

VIRGINIA: At a Regular Meeting of the Board of Supervisors for the County of Accomack
held in the Board Chambers in Accomac on the 3rd day of June, A.D., 2009.

Members Present: Steve D. Mallette, Chair
Laura Belle Gordy, Vice Chair
Wanda J. Thornton
Ron S. Wolff
Grayson Chesser
Sandra Hart Mears
John Charles "Jack" Gray
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 with a prayer by Mr. Gray, after which the Pledge of Allegiance to the Flag was recited.

Comments of Appreciation

Mr. Gray expressed his appreciation for the many phone calls, cards, flowers, and visits during his recent illness.

Chair's Comments

The Chair commented on the following topics:

- Broadband
- Taxes

Mrs. Mears entered the meeting at 5:04PM.

Closed Meeting

Mrs. Thornton requested that Item 13.1 - County Attorney's Employment Contract be removed from Closed Session for discussion in the Open Meeting.

By majority consensus, the Board approved Item 13.1- County Attorney's Employment Contract remain a Closed Meeting item.

Adoption of Agenda

The Chair requested that the Agenda be amended as follows:

ADD

Following Adoption of Agenda

Item 6-b – Public Comment

Under New Business

Item 8-d – Consider a request for contingent support of a CDBG-R grant to expand Broadband service

Mr. Hart made a motion to adopt the Agenda as amended. Mr. Wolff seconded the motion. The motion passed unanimously.

Approval of the Consent Agenda

Mrs. Gordy expressed objection to Item a., the Resolution of Recognition for County Attorney Mark B. Taylor and Economic and Community Development Director Larry D. Forbes in recognition of their work with the Wallops Research Park, stating that they were doing their respective jobs. Numerous County staff members perform above expectation and receive no public recognition. As an alternative form of acknowledgement, Mrs. Gordy suggested that a Letter of Commendation be placed in the Personnel Files of Mr. Taylor and Mr. Forbes. Mr. Wolff, maker of the original motion for the Resolution of Recognition, agreed with Mrs. Gordy's statements and suggestion of the Letters of Commendation.

Mr. Hart made a motion to approve the Consent Agenda, with the amendment to Item a. Mr. Wolff seconded the motion.

Mr. Chesser requested that Item b, abolishing of various board appointed committees, be removed for discussion.

Mr. Hart withdrew the motion to approve.

Mr. Hart made a motion to approve Item a. as amended, for Letters of Commendation for County Attorney Mark B. Taylor and Economic and Community Development Director Larry D. Forbes in recognition of their work with the Wallops Research Park. Mrs. Mears seconded the motion. The motion passed unanimously.

Abolishment of Committees

Mr. Chesser stated that the Board should establish a procedure to abolish committees following the conclusion of the appointed tasks, and asked the County Attorney to speak to the matter.

The County Attorney stated that based upon review of Board minutes over several years, he reached the following conclusions regarding the abolishment of the committees in question.

- The Blue Ribbon Committee and the Utility Cost Committee were appointed with very specific purposes and tasks and were effectively extinguished at the completion of those tasks, but that it would be good public process to take an action to terminate or disband them; and
- The Litter Committee and the Delmarva Advisory Council are artifacts from another period, and had been of no effect for a number of years, illustrating the good practice of extinguishing or disbanding formally, by motion of the Board, bodies that no longer serve their stated or intended purpose.

Discussion followed.

Mr. Chesser made a motion to establish a policy to formally abolish committees upon the completion of appointed purposes and tasks, including the immediate abolishment of the Blue Ribbon Committee, Utility Cost Committee, Litter Committee, and the Delmarva Advisory Council. Mr. Hart seconded the motion. The motion passed unanimously.

Ordinance to Amend County Code, Chapter 70, to Require the Disposal of Solid Waste Collected or Generated in the County at Facilities Designated by the County

County Public Works Director Stewart Hall presented a summary of total waste tonnage and fees collected at the North and South Landfills, and costs associated with operation and future closure of the South Landfill. Mr. Hall and the County Administrator responded to comments and questions from the Board.

Mr. Chesser made a motion to adopt the following proposed Ordinance to Amend County Code, Chapter 70, to Require the Disposal of Solid Waste Collected or Generated in the County at Facilities Designated by the County. Mr. Wolff seconded the motion. Ayes: Mr. Mallette; Mr. Wolff; Mr. Chesser; Mrs. Mears; Mrs. Gray; and Mr. Hart. Nays: Mrs. Gordy; Mrs. Thornton; and Mr. McCaleb.

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 upon its adoption

Personnel Policies Changes to Incorporate Health Insurance Changes

County Information Technology & Management Services Director Reed Ennis presented an overview of the Proposed Personnel Policy Changes to incorporate health insurance changes and responded to comments and questions from the Board.

Mr. Wolff made a motion to adopt the Personnel Policies Changes to Incorporate Health Insurance Changes as presented. Mrs. Thornton seconded the motion. The motion passed unanimously.

Accomack-Northampton Transportation District Commission's Oversight Problems

Mr. Chesser expressed concern over the financial accounting shortfalls of the Star Transit System, and asked the Board to consider requesting a review of the causes of the Accomack-Northampton Transportation District Commission's (A-NTDC) oversight problems concerning Star Transit.

Mrs. Gordy left the meeting at 6:29PM.

Discussion followed, with former and present Board members serving on the A-NTDC offering insight and comments on the financial reports and audits submitted by Star Transit and outside audits.

Standards for Operations and Financial Accountability for Groups Receiving County Funds

Mr. Chesser stated that based on the recent financial accounting problems at Star Transit, the Board should pursue establishing Standards for Operations and Financial Accountability for agencies and groups receiving County funds.

The County Administrator responded to the statement and to comments and questions from the Board.

Grant Request with the Wallops Research Park

The County Administrator presented a summary of the Community Development Block Grant-Recovery (CDBG-R) and requested authorization to apply for a \$1,000,000 No-Match CDBG-R Grant with the Wallops Research Park.

Mr. McCaleb made a motion to authorize the County Administrator to apply for a \$1,000,000 No-Match CDBG-R Grant with the Wallops Research Park. Mr. Hart seconded the motion. The motion passed unanimously with Mrs. Gordy absent.

Eastern Shore of Virginia Broadband Authority

The County Administrator explained the CDBG-R funding sought by the Accomack-Northampton Planning District Commission (A-NPDC) on behalf of the Eastern Shore of Virginia Broadband Authority for the Broadband Project.

Discussion followed.

Mr. McCaleb made a motion to authorize the County Administrator to apply for a \$100,000 CDBG-R Grant, in conjunction with the A-NPDC, to expand Broad Band service. Mrs. Mears seconded the motion. The motion passed unanimously with Mrs. Gordy absent.

Board of Supervisors Comment Period

Mrs. Thornton stated that a property owner reported a substantial discrepancy between his real estate property assessment and an appraisal, dropping approximately \$200,900 in less than a year. She intends to recommend that the property owner appeal the assessment to the Circuit Court.

Mr. Wolff encouraged Board members to attend the groundbreaking for the Marine Science Consortium at the Wallops Research Park, scheduled to begin at 10:00AM, Friday June 5, 2009.

Closed Meeting

Mr. Wolff made a motion that the Board go into closed meeting for the following purposes pursuant to Section 2.2-3711 of the Code of Virginia of 1950, as amended. Mr. McCaleb seconded the motion. The motion passed unanimously with Mrs. Gordy absent.

- 1. Pursuant to subsection (A) (1) for discussion of specific public officers regarding:
 - a. County Attorney's Employment Contract

Open Meeting

The Chair declared the meeting open to the public.

Certification of Closed Meeting

On a motion by Mr. Wolff and seconded by Mr. McCaleb, a roll call vote was taken was taken pursuant to Section 2.2-3712 (D) of the Code of Virginia immediately after reconvening in Open Meeting, at which time each member certified by his vote that the only matters discussed during the Closed Meeting were (i) only public business matters lawfully exempted from Open Meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the Closed Meeting was convened.

Ayes: Mr. Mallette	Mrs. Mears	Absent: Mrs. Gordy
Mrs. Thornton	Mr. Gray	
Mr. Wolff	Mr. Hart	
Mr. Chesser	Mr. McCaleb	

Adjournment

Mrs. Thornton made a motion to adjourn at 9:10 PM. Mrs. Mears seconded the motion. The motion passed unanimously with Mrs. Gordy absent.