

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 15th day of July, A.D., 2009.

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

Members Absent: Sandra Hart Mears

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. Hart, after which the Pledge of Allegiance to the Flag was recited.

Adoption of Agenda

The Chair requested the following changes to the Agenda.

MOVE

8-B from Consent Agenda to County Attorney's Report

ADD

Highway Matters, Robert Isdell to Report of Public Officials
Closed Meeting

Closed Meeting – Pursuant to §2.2-3711 of the Code of Virginia of 1950, as amended, for the following purposes:

- 1) Pursuant to subsection (A) (1) for the purpose of discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body,
- 2) Pursuant to subsection (A) (3) for the purpose of discussion or consideration of the acquisition of real property, for lease, for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, regarding:
 - a) *Lease of property for the Department of Assessment*
3. Pursuant to subsection (A) (5) 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.

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

Approval of the Consent Agenda

Mr. Hart made a motion to approve Items 5a and 5c, with Item 5b moved to the County Attorney's Report. Mrs. Thornton seconded the motion. The motion passed unanimously with Mrs. Mears absent.

- a. Approved Renewal of Contracts with H. W. Drummond for regular unleaded gasoline and "off road" diesel and Bagwell Oil for "on road" diesel and #2 fuel oil for the term of September 1, 2009 - August 31, 2010 under the same terms and conditions as stated in the original award of IFB 615.
- c. Consider authorizing a letter of support for Canonie Railroad to seek state and federal grants to assist in rebuilding their barge – **Hon. Mallette, Wolff & McCaleb representing the A-N Transportation District Commission**

Public Participation

The following person commented on Convenience Center hours and the need for County Administrator's ideas for countywide beautification:

Linda K. Smith

The following person commented on the County Budget process:

Wesley Edwards

Accomack County EDA

John Arthur LeCato, Chairman of the Accomack County Economic Development Authority (EDA) reported the negotiations to reduce the Fiscal Year 2010 Budget from \$153,000 to \$7760. Mr. LeCato further reported that the EDA had raised enough funds to be self-sufficient, not requiring support from tax dollars for the first time in the 33-year history of the EDA. The Board offered comments of praise for members of the EDA Board of Directors.

Accomack County Public Schools

W. Richard Bull, Division Superintendent, Accomack County Public School asked if there were any questions from Board members concerning the monthly Schools Report, and responded to comments and questions from the Board.

Highway Matters

Monthly Report

Mr. Robert Isdell, Acting Residency Administrator, Virginia Department of Transportation (VDOT), reported on VDOT projects and activities, and responded to questions and comments from the Board.

Property Tax Billing System Migration Project

County Director of Financing Michael Mason provided a status update on the Property Tax Billing System Migration Project, and responded to comments and questions from the Board.

Director of Planning

County Director of Planning James M. McGowan summarized the Monthly Planning Report, and responded to comments and questions from the Board.

Employee Furloughs

County Administrator Steven B. Miner addressed the Board concerning a Request to Remove Employee Furloughs in the FY2010 Budget, based on the award of a The Green Infrastructure Grant to the Planning Department.

Mr. Wolff made a motion to accept the recommendation to do away with Employee Furloughs. Mr. Hart seconded the motion.

Discussion followed, with Mr. Miner and Mr. Mason responding to questions from the Board.

The motion passed with the following vote. Ayes: Mr. Mallette; Mrs. Gordy; Mrs. Thornton; Mr. Wolff; Mr. Chesser; Mr. Gray; and Mr. Hart. Nay: Mr. McCaleb. Absent: Mrs. Mears.

Appointments

Accomack County Building & Fire Code Board of Appeals

Mrs. Thornton made a motion to appoint Ernest Dale Holston to the Accomack County Building & Fire Code Board of Appeals for a four-year term, to begin immediately and end June 30, 2013. Mrs. Gordy seconded the motion. The motion passed unanimously with Mrs. Mears absent.

Mr. Hart made a motion to appoint Kerry Paul to the Accomack County Building & Fire Code Board of Appeals for a four-year term, to begin immediately and end June 30, 2013. Mr. Wolff seconded the motion. The motion passed unanimously with Mrs. Mears absent.

Accomack-Northampton Planning District Commission

Mr. Hart made a motion to reappoint Gwendolyn Turner and Thomas E. Rienrth to the Accomack-Northampton Planning District Commission, each for a one-year term. The

term will begin immediately and end June 30, 2010. The motion passed unanimously with Mrs. Mears absent.

Eastern Shore Community College Board

Mr. Wolff made a motion to appoint Joyce L. Falkinburg o the Eastern Shore Community College Board for a four-year term, to begin immediately and end June 30, 2013. Mrs. Thornton seconded the motion. The motion passed unanimously with Mrs. Mears absent.

Mrs. Gordy made a motion to appoint Lisa Webb Lewis to the to the Eastern Shore Community College Board for a four-year term, to begin immediately and end June 30, 2013. Mr. Hart seconded the motion. The motion passed unanimously with Mrs. Mears absent.

Harborton Public Facilities Committee

Mr. Hart made a motion to appoint Charles Crockett to the Harborton Public Facilities Committee for a three-year term, to begin immediately and end December 31, 2011. Mrs. Thornton seconded the motion. The motion passed unanimously with Mrs. Mears absent.

VDOT Sign Placement Request

Mr. McCaleb made a motion to request the Department of Transportation to change the orientation of the stop sign at the intersection of Routes 614 Shell Bridge/Wayside Road) and Route 1204 (Cosby Street) in Painter. Mr. Hart seconded the motion. The motion passed unanimously with Mrs. Mears absent.

County Administrator's Report

County Administrator Steven B. Miner updated the Board on the following issues:

- a. Code Enforcement
- b. World Café discussion held on July 9th to discuss issues within the County of Accomack
- c. The Saxis Island Shoreline Protection and Habitat Restoration Project Grant was not approved for ARRA funding
- d. Requests from the Towns of Onancock and Onley to have the County apply for TEA-21 grant funding for gateway signage for all towns in the County

County Attorney's Report

Amendments to the Animal Control Ordinance

County Attorney Mark Taylor addressed the Board concerning amendments to the Animal Control Ordinance.

Mrs. Thornton made a motion to schedule a Public Hearing to receive public comment on an amendment to *Chapter 10. Animals* of the Code of Accomack County, Virginia to conform to state law. Mr. Wolff seconded the motion. The motion passed unanimously with Mrs. Mears absent.

AN ORDINANCE TO AMEND CHAPTER 10, ANIMALS,
ARTICLE II, DEFINITIONS, AND ARTICLE III, DOGS, CATS AND OTHER
COMPANION ANIMALS, DIVISION 1, GENERALLY,
DIVISION 3, RUNNING AT LARGE, AND
DIVISION 4, DANGEROUS AND VICIOUS DOGS,
OF THE ACCOMACK COUNTY CODE

WHEREAS, The Board of Supervisors of Accomack County find that certain amendments to Chapter 10, Animals, of the Accomack County Code are advisable and appropriate to conform said Chapter to state law; and

WHEREAS, The Board of Supervisors of Accomack County is desirous of amending Chapter 10, Animals, Article II, Definitions, and Article III, Dogs Cats, and other Companion Animals, Division 1. Generally, Division 3, Running At Large, and Division 4, Dangerous and Vicious Dogs, to allow for conformity with the Virginia Sate Code.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Accomack County Board of Supervisors this 19th day of August, 2009, that Chapter 10, Animals, Article II, Definitions, and Article III, Dogs, Cats and other Companion Animals, Division 1, Generally, Division 3, Running At Large, and Division 4, Dangerous and Vicious Dogs, of the Accomack County is hereby amended as follows:

ARTICLE II. DEFINITIONS

Sec. 10-31. Definitions

The following words as used in this chapter shall have the following meanings:

“Abandon” means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in § 3.2-6503 for a period of two consecutive days.

“Adequate Care” or *“care”* means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size, and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

“Adequate exercise” or *“exercise”* means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

“Adequate feed” means access to and the provision of food which is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

“Adequate Shelter” means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a

solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

"Adequate space" means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, *"Adequate space"* means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

"Adequate Water" means provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and at suitable condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles which are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pets or an alternative source of hydration consistent with generally accepted husbandry practices.

"Adoption" means the transfer of ownership of a dog or cat from a releasing agency to an individual.

"Agricultural" means all livestock and poultry.

"Ambient temperature" means the temperature surrounding the animal.

"Animal" means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, animal means any species susceptible to rabies. For the purpose of § 3.2-6570, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

"Animal control officer" means a person appointed as an animal control officer or deputy animal control officer as provided in § 3.2-6555.

"Animal shelter" means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, animals rescue group, or any other organization devoted to the welfare, protection, and humane treatment of animals.

"Board" means the Board of Agriculture and Consumer Services.

"Boarding establishments" means a place or establishments other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

"Collar" means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

"Companion animal" means any domestic dog, domestic cat, non-human primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal which is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated

under federal law as research animals shall not be considered companion animals for the purpose of this chapter.

“Consumer” means any natural person purchasing of an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term “consumer” shall not include a business or corporation engaged in sales or services.

“Dangerous dog” means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat.

“Dealer” means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. Any person who transports companion animals in the regular course of business as a common carrier shall not be considered a dealer.

“Direct and immediate threat” means any clear and imminent danger to an animal’s health, safety, or life.

“Emergency veterinary treatment” means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

“Enclosure” means a structure used to house or restrict animals from running at large.

“Euthanasia” means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.

“Exhibitor” means any person who has animals for or on public display, excluding an exhibitor licensed by the United States Department of Agriculture.

“Exotic animal” shall be deemed to mean any animal occurring in an environment in which it did not evolve and in which it does not occur naturally.

“Groomer” means any person who, for a fee, cleans, trims brushes, makes neat, manicures, or treats for external parasites any animal.

“Housing facility” means any room, building, or area used to contain a primary enclosure or enclosures.

“Humane” means any action taken in consideration of and with the intent to provide for the animal’s health and well-being.

“Humane investigator” means a person who has been appointed by a circuit court as a humane investigator as provided in § 3.2-6558.

“Humane society” means any chartered, nonprofit organization incorporated under the laws of this Commonwealth and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.

“Immediate control” shall be deemed to mean the act of directly controlling an animal by leading it on a leash; or controlling the animal, without hesitation, with hand, whistle, electronic, or voice signals.

“Kennel” means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

“Law-enforcement officer” means any person who is a full-time or part-time employee of a police department or sheriff’s office which is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers

who are not full-time employees as defined by the employing police department or sheriff's office.

"Livestock" includes all domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

"Local ordinance" means any law, rule, regulation, or ordinance promulgated by the governing body of any county, city, or town.

"Locality" or "local government" means a county, city, or town, as the context may require.

"New owner" means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.2-6574, and who adopts or receives a dog or cat from a releasing agency.

"Other officer" includes all other persons employed or elected by the people of Virginia, or by any municipality, county, or incorporated town thereof, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

"Owner" shall be deemed to mean any person who: (i) has a right of property in an animal, (ii) keeps or harbors an animal, (iii) has an animal in his care, or (iv) acts as a custodian of an animal.

"Person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.

"Pet shop" means an establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

"Poisonous animal" shall be deemed to mean any animal that produces venom and may cause the envenomation of a human or other animal, to include, but not limited to: insects, arachnids, invertebrates, reptiles, and amphibians.

"Poultry" includes all domestic fowl and game birds raised in captivity.

"Pound" means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any county, city, town, or incorporated society for the prevention of cruelty to animals.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

"Properly cleaned" means that carcasses, debris, food, waste and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the abovementioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

"Properly lighted" means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the housing facility, and observation of the animal; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities; and to promote the well-being of the animals.

"Releasing agency" means a pound, animal, shelter, humane society, animal welfare society, society for the prevention of cruelty to animals, or other similar entity that releases a dog or cat for adoption pursuant to Article 6.1 (§ 3.2-6574 et seq.) of this chapter.

“*Research facility*” means any place, laboratory, or institution licensed by the U.S. Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

“*Running at large*” and “*run at large*” shall be deemed to mean any animal and fowl, including exotic animals, excluding cats, roaming, running or self-hunting off the property of its owner or custodian and not under its owner’s or custodian’s actual and effective immediate control. Notwithstanding any leash, lead, tether, or other device, any dog off of the owner’s property and not under owner’s actual and effective control shall be deemed to be “running at large.” No dog under the control of its owner or handler while such owner or handler is engaged in lawful hunting shall be deemed to be “running at large.”

“*Sanitize*” means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

“*State veterinarian*” means the veterinarian employed by the Commissioner of Agriculture and Consumer Services as provided in § 3.2-5901.

“*State veterinarian’s representative*” means an employee of the Department of Agriculture and Consumer Services who is under the direction of the state veterinarian.

“*Sterilize*” or “*sterilization*” means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

“*Treasurer*” includes the treasurer and his assistants of each county or city or other officer designated by law to collect taxes in such county or city.

“*Treatment*” or “*adequate treatment*” means the responsible handling or transportation of animals in the person’s ownership, custody, or charge, appropriate for the ages, species, condition, size, and type of the animal.

“*Veterinary treatment*” means treatment by or on the order of a duly licensed veterinarian.

“*Vicious dog*” means a canine or canine cross-breed that has: (1) killed a person; (2) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of bodily function; or (3) continued to exhibit the behavior that resulted in a previous finding by a court that it is a dangerous dog provided its owner as been given notice of that finding.

“*Weaned*” means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species, and has ingested such food, without nursing, for a period of at least five days.

ARTICLE III. DOGS, CATS AND OTHER COMPANION ANIMALS

DIVISION 1. GENERALLY

Sec. 10-68. Rabies inoculation of dogs and domesticated cats; availability of certificate.

The owner or custodian of all dogs and domesticated cats four months of age and older shall have them currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The supervising veterinarian on the premises shall provide the owner of the dog or the custodian of the domesticated cat with the certificate of vaccination. The owner of the dog or the custodian of the domesticated cat shall furnish within a reasonable period of time, upon the request of an animal control officer, humane investigator, law-enforcement officer, state veterinarian’s representative, or official of the Department of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species. A violation of this section shall constitute a Class 3 Misdemeanor, and shall be punishable by a fine of not less than \$75.00. (Ord. of 1-15-2003)

DIVISION 3. RUNNING AT LARGE

Sec. 10-126. Reserved.

Sec. 10-127. Prohibited.

It shall be unlawful for the owner of any dog to allow or permit any such animal to run at large within the unincorporated portions of the county or within the boundaries of any incorporated town which passes an ordinance similar to this division that regulates and controls the running at large of dogs. (Ord. of 1-15-2003)

State law references: Authority for the above section, Code of Virginia, § 3.2-538, -6543.

Sec. 10-128. Confiscation; disposition.

- (a) Any dog found running loose and not under the immediate control of a handler shall be confiscated by the animal warden or other authorities; and shall be disposed of pursuant to Code of Virginia, § 3.2-6546.
- (b) If any dog confined pursuant to this division is claimed by its rightful owner, such owner shall be charged with the actual expense incurred in keeping the dog impounded and a fee to cover the county's actual cost in locating and capturing the animal. Before the dog is released, the owner shall execute an affidavit of ownership, preset the proper dog license, and proof of current rabies vaccination, and pay all of the expenses incurred in keeping the dog confined. (Ord. of 1-15-2003)

Sec. 10-129. Enforcing officer.

It shall be the duty of the animal warden or such other officers as may be designated by the board of supervisors to enforce the provisions of this division. (Ord. of 1-15-2003)

Sec. 10-130. Penalty for violation of division.

Any person violating the provisions of this division shall be guilty of a class 4 misdemeanor upon conviction, for which a minimum fee of \$75.00 shall be imposed. (Ord. of 1-15-2003)

Secs. 10-131—10-150. Reserved.

DIVISION 4. DANGEROUS AND VICIOUS DOGS.

Sec. 10-152. Summons requiring owner's or custodian's court appearance.

Any animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous and vicious. The animal control officer or owner, upon a determination by the animal control officer that the owner can confine the animal in a manner that protects the public safety, shall confine the animal until such a time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia, § 3.2-6562. The court, upon finding the animal to be dangerous or vicious dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The procedure for appeal and trial shall be the same as

provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2 et seq.) of chapter 15 of Title 19.2 of the Code of Virginia. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

(Ord. of 1-15-2003)

Sec. 10-153. Expectations to determination.

- (a) No canine or canine crossbreed shall be found to be a dangerous or vicious dog solely because it is not a particular breed, nor shall the board prohibit the ownership of a particular breed of canine or canine crossbreed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was:
 - (1) Committing at the time a crime upon the premises occupied by the animal's owner or custodian;
 - (2) Committing at the time a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or
 - (3) Provoking, tormenting or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner's property, shall be found to be a dangerous dog or vicious dog.
- (b) When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous: (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite; (ii) if both animals are owned by the same person; (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian; or (iv) for other good cause as determined by the court. No dog that has bitten, attacked or inflicted injury on a person shall be found to be a dangerous dog if the court determines based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

(Ord. of 1-15-2003)

Sec. 10-154. Certificate required.

The owner of any animal found to be dangerous dog shall, within forty-five (45) days of such a finding, obtain a dangerous dog registration certificate from the animal control officer for a fee of \$50.00 in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall also cause the local animal control officer to be promptly notified of: (i) the names, address and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complains or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

(Ord. of 1-15-2003)

Sec. 10-155. Issuance, renewal of certificates.

- (a) All certificates or renewals required to be obtained under this division shall only be issued to persons 18 years of age or older who present satisfactory evidence:
 - (1) Of the animal's current rabies vaccination, if applicable; and

- (2) That the animal is and will be confined in a proper enclosure, or is and will be confined inside the owner's residence, or muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed.
- (b) Owners who apply for certificates or renewals under this section shall not be issued a certificate or renewal unless they present satisfactory evidence that:
- (1) Their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and
 - (2) The animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

Sec. 10-156. Securing of dangerous dog on and off owner's property.

- (a) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature.
- (b) When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal. (Ord. of 1-15-2003)

Sec. 10-157. Custody of minor's dangerous dog.

If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this division. (Ord. of 1-15-2003)

Sec. 10-158. Notification of actions of dangerous dog.

After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of the same, notify the animal control officer if the animal:

- (1) Is loose or unconfined;
- (2) Bites a person or attacks another animal;
- (3) Is sold, given away or dies; or
- (4) Has been moved to a different address.

Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

(Ord. of 1-15-2003)

Sec. 10-159. Disposition of fees.

All fees collected pursuant to this division, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this division, shall be paid into a special dedicated fund in the treasury of the county for the purpose of paying the expenses of any training courses required under the Code of Virginia, § 3.2-6556. (Ord. of 1-15-2003)

Sec. 10-160. Dangerous and vicious dogs to be spayed or neutered.

All certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence that the animal has been neutered or spayed. (Ord. of 1-15-2003)

Sec. 10-161. Liability insurance required.

All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000.00 that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,00. (Ord. of 1-15-2003; Ord. of 7-19-2006)

Sec. 10-162. Animal control officer may determine whether a dog is dangerous.

Notwithstanding the provisions of section 10-152, an animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of the ordinance. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits. (Ord. of 1-15-2003)

Sec. 10-163. Penalty for violation of division.

- (a) The owner of any animal found to be a dangerous dog who willfully fails to comply with the requirements of this division shall be guilty of class 1 misdemeanor.
- (b) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:
 - 1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;
 - 2. Class 1. misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or
 - 3. Class 1. misdemeanor if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

(Ord. of 1-15-2003)

Secs. 10-164—10-180. Reserved.

This ordinance is effective upon adoption.

2009 State Legislation

Mr. Taylor provided new legislation passed by the General Assembly and effective July 1, 2009 that exempted from the requirements of the Freedom of Information Act

complainant information for zoning complaints, and closed session issues for governing bodies.

Board of Supervisors Comment Period

Mr. Chesser asked that staff contact the Budget Committee for a Report to the Board in the near future.

Mrs. Thornton stated that she was not receiving Minutes from all committees and commissions as requested. The Chair stated that the Minutes were available on the County website.

Mrs. Thornton asked that Resolutions for all high school valedictorians be ready for presentation at the August 1 Monthly Meeting.

Mrs. Thornton asked that an exemption for hunting dogs be included in the advertisement for the Amendments to the Animal Ordinance, to clarify the issue for the public.

Mr. Wolff thanked the County Administrator and the County Attorney for participating as guest speakers at the E.D. Monthly Constituent Meeting.

Mr. Wolff reminded Board members about the ribbon-cutting ceremony at the Northrop-Grumman Building, Thursday July 16 at 11:00AM.

Mr. Wolff reported that all BaySys supervisors returned to work immediately, with all other staff reporting on Monday July 20.

Mrs. Gordy requested that Planning Department staff be directed to initiate the VDOT TEA-21 Grant Application process for town signage to ensure timely submission.

Mrs. Gordy suggested that County Director of Economic Development Larry Forbes sent a letter to Shore Memorial Hospital stating that Accomack County was interested in discussions concerning locating the new hospital in Accomack County.

County Administrator Steven B. Miner reported that Mr. Forbes had attended meetings with Riverside, the new owner of Shore Memorial Hospital, to discuss the location of the new facility.

Payables

Mrs. Thornton made a motion to authorize the payment of invoices. Mr. Wolff seconded the motion. The motion passed unanimously with Mrs. Mears absent.

Budget Items

Mr. Hart made a motion to approve the following budget and appropriation items.

Mrs. Thornton seconded the motion. The motion passed unanimously.

FISCAL YEAR 2009

Grants, Etc.

Increase Revenues

From the Federal Government \$30,000

Increase Expenditures

Planning \$30,000

--Va. Coastal Program Grant Award

From Contingencies (\$168,846 remaining in operating contingency 7/1/09)

None

Other

Increase Revenues

Other local taxes \$30,000

Increase Expenditures

Central Accounting (Property Tax Billing Software Migration Prj.) \$30,000

--The software contract early completion incentive was not budgeted. The revenue estimate for the vehicle license fee is conservative because, at the time of the estimate, the new software capabilities were still being explored. There is sufficient room to increase this estimate to cover this incentive.

Closed Meeting

Mr. Hart 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. Mrs. Thornton seconded the motion. The motion passed unanimously with Mrs. Mears absent.

1. Pursuant to subsection (A) (1) for the purpose of discussion, consideration, or interviews of a prospective candidate for employment or appointment;
2. Pursuant to subsection (A) (3) for the purpose of discussion or consideration of the acquisition of real property, for lease, for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, regarding:
 - a. *Lease of property for the Department of Assessment;*
3. Pursuant to subsection (A) (5) 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.

Open Session

The Chair declared the meeting open to the public.

Certification of Closed Meeting

Mr. Hart made a motion, seconded by Mr. Wolff, to reconvene in Open Meeting and to Certify by roll call vote, pursuant to Section 2.2-3712 (D) of the Code of Virginia, that to

the best of each member's knowledge the only matters heard, discussed, or considered during the Closed Meeting were (i) public business matters lawfully exempted from Open Meeting requirements under this chapter and (ii) such public business matters as were identified in the motion by which the Closed Meeting was convened.

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

Public Works Building

Mr. Wolff made a motion to direct the County Administrator draft a letter informing the Lessor of the Public Works Building giving six months notice. Mrs. Thornton seconded the motion. The motion passed unanimously with Mrs. Mears absent.

Convenience Center Property

Mr. McCaleb made a motion that the Board exercise the option to purchase property at Crosby Street and Indian Trail Road. Mr. Hart seconded the motion.

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

Adjournment

Mr. Wolff made a motion to adjourn the meeting at 9:15PM. Mrs. Gordy seconded the motion. The motion passed unanimously with Mrs. Mears absent.

Chair