

VIRGINIA: At a Regular Meeting of the Board of Supervisors for the County of Accomack held in the Cafetorium of Metompkin Elementary School in Parksley on the 17th day of December, A.D., 2008.

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

Others Present: Steven B. Miner, County Administrator  
Yvonne N. Pennell, Administrative Assistant  
Mark B. Taylor, County Attorney

### **Call to Order**

The meeting was called to order by the Chair and opened with a Prayer by Mrs. Gordy after which, the Pledge of Allegiance to the Flag was repeated.

### **Adoption of Agenda**

Mr. McCaleb made a motion to adopt the Agenda as presented. Mr. Hart seconded the motion. The motion passed unanimously.

### **Public Hearings**

The Chair read the rules governing conduct during Public Hearings.

### **Proposed Amendment to Accomack County Code, Chapter 58, Offenses and Miscellaneous Provisions**

The Chair opened a Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning a proposed amendment to Accomack County Code, Chapter 58, Offenses and Miscellaneous Provisions.

No public comments were offered and the Chair closed the Public Hearing.

Mr. Mallette made a motion to adopt the following amendment to Accomack County Code, Chapter 58, Offenses and Miscellaneous Provisions. Mr. Chesser seconded the motion. The motion passed unanimously.

**ACCOMACK COUNTY, VIRGINIA, ORDINANCE AMENDMENT TO  
CHAPTER 58, OFFENSES AND MISCELLANEOUS PROVISIONS,  
SECTION 58-12 THROUGH SECTION 58-17.**

**CHAPTER 58  
OFFENSES AND MISCELLANEOUS PROVISIONS**

WHEREAS, at the present time there are no particular ordinances in Accomack County pertaining to interfering with, obstructing or impersonating County officer(s) and employee(s); and

WHEREAS, at the present time there are no particular ordinances in Accomack County pertaining to damaging and/or tampering with County property; and

WHEREAS, the Accomack County Board of Supervisors, finds it necessary for the promotion of the health, safety and welfare of our employees and property that the County Code set out certain particulars pertaining to our employees and/or property; and

WHEREAS, the Accomack County Board of Supervisors finds it necessary for the safe and effective operation of government to set forth provisions pertaining to County personnel and property.

NOW, THEREFORE, BE IT ENACTED by the Accomack County Board of Supervisors that the Accomack County Code, Chapter 58, Offenses and Miscellaneous Provisions, Section 58, be amended as follows:

**Sec. 58-12. Interfering with or obstructing County officer(s) or employee(s).**

(a) No person shall carelessly or willfully interfere with, hinder or obstruct any officer(s) or employee(s) of the County who is engaged in, en route to, or returning from the performance of official duty, whether interference, hindrance or obstruction be by threat, assault or otherwise.

(b) A violation of this section shall constitute a Class 1 Misdemeanor.

**Sec. 58-13. Impersonating County officer(s) or employee(s).**

(a) No person shall falsely represent himself or herself to be an officer(s) or employee(s) of the County or, without proper authority, wear or display any uniform, insignia or credential which identifies any County officer(s) or employee(s); nor shall any person, without proper authority, assume to act as an officer(s) or employee(s) of the County, whether to gain access to premises, obtain information, perpetrate a fraud or for any other purpose.

(b) Nothing in this section shall be construed to prevent a private citizen from making a lawful citizen's arrest for a felony or breach of the peace committed in his or her presence.

(c) A violation of any provision of this section shall constitute a Class 1 Misdemeanor.

**Sec. 58-14. Tampering with, damaging and/or defacing County property generally.**

(a) No person shall, without proper authority, knowingly use, tamper with, render inoperative, destroy, damage, remove, deface, molest or otherwise interfere with any books, records, furniture, equipment, gear, apparatus, tools, vehicles, or other items of personal property belonging to, leased to or used by the County or any agency thereof.

(b) A violation of any provision of this section shall constitute a Class 1 Misdemeanor.

**Sec. 58-15. Damaging, defacing, etc., County real property or trespassing thereon.**

(a) No person shall, without proper authority, knowingly destroy, damage, deface, molest or otherwise interfere with, or trespass upon, any real property belonging to, leased to, or used by the County or any agency thereof.

(b) A violation of any provision of this section shall constitute a Class 1 Misdemeanor.

**Sec. 58-16. Damaging, tampering with, County vehicles**

(a) No person shall individually or in association with one (1) or more others, willfully break, injure, tamper with or remove any part of any County vehicle for the purpose of injuring, defacing or destroying such vehicle or temporarily or permanently preventing its useful operation.

(b) A violation of any provision of this section shall constitute a Class 1 Misdemeanor.

**Sec. 58-17. Calling for emergency services.**

(a) A person shall be guilty of a Class 1 Misdemeanor if, without just cause, said person:

(1) Calls the County emergency 911 service to obtain directions, telephone numbers, general information or with the intent to annoy, or for other non-emergency purposes, regardless of whether an emergency apparatus is dispatched.

(2) Calls, by telephone or otherwise, any ambulance or fire-fighting apparatus, or any law enforcement unit.

(3) Maliciously activates a manual or automatic fire alarm in any building used for public assembly or for other public use, including, but not limited to, schools, theaters, stores, office buildings, shopping centers, malls, coliseums and arenas, regardless of whether fire and rescue apparatus are dispatched.

**Sec. 58-18. Disorderly conduct in public places.**

(a) A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

(1) In any street, highway, public building, or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this Article; or

(2) Willfully, or being intoxicated, whether willfully or not, disrupts any meeting of the board of supervisors or any agency thereof, or of any school, literary society or place of religious worship, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, such disruption is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this Article; or

(3) A person violating any provision of this Section shall be guilty of a Class 1 misdemeanor.

(b) The person in charge of any such building, place, conveyance or meeting may eject therefrom any person who violates any provision of this Section, with the aid, if necessary, of any persons who may be called upon for such purpose.

This Ordinance is effective upon adoption.

**PROPOSED ORDINANCE TO AMEND CHAPTER 82, ARTICLE III, REAL  
PROPERTY TAXES, DIVISION 2. ELDERLY AND HANDICAPPED EXEMPTION,  
SEC. 82-99. ELIGIBILITY FOR EXEMPTION OF THE ACCOMACK COUNTY  
CODE**

County Attorney Mark B. Taylor gave an overview of the proposed amendments to the Proposed Ordinance to Amend Chapter 82, Article Iii, Real Property Taxes, Division 2. Elderly And Handicapped Exemption, Sec. 82-99. Eligibility for Exemption of the Accomack County Code.

The Chair opened a Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning a proposed Ordinance to Amend Chapter 82, Article III, Real Property Taxes, Division 2. Elderly and Handicapped Exemption, Sec. 82-99. Eligibility for Exemption of the Accomack County Code.

No public comments were offered and the Chair closed the Public Hearing.

Mr. McCaleb made a motion to adopt the following Proposed Ordinance to Amend Chapter 82, Article Iii, Real Property Taxes, Division 2. Elderly And Handicapped Exemption, Sec. 82-99. Eligibility for Exemption of the Accomack County Code. Mr. Chesser seconded the motion. The motion passed unanimously.

**AN ORDINANCE TO AMEND CHAPTER 82, ARTICLE III,  
REAL PROPERTY TAXES, DIVISION 2.  
ELDERLY AND HANDICAPPED EXEMPTION,  
SEC. 82-99. ELIGIBILITY FOR EXEMPTION  
OF THE ACCOMACK COUNTY CODE**

**WHEREAS**, the Board of Supervisors of Accomack County finds that Chapter 82, Article III, Real Property Taxes, Division 2, of the Accomack County Code requires amendment to update said Ordinance pursuant to Virginia Code §§58.1-3211(1)(a); and

**WHEREAS**, the Board of Supervisors is of the opinion that the Accomack County Code governing Real Property Taxes should be amended.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Accomack County Board of Supervisors this 17th day of December, 2008, that Chapter 82, Article III, Real Property Taxes, Division 2, Elderly and Handicapped Exemption, Sec. 82-99, Eligibility for Exemption, of the Accomack County Code is hereby amended as follows:

**ARTICLE III. REAL PROPERTY TAXES  
DIVISION 2. ELDERLY AND HANDICAPPED EXEMPTION**

**Sec. 82-99. Eligibility for exemption.**

Exemption shall be granted persons subject to the following provisions:

(1) The title to the property for which exemption is claimed is held or partially held, on December 31, immediately preceding the taxable year by the person claiming exemption. If the ownership of the property for which application for exemption is made is not held solely by the applicant, or jointly with the applicant's spouse, the amount of the tax exemption shall be in proportion to the applicant's ownership interest in the subject real property, as that ownership may appear.

(2) The head of the household occupying the dwelling and owning title, or partial title, is 65 years or older on December 31 of the year immediately preceding the taxable year, or such person is permanently and totally disabled and was so on December 31 of the year immediately preceding the taxable year. Such dwelling must be occupied as the sole dwelling of the person or persons claiming exemption. A dwelling jointly held by a husband and wife may qualify if either spouse is 65 or over or is permanently and totally disabled.

(3) The total combined income received from all sources during the year immediately preceding the taxable year by (i) owners of the dwelling who use it as their principal residence; (ii) owner's relatives who live in the dwelling; and (iii) nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner, shall not exceed the greater of \$22,000.00 or the income limits based upon family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. §1715z). Provided, however, that any amount up to \$6,500.00 of annual income of each relative who is not the spouse of an owner living in the dwelling and nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner, and who does qualify for the exemption provided by subdivision 1 b of §58.1-2311 of the Code of Virginia, as amended, may be excluded from the total combined income calculation. Any amount up to \$10,000.00 of income for an owner who is permanently disabled may also be excluded.

(4) The net combined financial worth, including the present value of all equitable interests, as of December 31 of the immediately preceding taxable year, of the owners and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding one acre, upon which its situated shall not exceed \$50,000.00. Furnishings, such as furniture, household appliance and other items typically used in a home, are also excluded.

(5) The person claiming exemption files annually with the commissioner of the revenue an affidavit as provided in section 82-100.

(Code 1982, § 24.3(4); Ord. of 12-20-2000, § 4; Ord. of 12-18-2002(2), § 3; Ord. of 11-14-2007)

Virginia Code §§ 58.1-3211(1)(a).

This Ordinance is effective upon adoption.

### **Pungoteague Agricultural & Forestal District**

It was the consensus of the Board to postpone to the January 21, 2009, meeting the holding of a Public Hearing to receive public comment on the request of Thomas and Mary Belote to remove Tax Parcel 92-10-B1A and 12-10-B1B from the Pungoteague Agricultural and Forestal District.

### **Solid Waste Tipping Fee**

Finance Director Michael Mason and Public Works Director Stewart Hall gave an overview of the proposed intent of the Board to increase the Accomack County tipping fee for other solid waste from \$57.89 per ton to \$66.00 per ton.

The Chair opened a Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning a proposed amendment to Accomack County Code, Chapter 58, Offenses and Miscellaneous Provisions.

Comments were offered by:

Tommy Clark, Don's Seafood, Chincoteague, VA  
Michael Davis, Davis Disposal, Craddockville, VA  
The Chair closed the Public Hearing.

A brief discussion took place.

Mrs. Gordy made a motion to postpone action until after the work session on January 14, 2009. Mr. McCaleb seconded the motion. Ayes: Mrs. Thornton, Mr. Wolff, Mr. Gray, Mrs. Gordy, Mr. Hart, Mr. McCaleb. Nays: Mr. Chesser, Mrs. Mears, Mr. Mallette.

### **Public Participation**

The Chair read the rules governing conduct during Public Participation.

The following person addressed the Board concerning the state of Accomack County:

David Steelman

The following persons addressed the Board concerning the proposed Chesapeake/Atlantic Preservation Area amendments:

Billy Graham, Parksley, VA  
Teresa Kelly, Parksley, VA  
Linda K. Smith, New Church, VA  
Mike Inman, representing Captain's Cove  
Maria Paccioretti, Atlantic, VA  
James Frese, Chincoteague, VA  
Toni Trepanier, Hallwood, VA  
Mark Baumgardner  
Miriam Riggs, Onancock, VA  
Lois Cooper, Pungoteague, VA  
Lance Stitcher, Greenbackville, VA

The following person addressed the Board concerning incidents with the Sheriff's Department:

Eva Mittlemaier, Onancock, VA

### **Chair's Comments**

The Chair expressed his appreciation to the Board members and staff for their support during his tenure as Chair of the Board.

### **Consideration of Minutes**

Mrs. Mears made a motion to approve the Minutes of the October 15, October 22, November 5, November 12, and November 19, 2008, meetings, as corrected. Mr. Mallette seconded the motion. The motion passed unanimously.

### **Consent Agenda**

Mrs. Gordy made a motion to approve the following items under the Consent Agenda. Mr. Mallette seconded the motion. The motion passed unanimously.

- a. The award of RFP #217 – Hazardous Materials (HAZMAT) Response Vehicle (*Grant funds*)
- b. Authorized advertising an amendment to Accomack County Code, Chapter 70, Solid Waste to provide minimum fine of \$500.00 for littering
- c. Approved the use of \$200 of E. D. 4 District Funds to construct a sign per standard County specifications

### **Reassessment Calculations**

County Assessor Brent Hurdle reviewed with the Board the State FY 2008 Ration Study as related to reassessment calculations based on real estate sales in the County.

A brief discussion took place with Mr. Hurdle, County Attorney Mark B. Taylor, and County Administrator Steven B. Miner responding to various questions.

### **Draft Chesapeake/Atlantic Preservation Area Amendments**

Director of Planning James M. McGowan reviewed with the Board the draft Chesapeake/Atlantic Preservation Area amendments and responded to questions.

A lengthy discussion ensued.

Mr. Gray made a motion to take no action until two (2) informational meetings were held. Mrs. Gordy seconded the motion.

Discussion continued.

Mr. Hart amended the motion that the Board hold a work session to review the proposed amendments. The amendment was accepted. The vote on the motion, as amended: Ayes: Mr. Gray, Mrs. Gordy, Mrs. Thornton, Mr. Hart. Nays: Mr. Wolff, Mr. Chesser, Mrs. Mears, Mr. Mallette, Mr. McCaleb.

Mr. Chesser made a motion to adopt the following amendments to the draft Chesapeake/Atlantic Preservation Area to become effective January 1, 2009. Mr. McCaleb seconded the motion.

Mr. Chesser made a motion to adopt the draft Chesapeake/Atlantic Preservation Area amendments as presented. Mr. McCaleb seconded the motion.

Mr. Wolff amended the motion that two (2) informational meetings be held; one in the north end of the County and one in the south end of the County.

Mr. Hart made a motion to postpone action until after the two informational meetings were held. Mrs. Thornton seconded the motion. Ayes: Mrs. Thornton, Mr. Wolff, Mr. Gray, Mrs. Gordy, Mr. Hart. Nays: Mr. Chesser, Mrs. Mears, Mr. Mallette, Mr. McCaleb.

## **Stormwater Management**

Mrs. Gordy made a motion to hold a Public Hearing in February, 2009, the date to be determined, in the Cafetorium of Metompkin Elementary School to afford interested persons the opportunity to be heard or to present written comments concerning the proposed Stormwater Management Ordinance. Mrs. Thornton seconded the motion. The motion passed unanimously.

## **Organizational/Work Sessions, Etc.**

County Administrator Steven B. Miner presented and reviewed with the Board the following issues:

- The following possible amendments to the meeting to the Board of Supervisors' Rules of Procedure at the January Organizational Meeting
  - i. Meeting dates, times, and location
    1. Organizational Meeting Organizational Meeting date – first county business day following holiday
  - ii. Monthly work sessions
  - iii. Agenda formation
  - iv. 1.04 – Interaction Between Board, Staff, and Public
  - v. Section 2.01 – Duties of Chair, Vice-Chair
- Filing of Economic Interest Statements

A brief discussion took place regarding the latter with County Attorney responding to questions.

## **County Administrator's Report**

County Administrator Steven B. Miner reported on the following issues:

1. Board of Supervisors' insurance supplement
2. Report of the Utility Cost Committee
3. January 14<sup>th</sup> work session to include:
  - a. Utility Cost Committee Report
  - b. Financial Update
  - c. Solid waste tipping fees
4. Draft Revenue Report

## **County Attorney's Report**

County Attorney Mark B. Taylor informed the Board of the following:

1. That the Accomack Farmer's Co-op had announced:
  - That a seafood market would be built at the Farmer's Market,
  - That headquarters would be sited in the Industrial Park, and
  - That the State Agriculture Department would be building a new office building in the Industrial Park
2. That NASA would be making an announcement on December 23<sup>rd</sup> relative to its allocation to the Orbital Sciences Program

**Budget and Appropriation Items**

Mrs. Thornton made a motion to approve the following budget and appropriation items. Mr. McCaleb seconded the motion. The motion passed unanimously with Mr. Gray absent.

**FISCAL YEAR 2009**

**Grants, Etc.**

<b>Increase Revenues</b>	
From the Commonwealth	\$ 26,252
<b>Decrease Contingencies</b>	
Operating Contingency	\$ 6,982
<b>Increase Expenditures</b>	
Commonwealth's Attorney	\$ 33,234
Additional Compensation Board position approved by Compensation Board	
<b>Increase Revenues</b>	
From the Commonwealth & Federal Government	\$ 63,540
<b>Increase Expenditures</b>	
Social Services	\$ 63,540
State budget adjustments (no additional local match needed)	
<b>Increase Revenues</b>	
From the Federal Government	\$ 37,412
<b>Increase Expenditures</b>	
Sheriff	\$37,412
Law Enforcement technology grant award	

***From Contingencies (\$31,541 operating contingency as of 12/08/08)***

<b>Decrease Contingencies</b>	
Operating Contingency	\$ 3,900
<b>Increase Expenditures</b>	
Building & Grounds	\$ 3,900
Burn building engineering study	

**Other**

<b>Increase Revenue</b>	
Charges for Services	\$ 2,400
<b>Increase Expenditures</b>	
Planning	\$ 2,400
E&S plan review cost recovery	
<b>Increase Revenue</b>	
Insurance Recoveries	\$ 1,084
<b>Increase Expenditures</b>	
Sheriff	\$ 1,084
Insurance settlement for auto damages	

**Payables**

Mr. Mears made a motion to authorize the payment of invoices. Mr. Gordy seconded the motion. The motion passed unanimously.

**Adjournment**

Mrs. Mears made a motion to adjourn at 8:15 p.m. Mrs. Thornton seconded the motion. The motion passed unanimously.

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Chair