adopt the following Resolution, if needed. Mrs. Mears seconded the motion. Ayes: Mr. Wolff, Mr. Chesser, Mr. Gray, Mrs. Mears, Mr. Mallette, Mrs. Gordy, Mr. Hart, Mr. McCaleb. Nays: Mrs. Thornton.

### **RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ACCOMACK, VIRGINIA AUTHORIZING THE ISSUANCE AND SALE OF THE COUNTY'S REVENUE ANTICIPATION NOTE**

WHEREAS, the Board of Supervisors of the County of Accomack, Virginia (the "County") proposes to authorize the issuance of a revenue anticipation note or notes in

anticipation of the collection of the taxes and revenues of the County for the calendar year in which such note or notes are to be issued pursuant to Section 15.2-2629 of the Code of Virginia of 1950, as amended;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ACCOMACK, VIRGINIA:

1. Authorization of Note. The Board of Supervisors hereby authorizes the issuance and sale, in either calendar year 2008 or 2009, of the County's revenue anticipation note or notes (the "Note" or "Notes") in the aggregate principal amount not to exceed \$800,000 in anticipation of the collection of the taxes and revenues of the County for the calendar year in which such Note or Notes are to be issued.

2. Details and Sale of Note. The Note shall be issued upon the terms established pursuant to this Resolution and upon such other terms as may be determined in the manner set forth in this Resolution. The Note (or each Note if more than one Note is issued) shall be issued in fully registered form, shall be dated the date of its issuance and delivery, shall be in the form of a single registered note or notes and shall mature not later than twelve months from the date of issuance, subject to prepayment as set forth therein. The County Administrator, or such officer as he may designate, is authorized and directed to accept a proposal or proposals for the purchase of the Note or Notes and to approve the terms of the Note or Notes, provided that the aggregate principal amount of the Notes shall not exceed the amount set forth in paragraph 1, the Notes shall mature not later than twelve months from the date of issuance and the interest rate on the Notes shall not exceed 7.5%.

3. Execution of Note. The County Administrator is authorized and directed to execute an appropriate negotiable Note or Notes and to affix the seal of the County thereto and such officer is authorized and directed to deliver the Note or Notes to the purchaser thereof.

4. Non-Arbitrage Certificate and Tax Covenants. The County Administrator and such officers and agents of the County as he may designate are authorized and directed to execute a Non-Arbitrage Certificate and Tax Covenants setting forth the expected use and investment of the proceeds of the Note or Notes and containing such covenants as may be necessary in order to comply with the provisions of the Internal Revenue Code of 1986, as amended ("Code"), including the provisions of Section 148 of the Code and applicable regulations relating to "arbitrage bonds."

5. Further Actions. The County Administrator and such officers and agents of the County as he may designate are authorized and directed to take such further action as they deem necessary regarding the issuance and sale of the Note or Notes and all actions taken by such officers and agents in connection with the issuance and sale of the Note or Notes are ratified and confirmed.

6. Effective Date; Applicable Law. This Resolution shall take effect immediately.

Adopted this 22nd day of October, 2008.

Mrs. Gordy made a motion to immediately freeze all capital spending until further notice except those as follows: Mr. Hart seconded the motion. The motion passed unanimously.

- To address emergency/safety issues
- Funded by existing debt (ex. Convenience Centers)
- Funded by grants
- Related to critical projects – Wallops Research Park and Broadband projects
- Related to the Local Government Institute

## **Solid Waste Issues**

A discussion took place concerning various solid waste issues, i.e., flow control, 400 lb. weight adjustment, software issues, etc.

Mr. Hart made a motion to hold a Public Hearing on November 19, 2008, at 7:30 p.m. in the Cafetorium of Metompkin Elementary School to afford interested parties the opportunity to be heard or to present written comments concerning the following amendment to Chapter 70. Solid Waste. Mrs. Mears seconded the motion. The motion passed unanimously.

### **AN ORDINANCE TO REQUIRE THE DISPOSAL OF SOLID WASTE COLLECTED OR GENERATED IN THE COUNTY AT FACILITIES DESIGNATED BY THE COUNTY**

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

1. That the County of Accomack, Virginia (the "County") has found and determined and does hereby declare that:

(a) The County of Accomack, through the Accomack County Department of Public Works (**ACDPW**), in order to carry out the common good of county citizens, provides the essential public service of providing for the management and disposal of solid waste in a safe, economical, and environmentally sound manner, which service is typically and traditionally a core function of local government;

(b) The County has constructed and is operating an integrated solid waste management and disposal system including landfill operations, management of yard wastes, disposal of special wastes, recycling programs, and public environmental education;

(c) The County has established solid waste tipping fees and waste disposal charges in an amount sufficient to provide for the financing and operation of the solid waste disposal system, and to provide for the delivery to ACDPW's facilities of the solid waste generated or collected by or within the County;

(d) In reliance upon revenues anticipated from tipping fees and waste disposal charges collected by ACDPW, the County has issued bonds in a substantial amount to finance and construct facilities and has entered into contracts with third parties to assure the safe and environmentally sound management and disposal of the solid waste, all for the benefit of the County and its citizens;

(e) The County is acting through ACDPW to implement and operate programs in order to meet levels of solid waste recycling required by the laws of the Commonwealth of Virginia, and the management and control of the County's waste is critical to the success of those programs and to the ability of the County to meet the requirements of Virginia law;

(f) The assurance of the continued supply of all or substantially all of the solid waste generated within the County is necessary to generate revenue for the successful fulfillment of ACDPW's public mission and is necessary to and in the best interest of the County and its citizens, notwithstanding any anticompetitive effects;

(g) The County reaffirms its commitment to operation of an integrated solid waste disposal system to provide for the benefit of the County and its citizens a safe,

environmentally sound, reliable and economical program capable of meeting long-term disposal needs, complying with state recycling requirements and carrying out the public's desire for recycling services;

(h) It is both necessary and appropriate that the County require or cause to be delivered to ACDPW all or substantially all of the solid waste generated or collected by or within the County;

(i) Other waste disposal facilities, including privately owned facilities and regional facilities are (i) unavailable, (ii) inadequate, (iii) unreliable or (iv) not economically feasible to meet the current and anticipated needs of the County for waste disposal capacity;

(j) This ordinance is necessary to ensure the availability of adequate financing for the continuing construction, expansion and/or closing of the County's facilities and the costs incidental or related hereto, and to provide to the County a convenient and effective way to finance an integrated package of waste disposal services;

(k) The adoption of an ordinance to require the disposal of solid waste collected or generated within the County at facilities designated by it is in the best interests of its citizens, and is necessary to the provision of an essential public service;

(l) The power of the County to adopt this ordinance is granted by Section 15.2-931 of the Virginia Code; and

(m) The County affirms and reserves its express power to regulate, by ordinance, the disposal of all of the solid waste generated or collected by or within the jurisdiction of the County or under the control of the County, and the express power to adopt ordinances necessary to give effect to such power.

2. There shall be added to the Accomack County Code the following:

Chapter 70, SOLID WASTE

Sec. 70-49. Disposal of Solid Waste collected or generated in the County.

(a) No person shall operate a private solid waste collection business within the County without first obtaining a permit from the director of public works or his designee.

(b) All solid waste generated or collected within the County shall be disposed of only at the facilities of the Accomack County Department of Public Works or facilities designated by the director of public works or his designee.

(c) Subsection (b) shall not apply to:

(1) Solid waste generated, purchased or utilized by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or solid waste-derived fuels for sale to a person other than any entity controlling, controlled by or under the same control as the manufacturer, miner, processor, refiner or converter.

(2) Recyclable materials in volumes reported to the Accomack County Department of Public works, which are those materials that have been source-separated by any person or materials separated from solid waste by any person for utilization in both cases as a raw material to be manufactured into a product other than fuel or energy.

(3) Construction solid waste to be disposed of in a landfill.

(4) Waste oil.

(d) Subsection (b) shall not prevent or prohibit disposal of solid waste at any facility which was issued a solid waste management facility permit by an agency of the Commonwealth on or before July 1, 1991, or for which a Part A permit application for a new solid waste management facility permit, including local governing body certification, was submitted to the Virginia Department of Environmental Quality in accordance with Section 10.1-1408.1B of the Virginia Code on or before December 31, 1991.

(e) It shall be unlawful for any person to dispose of solid waste generated or collected within the County at any place other than those designated pursuant to subsection (b). The director of public works or his designee following a hearing may revoke a permit to operate a private solid waste collection business obtained under subsection (a) for failure to comply with this Section, and shall have the power to seek and obtain injunctive relief from a court of competent jurisdiction to prevent violations of this Section, without a showing of irreparable harm. Operating a private solid waste collection business without a permit as required herein, and any other violation of this ordinance, shall be punishable as a Class 3 misdemeanor by a fine of \$500.00, with each day in violation constituting a separate offense.

This Ordinance shall be effective on and after January 1, 2009.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2008.

Discussion continued related to the 400 lb. weight adjustment.

**Adjournment**

Mr. Mallette made a motion to adjourn to November 5, 2008, at 5:00 p.m. in the Board Chambers

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Chair