

VIRGINIA: At a Regular Meeting of the Board of Supervisors for the County of Accomack held in the Board Chambers in Accomac on the 6th day of October, 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
Donald L. Hart, Jr.
E. Philip McCaleb

Member Absent: John Charles "Jack" Gray

Others Present: Steven B. Miner, County Administrator
Shelia Goodman, 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. Wolff, after which the Pledge of Allegiance to the Flag was recited.

Adoption of Agenda

The Chair requested the following changes to the Agenda.

ADD

Item 18 – Closed Meeting, Pursuant to Section 2.2-3711 of the Code of Virginia of 1950, Subsection (A) (1) for the purpose of assignment or appointment of an employee.

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

Chair's Comments

The Chair commented on the following items:

- a. Mayors' Association Meeting
- b. Pending TMDL changes from the EPA
- c. Meeting with a new business prospect and existing business to discuss cooperation
- d. Ribbon Cutting Ceremony with Gov. Kaine at the Tourism Commission Welcome Center at Kiptopeke on October 7 at 9:30AM

Public Comments

There were no comments from the public.

Consideration of Minutes

Mr. Hart made a motion to approve the Minutes of the September 16, 2009 Meeting.

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

Approval of the Consent Agenda

Mrs. Thornton made a motion to approve the Consent Agenda as presented. Mr.

Wolff seconded the motion. The motion passed unanimously with Mr. Gray absent.

- a. Approved the following Resolution to obtain financial assistance through the US Rural Housing Service to improve communications in northern Accomack County using existing towers:

RESOLUTION OF GOVERNING BODY OF Accomack County of Accomack, VA

The Accomack County Board of Supervisors governing Accomack County, consisting of nine (9) members, in a duly called meeting held on the 6th day of October, 2009, at which a quorum was present, RESOLVED as follows:

BE IT HEREBY RESOLVED, that, in order to facilitate obtaining financial assistance from the United States of America, acting by and through the Rural Utilities Service, an agency of the United States Department of Agriculture, (the Government), of the County of Accomack does hereby adopt and abide by the covenants contained in the following agreements:

1. Form RD-400-4, "Assurance Agreement"
2. Form RD-400-1, "Equal Opportunity Agreement"
3. Form RD-1940-1, "Request for Obligation of Funds"
4. Form RD-442-7, "Operating Budget"
5. Form AS-1047, "Certificate Regarding the Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions"
6. Form AD-1049, "Certification Regarding Drug-Free Workplace"
7. FmHA 1040-Q, "Exhibit A-1, Certification Regarding Lobbying"

BE IT FURTHER RESOLVED that Steven B. Miner, County Administrator, be authorized to execute, on behalf of Accomack County the above agreements and to execute such other documents including, but not limited to, debt instruments and security instruments as may be required in obtaining the said financial assistance.

This Resolution, along with a copy of the above-named documents, is hereby entered into the permanent Minutes of the meeting of this Board.

- b. Approved the use of \$5,000 from E.D. 1 district funds to assist the Town of Chincoteague with drainage issues

Department of Economic and Community Development

Larry D. Forbes, CECD, Division Director, Department of Economic and

Community Development introduced County Director of Planning James McGowan.

Mr. McGowan reported on the following issues:

- i. Wal-Mart construction
- ii. Commonwealth Stormwater Regulations

iii. EPA presentation of proposed TMDL Regulations

Mr. Forbes updated the Board on the following items:

- i. The rescheduling of the Wal-Mart groundbreaking ceremony
- ii. Developing Business Roundtable
- iii. Prospective businesses for Wallops Research Park
- iv. Eastern Shore Defense Alliance Meeting

Resolution of Commendation

Mr. Hart made a motion to approve a Resolution of Commendation for Marian Huber for her years of dedicated service as Executive Director of the Natural Resource Conservation Service and Coordinator for the Resource Conservation and Development Council. Mr. Wolff seconded the motion. The motion passed unanimously with Mr. Gray absent.

The Chair read the following Resolution of Commendation and presented the same to Ms. Huber.

RESOLUTION OF COMMENDATION

WHEREAS, Marian Huber has served as Coordinator of the Eastern Shore Resource Conservation and Development Council since 2003, and has announced her retirement; and

WHEREAS, she brought with her several years of experience from a Federal career with the Army Corps of Engineers and the National Park Service; and

WHEREAS, she worked on several harbor projects with the Corps of Engineers Norfolk District and on sites around the Chesapeake Bay with the Park Service's Chesapeake Bay Gateways Program; and

WHEREAS, she has dedicated these years to always being a team player by making important connections to the people, the resources and the needs of the Eastern Shore in order to launch numerous projects that would benefit the community:

NOW, THEREFORE, BE IT RESOLVED, that the Accomack County Board of Supervisors, on behalf of its citizens, does hereby recognize and commend the distinguished, faithful and outstanding service of Marian Huber to the community and highly commends her for the manner in which she carried out her duties and responsibilities; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be spread upon the Minutes of this meeting and be put upon a plaque to be presented to Ms. Huber.

Joint Meeting with the Accomack County School Board

The Board discussed scheduling a joint meeting with the Accomack County School Board on Tuesday, October 13, 2009.

By consensus, the Board agreed to schedule a Joint Meeting with the Accomack County School Board in the Conference Room of the Accomack County Department of

Social Services to begin at 7:00PM on Tuesday October 13, 2009 to discuss the following items:

- i. Space Need Assessment
- ii. FY2010 and FY2011 Budgets
- iii. Sewage Improvements at Pungoteague Elementary and Kegotank Elementary

Space Needs Assessment

County Administrator Steven Miner provided an overview of the history of the Space Need Assessment, initiated in January 2006. Mr. Miner then introduced Howard Collins, Architect, Waller, Todd & Associates for presentation and discussion of the Recommended Options in the Assessment. Mr. Collins, Mr. Miner, and County Director of Finance Michael Mason responded to questions.

Financial Modeling for Water and Sewer Operations

County Director of Public Works Stewart Hall introduced Don Gartrell, III, P.E. Vice President of McKim & Creed. Mr. Gartrell offered a PowerPoint presentation on financial modeling for water and sewer operations. Mr. Gartrell, Mr. Hall, Mr. Miner, and County Attorney Mark Taylor responded to comments and questions.

Draft Regulations Governing Water Supply & Waste Discharge

County Public Works Director Stewart Hall presented an overview of Draft Regulations Governing Water Supply & Waste Discharge. Mr. Hall, Mr. Miner, and County Attorney Mark Taylor responded to comments and questions.

Policy Relating to Road Abandonment

The County Attorney presented an overview of the Draft Policy Relating to Road Abandonment, and responded to questions.

Mr. McCaleb made a motion to approve and adopt the Policy Relating to Road Abandonment as presented. Mr. Mallette seconded the motion. The motion passed unanimously with Mr. Gray absent.

ACCOMACK COUNTY, VIRGINIA POLICY RELATING TO ROAD ABANDONMENT

Section 1.01 I. Introduction

- 1. Virginia Code § 33.1-151 sets forth procedures for the abandonment of roads, landings, or crossings, or portions thereof.*

2. *In order for the County to uniformly and fairly consider all requests for such abandonments this policy is adopted effective October 7, 2009.*

3. *The Code establishes requirements that the County must adhere to when reviewing and approving abandonments. In addition, the Code specifies the criteria that must be used to determine whether a road, landing, or crossing may be abandoned.*

4. *Therefore, in accordance with Board directive, the County Attorney will follow this policy to abandoned roads, landings, crossings, and the procedures to be followed. The procedures and regulations provided in this policy may be amended only by an act of the Board.*

II. General Provisions

A. Request for abandonment.

1. *A written request for abandonment shall be delivered to the County Attorney.*

2. *As the Code allows, private citizens of Accomack County, Virginia, or department heads of Accomack County may request abandonments.*

3. *Requests shall be dated, in writing, and prepared simply and include a concise description of the right-of-way section requested to be abandoned, including route numbers and names, addresses and tax map numbers of all lands abutting such section, and including, if necessary, any survey or engineering diagram showing the property to be abandoned. All requests shall clearly set forth the requestor's name, 911 address, mailing address, and telephone number.*

4. *The requestor shall submit one original and four (4) copies of the request. The original shall be retained by the Clerk to the Board of Supervisors. The copies shall be distributed for review to (1) the local VDOT office, (2) the Director of Community Development, (3) the Director of Planning, and (4) the Assessor.*

5. *Review of the request for abandonment shall be coordinated by the County Attorney's Office. If there is concurrence among the reviewers that the request is sufficient for consideration by the Board of Supervisors, the County Attorney shall prepare an advertisement for a public hearing for the Board of Supervisors to receive public comment on the request. Prior to submittal of the advertisement for publication, the requestor shall pay the full cost of such advertisement. Advertisement costs shall be paid out of department funds if the requestor is a department head.*

6. *Once the Board has approved advertisement, the County Attorney will prepare a Notice to be posted and published in accordance with Virginia Code §33.1-151, setting forth the date and time for the public hearing.*

(f) Applicability of Other Laws

Nothing in this policy shall affect the duty of the County to comply with all other applicable laws.

III. Other

1. *Nothing in said request shall affect the duty of the County to comply with all other applicable laws, including posting of such notice three days before the first day of a regular term of the circuit court, at the front door of the courthouse of the county in which the section of the road, landing, or crossing sought to be abandoned or by posting notice in at least three places on and along the road, landing or crossing sought to be abandoned for at least thirty (30) days, and, in either case, by publication in two (2) or more issues of the local newspaper in the county, and including the County giving notice of its intention to abandon to the Commonwealth Transportation Board or the Commissioner (which locally is done by the local VDOT office).*
2. *If such abandonment is a landing, a 5th copy of the request shall be provided by the requestor for review by the Department of Game and Inland Fisheries.*
3. *If after a public hearing the Board is satisfied that no public necessity exists for the continuance of the section of the secondary road as a public road, crossing or landing, or that the safety and welfare of the public would be best served, it shall enter, within four (4) months next after the thirty (30) days during which notice was posted, or within four (4) months next after the public hearing, an Order on its minutes abandoning the section of road, crossing, or landing, as the case may be, and thereupon the section of road, crossing, or landing, as the case may be, shall cease.*
4. *If the Board is not so satisfied, it shall dismiss the application within the specified four (4) months*

Eastern Shore of Virginia Tourism Commission

The County Administrator presented and reviewed a Proposed Amendment to the Joint Resolution Creating an Agreement Between the County of Accomack and the County of Northampton to Jointly Promote Tourism within the Counties of Accomack and Northampton and to Establish the Eastern Shore of Virginia Tourism Commission.

Discussion followed.

Mrs. Gordy made a motion that each county should have equal representation on the Eastern Shore of Virginia Tourism Commission, based upon funding. Mrs. Thornton seconded the motion. The motion passed unanimously with Mr. Gray absent.

Mrs. Gordy stated that she would like a copy of the budget for the Eastern Shore of Virginia Tourism Commission and a list of the Commission Board Members and their business affiliation prior to voting on the issue of allowing the Commission to appoint Eastern Shore of Virginia Tourism Commission Board Members.

Discussion followed.

Mrs. Thornton made a motion that the Board of Supervisors retain the authority to appoint Eastern Shore of Virginia Tourism Commission Board Members. Mr. Chesser seconded the motion.

Mrs. Gordy offered an amendment to the motion to request that the Eastern Shore of Virginia Tourism Commission submit a copy of the FY2010 Budget and a list of members and their respective business affiliations. Mrs. Thornton and Mr. Chesser accepted the amendment. The motion passed unanimously with Mr. Gray absent.

County Administrator's Report

The County Administrator reported on the following items:

- i. Delmarva Transmission Line
- ii. Proposed Alternative On-Site Sewage System Regulations
- iii. Ribbon Cutting Ceremony with Gov. Kaine at the Tourism Commission Welcome Center at Kiptopeke on October 7 at 9:30AM
- iv. Wal-Mart Groundbreaking Ceremony – By consensus, the Board agreed to direct the County Administrator to confirm with Wal-Mart officials for Thursday October 15, 2009 at 10:30AM
- v. Legal Advertisements in both local papers seeking Cost-Saving Suggestions from the public
- vi. Article on biofuel green energy sources
- vii. World Café Meeting
- viii. Proposed EPA changes to TMDL Regulations
- ix. Wallops Island Research Park

County Attorney's Report

The County Attorney addressed the Board concerning the proposed redistricting of voting districts and a newly implemented procedure that allows localities, based on historic performance during redistricting, to qualify to opt out of the approval process through the Voting Rights Section of the Department of Justice.

Discussion followed, with the County Attorney responding to questions.

Mr. McCaleb made a motion to proceed with the effort to receive an exemption to the approval process for redistricting through the Voting Rights Section of the Department of Justice. Mr. Mallette seconded the motion for the purpose of discussion.

Further discussion followed with the County Attorney and the County Administrator responding to comments and questions.

The motion failed with the following vote. Aye: Mr. McCaleb. Nays: Mr. Mallette; Mrs. Gordy; Mrs. Thornton; Mr. Wolff; Mr. Chesser; Mrs. Mears; and Mr. Hart. Nays: None. Absent: Mr. Gray.

Board of Supervisor's Comment Period

Mr. Chesser stated that he represented a minority district, and felt that a focus for the Board's credibility was involvement by and input from all segments of the public.

Mr. Wolff offered congratulations to two surf-fishing teams from Virginia that competed in Ocean City, Maryland, and won Second Place and Third Place.

Mrs. Thornton reported that the Drill Team from Chincoteague Combined School had won First Place in the State Competition last year won Second Place this year.

Mrs. Gordy congratulated Mr. Chesser for his exhibition at the Smithsonian Museum.

Mr. Mallette reported that as the Local Government Committee representative to the Chesapeake Bay Commission, he was familiar with the Proposed EPA TMDL Regulations. He explained that although the TMDLs had been in place for many years, the ineffectiveness of current strategies had prompted the EPA to step in to declare the entire Chesapeake Bay as TMDL and establish new acceptable nutrient levels for the Bay.

Recess

By consensus of the Board, the Chair recessed the meeting for a five-minute break.

Mr. Hart left the meeting at 9:00PM

Call to Order

The Chair called the meeting back to order.

Closed Meeting

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

Pursuant to subsection (A) (1) for the purpose of assignment or appointment of an employee.

Open Session

The Chair declared the meeting open to the public.

Certification of Closed Meeting

Mr. Wolff made a motion, seconded by Mr. McCaleb, 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	Mrs. Mears	Mr. McCaleb	Absent:	Mr. Gray
	Mr. Wolff	Mr. Mallette			Mr. Hart
	Mr. Chesser	Mrs. Gordy			

Adjournment

Mrs. Thornton made a motion to adjourn until the Joint Meeting with the Accomack County School Board at 7:00PM on October 13, 2009 at the Social Services Building. Mrs. Mears seconded the motion. The motion passed unanimously with Mr. Gray and Mr. Hart absent. The meeting adjourned at 9:30PM

Chair