

VIRGINIA: At a Regular Monthly Meeting of the Board of Supervisors for the County of Accomack held in the Board Chambers in Accomac on the 16th day of November, A.D., 2011.

Members Present: Laura Belle Gordy, Vice-Chair  
Wanda J. Thornton  
Ron S. Wolff  
Grayson Chesser  
John Charles "Jack" Gray  
Sandra Hart Mears  
Robert D. Crockett  
C. Reneta Major

Members Absent: Donald L. Hart, Jr.

Others Present: Steven B. Miner, County Administrator  
Yvonne N. Pennell, Administrative Assistant  
Mark B. Taylor, County Attorney

### **Call to Order**

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

### **Adoption of the Agenda**

The Vice-Chair requested the following amendments to the Agenda:

#### **Remove – Under Consent Agenda**

Remove 7-a, adoption of Budget Calendar and Budget Call for discussion as requested by Mr. Crockett

#### **Add – Under Closed Meeting**

- 1) Pursuant to subsection (A) (5) for discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community, and
- 2) Pursuant to subsection (A) (7) for consultation and legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

#### **Remove – Under Public Officials**

8-c – Freddie Matthews, President, Parksley Volunteer Fire Company

### **Consent Agenda**

Mrs. Thornton made a motion to approve the agenda as amended. Mr. Wolff seconded the motion. The motion passed unanimously with Mr. Hart absent.

## **Minutes**

Mrs. Mears made a motion to approve the Minutes of the October 19, 2011 meeting with corrections. Mrs. Thornton seconded the motion. The motion passed unanimously with Mr. Hart absent.

## **Public Comment**

The following speakers gave comments:

Donald Matthews offered comments concerning support of Wallops Research Park.

Jim Belote commented on the increased septic and well permit fees increase for a single family dwelling.

## **Budget Calendar and Issuing the Fiscal Year 2013 Budget Call**

Mr. Crockett made the following motion.

- 1) Have the County Administrator take steps during the preparation of the FY2013 Budget to accomplish the following:
  - a. Have the County Attorney and Finance Director draft agreements with each Constitutional officer that spells out what they must provide in exchange for local funding including policies, procedures, job descriptions, employment evaluations, etc. and have staff bring back for Board approval.
  - b. Have the County Administrator develop a plan to affect the same with county departments either through performance evaluations or another vehicle.
- 2) In continuing with the Board's financial accountability with county tax dollars appropriated to outside entities, through the County Administrator, have staff develop either through annual financial reports or audited financial statements, a vehicle to provide details of how county funds were used. This would begin in FY13 as a condition of local funding.

Mr. Chesser seconded the motion for discussion. A discussion ensued to bring back and vote on it at the December meeting. The motion was unanimously approved with Mr. Hart absent.

## **Resolution Accepting a Deed of Easement for Johnson's Wharf/Landing property from Marguerite Hopkins**

Mrs. Mears made a motion to adopt the following Resolution. Mr. Wolff seconded the motion. The motion passed unanimously with Mr. Hart absent.

**A RESOLUTION AUTHORIZING THE ACCEPTANCE OF CERTAIN REAL ESTATE  
NEAR LEEMONT, METOMPKIN MAGISTERIAL DISTRICT,  
JOHNSONS' LANDING ROAD (STATE ROUTE 670)  
FROM MARGUERITE L. HOPKINS**

**WHEREAS**, a Deed of Easement to such property has been tendered to Accomack County, Virginia; and

**WHEREAS**, pursuant to the provisions of Va. Code Ann. §15.2-1803, 1950, as amended, a County shall approve and accept conveyances of real estate to the County; and

**WHEREAS**, the Board of Supervisors of the County of Accomack, Virginia, deems such authorization to accept conveyance of certain real estate reasonable and necessary:

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ACCOMACK, VIRGINIA, AS FOLLOWS:**

1. That the Board of Supervisors by reason of the foregoing recitations, and pursuant to the provisions of Va. Code Ann. §15.2-1803, 1950, as amended, hereby authorizes the acceptance of conveyance of the hereinafter described real property.

2. That Marguerite L. Hopkins desires to convey the property near Leemont, Metompkin Magisterial District, Accomack County, Virginia, Johnson's Landing Road (State Route 670) to Accomack County, Virginia, a political subdivision of the Commonwealth of Virginia, by a Deed of Easement a non-exclusive easement and all privileges for the operation and maintenance of a marina on the following described real estate:

Description: ALL that certain area of property located in Metompkin Magisterial District, Accomack County, Virginia, near Leemont, being depicted and designated as "PUBLIC EASEMENT (CURRENTLY BEING USED AS A PUBLIC LANDING By County of Accomack," on that certain plat entitled, "PUBLIC EASEMENT FOR OPERATION AND MAINTENANCE OF JOHNSON'S WHARF/LANDING, LOCATED NEAR LEEMONT, METOMPKIN DISTRICT, ACCOMACK COUNTY, VIRGINIA," which plat is dated January 13, 1998, revised May 27, 2011, prepared by Shore Engineering Co., Inc., which plat is to be recorded with the herein referenced Deed of Easement.

TOGETHER with a non-exclusive easement and right of way for ingress and egress to the Easement Area over and across that certain parcel of land hereinafter referred to as the Access Area; BEING ALL that certain area of property located in the Metompkin Magisterial District, Accomack County, Virginia near Leemont, being depicted and designated as "public road mentioned in deeds & shown on U.S.G.S. topographic map 'Parksley, Va. 37075-G6-TV-024' dated 1968 & various aerial photos" on that certain plat entitled, "PUBLIC EASEMENT FOR OPERATION AND MAINTENANCE OF JOHNSON'S WHARF/LANDING, LOCATED NEAR LEEMONT, METOMPKIN DISTRICT, ACCOMACK COUNTY, VIRGINIA," which plat as mentioned above is to be recorded with the herein referenced Deed of Easement.

TOGETHER with all the rights, privileges and appurtenances thereunto belonging or otherwise appertaining.

SUBJECT to valid recorded easements, covenants, reservations and restrictions in the chain of title to the property hereby conveyed which have not expired by limitation of time contained therein or otherwise become ineffective.

3. That this Resolution shall be recorded in the Clerk's Office for the Circuit Court of Accomack County, Virginia, accepting the conveyance of such real estate to the County of Accomack, Virginia, in accordance herewith to effectuate the intent of this Resolution.

4. That Steven B. Miner, County Administrator, shall be authorized to sign such documents as may be necessary to effectuate receipt of said property.

5. This Resolution shall become effective upon its adoption.

6. Should any section, paragraph, sentence, clause or phrase of this Resolution be declared unconstitutional or invalid for any reason, the remainder of such Resolution shall not be affected thereby.

#### **Comments of Vice Chair**

Mrs. Gordy acknowledged and welcomed Supervisor-Elect Kay W. Lewis.

#### **Presentation Related to Planned Unit Developments**

Mr. Alan S. Whit, Chairman, Riverside Health Systems, gave a presentation concerning the planned unit developments, gave background information and responded to questions.

#### **Potential Bond Refunding**

Finance Director Michael T. Mason gave comments on the potential bond refunding issue, responded to questions and introduced Courtney Rogers, Senior Vice President, Davenport & Company LLC who reviewed the Bond issues with the Board and responded to questions.

Mr. Wolff made a motion to adopt the following Resolution authorizing the Issuance and Sale of its General Obligation Refunding Bond. Mrs. Mears seconded the motion. The motion passed unanimously with Mr. Hart absent.

### **A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ACCOMACK, VIRGINIA AUTHORIZING THE ISSUANCE AND SALE OF ITS GENERAL OBLIGATION REFUNDING BOND**

**WHEREAS**, the Board of Supervisors of the County of Accomack, Virginia (the "County") has determined that it is advisable to issue its general obligation refunding bond (the "Bond") to refund all or a portion of the County's outstanding \$2,112,000 General Obligation Refunding Bond, Series 2009 (the "Refunded Bond"); and

**WHEREAS**, the Bond is to be issued on the terms set forth in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ACCOMACK, VIRGINIA:**

1. Authorization of Bond and Use of Proceeds. The Board of Supervisors hereby determines that it is advisable to contract a debt and to issue and sell the Bond in the maximum principal amount of \$2,300,000. The issuance and sale of the Bond are hereby authorized. The proceeds from the issuance and sale of the Bond shall be used to refund the Refunded Bond and to pay all or a portion of the costs of the issuance of the Bond.

2. Pledge of Full Faith and Credit. The full faith and credit of the County are hereby irrevocably pledged for the payment of the principal of, premium, if any, and interest on the Bond as the same become due and payable. The Board of Supervisors shall levy an annual ad valorem tax upon all property in the County, subject to local taxation, sufficient to pay the principal of, premium, if any, and interest on the Bond as the same shall become due for payment unless other funds are lawfully available and appropriated for the timely payment thereof.

3. Details and Sale of Bond. The Bond shall be issued on the terms set forth in the proposal of RBC Bank (USA), dated November 9, 2011, which proposal is hereby accepted, and on such other terms as may be determined in the manner set forth in this Resolution. The Bond shall be issued in fully registered form, shall be dated the date of issuance and delivery (or such other date as may be approved by the County Administrator) and shall be in the form of a single bond equal to its principal amount. The County Administrator and the Chairman and Vice Chairman of the Board of Supervisors (the "Chairman" or the "Vice Chairman," as the case may be), or any of them, are authorized to approve the final terms of the Bond, including the principal amount of the Bond and the interest rate thereon, provided that the principal amount of the Bond shall not exceed the amount set forth in paragraph 1 of this Resolution and the interest rate shall result in net present value debt service savings equal to at least 3% of the refunded principal amount. The approval of the final terms and conditions of the Bonds subject to the foregoing parameters shall be evidenced conclusively by the execution and delivery of the Bond.

4. Form of Bond. The Bond shall be in substantially the form on file with the County Administrator, with such appropriate variations, omissions and insertions as are permitted or required by this Resolution. There may be endorsed on the Bond such legend or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

5. Appointment of Bond Registrar and Paying Agent. The County Administrator is authorized and directed to appoint a Bond Registrar and Paying Agent for the Bond. The County Administrator may appoint a subsequent registrar and/or one or more paying agents for the Bond by giving written notice to the owner of the Bond specifying the name and location of the principal office of any such registrar or paying agent.

6. Execution of Bond. The Chairman or Vice Chairman and the Clerk of the Board of Supervisors (the "Clerk") are authorized and directed to execute the Bond and to affix the seal of the County thereto and to deliver the Bond to the purchaser thereof upon payment of the purchase price. The manner of execution and affixation of the seal may be by facsimile, provided, however, that if the signatures of the Chairman or Vice Chairman and the Clerk are both by facsimile, the Bond shall not be valid until signed at the foot thereof by the manual signature of the Bond Registrar.

7. Non-Arbitrage and Tax Covenants Certificate. The County Administrator and such officers and agents of the County as he may designate are authorized and directed to execute a Non-Arbitrage and Tax Covenants Certificate setting forth the expected use and investment of the proceeds of the Bond and containing such covenants as may be necessary in order to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), including the provisions of Section 148

of the Code and applicable regulations relating to "arbitrage bonds." The Board of Supervisors covenants on behalf of the County that the proceeds from the issuance and sale of the Bond will be invested and expended as set forth in the County's Non-Arbitrage and Tax Covenants Certificate, to be delivered simultaneously with the issuance and delivery of such series of Bond and that the County shall comply with the other covenants and representations contained therein.

8. Designation for Purchase by Financial Institutions. The Bond is designated as a "qualified tax-exempt obligation" eligible for the exception from the disallowance of the deduction of interest by financial institutions allocable to the cost of carrying tax-exempt obligations in accordance with the provisions of Section 265(b) (3) of the Code (to the extent that it is not deemed to be eligible for such exception pursuant to the provisions of such Section 265(b)(3)). The County does not reasonably anticipate that the County, the County's subordinate entities, and the entities which issue obligations on the County's behalf will issue, in the aggregate, more than \$10,000,000 in tax-exempt obligations during calendar year 2011 (not including any refunding obligations that are not required to be counted against such \$10,000,000 limit pursuant to Section 265(b)(3) of the Code), and the County will not designate more than \$10,000,000 of qualified tax-exempt obligations in calendar year 2011.

9. Payment of Refunded Bond. The County Administrator and such officers and agents of the County as he may designate are authorized and directed to apply the proceeds of the Bond to the redemption of the Refunded Bond and to provide for the redemption of the Refunded Bond. The County Administrator is authorized to enter into an escrow agreement with an escrow agent to provide for the redemption of the Refunded Bond if such escrow agreement is deemed advisable by the County Administrator.

10. Further Actions. The Chairman, the Vice Chairman, and the County Administrator and such officers and agents of the County as any of them may designate are authorized and directed to take such further action as they deem necessary regarding the issuance and sale of the Bond and the refunding of the Refunded Bond and all actions taken by such officers and agents in connection with the issuance and sale of the Bond are hereby ratified and confirmed.

11. Effective Date: Applicable Law. This Resolution shall take effect immediately.

Adopted this 16<sup>th</sup> day of November, 2011.

Mr. Wolff made a motion to adopt the following Resolution to approve the amendment for the Economic Development Authority Lease Revenue Refunding Bond (County of Accomack, Virginia Projects) Series 2009. Miss Major seconded the motion. The motion passed unanimously with Mr. Hart absent.

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ACCOMACK, VIRGINIA APPROVING THE AMENDMENT FOR THE ECONOMIC DEVELOPMENT AUTHORITY LEASE REVENUE REFUNDING BOND (COUNTY OF ACCOMACK, VIRGINIA PROJECTS), SERIES 2009**

WHEREAS, the Economic Development Authority of the County of Accomack, Virginia, formerly the Industrial Development Authority of the County of Accomack, Virginia ("Authority"), at the request of the Board of Supervisors of the County of Accomack, Virginia (the "Board of Supervisors") has previously issued its Lease Revenue Refunding Bond (County of Accomack, Virginia Projects), Series 2009 (the "2009 Bond") to (i) to refund the outstanding principal amount of the Lease Revenue Bonds (County of Accomack, Virginia, Social Services Building Leased Property), Series

2003, which were issued by the Authority to assist the County of Accomack, Virginia (the "County") in financing the acquisition, construction and equipping of a new County social services building (the "Social Services Building") and (ii) to refinance a portion of the outstanding amounts payable under the Financing Lease dated as of December 1, 2006, between the County and Virginia Resources Authority, which was entered into to obtain financing for the design, improvement, construction, and equipping of four residential solid waste convenience centers for the County.

WHEREAS, the 2009 Bond is secured by a Financing Lease dated as of July 1, 2009 between the County and the Authority (the "Lease Agreement") pursuant to which the County agreed to pay principal of and interest on the 2009 Bond, subject to appropriation by the Board of Supervisors.

WHEREAS, the County and the Authority propose to change the annual interest rate and amortization schedule of the 2009 Bond.

WHEREAS, the amendment will be executed pursuant to the following documents: (i) First Amendment to Lease Revenue Refunding Bond dated as of December 1, 2011, among the County, the Authority and SunTrust Bank, as bondholder (the "Bank") and (ii) Modification Agreement dated as of December 1, 2011, between the County, the Authority, the Bank and one or more deed of trust trustees. Both of the documents listed above are referred to in this Resolution as the "Amending Documents" and the 2009 Bond, as and if amended and restated, will be referred to in this Resolution as the "Bond."

**BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ACCOMACK, VIRGINIA:**

1. Amendment of Bond. The Board of Supervisors approves the amendment of the 2009 Bond pursuant to a First Amendment to Lease Revenue Refunding Bond, provided the annual interest rate on the Bond shall not exceed 3.50%, the outstanding principal amount thereof shall not be increased and the maturity date thereof shall not be extended (collectively, the "Parameters"). The Amending Documents and the Bond shall be consistent with the terms set forth in the proposal of SunTrust Bank, dated November 9, 2011, which proposal is hereby accepted, and on such other terms as may be determined in the manner set forth in this Resolution.

2. Authorization of Amending Documents. The execution and delivery of and performance by the County of its obligations under the Amending Documents to which it is a party are authorized. The Amending Documents and the Bond shall be in such form and contain such provisions as the County Administrator and the Chairman or Vice Chairman of the Board of Supervisors, or any of them, shall approve, such approval to be evidenced conclusively by the execution and delivery of the Amending Documents and an amended and restated 2009 Bond, if deemed necessary, all of which shall be consistent with the Parameters.

3. Execution of Documents. The Chairman and Vice Chairman of the Board of Supervisors and the County Administrator, or any of them, are authorized to execute on behalf of the County the Amending Documents and, if required, to affix or to cause to be affixed the seal of the County to the Amending Documents and to attest such seal. Such Officers or their designees are authorized to execute and deliver on behalf of the County such instruments, documents or certificates, and to do and perform such things and acts, as they shall deem necessary or appropriate to carry out the transactions authorized by this Resolution or contemplated by the Amending Documents; and all of the foregoing, previously done or performed by such officers or agents of the County, are in all respects approved, ratified and confirmed.

4. Nature of Obligations. Nothing in this Resolution, the Bond or the Amending Documents shall constitute a debt of the County and the Authority shall not be obligated to make any payments under the Bond or the related documents except from payments made by or on behalf of the County under the Lease Agreement. The County's obligations to make payments pursuant to the Lease Agreement shall be subject to and dependent upon annual appropriations being made from time to time by the Board of Supervisors for such purpose. Nothing in this Resolution, the Bond or the Amending

Documents shall constitute a pledge of the full faith and credit of the County beyond the constitutionally permitted annual appropriations.

5. Designation for Purchase by Financial Institutions. The Bond is designated as a "qualified tax-exempt obligation" eligible for the exception from the disallowance of the deduction of interest by financial institutions allocable to the cost of carrying tax-exempt obligations in accordance with the provisions of Section 265(b)(3) of the Code (to the extent that it is not deemed to be eligible for such exception pursuant to the provisions of such Section 265(b)(3)). The County does not reasonably anticipate that the County, the County's subordinate entities, and the entities which issue obligations on the County's behalf will issue, in the aggregate, more than \$10,000,000 in tax-exempt obligations during calendar year 2011 (not including any refunding obligations that are not required to be counted against such \$10,000,000 limit pursuant to Section 265(b)(3) of the Code), and the County will not designate more than \$10,000,000 of qualified tax-exempt obligations in calendar year 2011.

Effective Date. This Resolution shall take effect immediately.

### **American Education Week**

Miss Major made motion to proclaim the week of November 13 through November 19, 2011, as American Education Week. Mrs. Thornton seconded the motion. The motion passed unanimously with Mr. Hart absent.

### **Procurement Policy Review Related to County Business License Verification**

A discussion continued related to business license verification for persons doing business within the County.

By consensus, the board authorized the County Administrator to move forward to have the Commissioner of the Revenue certify businesses doing work in the county, in the amount of \$2,000 or more have a valid business license, if one is required.

### **Appointments**

#### **Accomack County Fire and Rescue Commission**

Mrs. Thornton made a motion to reappoint John "Jack" Gray to serve as the board's representative to the Accomack County Fire and Rescue Commission. Mrs. Mears seconded the motion. The motion was unanimously approved with Mr. Hart absent.

Mrs. Thornton made a motion to reappoint Billye D. Custis as a member at large to the Accomack County Fire and Rescue Commission. Mrs. Major seconded the motion. The motion was unanimously approved with Mr. Hart absent.

Mrs. Mears made a motion to reappoint Kenneth "K.W." Ainsworth as a member at large to the Accomack County Fire and Rescue Commission. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Hart absent.



### **Accomack County Planning Commission**

Mr. Gray made a motion to postpone action on the Accomack County Planning Commission appointment until the December meeting. Mrs. Thornton seconded the motion. The motion was unanimously approved with Mr. Hart absent.

### **Parks and Recreation Advisory Committee**

Mr. Crockett stated he had received a letter of resignation from Mr. Steve Mallette effective immediately to be acted on at the December meeting and asked the County Administrator send a thank you letter to Mr. Mallette for his service on the Committee.

### **Resource Conservation and Development**

Mrs. Mears stated she was an ex-officio member of the Resource Conservation and Development Council and that she would like to appoint Grayson Chesser and vote on it at the December meeting.

### **First Quarter Financial Report**

Finance Director Michael T. Mason reviewed with the Board the 1<sup>st</sup> Quarter financials noting that landfill tipping fees and sales tax revenues were down and responded to questions.

### **Rainy Day/Stabilization Fund**

Finance Director Michael T. Mason gave a presentation to revise the County's Rainy Day/Stabilization Fund Balance Policy and responded to questions. Mr. Crockett made a motion to adopt the following Resolution. Mr. Wolff seconded the motion. The motion passed unanimously with Mr. Hart absent.

#### **County of Accomack, Virginia**

A Resolution to formally revise policy governing the County's Rainy Day/Stabilization Fund

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**WHEREAS**, the Accomack Board of Supervisors recognize the importance of maintaining a Rainy Day/Stabilization Fund to react to emergency situations and unanticipated revenue shortfalls, AND;

**WHEREAS**, Accomack County's current fund balance policy calls for a minimum of 8% of total budgeted governmental revenue to be committed to the Rainy Day/Stabilization Fund, AND;

**WHEREAS**, the Governmental Finance Officers Association (GFOA) has amended its best practice regarding unrestricted fund balance and now recommends that general purpose governments, regardless of size, maintain in unrestricted fund balance no less than 2 months of regular operating expenditures or operating revenues (16.7%), AND;

**WHEREAS**, the Accomack Board of Supervisors wish to follow GFOA's best practice and increase the minimum amount of funds to be committed to the County's Rainy

Day/Stabilization Fund to 16.7% of budgeted governmental revenue but do so gradually from 2012-2021 as to minimize the budget impact, AND;

**WHEREAS**, amendments to the County’s Fund Balance Policy must be made through the passage of a resolution.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors amends the Rainy Day/Stabilization Fund Policy to read as follows:

**Rainy Day/Stabilization Fund Policy**

- i. **General:** Maintaining a financial stabilization or Rainy Day Fund to meet unexpected revenue shortfalls or financial emergencies is a necessity for sound financial management and fiscal accountability. The Board of Supervisors has the authority to establish a Rainy Day Fund and has exercised this authority through the passage of a resolution.
- ii. **Level to Maintain:** The County’s goal is to maintain the “Rainy Day” fund at an amount equal to no less than 16.7% of budgeted governmental funds’ net operating revenue. This goal however will not be achieved until 2021 due to financial constraints. In the interim, the Board of Supervisors has established the following minimum ratios.

Fiscal Year	Minimum Annual Appropriation Required	General Fund Committed Rainy Day Fund Balance	Rainy Day Fund Balance Ratio
2011 (actual)	n/a	\$ 4,695,521	6.8%
2012	\$ 1,404,544	\$ 6,100,065	8.7%
2013	\$ 760,324	\$ 6,860,389	9.6%
2014	\$ 771,729	\$ 7,632,118	10.6%
2015	\$ 783,305	\$ 8,415,423	11.5%
2016	\$ 795,054	\$ 9,210,477	12.4%
2017	\$ 806,980	\$ 10,017,457	13.3%
2018	\$ 819,085	\$ 10,836,542	14.1%
2019	\$ 831,371	\$ 11,667,913	15.0%
2020	\$ 843,842	\$ 12,511,755	15.8%
2021	\$ 856,499	\$ 13,368,254	16.7%

At the close of each fiscal year the County will adjust the “Rainy Day” Fund based on actual fiscal year results by moving such amounts from unassigned fund balance to the Rainy Day Committed Fund Balance as may be necessary to reach the balances above.

- iii. **Permitted Uses:** Withdrawals from the Rainy Day Fund will be made only by appropriation of the Board of Supervisors and require a supermajority vote. Rainy Day Funds will not be used to compensate for structural budget deficits. Withdrawals from the fund are only permitted for the following reasons:
  - 1. To address a projected revenue shortfall that is greater than 1% of General Fund Operating Revenue excluding transfers, or
  - 2. To mitigate damage caused by a natural disaster, or
  - 3. To address an urgent event that jeopardizes the safety of the public.
- iv. **Maximum Withdrawals:** The amount that may be appropriated from Fund during any one year cannot exceed more than 1/2 of the balance of the Fund.
- v. **Restoration:** Any proposed appropriation that would result in the balance of the fund falling below the minimum fund balance ratio must be accompanied by a restoration plan that brings the fund back to the minimum within 3 years.

**Board Paperless Agenda**

Michael Mason, Finance Director, gave a presentation on BoardDocs.

**Recess**

By consensus, the Vice Chair recessed the meeting until 7:30 p.m.

**Call to Order**

The Vice Chair called the meeting to order.

**Public Hearings**

**Mutton Hunk Agricultural and Forestal District**

The Vice-Chair opened a Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning continuing the following Agricultural and Forestal Districts with modifications: Mutton Hunk

Mr. Rob Testerman, Land Use Planner, gave a brief presentation of the district and responded to questions.

No public comments were given.

The Vice-Chair closed the Public Hearing.

Mr. Gray made a motion to continue the Mutton Hunk Agricultural and Forestal District with modifications of properties within the districts, as was recommended. Mrs. Mears seconded the motion. The motion was unanimously approved with Mr. Hart absent.

**RESOLUTION OF ADOPTION  
OF  
MUTTON HUNK AGRICULTURAL AND FORESTAL DISTRICT ORDINANCE**

**WHEREAS**, it is the policy of the Board of Supervisors to conserve, protect and encourage the development and improvement of the County's agricultural and forestal lands for the production of food and other agricultural and forestal products and to conserve and protect agricultural and forestal lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, shellfish and fisheries production, watershed protection, wildlife habitat, and aesthetic purposes, through a mutual undertaking by landowners and the County to protect and enhance agricultural and forestal land as a viable segment of the County's economy and as an economic and environmental resource of major importance; and

**WHEREAS**, the Board of Supervisors is authorized pursuant to §§ 15.2-4300, *et seq.*, VA Code Ann., to create agricultural, forestal or agricultural and forestal districts; and

**WHEREAS**, the Board of Supervisors established the Mutton Hunk Agricultural and Forestal District for a period of four years beginning January 1, 1984; and

**WHEREAS**, the Mutton Hunk Agricultural and Forestal District has been renewed every four years since 1984 and the Board of Supervisors has requested the Agricultural and Forestal District Advisory Committee and Planning Commission to review and make recommendations on renewal of the district in 2011; and

**WHEREAS**, the Board of Supervisors adopted the Accomack County Agricultural and Forestal District Ordinance on May 16, 2007, with the intent of incorporating the provisions of this ordinance in the creation of any new Agricultural,

Forestral or Agricultural and Forestal districts and to include its provisions in each of the existing districts as they come up for renewal; and

**WHEREAS**, the Agricultural and Forestal District Advisory Committee reviewed the Mutton Hunk Agricultural and Forestal District on September 28, 2011, and recommended continuation of the district with the modification of properties within the district; and

**WHEREAS**, the Planning Commission advertised a Public Meeting with the landowners in the Mutton Hunk Agricultural and Forestal District and the Public Meeting was held by the Planning Commission on October 12, 2011, and the Planning Commission recommended continuation of the district with the modification of properties within the district; and

**WHEREAS**, the attached proposed ordinance has been advertised in the Eastern Shore News, a newspaper published or having general circulation in the County, on November 2, 2011, and November 9, 2011, and a Public Hearing was held by the Board of Supervisors on November 16, 2011; and

**WHEREAS**, the landowners in the Mutton Hunk Agricultural and Forestal District were notified, by First Class Mail postage pre-paid, regarding the October 12, 2011, Planning Commission Public Meeting and the November 16, 2011, Board of Supervisors Public Hearing, and provided the following information regarding the proposed modification of properties in the district and the proposed modifications to the district conditions: copy of the proposed Mutton Hunk Agricultural and Forestal District Ordinance, including a list of properties in the district, a copy of the Accomack County Agricultural and Forestal District Ordinance, and a copy of the current district ordinance; and

**WHEREAS**, the proposed ordinance will further the public health, safety and welfare of citizens of Accomack County;

**NOW, THEREFORE, BE IT ORDAINED** that the Board of Supervisors of Accomack County does hereby enact the attached Mutton Hunk Agricultural and Forestal District Ordinance to continue such district and modify the district conditions to include the provisions of the Accomack County Agricultural and Forestal District Ordinance adopted on May 16, 2007.

#### **Eastern Shore of Virginia Regional Water Supply Plan**

The Vice-Chair opened a Public Hearing to afford interested persons an opportunity to be heard or to present written comments concerning the proposed Eastern Shore of Virginia Water Supply Plan.

Mr. Curtis Smith, Regional Planner, A-N Planning District Commission gave a presentation concerning the Eastern Shore of Virginia Water Supply Plan and responded questions.

No public comments were given.

Mrs. Thornton made a motion to adopt the following Resolution. Miss Major seconded the motion. The motion was unanimously approved with Mr. Hart absent.

**A RESOLUTION APPROVING  
THE EASTERN SHORE  
REGIONAL WATER SUPPLY PLAN**

**WHEREAS**, Virginia State Water Control Board Regulation 9 VAC 25-780, Local and Regional Water Supply Planning, requires all counties, cities and towns in the Commonwealth of Virginia to prepare and submit a water supply plan to the Department of Environmental Quality (DEQ); and

**WHEREAS**, Accomack County is a participant in the Regional Water Supply Planning Group as reported to DEQ by letter before the November 2, 2008 deadline; and

**WHEREAS**, on November 16, 2011, Accomack County held a public hearing to accept public comment on the Regional Water Supply Plan; and

**NOW, THEREFORE BE IT RESOLVED** that the Board of Supervisors of Accomack County hereby adopts the Regional Water Supply Plan as it pertains to Accomack County and its Towns. Approval and adoption of this regional plan indicates support for and general agreement with the regional planning approach, but does not indicate approval or disapproval of conclusions and recommendations presented in the plan as they pertain to other localities. Accomack County reserves the right to comment on specific water supply alternatives in the future even though such alternatives may be recommended in this adopted plan. Accomack County will not be limited to specific water supply alternatives in this adopted plan and reserves the right to recommend additional alternatives for consideration in the future.

**BE IT FURTHER RESOLVED** that the Board of Supervisors of Accomack County intends that the Regional Water Supply Plan shall be revised to reflect changes in relevant data at least once every five years and resubmitted to DEQ every ten years in accordance with the regulation and sound planning practice.

**County Administrator's Report**

Mr. Miner discussed the swearing in of the Board of Supervisors.

**County Attorney's Report**

**Eugene Justice Claim**

Following comments by County Attorney Mark B. Taylor, Mr. Crockett made a motion to deny the Eugene Justice claim. Mrs. Thornton seconded the motion. The motion passed unanimously with Mr. Hart absent.

**Emergency Ordinance Amendment to Chapter 106. Zoning of the Code of the County of Accomack, Virginia**

Following comments by County Attorney Mark B. Taylor related to a property in which repair work had been ceased due to non-payment of taxes, Mr. Chesser made a motion to adopt as an emergency ordinance amendment to Chapter 106. Zoning, Sec. 106-239, Applications and Permits of the Code of the County of Accomack, Virginia the following language. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Hart absent.

*Notwithstanding the provisions of this  
Ordinance, building permits may be issued by the*

*Building Official to enable the repair necessary to avoid waste in emergency situations.*

### **Information Session on TDMLs**

Mr. Taylor informed the Board that there would be an information session hosted by Delegate Lynwood W. Lewis, III on TMDL issues at 6:30 p.m. on December 7, 2011, at the Workforce Development Center at Eastern Shore Community College and encouraged members to attend.

Mrs. Thornton said that a letter of appreciation needed to be written to Delegate Lewis letting him know how much the Board appreciated him doing all that he has done to have State and EPA representatives here to help with the TMDL. The Board concurred.

### **Board of Supervisors Comments**

Mrs. Thornton told the board she received a call from Washington informing her that HB 2087 would go in front of the Committee on November 17<sup>th</sup>.

Mrs. Thornton read in record the following action taken by the Board at its June 15, 2011, meeting requesting an independent audit of delinquent tax collections.

#### **Delinquent Tax Collection**

*Mr. Crockett made a motion to retain the services of a totally independent auditor to perform an operational audit of the county's tax collection system to include the offices of the Treasurer's, Commissioner of the Revenue, Central Accounting and identify any problems that may exist and come back with recommendations that could solve the problems and budget not to exceed \$7500. Mr. Wolff seconded the motion. The motion passed unanimously.*

*Mr. Crockett made a motion if the auditor needed to visit another county department under the control of the County Administrator to complete the audit, it would be allowed. Mr. Wolff seconded the motion. The motion passed unanimously.*

A brief discussion took place with County Administrator Steven B. Miner expressing that he felt he and staff had done what was requested.

### **Budget and Appropriation Items**

Mrs. Mears made a motion to approve the following budget and appropriation items. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Hart absent.

**Budget and Appropriation Items**

November 16, 2011 Board of Supervisors Meeting

**FISCAL YEAR 2012**

**Grants**

**Increase Revenues**

Revenue from Commonwealth \$66

**Increase Expenditures**

SPCA \$66

--Proceeds from the sale of animal friendly license plates

**From Contingencies (Balance as of 11/1/11 + \$207,598)**

None

**Other**

**Increase Revenues**

Miscellaneous Recoveries \$460

**Increase Expenditures**

Planning \$460

--Payment for services performed for the School Board

**Increase Revenues**

Miscellaneous Recoveries \$4,748

**Increase Expenditures**

Solid Waste \$4,748

--Public Works Garage interdepartmental service recoveries

**Increase Revenue**

Miscellaneous Recoveries \$3,761

**Increase Expenditures**

Landfill \$2,291

Sheriff \$1,470

--Insurance claim recoveries

**Payables**

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

**Closed Meeting**

Mr. Wolff made a motion to go into Closed Meeting pursuant §2.2-3711 of the Code of Virginia of 1950, as amended, for the following purposes. Mrs. Mears seconded the motion. The motion passed unanimously with Mr. Hart absent.

- 1) Pursuant to subsection (A) (3) for discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body,
- 2) Pursuant to subsection (A) (5) for discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community, and
- 3) Pursuant to subsection (A) (7) for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would

adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

### **Open Session**

The Chair declared the meeting open to the public.

### **Certification of Closed Meeting**

Mr. Wolff made a motion to reconvene in Open Meeting and to certify by roll call vote, pursuant to Section 2.2-3712 (D) of the Code of Virginia, that to the best of each member's knowledge the only matters heard, discussed, or considered during the Closed Meeting were (i) public business matters lawfully exempted from Opening Meeting requirements under this chapter and (ii) such public business matters as were identified in the motion by which the Closed Meeting was convened. Mrs. Mears seconded the motion. The motion was unanimously approved with Mr. Hart absent.

Aye:	Mr. Chesser	Mrs. Thornton	Mr. Crockett
	Mr. Wolff	Mrs. Mears	Mrs. Gordy
	Ms. Major	Mr. Gray	

Nays: None

Absent: Mr. Hart

### **Adjournment**

Mr. Wolff made a motion to adjourn until December 21<sup>st</sup> at 3:30p.m. for Board Docs training. Mrs. Mears seconded the motion. The motion passed unanimously with Mr. Hart absent. The meeting adjourned 9:25 at PM.

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Chair