

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 19th day of August, 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.

### **Chair's Comments**

The Chair commented on the following items:

- A report from VACo announcing the Governor's expected Budget Forecast of State Revenue shortfall over the biennium period; significant budget reductions are expected in early September to close a 300 million dollar deficit for this year, and projected a 1.2 billion dollar 2010 shortfall.
- Job losses higher than expected, with more expected
- Depressed Housing Market
- The Tourism Commission has a ribbon-cutting ceremony for the new facility at the Welcome Center in Northampton County from 6:00PM to 7:00PM.

### **Adoption of Agenda**

Mrs. Gordy made a motion to adopt the Agenda. Mr. Wolff seconded the motion.

The motion passed unanimously.

### **Public Participation**

The following person expressed objection to the reduction of hours at the Convenience Center locations:

Robert Gresham

### **Consideration Of Minutes**

Mrs. Mears made a motion to approve the Minutes of the April 14, April 20, April 22, and June 3, 2009 Meetings. Mr. Hart seconded the motion. The motion passed unanimously.

### **Approval of the Consent Agenda**

Mr. Hart made a motion to approve the Consent Agenda. Mrs. Thornton seconded the motion. The motion passed unanimously.

- a. Approved Contract Renewal of IFB #604 for custodial supplies renewal of the contract with Corporate Express (a Staples Company) for the provision of custodial supplies for the period of September 1, 2009 - August 31, 2011 in accordance with the price escalation clause and terms and conditions of the initial contract. One two-year renewal remains on this contract.

### **Forestry Department**

Robbie Lewis, Area Forester, provided an update on forestry activities, distributed copies of a letter written in response to an anti-forestry letter to the editor, and responded to questions from the Board.

### **County Water and Sewer Operations**

County Director of Public Works Stewart Hall presented a projected budget for County Water and Sewer operations. Mr. Hall and County Administrator Steven B. Miner responded to questions from the Board.

Discussion followed.

### **Census 2010 Complete Count Committees**

County Administrator Steven B. Miner addressed the Board concerning a request for the creation of Census 2010 Complete Count Committees for Accomack County, and responded to questions from the Board.

Following discussion, Mr. McCaleb made a motion to postpone the discussion for the Census 2010 Complete Count Committees indefinitely. Mrs. Thornton seconded the motion. The motion passed unanimously.

### **Medicare Supplemental Health Insurance**

County Information Technology & Management Services Director Reed Ennis provided an update related to Medicare Supplemental Health Insurance, and announced a Medicare Benefits Meeting at 2:00PM August 27, 2009 in the Board Chambers.

### **Tax Assessment Report by Save Our Necks**

County Information Technology & Management Services Director Reed Ennis presented a response to the tax assessment report by Save Our Necks (SONS) group.

**Public Hearings**

County Attorney Mark Taylor read the rules governing Public Hearings.

**Ordinance to Establish Potable Water and Sanitary Sewer Service Rates**

The Chair opened the Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning the Proposed Ordinance to Establish Potable Water and Sanitary Sewer Service Rates.

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

Mrs. Thornton made a motion to approve the Ordinance to Establish Potable Water and Sanitary Sewer Service Rates as presented. Mrs. Mears seconded the motion. The motion passed unanimously.

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF ACCOMACK COUNTY,  
VIRGINIA TO ESTABLISHMENT PORTABLE WATER AND SANITARY SEWER  
SERVICE RATES**

**WHEREAS**, the Board of Supervisors has accepted the transfer of the sanitary sewerage collection and transmission system and water distribution system serving the Airport Industrial Park and portions of central Accomack County, which system was previously owned and operated by the Accomack County Economic Development Authority; and

**WHEREAS**, The Board of Supervisors has secured agreement by NASA/ Wallops Flight Facility to provide, via County transmission facilities, water and sewer service in Wallops Research Park; and

**WHEREAS**, The Board of Supervisors finds that the provision of water and sanitary sewer service by Accomack County depends in part upon the setting of equitable rates for such services in the Central Accomack and Wallops Research Park service areas; and

**WHEREAS**, The Board of Supervisors finds that the Town of Onancock has announced an increase in its sewer service rates which necessitate an increase in sewer rates in Central Accomack; and

**WHEREAS**, The Board of Supervisors finds that NASA/Wallops Flight Facility has set water and sewer rates which necessitate the setting of rates by Accomack County for such service in the Wallops Research Park.

Now, therefore, be it enacted as follows:

- A. The central Accomack Sewer Service Rate is established at \$24.02 per 1,000 gallons.
- B. The Wallops Research Park Sewer Service Rate is established at \$13.61 per 1,000 gallons. The Wallops Research Park Water Service rate is established at \$13.54 per 1,000 gallons.

**Amendment to Chapter 10 – Animals**

The Chair opened the Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning the Proposed Amendment to Chapter 10 – Animals.

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

Mrs. Thornton made a motion to approve the Proposed Amendment to Chapter 10 – Animals. Mr. Wolff seconded the motion.

Discussion

Mr. McCaleb made a motion that the effective date of the Amendment to Chapter 10 – Animals, be delayed until Thursday October 1, 2009 to allow time for advertising the Amendment for four (4) weeks on alternating Wednesdays and Fridays, the advertisement appearing a minimum of two (2) times in each of the local newspapers. Mrs. Thornton and Mr. Wolff accepted the amendment.

The motion passed unanimously.

**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 19<sup>th</sup> 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 one 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 for 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 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; caprae 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.

#### **Tax Assessment Report by Save Our Necks (cont'd)**

County Information Technology & Management Services Director Reed Ennis and County Real Estate Assessor Brent Hurdle responded to comments and questions from the Board concerning the tax assessment report by Save Our Necks (SONS) group.

George Parker of SONS was invited forward to comment on the staff response to the Tax Assessment Report. Mr. Parker expressed strong disagreement with the staff findings.

#### **Appointments**

##### **Accomack County Building & Fire Code Board of Appeals**

Mr. McCaleb made a motion to appoint Mikel M. Patti to a four-year term to begin immediately and end June 30, 2013. Mr. Hart seconded the motion. The motion passed unanimously.

#### **County Administrator's Report**

County Administrator Steven B. Miner informed the Board of the following:

- a. Purchase cards for county departments
- b. Scheduling a meeting with the School Board
- c. Space needs
- d. Budget Redevelopment Committee
- e. Public/Private needs

### **County Attorney's Report**

County Attorney Mark Taylor reviewed the purpose for and requested that the Board authorize holding a public hearing at the second meeting in September to receive public comment on the needed amendments to the Vehicle License Tax Ordinance.

Mr. Hart made a motion to schedule a Public Hearing at 7:30 p.m. on Wednesday, September 16, 2008, in the Cafetorium of Metompkin Elementary School to afford interested persons the opportunity to be heard or to present written comments concerning the Proposed Amendment to the Vehicle License Tax Ordinance. Mr. Wolff seconded the motion. The motion passed unanimously.

### **Board of Supervisors Comment Period**

Mr. Wolff reported that Amber Parker of the Marine Science Consortium had been the guest speaker at the August E.D. 3 Monthly Constituent Meeting, with approximately 20 citizens in attendance.

Mr. Hart asked the County Administrator to research ways to use rent monies as debt service funds for refurbishing or purchasing office space to replace leased properties.

Mr. Hart reported that he had visited 90 Virginia counties and attended a Board of Supervisors meeting in his pledge to visit all 95 counties.

Mr. McCaleb expressed endorsement of Mr. Hart's comments concerning debt service options.

Mrs. Thornton stated that she had received several telephone calls complaining about the projected cost for construction of the Painter Convenience Center. She further expressed her personal objection to the County's option to purchase the land at a price increased substantially from the purchase price less than two months earlier.

Mrs. Gordy reported receiving complaints about the location of the proposed Painter Convenience Center.

Mr. Mallette stated that the selection of a site for the Painter Convenience Center took an extraordinary amount of time; and that the long-term benefits will be appreciated by the County residents.

**Budget Items**

Mrs. Mears made a motion to approve the Budget Items. Mr. Wolff seconded the motion. The motion passed unanimously.

***FISCAL YEAR 2009***

**Grants, Etc.**

**Increase Revenues**

From the Commonwealth	\$73,000
From the EMS Council	\$5,000

**Increase Expenditures**

EMS	\$78,000
--State Homeland Sec. Program grant award with matching funds provided by EMS council.	

**Increase Revenues**

From the Commonwealth	\$49,834
-----------------------	----------

**Increase Expenditures**

Victim/Witness Program	\$49,834
--Victim/Witness Program grant award.	

**Increase Revenues**

From the Commonwealth	\$88,453
-----------------------	----------

**Increase Expenditures**

Community Corrections	\$88,453
--Community Corrections Program grant award (Administered by VAASAP)	

**Increase Revenues**

From the Commonwealth	\$24,726
-----------------------	----------

**Increase Expenditures**

Clerk of the Circuit Court	\$24,726
--Library of Virginia grant funds	

**Increase Revenues**

From the Commonwealth	\$55,000
-----------------------	----------

**Increase Expenditures**

Emergency Management	\$55,000
--Homeland Security grant award (HazMat team Equipment & Training)	

**Increase Revenues**

From the Commonwealth	\$48,057
-----------------------	----------

**Increase Expenditures**

Juvenile Probation	\$48,057
--Va. Juvenile Community Crime Control Act (VJCCCA) Grant	

**Increase Revenues**

From the Commonwealth	\$108,914
-----------------------	-----------

**Increase Expenditures**

Summer Food Program	\$108,914
--USDA Summer Food Service Program grant award	

**From Contingencies (\$168,846 remaining in operating contingency 8/10/09)**

**Decrease Contingencies**

Operating Budget Contingency	\$831
------------------------------	-------

**Increase Expenditures**

Planning	\$831
----------	-------

--Increase in rent expense for the Planning Dept per lease agreement.

**Decrease Contingencies**

Operating Budget Contingency \$10,800

**Increase Expenditures**

Economic Development \$10,800

--Economic development consulting services

**Decrease Contingencies**

Operating Budget Contingency \$8,000

**Increase Expenditures**

Electoral Board \$8,000

--Voting machines battery replacement

**Other**

**Increase Revenues**

Insurance Recoveries \$98

**Increase Expenditures**

Law Enforcement \$98

--Auto insurance recovery

**Payables**

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

**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. Mrs. Mears seconded the motion. The motion passed unanimously.

- a. Pursuant to subsection (A) (5) for discussion 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, and
- b. Pursuant to subsection (A) (7) for consultation and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body.

**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	Mrs. Gordy
	Mr. Wolff	Mr. Mallette	Mr. Hart
	Mr. Chesser	Mrs. Mears	Mr. McCaleb

**Adjournment**

Mr. Wolff made a motion to adjourn the meeting at 9:26PM. Mrs. Mears seconded the motion.

---

Chair