

VIRGINIA: At a Regular Monthly Meeting of the Board of Supervisors for the County of Accomack held in the Board of Supervisors Chambers in Accomac, Virginia on the 21<sup>th</sup> Day of May, A.D., 2014 at 5:00 p.m..

Members Present: Wanda J. Thornton  
Ron S. Wolff  
Grayson Chesser  
Kay W. Lewis  
Laura Belle Gordy  
Robert D. Crockett  
C. Reneta Major, Vice-Chair  
Donald L. Hart, Jr.

Member Absent: John Charles "Jack" Gray, Chair

Others Present: Steven B. Miner, County Administrator  
Mark B. Taylor, County Attorney  
Michael Mason, Finance Director  
Shelia Goodman, Administrative Assistant

### **Call to Order**

The meeting was called to order by the Vice Chair and opened with a prayer by Mrs. Lewis, after which the Pledge of Allegiance to the Flag was recited.

### **Adoption of the Agenda**

Mr. Crockett made a motion to adopt the Agenda. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Gray absent.

### **Public Comments**

No public comments were offered.

### **Minutes**

Mr. Hart made a motion to approve the Minutes of and April 8, April 16, and April 22, 2014 meetings. Mrs. Lewis seconded the motion. The motion was unanimously approved with Mr. Gray absent.

### **Habitat for Humanity Month**

Mr. Hart made a motion to adopt the following Resolution designating June 2014 as Habitat for Humanity Month. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Gray absent.

### **DESIGNATION OF JUNE 2014 AS HABITAT FOR HUMANITY MONTH**

**WHEREAS**, the Eastern Shore of Virginia Habitat for Humanity was founded in 1988 to provide affordable homes for deserving families of Northampton and Accomack counties; and

**WHEREAS**, the affiliate has acquired land through donations and purchase and constructed forty (40) houses in the past 25 years with volunteer labor and generous

donations from the residents of Northampton and Accomack counties as well as thousands of college students from across the country; and

**WHEREAS**, these forty (40) homes have been added to the tax maps of Northampton and Accomack counties and the families living in them have a new appreciation of home ownership; and

**WHEREAS**, the affiliate will be celebrating its 25<sup>th</sup> Anniversary by dedicating its 41<sup>st</sup> house which is located in Cheapside, and hosting a 25<sup>th</sup> Anniversary Gala at Sycamore Bend on June 21, 2014 at 6:00 p.m.; now

**THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of both Northampton and Accomack Counties do declare June 2014 as Habitat for Humanity month and encourage its citizens to join in the Anniversary celebrations.

**Consent Agenda**

Mr. Crockett made a motion to approve the following items under the Consent Agenda. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Gray absent.

5.2 Resolution to Participate in VRS Health Insurance Credit Program –

**Resolution to Establish Health Insurance Credit Program for Local Government Employees**


Be it resolved that the County of Accomack, Virginia (ER Code 55100) does hereby elect to provide the Health Insurance Credit Program as provided in the Code of Virginia Section 51.1-1402 for its eligible current and future retirees as defined in Article 5, Chapter 1 of Title 51.1 of the Code of Virginia.

Be it also resolved that the County of Accomack, Virginia agrees to accept all liability for any current or future additional employer contributions and any increases in current or future employer contribution rates resulting from its election to provide the benefits of the Program to its retirees.

Be it further resolved that the County of Accomack, Virginia elects to allow its eligible retirees to receive the benefits under the Program effective July 1, 2014.

Now, therefore, **Jack Gray**, Chairman of the Accomack County Board of Supervisors, and **Dr. Steven B. Miner**, Clerk of the Accomack County Board of Supervisors, are hereby authorized and directed in the name of the County of Accomack, Virginia to execute any required contract in order that said eligible retirees of the Accomack County may participate in the Health Insurance Credit Program as provided for in the Code of Virginia. In execution of any contract which may be required, the seal of the County of Accomack shall be affixed and attested by the Clerk, and said officers of the County of Accomack are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by the County of Accomack for this purpose.

5.3 Approval of Personnel Policy No. 409-Health Insurance Programs

	<b>SUBJECT:</b>	
	<i>a. HEALTH INSURANCE PROGRAMS</i>	
	<b>POLICY NUMBER:</b> 409.0	<b>PAGE:</b> <i>b. 1 OF 3</i>
<b>EFFECTIVE DATE:</b> 10/18/2000	<b>REVISED DATE:</b> <i>c. 5/21/2014</i>	

**OVERVIEW:** The County is committed to providing quality health insurance to employees.

**SCOPE:** This policy applies to all full-time regular and limited-term employees and their family members in addition to those employees for which coverage is mandated by the Affordable Care Act.

**PROVISIONS:**

A. Enrollment:

Employees can only enroll themselves and their families within the first 30 consecutive days of their employment or during open enrollment or within 30 days after being notified that they are entitled to health insurance under the Affordable Care Act. Participation is optional.

Any family status changes such as marriage, birth or adoption of a child, etc. must be submitted within 31 calendar days of the qualifying event; otherwise, the employee must wait until the open enrollment period to change coverage.

B. Program Coverage & Cost:


The conditions, coverage, deductibles, and other plan provisions are defined as a result of the County's contractual agreement with the insurance provider.

The County contributes an amount equal to 80% of the employee only premium for the highest cost option towards employee only coverage. For dependent coverage, the County will contribute an additional amount equal to 20% of the excess premium over that of employee only coverage. The employee is responsible for the remaining premium cost.

Employees will receive information regarding plan provisions during open enrollment periods and at other times throughout the year when changes to the insurance plan are implemented.

C. Information:

Additional program information can be obtained from the Central Accounting Department.

	<b>SUBJECT:</b>	
	<i>d. HEALTH INSURANCE PROGRAMS</i>	
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D. Continuing Coverage After Separation:

The Consolidated Omnibus Budget Reconciliation Act of 1986, or COBRA, allows employees and covered family members to continue coverage in certain situations where coverage would otherwise end. If COBRA coverage is elected, the employee or family members must pay the full cost of the monthly insurance premium plus an administration fee. The following tables show who is eligible for COBRA and how long the coverage lasts as allowed by COBRA:

**If you and enrolled family members lose eligibility because you:**

Change from full-time to part-time status  
Are laid off or discharged, except for gross misconduct  
  
Leave work voluntarily for any reason

**Coverage can continue for:**

18 months/29 months if disabled  
  
18 months/29 months if disabled  
18 months/29 months if disabled

**If enrolled family members lose eligibility because:**

They reach eligibility age limit  
You become divorced or legally separated resulting in coverage loss  
You choose Medicare as your primary carrier  
You die

**Coverage can continue for:**

36 months  
  
36 months  
36 months  
36 months

Employees will receive information on how to continue coverage at the time they separate from County service.

E. Affordable Care Act Requirements and Declarations:

The Affordable Care Act (ACA) requires that the County offer health insurance coverage to all employees who work, on average, 30 hours or more per week including part-time, seasonal and temporary employees. Hours worked includes not only actual hours of service but also all hour for which payment has been made including vacation, holiday, sick, jury duty, etc.

In order to comply with the ACA, the County will periodically measure the average hours worked by all employees to determine whether health insurance must be offered to the employee.



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For determining average hours, The County will use a measurement period, also known as the look-back period, of 12 months beginning April 1 for all calculations for current employees. A 12 month look measurement period will also be used for newly hired employees that begins on the first day of the month following the employee's start date.

If the average hours worked during the measurement period is 30 or above and the employee has not been offered health insurance, the County will within 2 months notify the employee that they are entitled to participate in the County health insurance plan if they wish to do so. This two month period is defined as the administrative period. The deductibles and coverage types offered the employee will mirror those offered salaried employees unless the employee share of the premium fails to meet the ACA affordability standards. As of 2014, All County health insurance plans are considered "affordable" based on ACA rules.

If the employee chooses to enroll, they will be guaranteed coverage for 12 continuous months known as the stability period. At the end of the stability period, the average hours worked by the employee will be recalculated. If the average hours worked is now less than 30 hours per week, the employee will not be eligible to continue coverage.

<b>ACA Related Declarations</b>		
<b>Period</b>	<b>On-going Employees</b>	<b>New Employees</b>
Measurement or Look-Back Period	12 months beginning 4/1 and ending 3/31	12 months beginning first day of month following hire date.
Administrative Period	2 months beginning 4/1	2 months
Stability Period	12 months beginning 6/1	12 months

#### 5.4 Approval of Personnel Policy No. 410-Post Employment Benefits



<b>SUBJECT:</b> <i>j. POST EMPLOYMENT BENEFIT PROGRAMS</i>	
<b>POLICY NUMBER:</b> 410.0	<b>PAGE:</b> <i>k. 1 OF 4</i>
<b>EFFECTIVE DATE:</b> 10/18/2000	<b>REVISED DATE:</b> <i>l. 05/21/2014</i>

**OVERVIEW:** The County is committed to providing post retirement benefits to employees who retire from service with Accomack County. This policy includes provisions pertaining to the following benefit plans afforded retirees: Early Retiree Health Insurance Continuation Plan, Post 65 Health Insurance Plan, Virginia Retirement System (VRS) Health Insurance Credit and the County Supplemental Health Insurance Credit.

**SCOPE:** This policy applies to all full-time regular and limited-term employees who meet the eligibility requirements stipulated for each benefit plan below. These benefit plans are also available to state supported positions including those of the local social services board, Board of Elections and Constitutional Officers. This is mentioned for administration reasons only because employees of these two groups are exempt from County Personnel Policy by definition per personnel policy No. 101.

**DEFINITIONS:**

**Retire-**For purposes of this section, retire means to separate from County service and to begin receiving a monthly benefit from the Virginia Retirement System (VRS).

**Early Retiree-**Any full-time regular or limited-term employee who retired prior to age 65.

PROVISIONS:


**A. Early Retiree Health Insurance Continuation Plan**

1. Eligibility

Any full-time regular or limited-term employee who retires prior to age 65 with 15 years of service with the County or any full-time or limited-term employee who retired prior to age 65 due to line of duty injuries regardless of County service years.

2. Benefit

Employees who choose to retire prior to age 65 may choose to continue their medical and dental insurance coverage with the county at their own expense until they reach age 65. A portion of the insurance premium paid by the early retiree will be reimbursed to he or she providing they meet the eligibility requirements for receiving the VRS Health Insurance Credit and/or County Supplemental Health Insurance Credit both of which are explained below.

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3. Insurance Plan Options

Early retirees are eligible to enroll in any health insurance plan available to existing employees. Dependent coverage is also available. Specific conditions, coverage, deductibles, and other plan provisions are defined as a result of the County's contractual agreement with the insurance provider and in accordance with state or federal law.

4. Participation

Early retiree participation is optional. The decision to remain covered by the County Insurance Plan(s) must be made at the time of retirement. Early retirees who elect not to continue health insurance coverage through the County at retirement will not be eligible for this benefit in the future.

5. Termination

Early retirees may remain covered by the County's health insurance plans until the retiree reaches age 65. Participation ceases upon the retiree's failure to pay the required insurance premiums or upon death of the retiree.

**B. Post 65 Retiree Health Insurance Plan**

1. Eligibility

Any full-time regular or limited-term employee who retires at age 65 or older **prior to January 1, 2017**, who is enrolled in Medicare parts A and B, and who has at least 15 years of service with Accomack County.

2. Benefit

The County offers medical and dental Medicare Carve-Out policies, administered by Anthem, to retirees who meet the eligibility rules listed above. Essentially a Carve-Out Policy, when combined with Medicare, allows the retiree to receive the same benefit coverage as if they were still employed with the County. The employee is responsible for 50% of the cost of the Medicare Carve-Out policy. The County is responsible for the remainder.

3. Insurance Plan Options


Enrollment is limited to Medicare Carve-Out Policies only. Dependent coverage is not available. Specific conditions, coverage, deductibles, and other plan provisions are defined as a result of the County's contractual agreement with the insurance provider and in accordance with state or federal law

4. Participation

Participation is optional. The decision to participate must be made at retirement. Retirees who elect not to enroll at retirement will not be eligible to participate in the future.

5. Termination

Participation ceases upon death or upon the retiree's failure to pay associated premiums.

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**C. Virginia Retirement System (VRS) Health Insurance Credit**

1. Eligibility

All current and future VRS retirees who participate in an employer-sponsored or personal health insurance plan and have 15 or more years of VRS service or are receiving a disability retirement allowance.

2. Benefit

The VRS health insurance credit provides a monthly reimbursement to assist with paying the cost of retiree-only insurance. The monthly credit is equal to \$1.50 for each year of VRS service up to a maximum credit of \$45.00 or the monthly retiree-only premium whichever is less. Disabled retirees receive the maximum credit of \$45.00 or the premium for retiree only health insurance, whichever is lower, regardless of length of service under VRS at retirement.

3. Reimbursement Method

The credit is added to the retirees monthly retirement benefit paid by the VRS or if no monthly benefit is due, paid by direct reimbursement from VRS.

4. Administration

The VRS Health Insurance Credit is administered solely by VRS. Terms and conditions are stipulated by VRS and are subject to change.

5. Credit Initiation and Periodic Proof of Insurance Required

In order to receive the credit, you must complete the appropriate VRS form (VRS-45) and return it to VRS. You will be required to periodically provide proof of insurance in order to continue to receive the credit.

6. Termination

Credit payments cease at the retiree's death.

**D. County Supplemental Health Insurance Credit**

1. Effective Date of Plan:


The effective date of this benefit is July 1, 2014.

2. Eligibility

Retirees who participate in an employer-sponsored or personal health insurance plan, retire with 15 or more years of VRS service, **were employed by the County as of June 30, 2014** and who are not enrolled in the County Post 65 Insurance Plan (Item B above)

**OR**

**Disabled retirees who** became permanently and totally disabled as a direct result of an injury or injuries sustained in the performance of their job.

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3. Benefit

The County Supplemental Health Insurance Credit provides a monthly reimbursement to assist with the cost of retiree-only insurance that is in addition to the VRS Health Insurance Credit. The base monthly credit is equal to \$2.50 for each year of VRS service. Disabled Retirees who were permanently and totally disabled as a direct result of an injury or injuries sustained in the performance of their County job and who are not receiving Line of Duty Act (LODA) benefits will receive an additional monthly credit of \$450 per month regardless of years of service. The total of the County Supplemental Health Insurance Credit and VRS Retiree Health Insurance Credit cannot exceed the monthly retiree-only insurance premium.

4. Qualifying Plans Eligible for Reimbursement

Insurance plans that qualify for reimbursement include Medicare Part B coverage, employer sponsored plans, vision, dental and prescription drug plans or any plan that provides a broad range of medically necessary services. Plans that provide coverage for specific diseases or procedures such as cancer insurance, home health care, long-term care, long-term disability or life insurance are not eligible.



5. Reimbursement Method

The credit will be paid directly to the Retiree by the County on a quarterly basis. It will not be included in the retirees monthly retirement benefit paid by VRS.

6. Participation

Only those employees who retired at the time they separated from County service may participate. Application may be made after the employee’s retirement date however retroactive payment for premiums paid is not allowed.

7. Administration

The County Supplemental Health Insurance Credit is administered solely by the County. Terms and conditions are subject to change.

8. Credit Initiation and Periodic Proof of Insurance Required

In order to begin receiving the credit, you must provide proof of insurance to the County on the forms prescribed. You will be required to annually provide proof of insurance in order to continue to receive the credit. Any changes to the insurance for which you claim reimbursement must be communicated to the County immediately.


9. Termination

The base credit continues until the retiree’s death. The additional credit paid to disabled retirees ceases when the retiree becomes Medicare eligible or the retiree dies, whichever comes first. Spouses are not eligible to receive the credit.

E. Information:

Additional program information for any of these benefits can be obtained from the Finance Department.


5.5 Approval of Personnel Policy No. 101-Types of Employment

	<b>SUBJECT:</b>	
	<b>TYPES OF EMPLOYMENT</b>	
	<b>POLICY NUMBER:</b> 101.0	<b>PAGE:</b> 1 OF 3
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**OVERVIEW:** This policy identifies and defines the different categories of employment for positions within Accomack County government. By defining the types of employment categories, the County intends to help employees understand their employment status and benefit eligibility. These categories do not guarantee employment for any specified period of time.

**DEFINITIONS:**


1. Position: An assigned group of duties and responsibilities that are to be performed by an individual. Positions can be full or part-time, and permanent, limited-term, or temporary in nature.
2. FLSA Status: Each position is designated as either nonexempt or exempt under the Fair Labor Standards Act (FLSA). Employees in nonexempt positions are entitled to overtime pay or compensatory leave for all hours worked over 40 in a workweek. Exempt employees are excluded from specific overtime provisions of the FLSA.
3. Merit (Classified) Service: Merit service positions are assigned to a classification in the County’s compensation plan and are subject to the rules, regulations, policies and procedures of the County personnel system unless explicitly stated. Merit (Classified) Service positions include:
  - a.) Regular positions – A regular position is one established by the Board of Supervisors, funded in the budget, and projected to continue indefinitely unless the Board shall eliminate it. A regular position may be either a full-time or part-time position. Generally, employees in regular positions are eligible for benefits subject to the terms, conditions and limitations of each benefit program.
  - b.) Limited-term positions - A limited-term position is one established by the Board of Supervisors, funded under a special revenue source such as a grant, and projected to continue subject to the continuation of the respective program. In the event such funding should cease, the positions so affected shall have no guarantee of general county funding. Limited term positions are categorized as internal or external.
    - 1.) Internal limited-term positions are limited-term positions supervised by County personnel. These positions may be either part-time or full-time. Unless specified when funded, internal limited-term positions are eligible for benefits subject to the terms, conditions and limitations of each benefit program.

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2.) External limited-term positions are limited-term positions supervised by separate legal entities such as Constitutional Officers or other local, state, or federal entities. These positions may be either part-time or full-time. These positions differ from internal limited-term positions in that they are not eligible for the same salary range adjustments, merit increases, and bonuses given to regular employees. External limited-term positions may only receive salary range adjustments, merit increases, or bonuses when other employees of the supervising entities receive such. For example, County external limited-term positions supervised by the Health Department would receive the same cost of living increase as other health department employees. This promotes compensation uniformity within the supervising entity. Unless specified when funded, external limited-term positions are eligible for benefits subject to the terms, conditions and limitations of each benefit program.

c.) Temporary positions - A temporary position is one established by the Board of Supervisors or the County Administrator to perform a specific function, such as a special project or to substitute for a regular or limited-term employee, with term of employment depending on the continuing need for the function being performed. A temporary position may be either a full-time or part-time position. Unless specified when funded or subsequently extended by agreement, a temporary position shall be maintained for no more than 12 months. Temporary employment may be extended by the County Administrator. Temporary employees may be discharged at the will of the County Administrator, without cause or hearing. Unless specified when funded, temporary positions are ineligible for benefits.

4. Exempt Service: Exempt service positions are not assigned to a classification in the County's compensation plan and are not subject to the rules, regulations, policies and procedures of the County personnel system (See item A below).
5. Full-time Position: A position that involves a regularly scheduled workweek of 40 hours or more.
6. Part-time Position: A position that may be regularly scheduled to work no more than 29 hours per week unless specifically authorized by the County Administrator Part-time positions are not eligible for the benefits associated with full-time employment unless mandated by law. Part-time employees are eligible for pro-

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rated holiday time when their regularly scheduled shift falls on a holiday.

7. Probationary Employment: The period of employment covered by the employee's first 6 months (12 months for public safety operational employees) of employment in a position. Probationary employees are those whose performance is being evaluated to determine whether further employment in a specific position is appropriate.

**PROVISIONS:**

- A. All established positions shall be identified as either Merit (classified) Service or Exempt Service within the County's personnel system. Merit (classified) service positions are subject to all rules, regulations, policies and procedures as approved by the Board of Supervisors and administered by the County Administrator. Exempt Service positions include the following types of positions:
  - Elected officials
  - Appointed positions
  - Members of boards and commissions
  - Volunteer personnel and personnel appointed to serve without pay
  - Consultants and counsel rendering professional service
  - Employees of the School System, the Social Services Department, , the Economic Development Authority, State Board of Elections, Constitutional officers and compensation board employees



- Positions receiving funding from the Compensation Board, student interns and work study employees
  - Such other positions as may be designated by the Board of Supervisors.
- B. All Merit (classified) system positions are designated as Exempt or Nonexempt under the Fair Labor Standards Act.
- C. Employment status, available benefits and working conditions are determined by the type of position and the employee's completion of a probationary period. See individual benefit programs for application and eligibility of benefits.

The establishment and abolishment of positions is dictated by workload demands and available resources. The type of position established depends upon the needs of the organization.

5.6 Resolution electing the FY15-FY16 biennium defined benefit retirement plan contribution rate

**Employer Contribution Rates for Counties, Cities,  
Towns, School Divisions and Other Political Subdivisions  
(In accordance with the 2014 Appropriation Act Item 468(H))**

**Resolution**

BE IT RESOLVED, that the **Accomack County Board of Supervisors (employer code 55100)** does hereby acknowledge that its contribution rates effective July 1, 2014 shall be based on the higher of a) the contribution rate in effect for FY 2014, or b) eighty percent of the results of the June 30, 2013 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2014-16 biennium (the "Alternate Rate") provided that, at its option, the contribution rate may be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to Virginia Code § 51.1-145(I) resulting from the June 30, 2013 actuarial value of assets and liabilities (the "Certified Rate"); and

BE IT ALSO RESOLVED, that the **Accomack County Board of Supervisor (employer code 55100)** does hereby certify to the Virginia Retirement System Board of Trustees that it elects to pay the following contribution rate effective July 1, 2014:

**(Check only one box)**

- The Certified Rate of **8.47%**                       The Alternate Rate of **6.78%**; and

BE IT ALSO RESOLVED, that the **Accomack County Board of Supervisors (employer code 55100)** does hereby certify to the Virginia Retirement System Board of Trustees that it has reviewed and understands the information provided by the Virginia Retirement System outlining the potential future fiscal implications of any election made under the provisions of this resolution; and

NOW, THEREFORE, the officers of **Accomack County Board of Supervisors (employer code 55100)** are hereby authorized and directed in the name of the **Accomack County Board of Supervisors** to carry out the provisions of this resolution, and said officers of the **Accomack County Board of Supervisors** are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by the **Accomack County Board of Supervisors** for this purpose.

- 5.7 Award Approval – RFP271 Inmate Telephone System-  
Be awarded to Legacy Inmate Communications based on the proposal ranking the highest and providing a commission of 73% of gross billed revenue. The commission will be paid monthly to the County. Additionally, Legacy Inmate Communications will pay the County a \$10,000 signing bonus. The contract would be for an initial four years with the option to renew for one successive one-year period upon mutual agreement.
- 5.8 National Park Service Grant – Pitts Landing –  
Accept the grant and authorize the County Administrator to execute the contractual documents and Cooperative Agreement.
- 5.9 Improvements to Old NASA Ferry Dock –

Approved the use of \$20,000 from each of the three District Projects Funds (ED2, ED3, ED5) for a total of \$60,000 for improvements to the Old NASA Ferry Dock to include the rebuilding of the wooden dock on the southern side.

- 5.10 Quinby Harbor Improvements – Phase III –  
Approve the use of \$20,000 from ED8 and ED9 for a total of \$40,000 to be used as local match for improvements to the Quinby Harbor.
- 5.11 Award Approval – IFB 673 Compactor System Equipment –  
Award to low bidder Mid-Atlantic Waste Systems in the amount of \$178,200 for the provision of compactor system equipment for Chincoteague and Grangeville Convenience Centers.
- 5.12 Request to Schedule a Public Hearing for June 18<sup>th</sup> on Updated 2014 Bicycle Plan-  
Advertise to schedule a Public Hearing on Wednesday, June 18, 2014 in the Board of Supervisors Chambers on the Updated 2014 Bicycle Plan.
- 5.13 Approve Resolution of Support for Coastline Chemical’s Grant Application to Industrial Access Rail Track Funds

#### **RESOLUTION OF SUPPORT**

**WHEREAS**, Coastline Chemicals has expressed its intent and desire to the Accomack County Board of Supervisors to expand its business operations in Accomack County; and

**WHEREAS**, Coastline Chemicals and its operation need improved rail access to expand; and

**WHEREAS**, the Officials of Coastline Chemicals have reported to Accomack County their intent to apply for Industrial Access Railroad Track Funds from the Commonwealth of Virginia’s Department of Rail and Public Transportation; and

**WHEREAS**, Coastline Chemicals has requested that the Accomack County Board of Supervisors provide a Resolution supporting its application for said funds which are administered by the Virginia Department of Rail and Public Transportation.

**NOW, THEREFORE, BE IT RESOLVED**, that the Accomack County Board of Supervisors hereby endorses and supports the application of Coastline Chemicals in Industrial Access Railroad Track Funds; and

**BE IT FURTHER RESOLVED** that the Accomack County Board of Supervisors supports the Coastline Chemical expansion in New Church, Virginia and has previously authorized performance incentives to facilitate the business expansion.

- 5.14 Adopt Eastern Shore Juneteenth Festival Resolution

#### **RESOLUTION**

**WHEREAS**, Accomack County's economic and social well-being requires the best efforts and cooperation of county residents of all races, creeds and backgrounds; and

**WHEREAS**, for thirteen years, the Juneteenth Festival has been an arena to educate and promote cultural enlightenment and diversity to the residents of the Eastern Shore of Virginia; and

**WHEREAS**, Juneteenth, also known as "Freedom Day" or "Emancipation Day" is the oldest known festival to celebrate the end of slavery and celebrates African-American freedom, encourages strong family structure, and emphasizes the importance of the church in the African-American community; and

**WHEREAS**, today many African Americans across the United States celebrate Juneteenth through the traditions of picnicking and barbecuing but also through prayer services, African arts and craft sales, concerts and parades; and

**WHEREAS**, this year's festival will be held on Saturday, June 21, 2014 at the Eastern Shore Community College and will be combined with a health fair to encourage and educate Eastern Shore residents on healthy living practices.

**NOW, THEREFORE**, the Accomack County Board of Supervisors does hereby endorse the EASTERN SHORE JUNETEENTH FESTIVAL to be held June 21, 2014.

Adopted this 21<sup>th</sup> day of May, 2014.

- 5.15 Approval of Operational Medical Director (OMD )Agreement-  
Authorize Department of Public Safety to enter into an agreement with Dr. Denise Harrison for OMD services.

### **Eastern Shore Healthy Communities Update**

Patti G. Kiger, M. ED., Executive Director of Eastern Shore Healthy Communities and Instructor of Eastern Virginia Medical School, gave an update on Eastern Shore Healthy Communities and a slide presentation on what was health. She stated the mission was to create a healthier Eastern Shore.

### **E.D.6 Tasley Fire House Voting Precinct**

Mr. Crockett made a motion to schedule a Public Hearing on June 18, 2014 in the Board of Supervisors Chambers at 7:30p.m. to afford interested persons the opportunity to be heard or to present written comments concerning a proposal to move the District 6 polling place to the Elks Lodge in Accomack. Mrs. Thornton seconded the motion. The motion was unanimously approved with Mr. Gray absent.

### **Electronic Pollbooks and Reduction in Precincts**

Patricia White, General Registrar, stated she had been before the Board in February and had informed them about electronic poll books and voting equipment in the County. She said she was asking again for changes in the number of precincts in Accomack County. She explained that she would like to move to electronic poll books requiring laptop computers to replace the printed poll books now use in each voting precinct, estimated the at approximately \$445 each and if no reduction of voting precincts took place she would need 37 laptops.

Several questions were asked by the Board about the suggested reduction to one polling place in each electoral district to which she responded that the first step would be to determine if the Board desired to consolidate precincts. She said that effective July 1 photo voter ID cards would be available from her office for anyone not having a photo ID for voting purposes.

Mr. Crockett made a motion to direct the staff to work with board members representing districts with multiple polling places, that board members identify a single polling place in their district for consolidation to a single polling place with the exception of Tangier Island. Mrs. Thornton seconded the motion. Ayes: Mrs. Thornton, Mr. Wolff, Mr. Chesser, Mr. Crockett, Mrs. Gordy, Ms. Major. Nays: Mrs. Lewis, Mr. Hart. Absent: Mr. Gray.

**Draft of Rural Additions (Roads) Policy Update**


Public Works Director Stewart Hall briefly identified the changes the board made at their last Board Meeting concerning the following changes in the draft Rural Additions (roads) Policy.

- Page 1 – *highlight the areas for roads that meet the requirements and are approved, actual construction to include paving may take several years from the time the initial request is made.*
- Page 3 – *this committee consists of four members; a sitting member of the Board of Supervisors (appointed by the board), the Public Safety Director or his/her designee, the Planning Director or his/her designee, and the Public Works Director or his/her designee.*
- Page 4 – *the other one-half of the qualifying rural addition cost must come from special assessment ~~and county revenue.~~*

It was the consensus of the board to remove (and county revenue)

- Page 5 – *Landowners must bear the legal costs and execute the required documents for providing clear, unencumbered right of way to the County. Those documents must be recorded prior to project commencement.*

Mr. Wolff made a motion to approve the updated draft to the following Rural Addition Policy as stated with all of the corrections. Mrs. Lewis seconded the motion. The motion was unanimously approved with Mr. Gray absent.

	<b>SUBJECT:</b> <b>PROCESS FOR ACCEPTING EXISTING ROADS INTO STATE MAINTENANCE</b>	
	<b>POLICY NUMBER:</b> <b>XXX.X</b>	<b>PAGE:</b> <b>1 OF 5</b>
	<b>EFFECTIVE DATE:</b> <b>5/22/2014</b>	<b>REVISED DATE:</b> <b>5/21/2014</b>

**OVERVIEW:** This policy identifies and defines the County’s procedures for processing requests for existing roads to be transferred into state maintenance. By defining these procedures, the County intends to help citizens by providing guidance and also assuring that public resources are used in a fair, consistent, and efficient manner. The primary purpose of this policy is to define the procedures that the County will follow when receiving, evaluating, and managing requests for roads to be accepted into state maintenance.

**DEFINITIONS:**

1. Rural Addition Program: A program for adding roads into state maintenance with the purpose of adding public roads that exist as a result of past development. These roads either could not be, or were not proposed to be, accepted as part of the secondary system of state highways. **Program applies only to roads that were created prior to July 1, 1992.**
2. Virginia Department of Transportation (VDOT): The Commonwealth agency responsible for building, maintaining, and operating the state’s roads, bridges, and tunnels.


**PROVISIONS:**

- A. **Background**  
 The Code of Virginia, § 33.1-72.1, provides the basis for what is known as the Rural Addition Program. This program has many requirements. *For roads that ultimately meet the requirements and are approved, actual construction (to include paving) may take several years from the time the initial request is made.* Details on this program can be found at the VDOT website ([www.virginiadot.org](http://www.virginiadot.org)). The information below provides a brief overview.

**General Requirements**

Roads must...


- have been created prior to July 1, 1992.
- be formally added to the system prior to improvements. This requires a formal resolution by the Board of Supervisors to approve the addition of roads to the secondary system of state highways and request VDOT maintenance.

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- be available for the public to use 24 hours per day.  
**Note: A current, recorded plat that indicates the road is “private and not to be maintained by VDOT, Accomack County, Commonwealth of Virginia, or any other municipality” automatically disqualifies the road from consideration.**
- have a right of way that is available to be dedicated to public use and is:
  - wide enough (usually 40 feet) to meet minimum safety standards.
  - sufficient to permit future maintenance.
  - be unencumbered by utility placements.
- serve at least three occupied homes.
- be able to safely handle the traffic volume.
- connect to other roads already maintained by VDOT or a locality.
- have an identified funding source to be used to finance any improvements that are needed.
- have a certified copy of the plat indicating right of way, drainage easements, place of recordation, and a detailed record of lot ownership.

**Additional Program Conditions**

- Rural addition funds administered by VDOT are reserved for construction and engineering costs only. Costs for providing a clear, unencumbered right of way (including relocation of utilities) and outfall drainage work are not eligible expenses covered by rural addition funds.
- Rural additions to the secondary system are limited during any one fiscal year to not more than 1-1/4% of each county’s secondary mileage.
- Ownership or partnership in two or more parcels, or equivalent frontage, abutting the road shall constitute a **speculative interest**. Speculative interests are assessed a pro rata share of the improvement costs.

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**B. Program Consideration**

Written requests for consideration of road additions are received by the Public Works Director. Written requests must be accompanied by completed, signed, and notarized questionnaires from the owners of 75 percent or more of the platted parcels of land abutting the road, indicating their consent to dedicate the required right of way and their understanding that a special assessment (or private funding in the case of speculative interests) will be required. The Director will keep a log of all requests.

**C. County Review of Requests and Ranking**

In July of each year, provided the unallocated rural addition funds balance is greater than \$50,000, the


Public Works Director will convene a meeting of the Road Additions Committee. This Committee consists of four members: a sitting member of the Board of Supervisors (appointed by the Board), the Public Safety Director or his/her designee, the Planning Director or his/her designee, and the Public Works Director or his/her designee.

The Committee will make a site visit to each road requested to observe current conditions and meet with interested landowners. Each Committee member will complete a rating form for each road. The form will be used to develop a total score for each road. The Public Works Director will calculate the mean of the individual scores to arrive at an average total score for each road.

The two roads receiving the highest average total scores will undergo further investigation by County staff, in consultation with VDOT representatives, to make a preliminary determination as to whether the roads are expected to qualify.

**D. Road Recommendations**

During the month of September following a County Review, the Committee will make a staff recommendation to the County Administrator and Board of Supervisors that VDOT be requested to perform a detailed qualification review(s) and prepare a cost estimate(s) for up to two roads resulting from the County Review, providing the road(s) appear likely to qualify. The committee will supply VDOT with any reference materials (e.g. deeds, plats, tax maps, drainage information) that have been compiled on the project(s) under consideration.

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When the requested information has been received, the Public Works Director will convene a meeting of the Road Additions Committee, the Finance Director, the Ditch Maintenance Supervisor, and one or more VDOT representatives to review.

During the review of the Secondary Six-Year Plan (SSYP), the Road Additions Committee will make final recommendations to the County Administrator and Board of Supervisors.


**E. Non-Qualifying Roads**

Roads that have been determined to not qualify for the Rural Addition Program are not eligible for review in subsequent years unless there has been a change in road status or program requirements that renders them qualified.

**F. Program Funding**

The County is allowed to set aside five percent of the secondary road construction funds that are allocated in order to improve qualifying roads that are not state maintained. Rollover of these funds can be for five years and they may be used to fund one-half of the qualifying rural addition cost to bring the road up to the necessary minimum standards for acceptance. The other one-half of the qualifying rural addition cost must come from special assessments. In Accomack County, special assessments shall be the primary means for funding the non-state portion of the qualifying rural addition cost, in addition to the costs for the surveying, utility relocation, and outfall drainage improvements. No special assessment shall be made unless the Board receives written declarations from the owners of 75 percent or more of the platted parcels of land abutting the road stating their acquiescence in such assessments. For Accomack County, the basis of the special assessments shall be the proportion the value of each abutting parcel bears to total value of all abutting parcels on the road as determined by the current evaluation of the property for real estate tax purposes. No such special assessment on any parcel shall exceed one-third of the current evaluation of such property for real estate tax purposes, excluding speculative interest parcels. For special assessments related to the Rural Additions Program in Accomack County, in no circumstances shall the collection term exceed 15 years. Special assessments will be billed to the landowner on an annual basis by the Treasurer who is also responsible for collection enforcement. Landowners must bear the legal costs and execute the required documents for providing clear, unencumbered right of way to the County. Those documents must be recorded prior to project commencement.



	<b>SUBJECT:</b> <b>PROCESS FOR ACCEPTING EXISTING ROADS INTO STATE          MAINTENANCE</b>	
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**G. Project Commencement**

Once funding has been secured and a project formally approved by the Board of Supervisors, County staff will work with VDOT representatives to complete the remaining requirements. Once all requirements have been met and the road added to the secondary system, VDOT will schedule and complete the construction.

**COUNTY OF ACCOMACK  
 QUESTIONNAIRE FOR ROAD ADDITIONS**

Road Name: \_\_\_\_\_

Subdivision Name: \_\_\_\_\_

Election District: \_\_\_\_\_

Brief Description of Location: \_\_\_\_\_  
 \_\_\_\_\_

Tax Map Parcel Number(s): \_\_\_\_\_

Property Owner Name(s): \_\_\_\_\_  
 \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
 \_\_\_\_\_

Town/State/Zip: \_\_\_\_\_

Phone (home): \_\_\_\_\_

Phone (cell): \_\_\_\_\_

Email: \_\_\_\_\_

Question #1: Would you like the road listed above to be considered for acceptance into state maintenance?  
 YES NO

Question #2: Would you be willing to convey the required right-of-way (typically 20 feet from center of road) to the County of Accomack? A lesser ROW width, but not less than 30' may be considered where buildings or permanent structures (not included fences) were in place prior to Dec. 31, 1961.  
 YES NO

Question #3: For owners of single parcels, would you be willing to consider a special assessment on your property to repay the loan from the County? Each project is different, but the special assessment may cost each landowner several hundred dollars per year.

For owners of multiple parcels, would you be willing to consider paying the pro rata share of the costs to improve that road?  
 YES NO

Signatures:  
 Property Owner #1 \_\_\_\_\_

Property Owner #2 \_\_\_\_\_

Notarized:

\* Please add any additional comments to the back of this form.

**COUNTY OF ACCOMACK  
 RATIG FORM FOR ROAD ADDITIONS**

Road Name: \_\_\_\_\_

Subdivision Name: \_\_\_\_\_

Election District: \_\_\_\_\_

Brief Description of Location: \_\_\_\_\_  
 \_\_\_\_\_

Length (Miles): \_\_\_\_\_

Right-of-Way Width (feet): \_\_\_\_\_

From: \_\_\_\_\_

To: \_\_\_\_\_

Evaluator's Name and Position: \_\_\_\_\_

**Rating**

**Criteria**

- \_\_\_\_\_ 1. Connects to an existing state-maintained road? Yes (5 points) No (1 point)  
If yes, Route Number & Name: \_\_\_\_\_
- \_\_\_\_\_ 2. Is existing road platted and R-O-W deeded to County? Yes (5 points) No (1 point)
- \_\_\_\_\_ 3. Existing Right-of-Way width (totally cleared). >/=40' (5 points) <40' (1 point)
- \_\_\_\_\_ 4. Condition of existing road surface on a scale of 1 to 5. (5 representing the worst condition)
- \_\_\_\_\_ 5. Sight distance at intersection. (5 representing very good)
- \_\_\_\_\_ 6. Utility relocations expected to be required? (5 representing very unlikely)
- \_\_\_\_\_ 7. Amount of drainage improvements expected to be required. (5 representing minimal)

**RATING TOTAL**

\_\_\_\_\_ Number of homes served per mile. (Enter actual number)

**TOTAL SCORE (RATING TOTAL X NUMBER HOMES/MILE)**

**Additional Notes:**

Mrs. Thornton made a motion to request the Department of Transportation to conduct a traffic study on Route 175 approaching the bridge on Route 175. Mr. Hart seconded the motion. The motion passed unanimously with Mr. Gray absent.

**Stormwater Ordinance Update**

Norman Pitt, Environmental Program Manager, informed the Board that he had received an email from the State Department of Environmental Quality and that only two (2) issues out of forty-eight (48) needed to be corrected. He said he was at the point that he felt the County has an approvable ordinance. Mr. Pitt gave an update on the major changes caused by the signing of Senate Bill 423.

- The bill exempts single-family residences from payment of the Department's portion of the fee for the state general permit. Reducing the fee from \$290 to \$209, with the locality keeping the entire amount.
- The bill alters the permitting appeals process and allows for an agreement in lieu of a stormwater management plan single-family home construction within or outside of common plan of development or sale.

Local Ordinance changes:

- The definition “Administrator” means the Environmental Program Manager or his designee.

Other changes allowed by the State:

- Fees may be altered but State requires they receive their 28% portion.

Mr. Pitt told the Board he believed the Accomack County Plan would be accepted and approved. He also explained the State would not touch any permits that involved less than 1 acre leaving it to local control.

Mr. Pitt responded to questions from the Board of Supervisors. Mr. Pitt recommended the adoption of the fees attached to the ordinance.

### **Harborton Public Facility Committee**

Mr. Hart made a motion to appoint Doug Cowling to the Harborton Public Facility Committee for a four year term to fill the unexpired term of Webster Martin who resigned; the term to begin immediately and end on December 31, 2016. Mr. Crockett seconded the motion. The motion was unanimously approved with Mr. Gray absent.

Mr. Hart made a motion to appoint Robert Mickiewicz to the Harborton Public Facility Committee for a four year term to fill the unexpired term of Charles Crockett; the term to begin immediately and end on December 31, 2014. Mr. Crockett seconded the motion. The motion was unanimously approved with Mr. Gray absent.

Mr. Hart made a motion to appoint Lori Ridington to the Harborton Public Facility Committee for a four year term to fill the unexpired term of Christine Ross; the term to begin immediately and end on December 31, 2015. Mr. Crockett seconded the motion. The motion was unanimously approved with Mr. Gray absent.

### **Wetlands Board Resignation**

Mr. Wolff stated Mr. C. Lee Davis had sent a letter resigning from the Wetlands Board after 30 years of service. Mr. Wolff made a motion for staff to prepare a Resolution of Commendation for Mr. C. Lee Davis and he would gather the information and send it to staff. Mr. Crockett seconded the motion. The motion was approved with Mr. Gray absent.

### **Attendance Reports**

Mrs. Thornton and Mrs. Lewis thanked Mr. Miner for having letters sent out to the Commissions, Committees, and Boards.

Mr. Miner gave an update on the absences from meetings and talked about the self-addressed envelope for the citizens to submit back into the office stating whether they wish to serve or not.

### **Third Quarter Fiscal Year 2014**

Director of Finance, Michael Mason gave a brief update for the Third Quarter FY2014. Mr. Mason told the Board that the third quarter did not look good and that revenue was down approximately 17.2% for the quarter and approximately 1.3% for the year meaning revenue was down \$356,410. Mr. Mason said he believes that the revenue shortfall could be explained by the billing being approximately one week later than in previous years and that the revenues will be on budget June 30. He stated that the biggest concern is sales tax income which is currently down 8% from \$2.7 million to \$2.4 million. He also explained to the Board of Supervisors because Richmond has not many decisions on their budget means that the County as of July 1 could be funding \$3.4-\$3.9 million unless a budget is approved by that date. The rainy day fund reported \$8.4 million meaning the County would have to find other funding by September. Mr. Mason continued and stated he would present alternatives before the July 1 effective date. He told the Board June is normally the high month of cash flow in each year and September is normally the low month as far as cash flow is concerned with the biggest being semi-annual billing.

Mr. Mason responded to questions from the Board. Mr. Wolff stated he had been asked why checks have not cleared the bank after they had paid their taxes. Mr. Mason stated could not answer the question because it was handled from the Treasurer's Office.

### **Other**

Mr. Hart made a motion to have staff prepare a Resolution of Respect for the passing of Kenneth (K. W.) W. Ainsworth who was a member of the Accomack County Fire and Rescue Commission and was very instrumental on the Fire Training Center to be presented to his family. Mr. Chesser seconded the motion. The motion was unanimously approved with Mr. Gray absent.

Mrs. Thornton made a motion to have staff prepare a resolution for Terry Howard who is retiring after 32 years serving on the Chincoteague Town Council. Mr. Hart seconded the motion. The motion was unanimously approved with Mr. Gray absent.

She told the Board of Supervisors the Town of Chincoteague asked her to invite the Board members and staff to attend the reception on June 19<sup>th</sup> at 5:00p.m. at the Community Center.

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

Mr. Miner told the Board that a request for real estate tax exemption for Eastern Shore Rural Health System, Inc. would be scheduled for the June Meeting and that CEO Nancy Stern would be present at the meeting.

He also informed the Board that Dr. Kregg Cuellar from Iowa had been hired as the new Division Superintendent for Accomack County Public Schools.

### **County Attorney Report**

Mr. Mark Taylor stated he had a note passed to him saying the Accomack County Stormwater Management Ordinance had not been adopted and Mr. Pitt would like them to vote on it.

Mr. Crockett made a motion to adopt the following Draft Accomack County Stormwater Management Ordinance. Mr. Wolff seconded the motion. The motion was approved with Mr. Gray absent.

This Ordinance is mandated by the Commonwealth of Virginia pursuant to Virginia Code §62.1-44.15:27 et seq. and regulations promulgated by the State Water Control Board.

## **Accomack County Stormwater Management Ordinance**

### **ACCOMACK COUNTY STORMWATER MANAGEMENT ORDINANCE**

Pursuant to Virginia Code §[62.1-44.15:27](#), Accomack County is required to adopt a Stormwater Management Ordinance and establish a Stormwater Management Program (VSMP).

#### **1-1. PURPOSE AND AUTHORITY. (Section [9VAC25-870-20](#), [9VAC25-870-40](#))**

- (a) The purpose of this Ordinance is to protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.
- (b) This Ordinance is adopted in accordance with Article 2.3 (§[62.1-44.15:24](#) et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

#### **1-2. DEFINITIONS. ([9VAC25-870-10](#))**

In addition to the definitions set forth in [9VAC25-870-10](#) of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this Ordinance have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

"*Administrator*" means the Environmental Program Manager or his designee.

"*Agreement in lieu of a stormwater management plan*" means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

"*Appeals Board*" means the VSMP appeals authority, which shall be appointed by the Board of Supervisors. The Appeals Board will consist of an engineer, a local developer, and an individual from the local Eastern Shore Soil and Water Conservation District.

"*Applicant*" means any person submitting an application for a permit or requesting issuance of a permit under this Ordinance.

"*Best management practice*" or "BMP" means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

"*Chesapeake Bay Preservation Act land-disturbing activity*" means a land-disturbing activity, including clearing, grading, or excavation that results in a land disturbance equal or greater than 2,500 square feet and less than one acre in the area designated as subject to the Chesapeake Bay Preservation Act and regulations adopted pursuant thereto. (NOTE: The area of Accomack County subject to the Chesapeake Bay Preservation Act and regulations adopted pursuant thereto is designated as the "Chesapeake Bay Watershed" on the official zoning map of Accomack County.)

"*Common plan of development or sale*" means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

"*Control measure*" means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

"*Clean Water Act*" or "CWA" means the federal Clean Water Act ([33 U.S.C §1251](#) et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

"*Department*" means the Department of Environmental Quality.

"*Development*" means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreational, transportation or utility facilities or structures, or the clearing of land for non-agricultural or non-silvicultural purposes.

"*General permit*" means the state permit titled GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV ([9VAC25-880-1](#) et seq.) of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

"*Land disturbance*" or "*land-disturbing activity*" means a man-made change to the land surface that potentially changes its runoff characteristics, including clearing, grading, or excavation, except that the term shall not include those exemptions specified in Section 1-3 (c) of this Ordinance.

"*Layout*" means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

"*Minor modification*" means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation, including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

"*Operator*" means the owner or operator of any facility or activity subject to regulation under this Ordinance.

"*Permit*" or "*VSMP authority permit*" means an approval to conduct a land-disturbing activity issued by the VSMP authority for the initiation of a land-disturbing activity after evidence of state VSMP general permit coverage has been provided where applicable.

"*Permittee*" means the person to whom the VSMP Authority Permit is issued.

"*Person*" means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.

"*Regulations*" means the VSMP Permit Regulations ([9VAC25-870](#)) as amended.

"*Site*" means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing



activity. Areas channel ward of mean low water in tidal Virginia shall not be considered part of a site.

"State" means the Commonwealth of Virginia.

"State Board" means the State Water Control Board.

"State permit" means an approval to conduct a land-disturbing activity issued by the State Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the State Board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and Regulations, the Virginia Stormwater Management Act and the Regulations.

"State Water Control Law" means Chapter 3.1 (§[62.1-44.2](#) et seq.) of Title 62.1 of the Code of Virginia.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater management plan" means a document(s) containing material describing methods for complying with the requirements of Section 1-6 of this Ordinance.

"Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this Ordinance. In addition the document shall identify and requirement the implementation of control measures and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

"Subdivision" means the same as defined in [Section 78-3](#) of Accomack County's Subdivision Ordinance.

"Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDL's can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade- offs.

"Virginia Stormwater Management Act" or "Act" means Article 2.3 ([62.1-44.15:24](#) et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

"Virginia Stormwater BMP Clearinghouse website" means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

"Virginia Stormwater Management Program" or "VSMP" means a program approved by the State Board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

"Virginia Stormwater Management Program authority" or "VSMP authority" means an authority approved by the State Board after September 13, 2011, to operate a Virginia Stormwater Management Program.

### **1-3. STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.**

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a VSMP authority permit has been issued by the Administrator in accordance with the provisions of this Ordinance.
- (b) A Chesapeake Bay Preservation Act Land-Disturbing Activity shall be subject to an erosion and sediment control plan consistent with the requirements of the Erosion and Sediment Control Ordinance, a stormwater management plan as outlined under Section 1- 6, the technical criteria and administrative requirements for land-disturbing activities outlined in Section 1-9, and the requirements for control measures long-term maintenance outlined under Section 1-10. Such land-disturbing activities shall not require completion of a registration statement or require coverage under the General Permit for Discharges of Stormwater from construction activities.

- (c) Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:
- (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
  - (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§[10.1-1100 et seq.](#)) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of §[10.1-1163](#) of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
  - (3) Single-family residences separately built and disturbing less than one acre of land area and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
  - (4) Land-disturbing activities that disturb less than one acre of land area and not part of a larger common plan of development or sale that includes one acre or more of disturbance, except that CBPA land disturbing activities must comply with the requirements outlined under Section 1-3(b);
  - (5) Discharges to a sanitary sewer or a combined sewer system;
  - (6) Activities under a State or Federal reclamation program to return an abandoned property to an agricultural or open land use;
  - (7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this Subsection; and
  - (8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within 7 days of commencing the land-disturbing activity and compliance with the administrative requirements of Subsection (a) is required within 30 days of commencing the land-disturbing activity.

#### **1-4. STORMWATER MANAGEMENT PROGRAM ESTABLISHED; SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS.**

- (a) Pursuant to §[62.1-44.15:27](#) of the Code of Virginia, Accomack County hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMP's promulgated by the State Board for the purposes set out in Section 1-1 of this Ordinance. The Board of Supervisors hereby designates the County Administrator as the Administrator of the Virginia stormwater management program.
- (b) No VSMP authority permit shall be issued by the Administrator until the following items have been submitted to and approved by the Administrator as prescribed herein:
  - (1) A permit application that includes a general permit registration statement;
  - (2) An erosion and sediment control plan approved in accordance with the Accomack County Erosion and Sediment Control Ordinance [Chapter 38, Article III];
  - (3) A stormwater management plan that meets the requirements of Section 1-6 of this Ordinance.
- (c) No VSMP authority permit shall be issued until general permit coverage is obtained.

- (d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section 1-15 are received or a reasonable performance bond received pursuant to Section 1-15 of this Ordinance has been submitted.
- (e) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing; construction, disturbance, land development and drainage will be done according to the approved permit.
- (f) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator.

**1-5. STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.**

- (a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section [9VAC25-870-54](#) and must also comply with the requirements and general information set forth in Section [9VAC25-880-70](#), [Section II](#) [stormwater pollution prevention plan] of the general permit.
- (b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
- (c) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

**1-6. STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.**

- A. A Stormwater Management Plan, or where appropriate, an Agreement In Lieu of a Stormwater Management Plan, shall be developed and submitted to the VSMP authority. The stormwater management plan shall be implemented as approved or modified by the VSMP authority and shall be developed in accordance with the following:
  - (1) The Stormwater Management Plan required in Section 1-4 of this Ordinance must apply the stormwater management technical criteria set forth in Section 1-9 of this Ordinance to the entire land disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities.
  - (2) A Stormwater Management Plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.
- B. A complete Stormwater Management Plan, or where appropriate, an Agreement In Lieu of a stormwater management plan, shall include the following elements:
  - (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged, including surface waters or karst features if present, and pre-development and post-development drainage areas;
  - (2) Contact information including the name, address, and telephone number of the owner and the tax map reference number(s) and parcel number(s) of the property or properties affected;
  - (3) A narrative that includes a description of current site conditions and final site conditions or if allowed by the VSMP authority, the information provided and documented during the review process that addresses the current and final site conditions;
  - (4) A general description of the proposed stormwater facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
  - (5) Information on the proposed stormwater management facilities, including:
    - (i) The type of facilities;
    - (ii) Location, including geographic coordinates;
    - (iii) Acres treated; and

- (iv) The surface waters or karst features into which the facility will discharge.
  - (6) Hydrologic and hydraulic computations, including runoff characteristics;
  - (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of the VSMP Regulations.
  - (8) A map or maps of the site that depicts the topography of the site and includes:
    - (a) All contributing drainage areas;
    - (b) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
    - (c) Boring locations and associated data locating the seasonal high water table;
    - (d) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
    - (e) Current land use, including existing structures, roads, and locations of known utilities and easements;
    - (f) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
    - (g) The limits of clearing and grading and the proposed drainage patterns on the site;
    - (h) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
    - (i) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.
  - (9) If an operator intends to meet the requirements established in 9VAC25-870-63 or 9VAC25-870-66 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included; and
  - (10) If payment of a fee is required with the stormwater management plan submission by the VSMP authority, the fee and the required fee form in accordance with Part XIII must have been submitted.
- C. Elements of the stormwater management plans that include activities regulated under Chapter 4 (§[54.1-400 et seq.](#)) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§[54.1-400 et seq.](#)) of Chapter 4 of Title 54.1 of the Code of Virginia.
- D. A construction record drawing for permanent stormwater management facilities shall be submitted to the VSMP authority with 9VAC25-870-108 and 9VAC25-870-112. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

## **1-7. POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.**

- A. Pollution Prevention Plan required by [9VAC25-870-56](#), shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
  - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
  - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- B. The pollution prevention plan shall include effective best management practices to prohibit the following discharges:

- (1) Wastewater from washout of concrete, unless managed by an appropriate control;
  - (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
    - Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
  - (3) Soaps or solvents used in vehicle and equipment washing.
- C. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

**1-8. REVIEW OF STORMWATER MANAGEMENT PLAN.**

- A. The Administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:
- (1) The Administrator shall determine the completeness of a plan in accordance with Section 1-6 of this Ordinance, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
  - (2) The Administrator shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subdivision (1), then the plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the plan.
  - (3) The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.
  - (4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance.
  - (5) If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above in subdivision (2) for review, the plan shall be deemed approved.
- B. Approved stormwater plans may be modified as follows:
- (1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.
  - (2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.
- C. The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 1-10 (b).

**1-9. TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES.**

To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, Accomack County hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include [9VAC25-870-63](#) [water quality design criteria requirements]; [9VAC25-870-65](#) [water quality compliance]; [9VAC25-870-66](#) [water quantity]; [9VAC25-870-69](#) [offsite compliance options]; [9VAC25-870-72](#) [design storms and hydrologic methods]; [9VAC25-870-74](#) [stormwater harvesting]; [9VAC25-870-76](#) [linear development project]; and [9VAC25-870-85](#) [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as

expressly set forth in Subsection (b) of this Section.

A. Any land disturbing activity shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:

(1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C technical criteria of the VSMP Regulation, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;

(2) A state permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

B. Locality, state and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:

(1) There has been an obligation of locality, state or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012;

(2) A state permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

C. Land disturbing activities grandfathered under subsections A and B of this section shall remain subject to the Part II C technical criteria of the VSMP Regulation for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

D. In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.

E. Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.

F. (1) The Administrator may grant exceptions to the provisions of Part II B or Part II C of 9VAC25-850 (Erosion and Sediment Control and Stormwater Management Certification Regulations, Technical Criteria for Regulated Land-Disturbing Activities). . An exception may be granted provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the Act and this chapter are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created.

(2) Economic hardship alone is not sufficient reason to grant an exception from the requirements of this chapter.

(3) Under no circumstance shall the VSMP authority grant an exception to the requirement that the land-disturbing activity obtain required state permits, nor approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, except where allowed under Part II C (9VAC25-870-93 et seq.) of this chapter.

(4) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options available through 9VAC25-870-69 have been considered and found not available.

(5) A record of all exceptions granted shall be maintained by the VSMP authority in accordance with 9VAC25-870-126.

## **1-10. LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES.**

A. The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the Administrator and shall at a minimum:

(1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;

(2) Be stated to run with the land;

(3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;



- (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and
  - (5) Be enforceable by all appropriate governmental parties.
- B. At the discretion of the Administrator, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the Administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Administrator.
- C. If a recorded instrument is not required pursuant to Subsection 1-10 (b), the Administrator shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the Administrator.

### **1-11. MONITORING AND INSPECTIONS.**

- A. The Administrator shall inspect the land-disturbing activity during construction for:
- (1) Compliance with the approved erosion and sediment control plan;
  - (2) Compliance with the approved stormwater management plan;
  - (3) Development, updating, and implementation of a pollution prevention plan; and
  - (4) Development and implementation of any additional control measures necessary to address a TMDL.
- B. The Administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance.
- C. In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.
- D. Pursuant to [§62.1-44.15:40](#) of the Code of Virginia, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, to furnish, when requested, such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance.
- E. Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator pursuant to the County's adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in Section 1-10.

### **1-12. HEARINGS.**

- (a) Any permit applicant, permittee, or person subject to permit requirements under this Ordinance aggrieved by any action of the Administrator taken without a formal hearing, or by inaction of the Administrator, may request, in writing, a formal hearing by the Administrator causing such grievance, provided a petition requesting such hearing is filed with the Administrator within 30 days after notice of such action or inaction.
- (b) The hearings held under this Section shall be conducted by the Appeals Board at a scheduled meeting.

- (c) A record of the proceedings of such hearings shall be taken and filed at the County Administrator's office. Depositions may be taken and read as in actions at law.
- (d) The Board shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the Board in the manner prescribed in Va. Code §62.1-44.15:44. Witnesses who are subpoenaed shall receive the same fees and mileage as in civil actions.

### **1-13. APPEALS.**

- (a) Appeals of the Appeals Board decision shall be made in the Accomack County Circuit Court pursuant to Va. Code §62.1-44.15:46. Such appeals shall be made to the Court within 30 days of the action by the Appeals Board.

### **1-14. ENFORCEMENT.**

A. If the Administrator determines that there is a failure to comply with the VSMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.

- (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (b) or the permit may be revoked by the Administrator.
- (2) If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit, to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his/her address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 1-14 (c).

- B. In addition to any other remedy provided by this Ordinance, if the Administrator determines that there is a failure to comply with the provisions of this Ordinance, they may initiate informal and/or formal administrative enforcement procedures.
- C. Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in the Accomack County Circuit Court by Accomack County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- D. Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the Court. Each day of violation of each requirement shall constitute a separate offense.

- (1) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:
  - (i) No state permit registration;

- (ii) No SWPPP;
- (iii) Incomplete SWPPP;
- (iv) SWPPP not available for review;
- (v) No approved erosion and sediment control plan;
- (vi) Failure to install stormwater BMPs or erosion and sediment controls;
- (vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- (viii) Operational deficiencies;
- (ix) Failure to conduct required inspections;
- (x) Incomplete, improper, or missed inspections; and
- (xi) Discharges not in compliance with the requirements of Section [9VAC25-880-70](#) of the general permit.

(2) The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.

(3) In imposing a civil penalty pursuant to this Subsection, the Court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.

(4) Any civil penalties assessed by a court as a result of a summons issued by Accomack County shall be paid into the treasury of Accomack County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the Court may, by order, direct.

E. Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Ordinance, any order of the Administrator, any condition of a permit, or any order of a Court shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

**1-15. FEES.**

When a site or sites are purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees (“total fee to be paid by applicant” column) in accordance with the disturbed acreage of their site or sites according to the following table.

Fee type	Total fee to be paid by Applicant (includes both VSMP authority and Department portions where applicable)	Department portion of “total fee to be paid by Applicant” (based on 28% of total fee paid*)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$209	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$290	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres)	\$2,700	\$756
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400	\$952

General / Stormwater Management – Large Construction Activity/Land Clearing [Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres]	\$4,500	\$1,260
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688
Individual Permit for Discharges of Stormwater from Construction Activities (This will be administered by the department)	\$15,000	\$15,000

\* If the project is completely administered by the Department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the Department.

**9VAC25-870-820. Fees for an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities.**

The following fees apply, until June 30, 2014, to coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the department prior to a VSMP authority being approved by the board in the area where the applicable land-disturbing activity is located, or where the department has issued an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency.

General/Stormwater Management- Phase I Land Clearing (“Large” Construction Activity- Sites or common plans of development equal to or greater than five acres.	\$750
General/Stormwater Management- Phase II Land Clearing (“Small” Construction Activity- Sites or common plans of development equal to or greater than one acre and less than five acres)	\$450
General/Stormwater Management- Small Construction Activity/Land Clearing (Sites within designated areas of Chesapeake Bay Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than one acre) (Fee valid until July 1, 2014)	\$200
Individual Permit for Discharges of Stormwater from Construction Activities	\$15,000

The following total fees to be paid by applicant apply to (i) any operator seeking coverage under the a July 1, 2014 General Permit for Discharges of Stormwater from Construction Activities for or (ii) on or after July 1, 2014 to any operator seeking coverage under a General Permit for Discharges of Stormwater from Construction Activities, a state or federal agency that does not file annual standards and specifications or an individual permit issued by the board. On and after approval by the board of a VSMP authority for coverage under the General Permit for Discharges of Stormwater from Construction Activities, no more than 50% of the base total fee to be paid by applicant set out in this part shall be due at the time that a stormwater management plan or an initial stormwater management plan is submitted for review in accordance with 9VAC25-870-108. The remaining total fee to be paid by applicant balance shall be due prior to the issuance of coverage under the General Permit for Discharges of Stormwater from Construction Activities.

The following fees apply, on or after July 1, 2014 to coverage under the General Permit for Discharges of Stormwater from Construction Activities issues by the board for a state or federal agency that has annual standards and specifications approved by the board.

General/Stormwater Management- Phase I Land Clearing (“Large” Construction Activity- Sites or common plans of development equal to or greater than five acres.	\$750
General/Stormwater Management- Phase II Land Clearing (“Small” Construction Activity- Sites or common plans of development equal to or greater than one acre and less than five acres)	\$450

**9VAC25-870-825. Fees for the modification or transfer of registration statements for the**

## **General Permit for Discharges of Stormwater from Construction Activities.**

The following fees apply to modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater from Construction Activities issued by the board. If the state permit modifications result in changes to stormwater management plans that require additional review by the VSMP authority, such reviews shall be acreage of the site. In addition to the state permit medication fee, modications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would have applied for the total disturbed acreage in 9VAC25-870-820. No modification or transfer fee shall be required until such board-approved programs exist. These fees shall only be effective when assessed by a VSMP authority, including the department when acting in that capacity that has been approved by the board. No modification fee shall be required f or the General Permit for Discharges of Stormwater form Construction Activities for a state or federal agency that is administering a project in accordance with approved annual standards and specifications but apply to all other state or federal agency projects.

<b>Type of Permit</b>	<b>Fee Amount</b>
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)	\$200
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700
Individual Permit for Discharges of Stormwater from Construction Activities	\$5,000

### **Recess**

It was the consensus of the Board to recess until 7:30pm.

### **Call to Order**

The Vice Chair called the meeting back to order.

### **Public Hearing**

County Attorney Mark Taylor read the rules governing conduct during Public Hearings.

### **Proposed Secondary Six-Year Plan FY2014-2015-2016-2020 and Improvements Priorities for FY14-15**

Mr. Tony Gibson, District Program Manager, Virginia Department of Transportation presented Accomack County's Secondary Six Year Plan FY2014-2020. He reviewed the estimated program allocations, schedule advertising dates for County

priority projects, governors transportation funding on those projects, and the secondary unpaved priority roads projects.

He told the Board that from last year's FY14-FY19 to FY15-20 there was a decrease in the amount of money that Accomack County received, gave a brief report on road projects and responded to questions.

Mr. Hart asked about the old list of the projects that was put on the six year plan years ago showing that the projects were moving up, and a discussion ensued. Mr. Hart requested Mike Mason and Mr. Miner to try to research and find the projects that were put on the list years ago.

The Vice Chair Major opened a Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning the proposed Secondary Road Six Year Plan 2014/2015 – 2016/2020 and Improvement Priorities for Fiscal Year 2014-2015 for Accomack County.

No public comments were offered.

The Vice Chair closed the Public Hearing.

Mr. Crockett made a motion to adopt the Secondary Road Six Year Plan 2014/15 – 2016/2020 and Improvement Priorities for Fiscal Year 2014-2015 for Accomack County. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Gray absent.

## **R E S O L U T I O N**

**WHEREAS**, the Virginia Department of Transportation and the Accomack County Board of Supervisors have jointly established the Secondary Road Six-Year-Plan for the fiscal years 2014-2015 to 2016-2020 and priority list for the fiscal year 2014-2015; and

**WHEREAS**, the Virginia Department of Transportation and the Accomack County Board of Supervisors have jointly held a Public Hearing on the Secondary Road Six-Year Plan for fiscal years 2014-2015 to 2016-2020 and Improvement Priorities for fiscal year 2014-2015.

**NOW, THEREFORE, BE IT RESOLVED** that the Accomack County Board of Supervisors hereby approves the Secondary Road Six-Year-Plan for



fiscal years 2014-2015 to 2016-2020 and Improvement Priorities for Fiscal Year 2014-2015.

**Rural Rustic Road Resolutions for Custis Neck Road, Frogstool Road, and Kittens Branch Road**

Vice Chair Major opened a Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning Rural Rustic Road Resolutions for Custis Neck Road, Frogstool Road, and Kittens Branch.

No public comments were offered.

The Vice Chair closed the Public Hearing.

Mr. Crockett made a motion to adopt the following resolutions. Mr. Wolff seconded the motion. A discussion ensued. The motion was unanimously approved with Mr. Grey absent.

**RESOLUTION**

**WHEREAS**, Section 33.1-70.1 of the *Code of Virginia*, permits the hard surfacing of certain unpaved roads deemed to qualify for designation as a Rural Rustic Road; and

**WHEREAS**, any such road must be located in a low-density development area and have no more than 1,500 vehicles per day; and

**WHEREAS**, the Board of Supervisors of Accomack County, Virginia (“Board”) desires to consider whether Custis Neck Road Route 0648, From: 0.8 miles east of Rt. 651 To: Dead End, should be designated a Rural Rustic Road; and

**WHEREAS**, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

**WHEREAS**, the Board believes that this road should be so designated due to its qualifying characteristics; and

**WHEREAS**, this road is in the Board’s six-year plan for improvements to the secondary system of state highways.

**NOW, THEREFORE, BE IT RESOLVED**, the Board hereby designates this road a Rural Rustic Road, and requests that the Residency Administrator for the Virginia Department of Transportation concur in this designation.

**BE IT FURTHER RESOLVED**, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right-of-way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state.

**BE IT FURTHER RESOLVED that** a certified copy of this resolution be forwarded to the Virginia Department of Transportation Residency Administrator.

**RESOLUTION**

**WHEREAS**, Section 33.1-70.1 of the *Code of Virginia*, permits the hard surfacing of certain unpaved roads deemed to qualify for designation as a Rural Rustic Road; and

**WHEREAS**, any such road must be located in a low-density development area and have no more than 1,500 vehicles per day; and

**WHEREAS**, the Board of Supervisors of Accomack County, Virginia (“Board”) desires to consider whether Frogstool Road Route 0743, From: Int. Rt. 600 To: Int. Rt. 622, should be designated a Rural Rustic Road; and

**WHEREAS**, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

**WHEREAS**, the Board believes that this road should be so designated due to its qualifying characteristics; and

**WHEREAS**, this road is in the Board’s six-year plan for improvements to the secondary system of state highways.

**NOW, THEREFORE, BE IT RESOLVED**, the Board hereby designates this road a Rural Rustic Road, and requests that the Residency Administrator for the Virginia Department of Transportation concur in this designation.

**BE IT FURTHER RESOLVED**, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right-of-way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state.

**BE IT FURTHER RESOLVED that** a certified copy of this resolution be forwarded to the Virginia Department of Transportation Residency Administrator.

### **RESOLUTION**

**WHEREAS**, Section 33.1-70.1 of the *Code of Virginia*, permits the hard surfacing of certain unpaved roads deemed to qualify for designation as a Rural Rustic Road; and

**WHEREAS**, any such road must be located in a low-density development area and have no more than 1,500 vehicles per day; and

**WHEREAS**, the Board of Supervisors of Accomack County, Virginia (“Board”) desires to consider whether Kittens Branch Road Route 0640, From: Int. Rt. 638 To: Int. Rt. 718, should be designated a Rural Rustic Road; and

**WHEREAS**, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

**WHEREAS**, the Board believes that this road should be so designated due to its qualifying characteristics; and

**WHEREAS**, this road is in the Board’s six-year plan for improvements to the secondary system of state highways.

**NOW, THEREFORE, BE IT RESOLVED**, the Board hereby designates this road a Rural Rustic Road, and requests that the Residency Administrator for the Virginia Department of Transportation concur in this designation.

**BE IT FURTHER RESOLVED**, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right-of-way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state.

**BE IT FURTHER RESOLVED that** a certified copy of this resolution be forwarded to the Virginia Department of Transportation Residency Administrator.

### **Joint Enterprise Zone Application with Northampton County**

Tom Brockenbrough, GIS Coordinator presented information pertaining to the Joint Enterprise Zone Application with Northampton County including information on incentives as well as the property included in the Zone and why some lands were not included as part of the proposed Zone. The proposed Zone would consist of almost 1,400

parcels totaling approximately 3,250 acres leaving approximately 590 acres for future expansion in the Zone.

A discussion focused on adding additional land around the proposed Hospital to the Zone and he responded to questions.

Mrs. Thornton requested that Mr. Brockenbrough return with a report stating how many acres zoned business were taken out of the Enterprise Zone for discussion at the work session on May 28, 2014.

Vice Chair Major opened a Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning the proposed the Enterprise Zone.

Mr. Richard Hall, owner of Four Corner Plaza in the Town of Only requested that his property as well as nearby property belonging to his mother, Virginia Hall, be added to the proposed Enterprise Zone.

Additional questions and discussion focused on property in the existing Zone that was not included in the proposed Zone in Central Accomack as well as the amount of land available for future expansion of the Zone in Northampton County.

The Vice Chair closed the Public Hearing.

Mrs. Gordy made a motion to add approximately 30 acres to the proposed Zone as requested by Mr. Hall. Mr. Crockett seconded the motion. The motion was unanimously approved with Mr. Gray absent.

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

Mr. Chesser said he, Mr. Miner and Rich Morrison attended a meeting with the representatives with the Natural Gas and he stated the meeting went really well. He said he had also attended a meeting at Metompkin Elementary School on the Flood Maps and it, too, was well attended and went smoothly. He told the Board he had spoken to the FEMA Representatives that were attending the meeting and was told things had gone smoothly because of the County Staff had done a good job on fielding questions before hand and were very complimentary of the Staff.

Mrs. Lewis stated she had spoken with citizens in her district who commented on how well the waste watchers were doing with picking up trash; that she felt it was not making the Eastern Shore look good with all the inoperable vehicles that were in yards across the County. She said she had spoken with Mr. Tom Willett, Ordinance

Enforcement Officer, who said he had not received any complaints on the inoperable vehicles, but would be checking into it.

Mr. Wolff said at his regular monthly meeting, Mrs. Julie Wheatley, Project Manager of the Wallops Research Park, attended the meeting, said she was great and full of energy and did a really good job showing her enthusiasm in getting the Park up and running. He stated he wanted to thank her and everyone for coming.

Mr. Crockett made a motion to give the Chair authority to sign the Valedictorian Resolution for Tangier High School Valedictorian because they would have graduated by the next Board meeting and any other Supervisors who wanted their Resolution as well. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Gray absent.

Mrs. Thornton stated she would like the Board to invite the Delegate Bloxom and Senator Lewis to come to the next Board meeting to hear the priorities that are needed on the Legislative Agenda. Mr. Hart seconded the motion. The motion was unanimously approved with Mr. Gray absent.

Mrs. Gordy thanked Mr. Wolff for his monthly meetings. She told the Board the Citizens for a Better Eastern Shore had sent her an email suggesting she follow his example. Mrs. Gordy stated that Mr. Wolff's meetings were appreciated.

Ms. Major offered comments on the Attendance Reports and thanked staff for doing it. She said if any Board Member would like to serve on the Eastern Shore Community Policy and Management Team for At-Risk Youth and Families please feel free to do so because he cannot continue to serve because it is not feasible with her work schedule.

### **Budget and Appropriation Items**

Mr. Hart made a motion to approve the E911 and ESCADV FY15 Budget Requests. Mrs. Lewis seconded the motion. The motion was approved with Mr. Gray absent.

### **RESOLUTION**

**BE IT RESOLVED** by the Board of Supervisors of Accomack County, Virginia, that the FY2015 County budget be amended by the amounts listed below and the same amounts appropriated for the purposes indicated.

<b>Fund</b>	<b>Department</b>	<b>Purpose</b>	<b>Funding Source</b>	<b>Amount</b>
General Fund	ES Coalition Against Domestic Violence	Additional funding requested during FY15 Budget cycle.	Real and Personal Property Taxes	\$ 5,000
General Fund	E911 Commission	One-half of additional operational funding requested during the FY15 budget cycle.	Real and Personal Property Taxes	\$ 36,553
<b>Total</b>				<b>\$ 41,553</b>

Adopted by the Board of Supervisors of Accomack County, Virginia, this 21<sup>st</sup> day of May 2014.

Mr. Hart made a motion to approve the resolution to amend the FY14 County Budget. Mrs. Lewis seconded the motion. The motion was approved with Mr. Gray absent.

### **RESOLUTION**

**BE IT RESOLVED** by the Board of Supervisors of Accomack County, Virginia, that the FY2014 County budget be amended by the amounts listed below and the same amounts appropriated for the purposes indicated.

<b>Fund</b>	<b>Department</b>	<b>Purpose</b>	<b>Funding Source</b>	<b>Amount</b>
General Fund	Clerk of Circuit Court	To recognize the award of technology trust funds from the Commonwealth.	State Revenue	\$ 33,058
General Fund	Commonwealth Attorney	To recognize the award of additional compensation board funds.	State Revenue	\$ 9,126
General Fund	Building & Grounds	To purchase existing Planning Department Office.	Other Revenue	\$189,400
Social Services	Social	To recognize state budget	State & Federal	\$(21,125)
<b>Total</b>				<b>\$210,459</b>

Adopted by the Board of Supervisors of Accomack County, Virginia, this 21<sup>st</sup> day of May 2014.

### **Payables**

Upon certification by the County Administrator, Mrs. Thornton made a motion to approve the Payables. Mrs. Lewis seconded the motion. The motion was unanimously approved with Mr. Gray absent.

### **Closed Meeting**

Mr. Wolff made a motion to go into Closed Meeting for the following purposes. Mr. Crockett seconded the motion. The motion was unanimously approved with Mr. Gray absent.

1. Pursuant to subsection 2.2-3711A (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.

**Open Session**

The Chair declared the meeting open to the public.

**Certification of Closed Meeting**

Mr. Hart made the motion to reconvene in Opening Meeting and to certify by roll call vote, pursuant to Section 2.2-3712 (D) of the Code of Virginia, 1950 as amended, that to the best of each member’s knowledge the only matters heard, discussed, or considered during the Closed Meeting were (1) public business matters lawfully exempted matters as were identified in the motion by which the Closed Meeting was convened. Mrs. Lewis seconded the motion. The motion was unanimously approved.

**Roll Call**

Ayes: Mr. Chesser	Mr. Hart	Mrs. Lewis
Mr. Wolff	Ms. Major	Mr. Crockett
Mrs. Thornton	Mrs. Gordy	
Absent: Mr. Gray		

**Adjournment**

Mrs. Thornton made a motion to adjourn to Wednesday May 28, 2014 at 5:00 p.m. in the Board of Supervisors Chambers. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Gray absent. The meeting adjourned at 9:40p.m.

\_\_\_\_\_  
John Charles “Jack” Gray, Chair

\_\_\_\_\_  
Date