

VIRGINIA: AT THE REGULAR MEETING OF THE DINWIDDIE COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD MEETING ROOM OF THE PAMPLIN ADMINISTRATION BUILDING IN DINWIDDIE COUNTY, VIRGINIA, ON THE 7TH DAY OF SEPTEMBER, 2004, AT 6:00 P.M.

PRESENT:	DONALD L. HARAWAY – CHAIRMAN	ELECTION DISTRICT #2
	HARRISON A. MOODY - VICE CHAIR	ELECTION DISTRICT #1
	ROBERT L. BOWMAN IV	ELECTION DISTRICT #3
	DORETHA E. MOODY	ELECTION DISTRICT #4
	MICHAEL W. STONE	ELECTION DISTRICT #5

OTHER: JACK CATLETT COUNTY ATTORNEY

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IN RE: CLOSED SESSION

Mr. Moody stated I move to close this meeting in order to discuss matters exempt under section:

§2.2-3711 A. 1 – Personnel matters – Environmental Land Technician; Public Safety; Procurement; Appointments; EMS §2.2-3711 A. 7 – Consultation with Legal Counsel – Actual or Probable litigation; §2.2-3711 A. 6 – Investment of Public Funds;

Mr. Bowman seconded the motion. Mr. Stone, Mrs. Moody, Mr. Bowman, Mr. Moody, Mr. Haraway, voting "Aye", the Board moved into the Closed Meeting at 6:00 P.M.

The meeting reconvened into Open Session in the Board Meeting Room at 7:31 P.M.

IN RE: CERTIFICATION

Whereas, this Board convened in a closed meeting under: §2.2-3711 A. 1 – Personnel matters – Environmental Land Technician; Public Safety; Procurement; Appointments; EMS Provider; §2.2-3711 A. 7 – Consultation with Legal Counsel – Actual or Probable litigation; §2.2-3711 A. 6 – Investment of Public Funds;

And whereas, no member has made a statement that there was a departure from the lawful purpose of such closed meeting or the matters identified in the motion were discussed.

Now be it certified, that only those matters as were identified in the motion were heard, discussed or considered in the meeting.

Upon motion of Mr. Stone, Seconded by Ms. Moody, Mr. Stone, Ms. Moody, Mr. Bowman, Mr. Moody, Mr. Haraway, voting "Aye", this Certification Resolution was adopted.

IN RE: INVOCATION – PLEDGE OF ALLEGIANCE – AND CALL TO ORDER

Mr. Donald L. Haraway, Chairman, called the regular meeting to order at 7:35 P.M. followed by the Lord's Prayer and the Pledge of Allegiance.

IN RE: AMENDMENTS TO THE AGENDA

The County Administrator stated two items needed to be added to the agenda: 1) Appointments 2) Closed Session at the end of the meeting for Personnel.

Upon motion of Ms. Moody, Seconded by Mr. Bowman, Mr. Bowman, Ms. Moody, Mr. Stone, Mr. Moody, Mr. Haraway voting "Aye", the above amendment(s) were approved.

IN RE: MINUTES

Mr. Moody stated on page 11 of the August 17, 2004 Regular Meeting minutes under the discussion of a representative of the farming community Mr. Haraway was not the speaker, he was. He requested that the minutes be amended to reflect that change.

Upon motion of Ms. Moody, Seconded by Mr. Bowman, Mr. Bowman, Ms. Moody, Mr. Stone, Mr. Moody, Mr. Haraway voting "Aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that approval of the August 17, 2004 Continuation Meeting, and the August 17, 2004 Regular Meeting are approved in their entirety with the following amendment; Mr. Moody stated several farmers approached him because they felt that the farming community should have a representative on the local Growth Management Committee to make sure agriculture is preserved in the County.

**IN RE: COMMUNICATIONS EQUIPMENT REQUISITION #7 –
DINWIDDIE COUNTY IDA PUBLIC FACILITIES LEASE
REVENUE NOTE SERIES 2003**

The following invoice from InterAct Public Safety Systems, for expenses from the Dinwiddie County IDA Public Facilities Lease Revenue Note Series 2003 was submitted for payment:

CAD and RMS Data Collection	\$27,175.23
TOTAL DUE	\$27,175.23

Upon motion of Ms. Moody, Seconded by Mr. Bowman, Mr. Bowman, Ms. Moody, Mr. Stone, Mr. Moody, Mr. Haraway voting "Aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Requisition Number #7 in the amount of \$27,175.23 be approved and funds appropriated for expenses from the Dinwiddie County IDA Public Facilities Lease Revenue Note Series 2003.

**IN RE: AUTHORIZATION TO HIRE – MAINTENANCE WORKER II
– MR. SHELBY SIMMONS**

Upon motion of Ms. Moody, Seconded by Mr. Bowman, Mr. Bowman, Ms. Moody, Mr. Stone, Mr. Moody, Mr. Haraway voting "Aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Mr. Shelby Simmons is hired for the position of Maintenance Worker II at Grade 6, Step D, at an annual salary of \$20,443, effective September 1, 2004.

**IN RE: APPOINTMENT – INFORMATION TECHNOLOGY
SPECIALIST – MS JENNIFER TAYLOR**

"TO: WENDY RALPH, COUNTY ADMINISTRATOR

CC: BOARD OF SUPERVISORS
KEVIN MASSENGILL, ASSISTANT COUNTY ADMINISTRATOR
GLENICE TOWNSEND, CHIEF OF ADMINISTRATIVE SERVICES

FROM: CATHY CARWILE, IT MANAGER

DATE: AUGUST 26, 2004

SUBJECT: INFORMATION TECHNOLOGY SPECIALIST

On August 18, 2004, Kevin Massengill and I interviewed (5) five of the (32) thirty-two applicants for the Information Technology Specialist position.

After careful consideration, we decided to recommend Jennifer Taylor to the Board of Supervisors and respectfully ask their permission to offer her the position of Information Technology Specialist at the annual salary of \$30,038 (Grade 11/StepD).

Ms. Taylor, a 2001 graduate of ECPI Technical College, holds an AAS Degree in Information Technology with specialization in networking. In addition to graduation with a 4.0 GPA and being a member of the National Vocational Honor Society, she has several years of work experience ranging from help desk support to server installation and set-up, as well as experience with the AS/400. The combination of education and work experience makes Ms. Taylor an excellent candidate for this position."

Upon motion of Ms. Moody, Seconded by Mr. Bowman, Mr. Bowman, Ms. Moody, Mr. Stone, Mr. Moody, Mr. Haraway voting "Aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Ms. Jennifer Taylor is appointed to the position of Information Technology Specialist at Grade 11, Step D, at an annual salary of \$30,038, effective September 13, 2004.

IN RE: RATIFICATION OF LOCAL EMERGENCY DECLARATION

Upon motion of Ms. Moody, Seconded by Mr. Bowman, Mr. Bowman, Ms. Moody, Mr. Stone, Mr. Moody, Mr. Haraway voting "Aye", the following emergency declaration was ratified.

DECLARATION OF THE LOCAL EMERGENCY

WHEREAS, the Board of Supervisors of the County of Dinwiddie does hereby find that:

1. Due to the remains of hurricane Gaston, the County of Dinwiddie was faced with dangerous conditions resulting in excessive rain and winds that caused power outages, high water and extensive road structure damage; and
2. Due to the excessive rain, high winds, road structure damage and power outages a condition of extreme peril of life and property necessitates the proclamation of the existence of an emergency;

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that an emergency now exists throughout said County; and

IT IS FUTHER PROCLAIMED AND ORDERED that during the existence of said emergency the powers, functions, and duties of the Director of Emergency Management and the Emergency Management organization of the County of Dinwiddie shall be those prescribed by state law and the ordinances, resolutions, and approved plans of the County of Dinwiddie in order to mitigate the effects of said emergency.

Dated: August 31, 2004

IN RE: CLAIMS

Mr. Stone commented at the last meeting he had requested that the law firm submit their invoices by the 15th of the month for payment. And again this month there is a bill for legal fees for a period covering January to June for their services. He asked why they were not complying. The County Administrator stated they were in the process of getting everything up to date but it would take some time to come into compliance. Mr. Haraway stated since this has been an ongoing problem he felt it would be good to have someone from the law firm here at the next meeting to discuss the issue. The County Administrator said that it would be arranged.

Upon motion of Mr. Moody, Seconded by Ms. Moody, Mr. Bowman, Ms. Moody, Mr. Moody, Mr. Haraway voting "Aye", Mr. Stone voting "Nay",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the following claims are approved and funds appropriated for same using checks numbered 1045908 through 1046123, (voided check number(s) 1045907, and 1045992).

**FY – 04/05
Accounts Payable:**

(101) General Fund	\$ 266,197.62
(103) Jail Commission	\$ 44.88
(209) Litter Control	\$ 110.00
(222) E911 Fund	\$ 1,995.86
(225) Courthouse Maintenance	\$
(226) Law Library	\$ 596.06
(228) Fire Programs & EMS	\$ 10,582.00
(229) Forfeited Asset Sharing	\$ 1,776.00
(304) CDBG Grant Fund	\$ 332.97
(304) Capital Projects Fund	\$
(401) County Debt Service	\$ 19,771.89
TOTAL	\$ 301,407.28

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(101) General Fund	\$ 464,061.08
(222) E911 Fund	\$ 596.64
(229) Forfeited Asset	\$ 1,426.79
(304) CDBG Fund	\$ 7,814.49
TOTAL	\$ 473,899.00

**IN RE: APPOMATTOX REGIONAL LIBRARY SYSTEM
PRESENTATION OF MAJOR BENEFACTORS HONOR
AWARD TO JOHN AND PETER CLEMENTS**

Mr. Chuck Koutnik, Regional Library Director, stated he was here tonight with Mrs. Betty Mayes, Dinwiddie County's representative on the Library Board, to present a national award to the Bank of Southside Virginia and the Clements. He read the following press release.

"The Bank of Southside Virginia and John and Peter Clements to receive Major Benefactors Honor award.

Chicago – The Bank of Southside Virginia (BVS) and its chief officers, John and Peter Clements, are the 2004 winners of the Association for Library Trustees and Advocates (ALTA) Major Benefactors Honor Award. The annual

national competition for the award is open to Trustees and Advocates for libraries throughout the United States. The award, two specially prepared citations for the recipients and the beneficiary library, is given to individuals, families or corporate bodies for major benefactions to public libraries.

In the past 11 years, John and Peter Clements and BVS have donated funds, land, and a building for the creation and preservation of the Carson Depot Library in Carson, Virginia. The library is housed in the donated train depot, which has been renovated into a beautiful library. Before 1992, library service to the Carson area was limited to a stationary bookmobile parked near the site of the current library.

Over the years the Clements and BVS have donated funds on an annual basis for upkeep and enhancements to the building. They have also donated funds and time for other regional library projects such as the annual summer reading program and creation of an endowment fund for the parent organization, the Appomattox Regional Library System (ARLS).

Most recently, the Clements spearheaded a project to move a donated caboose about 15 miles to the Carson Depot Library grounds. They oversaw the complete renovation of the caboose at no cost to ARLS. The caboose now serves as a local railroad museum and a children's program area."

Mr. Koutnik said the Bank of Southside Virginia and the Clements have demonstrated the capability of a local business to provide and promote public library service. They have created a showplace library with a corresponding museum devoted to local railroad history that preserves both local history and public libraries. In his 20 years of working in libraries, he has never seen such great support of libraries from a corporation and its officers.

Mr. Koutnik thanked the Clements for all of their contributions and commented, the library truly is a showplace and invited everyone to go by and visit it. Mr. Peter Clements stated he appreciated the award.

Mr. Haraway stated John and Peter Clements are men who think about the future - in both the banking business and their civic roles - and can communicate that vision to others.

"I always think the image of a County is tied to its citizens and its neighbors' perceptions of its leadership. John and Peter Clements, whom we honor tonight, are instigators of that image. Through their efforts, they have contributed many hours and dollars to community projects to make Dinwiddie County and the Tri-City Area a better place to live.

John and Peter, you can be assured this board appreciates what you have done for Dinwiddie County over the years."

**IN RE: PUBLIC HEARING – CONVEYANCE OF COUNTY
PROPERTY (WEST PETERSBURG SUBDIVISION –
GREENSVILLE AVENUE) TO TRI-CITIES HABITAT FOR
HUMANITY**

This being the time and place as advertised in the Monitor on August 21, 2004 and August 31, 2004, for the Board of Supervisors of Dinwiddie County, Virginia to conduct a Public Hearing to solicit public comment on the following matter:

CONVEYANCE OF COUNTY PROPERTY (WEST PETERSBURG
SUBDIVISION – GREENSVILLE AVENUE) TO TRI-CITIES HABITAT FOR
HUMANITY

Mr. William C. Scheid, Director of Planning, stated this past July the Board of Supervisors conveyed a building lot adjacent to this parcel to Habitat for Humanity. The Department of Housing and Community Development approved the conveyance. Habitat for Humanity built a home for a qualifying low to moderate-income family and is in the process of conveying a deed to the family.

During the July meeting, the Board expressed an interest in Habitat for Humanity contacting WPVA so that any future home construction could be coordinated with the residents of this subdivision. A few meetings were held and it appears there is an understanding between Habitat and WPVA as to the expectations of the community. A letter dated August 11, 2004 was sent by Mrs. Pauline H. Bonner, Director of WPVA, in which she conveyed support of this lot to Habitat for construction of a home for an LMI family. Habitat for Humanity has identified a qualifying LMI family and wishes to obtain ownership of this lot so that a home may be built for them.

As previously noted, the County is obligated to convey the remaining land parcels on Greenville Avenue to qualifying organizations that will build housing for low to moderate-income families. This obligation was part of the Community Development Block Grant program that the County participated in during the early 1990's.

The Board needs to authorize the County Administrator and the County Attorney to prepare all legal documents needed for the land conveyance and to sign such documents on behalf of the Board of Supervisors. The property under consideration is designated as Section 21A(1)- Parcels 347, 348, 349 and 350 by the Commissioner of the Revenue's tax maps and is more specifically detailed by the plat prepared by R. H. Gordon, surveyor, dated January 12, 1995, entitled 'plat showing property surveyed for the County of Dinwiddie being lots 318 - 350 in the West Petersburg subdivision in Rohoic District, Dinwiddie County, Virginia.'

Dr. Rhunke representing Habitat for Humanity thanked the Board for the conveyance of the land and commented they were preparing to build the homes. He stated they had several discussions between the two groups, WPVA representatives and Tri-Cities Habitat, and had come to the understanding that they would be working together to build on the lots in West Petersburg.

Mr. Peter Jeffrey distributed copies of a press release from WPVA in conjunction with Tri-Cities Habitat for Humanity recognizing their cooperative efforts in West Petersburg. He stated he had met with the officers of the Department of Housing and Community Development and in order for them to provide the necessary operating funds for WPVA to move forward they would have to have confirmation that WPVA has site control of the remaining three properties that need to be developed in West Petersburg. So in order for them to move forward WPVA's name would have to be listed as the property owner on the deeds. A simple resolution would not be acceptable.

He requested that the Board adopt a resolution stating: "1) Shared ownership, with the County, of the remaining properties located at the end of Greenville Avenue. The name of WPVA Inc., would be included on each of the deeds to the remaining properties. Dinwiddie County has fulfilled its contractual obligation with the State. In 1992 Dinwiddie County designated WPVA, Inc., as the official developer of the community of West Petersburg, therefore, it is consistent with the policy of this board to give WPVA the resources to accomplish its tasks. 2) A reaffirmation of the 1992 resolution identifying WPVA Inc., as the official developer of the West Petersburg Community. 3) Financial support for WPVA Inc., to apply for the CHDO Assistance Fund. WPVA Inc., on its own initiative has been certified as a Community housing Development Organization. The assistance fund requires a 25% match in cash assets. The approval of this grant will result in \$100,000 over a two-year period. WPVA Inc., will need \$12,500 to match the annual \$50,000 allotment.

He further stated if the Board would provide them with the funds for the match there would also be continuing appropriations for an indefinite period of time as long as WPVA had projects to be met. CHDO in Richmond would oversee the funding for the project to assure compliance.

Mr. Haraway opened the public hearing.

Mr. Bowman stated WPVA has done an excellent job over the years of redeveloping West Petersburg to the standards it was many years ago. He commented it has not been that many years ago that the Fire/Rescue would not even attempt to go into that area without a police escort. It is now a completely different community. He stated the Board should support their efforts. Not only are the effects seen in West Petersburg they have trickled throughout the community in the school system and all over the County.

He stated he had met with Mr. Scheid a couple of times and he had some recommendations. He suggested that staff meet with legal counsel and with the state to get the details worked out and come back to the Board with some recommendations on how to proceed with the remaining development of West Petersburg.

Mr. Scheid commented at one of the meetings the issue of the financial backing came out (which he was not familiar with) and he was charged with the responsibility of seeking available funding. He agreed with Mr. Bowman in trying to involve WPVA again in the development of remaining lots in the community. He stated Mr. Jeffrey advised him that the fulfillment of the County's obligation would be met once this lot was built on, but he was not aware of that, nor had he gotten any documentation from the State yet. He said he wanted the State to verify this because the County would not want to be responsible for having to pay the State back approximately \$18,000 for each of the 3 lots. He also reported he had contacted Mrs. Bonner about trying to set the meeting up with the appropriate people.

Mr. Haraway closed the public hearing.

Upon motion of Mr. Moody, Seconded by Mr. Bowman, Mr. Bowman, Ms. Moody, Mr. Stone, Mr. Moody, Mr. Haraway voting "Aye",

BE IT RESOLVED that the Board of Supervisors of Dinwiddie County, Virginia, following a duly noticed and called public hearing for September 7, 2004, hereby approves the Agreement for Transfer of Land of Lots 347, 348, 349 and 350 situated on Greensville Avenue in West Petersburg Subdivision, Rohoic District, Dinwiddie County, Virginia, to Tri-Cities Habitat for Humanity, a Virginia Corporation, for construction of a single-family home to be built for the benefit of a Low to Moderate Income family;

BE IT FURTHER RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that the County Administration be authorized to act on behalf of the Board to execute and deliver such deed, instrument, agreement and/or other papers as deemed necessary to carry out the purpose and effect of this resolution to include authorization to issue a check made payable to the Clerk of Circuit Court in order to record the deed conveying the property to Tri-Cities Habitat for Humanity, if deemed necessary.

Mr. Bowman requested that Administration if they would contact Mrs. Bonner and set up the meeting as soon as possible so the Board could move forward on this by the next meeting. The County Administrator stated it was already in progress.

IN RE: PUBLIC HEARING – A-04-7 – AMENDMENT TO THE ZONING ORDINANCE (CHAPTER 22) AND SUBDIVISION ORDINANCE (CHAPTER 18) TO INCREASE FEES

This being the time and place as advertised in the Monitor on August 21, 2004 and August 31, 2004, for the Board of Supervisors of Dinwiddie County, Virginia to conduct a Public Hearing to solicit public comment on the following matter:

AN ORDINANCE TO AMEND THE SUBDIVISION ORDINANCE AND ZONING ORDINANCE, BY CHANGING THE FEES CHARGED FOR SERVICES PROVIDED BY VARIOUS COUNTY DEPARTMENTS.

Summary Staff Report

To: Board of Supervisors
From: William C. Scheid
Subject: Amendment A-04-7

The Board of Supervisors reviewed the fee schedules for services provided by various county departments. As a result of this review, several changes were suggested to the Zoning Ordinance and the Subdivision Ordinance. It is noted that the last amendment to these fees was done in April 1999. There have been significant cost increases in all areas involved in processing applications for rezoning and reviewing subdivision and land development proposals since April 1999. With this in mind, the Planning Commission heard this amendment at their July 14th meeting and voted unanimously to recommend approval to the Board of Supervisors. No one attending the Planning Commission meeting spoke in opposition to the amendment. The Planning Commissioners noted that they would like to review the fee structures on a more frequent basis. It was mentioned that every other year might be appropriate.

Mr. Scheid stated the County Attorney suggested the following changes where there is an "etc"...change it to, "and other administrative services," he felt etc was too broad. Under Section 22-40 (c) add this as the last sentence: "If actual expenses associated with the application exceed one hundred dollars (\$100.00), the applicant shall be billed the difference."

AN ORDINANCE TO AMEND THE SUBDIVISION ORDINANCE AND THE ZONING ORDINANCE OF DINWIDDIE COUNTY, VIRGINIA, BY CHANGING THE FEES CHARGED BY THE FOLLOWING SECTIONS: 18-10(C) – SPECIAL EXCEPTION TO THE PLANNING COMMISSION; 18-10(E) – SPECIAL EXCEPTION TO BOARD OF SUPERVISORS; 22-5(5) – AMENDMENT TO ZONING TEXT; 22-23(B) – REZONING APPLICATION; 22-23(C) – CONDITIONAL USE PERMIT; 22-23(C) – AMENDMENT TO CONDITIONAL USE PERMIT; 22-24(F) – AMENDMENT TO PROFFERED REZONING; 22-27(F) – ADMINISTRATIVE VARIANCE; 22-40(C) – APPEALS TO BOARD OF ZONING APPEALS; AND 22-41(F) – VARIANCE.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF DINWIDDIE COUNTY, VIRGINIA, that the subdivision ordinance and the zoning ordinance be amended as follows:

1. Section 18-10(c) be amended by deleting reference to the sum of forty dollars (\$40.00) and in its stead insert **one hundred dollars (\$100.00)**;
2. Section 18-10(e) be amended by deleting reference to the sum of one hundred dollars (\$100.00) and in its stead insert **two hundred dollars (\$200.00)**;

3. Section 22-5(5) be deleted in its entirety and in its place insert the following:

Each application for amendment shall be accompanied by a check or money order made payable to the Treasurer, Dinwiddie County, in the sum of four hundred dollars (\$400.00), three hundred dollars (\$300.00) of which shall be used to pay the expenses of advertising and mailing notices, and other administrative costs. If actual expenses associated with the amendment exceed three hundred dollars (\$300.00), the applicant shall be billed for the difference. One hundred dollars (\$100.00) shall be retained by the County as a fee for processing the application for amendment;

4. Section 22-23(b) be deleted in its entirety and in its place insert the following:

Fees; use described. Each application for rezoning shall be accompanied by a check or money order made payable to the Treasurer, Dinwiddie County, in the sum of six hundred dollars (\$600.00), five hundred dollars (\$500.00) of which shall be used to pay the expenses of advertising and mailing notices, and other administrative costs. If actual expenses associated with the rezoning exceed five hundred dollars (\$500.00), the applicant shall be billed for the difference. One hundred dollars (\$100.00) shall be retained by the County as a fee for processing the application for rezoning;

5. Section 22-23(c) be deleted in its entirety and in its place insert the following:

Fees for conditional use permit and any amendments proposed for an existing conditional use permit. Each application for a conditional use permit or amendment thereto shall be accompanied by a check or money order made payable to the Treasurer, Dinwiddie County, in the sum of six hundred dollars (\$600.00), five hundred dollars (\$500.00) of which shall be used to pay the expenses of advertising and mailing notices, and other administrative costs. If actual expenses associated with the conditional use permit or amendment thereto exceed five hundred dollars (\$500.00), the applicant shall be billed for the difference. One hundred dollars (\$100.00) shall be retained by the County as a fee for processing the application for conditional use permit or its amendment;

6. Section 22-24(f) be amended by adding the following to the end of the existing paragraph:

Each application for amendment shall be accompanied by a check or money order made payable to the Treasurer, Dinwiddie County, in the sum of six hundred dollars (\$600.00), five hundred dollars (\$500.00) of which shall be used to pay the expenses of advertising and mailing notices, and other administrative costs. If actual expenses associated with the amendment exceed five hundred dollars (\$500.00), the applicant shall be billed for the difference. One hundred dollars (\$100.00) shall be retained by the County as a fee for processing the application for amendment;

7. Section 22-27(f) shall be amended by deleting the existing paragraph and in its stead insert the following:

Each application for an administrative variance shall be accompanied by a check or money order made payable to the Treasurer, Dinwiddie County, in the sum of forty dollars (\$40.00), which shall be used for the expenses associated with the application which includes a twenty dollar (\$20.00) fee retained by the County for processing the application. If actual expenses associated with the application exceed twenty dollars (\$20.00), the applicant shall be billed the difference;

8. Section 22-40(c) shall be amended by deleting the existing paragraph and in its stead insert the following:

Appeals shall be mailed to the Board of Zoning Appeals in care of the Zoning Administrator and a copy of the appeal shall be mailed to the secretary of the Planning Commission. A third copy shall be mailed to the individual, official, department or agency concerned, if any. Appeals shall be accompanied by a check or money order made payable to the Treasurer, Dinwiddie County, in the sum of two hundred dollars (\$200.00). One hundred dollars (\$100.00) shall be used to pay for expenses associated with the appeal (ie. notices, advertising, and other administrative costs.) and one hundred dollars (\$100.00) shall be retained by the County as a fee for processing the appeals application. If actual expenses associated with the application exceed one hundred dollars (\$100.00), the applicant shall be billed the difference;

9. Section 22-41(f) shall be amended by deleting the existing paragraph and in its stead insert the following:

An application for a variance shall be obtained from the Zoning Administrator. Each application for variance shall be accompanied by a check or money order made payable to the Treasurer, Dinwiddie County, in the sum of two hundred dollars (\$200.00), one hundred dollars (\$100.00) of which shall be used to pay the expenses of advertising and mailing notices, and other administrative costs. If actual expenses associated with the variance exceed one hundred dollars (\$100.00), the applicant shall be billed for the difference. One hundred dollars (\$100.00) shall be retained by the County as a fee for processing the application for variance.

This Ordinance shall become effective immediately upon adoption by the Board of Supervisors. If any portion of this Ordinance shall be declared null and void, the remaining portions shall remain in full force and effect.

The County Administrator stated these fees cannot be adopted tonight because of the advertisement requirements. Action will be taken at the September 21st meeting.

Mr. Haraway opened the public hearing for citizen comments. There was no public comment in support or opposition to the amendments. Mr. Haraway closed the public hearing.

IN RE: PUBLIC HEARING A-04-8 – TO AMEND CHAPTER 9, EROSION AND SEDIMENTATION CONTROL, BY DELETING THE EXISTING ORDINANCE AND IN ITS STEAD ADOPT THE REVISED CHAPTER 9, EROSION AND SEDIMENTATION CONTROL

This being the time and place as advertised in the Monitor on August 21, 2004 and August 31, 2004, for the Board of Supervisors of Dinwiddie County, Virginia to conduct a Public Hearing to solicit public comment on the following matter:

AN ORDINANCE TO AMEND CHAPTER 9, EROSION AND SEDIMENTATION CONTROL, BY DELETING THE EXISTING ORDINANCE AND IN ITS STEAD ADOPT THE REVISED CHAPTER 9, EROSION AND SEDIMENTATION CONTROL

“Summary Staff Report

To: Board of Supervisors
From: William C. Scheid
Subject: Amendment A-04-8

The Board of Supervisors were advised that amendments to Chapter 9, Erosion and Sedimentation Control Ordinance, were needed in order to reflect current

costs associated with administrating this state mandated program. Additionally, recent changes to the State Code warranted amendments to our ordinance in order to bring our ordinance into compliance with the current State regulations. In order to have a comprehensive review of our ordinance, copies of our ordinance were given to the Department of Conservation and Recreation as well as our County Attorney. Comments received from them as well as staff comments were incorporated into the ordinance before you this evening. In order to facilitate your review of the proposed changes, The County ordinance was set out in its entirety and deletions from the ordinance were noted by striking through the words and added text was noted by underlining."

Mr. Scheid commented, as all of you are aware, the State continues to mandate programs without providing funding to the County to meet those mandates. Being a small staff as we are, this has posed many problems for the Planning Department especially since we have had more and more developments come into the County. The State sent representatives to the County last year and found several areas in which the County is not conforming with. One of those was the County ordinance. The State assisted the County in writing the ordinance along with the County Attorney.

Mr. Scheid stated a question arose this afternoon regarding the amended Erosion Control Ordinance providing for both criminal and civil penalties. Our County Attorney believes the ordinance may provide for one or the other, but not both. The ordinance had been reviewed by the Department of Conservation and Recreation previously and they suggested both civil and criminal provisions be addressed in the ordinance. Our legal counsel called DCR this afternoon and was advised that it was the opinion of the individual he spoke with, that civil and criminal provisions could be addressed in the same ordinance.

Mr. Jack Catlett, County Attorney explained he advised deletion of section A, the last two sentences of section B as well as the removal of the two words "criminal or civil" to be replaced by the word "other" in subsection D of the proposed Section 9-8 of the proposed ordinance. It is our opinion that Section 10.1-562 J prohibits the inclusion of both civil and criminal penalties in the ordinance. As written the ordinance allows for a choice of either. 10.1-532 J provides that "Adoption of such an ordinance providing that violations are subject to a civil penalty shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of Section 10.1-569." In adopting an ordinance that provides for civil penalties, we believe it is inappropriate to include the criminal sanctions portion.

There was a short discussion between the Board members, the County Attorney and the Director of Planning regarding the differences of opinion in the amended Erosion Control Ordinance providing for both criminal and civil penalties.

Mr. Scheid stated in view of this disagreement, it is suggested that the Board of Supervisors hold the public hearing on this ordinance but defer action on the matter until the question at hand can be researched. It is not crucial that action be taken this evening since the County has an Erosion Control Ordinance in place.

Mr. Haraway opened the public hearing.

The following persons addressed the Board in regard to the amended Erosion Control Ordinance.

- 1) George Whitman – 13010 Old Stage Road, Petersburg, VA.
- 2) Michael Bratschi – 23500 Cutbank Road, McKenney, VA.
- 3) Anne Scarborough – Boydton Plank Road, Dinwiddie, VA.

Mr. Haraway closed the public hearing.

The following is the proposed Ordinance with all of the suggested changes:

BE IT ORDAINED by the Board of Supervisors of Dinwiddie County, Virginia that the existing Chapter 9, entitled Erosion and Sedimentation Control be deleted and in its stead adopt the following as Chapter 9, Erosion and Sedimentation Control

CHAPTER 9

EROSION AND SEDIMENTATION CONTROL

SECTION 9-1. TITLE.

This ordinance shall be known as the "Erosion and Sediment Control Ordinance of Dinwiddie County." The purpose of this chapter is to conserve the land, water, air and other natural resources of Dinwiddie County by establishing procedures whereby these requirements shall be administered and enforced.

SECTION 9-2. AUTHORITY FOR CHAPTER.

This Chapter is authorized by the Code of Virginia, Title 10.1, Conservation, Soil and Water Conservation Chapter 5, Article 4, Erosion and Sedimentation Control Law (10.1-560 et seq.), known as the Erosion and Sediment Control Law.

SECTION 9-3. DEFINITIONS

As used in this ordinance, unless the context requires a different meaning:

Agreement in lieu of a plan: A contract between the plan-approving authority and the owner that specifies conservation measures, which must be implemented in the construction of a single-family residence; the plan-approving authority or its designee in lieu of a formal site plan, may execute this contract.

Applicant: Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

Board: The Virginia Soil and Water Conservation Board.

Certified Inspector: An employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.

Certified Plan Reviewer: An employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (54.1-400 et seq.) of Chapter 4 of Title 54.1.

Certified Program Administrator: An employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

Clearing: Any activity, which removes the vegetative ground cover including, but not limited to, root mat removal or topsoil removal.

Conservation Plan Erosion and Sediment Control Plan or "Plan": A document containing material for the conservation of soil and water resources of

a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

County: The County of Dinwiddie.

Department: The Department of Conservation and Recreation.

Director: The Director of the Department.

District or "Soil and Water Conservation District": A political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (Sec. 10.1-506 et. seq.) of Chapter 5 of Title 10.1. The County of Dinwiddie is served by the Appomattox River Soil & Water Conservation District.

Erosion Impact Area: An area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

Excavating: Any digging, scooping or other methods of removing earth materials.

Filling: Any depositing or stockpiling of earth materials.

Grading: Any excavating of or filling with earth materials.

Land-Disturbing Activity: Any land change which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the State, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
2. Individual service connections;
3. Installation, maintenance, or repairs of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided such land-disturbing activity is confined to the area of the road, street or sidewalk, which is hard-surfaced;
4. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
5. Surface or deep mining;
6. Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;
7. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; 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 the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsections B of 10.1-1163;

8. Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities of a railroad company;

9. Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, de-silting basins, dikes, ponds, not required to comply with the provisions of the Dam Safety Act, Article 2 (10.1-604 et. seq.) of Chapter 6 of this title, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;

{Deletions are struck through and shown as xyz.}

{Additions are underlined and shown as xyz.}

10. Disturbed land areas of less than two thousand five hundred (2,500) ~~ten thousand (10,000)~~ Square feet.

11. Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles;

12. ~~Shore erosion control projects on tidal waters when the projects are approved by local wetlands boards, the Marine Resources Commission or the U. S. Army Corps of Engineers;~~ Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, associated land that is disturbed outside of this exempted area shall remain subject to this Chapter and the regulations set forth herein.

13. Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the certified plans reviewer.

Land Disturbing Permit: A permit issued by the County of Dinwiddie for the clearing, filling, excavating, grading, transferring or any combination thereof or for any purpose set forth herein.

Local Erosion and Sediment Control Program: An outline or explanation of the various elements or methods employed by the County of Dinwiddie to regulate land disturbing activities and thereby minimize erosion and sedimentation in compliance with the State program and may include such items as a local ordinance, policies and guidelines, technical materials, inspection, enforcement and evaluation.

Owner: The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Permittee: The person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution,

utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body, or any other legal entity.

Plan Approving Authority: The Certified Plan Reviewer responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of land and for approving plans.

Program Authority: The County of Dinwiddie, which has adopted the soil erosion, and sediment control program, which has been approved by the Board.

Responsible Land Disturber: An individual from the project or development team who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1.

Single-Family Residence: A noncommercial dwelling that is occupied exclusively by one family and not part of a residential subdivision development.

Stabilized: An area that can be expected to withstand normal exposure to atmospheric conditions without incurring erosion damage.

State Erosion and Sediment Control Program or State Program: The program administered by the Virginia Soil and Water Conservation Board pursuant to the State Code including regulations designed to minimize erosion and sedimentation.

State Waters: All waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdictions.

Town: An incorporated town.

Transporting: Any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetation ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

SECTION 9-4. EROSION AND SEDIMENT CONTROL PROGRAM

A. The County of Dinwiddie hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the Virginia Soil and Water Conservation Board pursuant to Section 10.1-562 of the Code of Virginia for the effective control of soil erosion, sediment deposition and nonagricultural runoff to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards, and specifications for erosion and sedimentation control are included in, but not limited to, the The Virginia Erosion and Sediment Control Regulations, the Virginia Stormwater Management Handbook, and the The Virginia Erosion and Sediment Control Handbook, Third Edition, 1992,as amended periodically, are adopted as the standards, reference and guidelines for the County of Dinwiddie. The standards contained within these publications are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The plan approving authority, in considering the adequacy of a submitted plan, shall be guided by the same same regulations, references, guidelines, standards and specifications shall guide the plan approving authority, in considering the adequacy of a

submitted plan standards, regulations, and guidelines. When the standards vary between the publications, the State regulations shall take precedence.

B. The County of Dinwiddie designates the Certified Plan Reviewer as the plan approving authority. The Department of Planning or a similar local government department may be the designated plan-approving authority, the County may hire a consultant to be the plan approving authority, or the district may be designated as the plan-approving authority for all or some conservation plans pursuant to Section 10.1-562.C of the Code of Virginia.

~~C. Pursuant to Section 10.1-561.1 of the Code of Virginia, (i) an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer, (ii) inspections of land-disturbing activities shall be conducted by a certified inspector and; (iii) the Erosion Control Program of Dinwiddie~~

~~County shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.~~

D. The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the Planning Department of Dinwiddie County.

SECTION 9-5. REGULATED LAND-DISTURBING ACTIVITIES; SUBMISSION AND APPROVAL OF PLANS

A. Except as provided herein, no person shall engage in any land-disturbing activity until he has submitted to the Director of Planning for Dinwiddie County an erosion and sediment control plan for land-disturbing activity and such plan has been approved by the plan approving authority. The plan shall be drawn to scale of not less than one hundred (100) feet to one (1) inch and shall detail those methods and techniques to be utilized in the control of erosion and sedimentation and, as a minimum, the plan shall comply with the state criteria, standard and specifications found in the Virginia Erosion and Sediment Control Handbook, as referenced in Section 9-4A of this Chapter. A minimum of four (4) copies of the erosion and sediment control plan shall be submitted to the Administrator. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Board for review and approval rather than to each jurisdiction concerned. Where the land disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the County of Dinwiddie.

B. The plan approving authority shall, within 45 days, approve any such plan, if he determines that the plan meets the requirements of the Board's regulations, and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this ordinance. In addition, as a prerequisite to engaging in land disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the program authority, as provided by 10.1-561, who will be in charge of and responsible for carrying out the land-disturbing activity. However, any plan approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single-family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by 10.1-561. Failure to provided the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and

the person responsible for carrying out the plan shall be subject to the penalties provided in this article.

~~B. C. The plan shall be acted upon within 45 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval. When a plan is determined to be inadequate, the plan approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.~~

~~D. An approved plan may be changed by the plan approving authority when:~~

~~1. The inspection reveals that the plan is inadequate to satisfy applicable regulations; or~~

~~2. The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance, are agreed to by the plan approving authority and the person responsible for carrying out the plan.~~

~~E. In order to prevent further erosion, the County of Dinwiddie may require approval of a conservation plan for any land identified in the local program as an erosion impact area.~~

~~F. When a land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.~~

~~G. State agency projects are exempt from the provisions of this Ordinance, pursuant to section 10.1-564 of the Code of Virginia.~~

~~H. Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the Board for review and written comments. The specifications shall apply to:~~

~~1. Construction, installation or maintenance of electric, natural gas and telephone utility line, and pipelines; and;~~

~~2. Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.~~

~~The Board shall have 60 days in which to approve the specification. If the board takes no action within 60 days, the specifications shall be deemed approved. Individual approval of separate projects within subdivisions 1 and 2 of this subsection is not necessary when Board approved specifications are followed, however, projects included in subdivisions 1 and 2 must comply with Board approved specifications. Projects not included in subdivisions 1 and 2 of this subsection shall comply with the requirements of the Dinwiddie County erosion and sediment control program. The board shall have the authority to enforce approved specifications.~~

SECTION 9-6. LAND-DISTURBING PERMITS; FEES; BONDING; ETC.

A. No person shall engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically

exempt from the provisions of this ordinance, and has paid the fees and posted the required bond.

B. Fees:

1. A plan review fee shall be paid by check or money order payable to Treasurer, Dinwiddie County by the owner or their designee in such amount necessary for the County to hire a consultant qualified as a Certified Plan Reviewer to review the plan for compliance with the County Erosion and Sedimentation Control Ordinance; and,
2. A plan inspection fee of \$100.00, \$150.00 plus \$5.00, \$10.00 per acre shall be paid by check or money order made payable to the Treasurer, Dinwiddie County at the time of filing an erosion and sediment control plan. This fee will cover the costs associated with up to ten (10) visits to the site. If additional visits are required, then a charge of \$20.00 per site visit will be charge to the developer and /or property owner. All fees are non-refundable.

~~C. No land disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed. An approved plan is required for issuance of grading, building or other permits.~~

C. D. Bond: All applicants for permits shall provide to the County of Dinwiddie a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the Program Administrator, to ensure that measures could be taken by the County of Dinwiddie at the applicant's expense should the applicant fail within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land disturbing activity. Should it be necessary for the County of Dinwiddie to take such conservation action, the County of Dinwiddie may collect from the applicant any costs in excess of the amount of the surety held. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in Dinwiddie County with a reasonable allowance for estimated administrative cost and inflation, which shall not exceed twenty-five (25) percent of the estimated cost of the conservation action.

Within sixty (60) days of the achievement of adequate stabilization of the land disturbing activity in any project or sections thereof, as determined by the Program Administrator, the bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated based upon the percentage of stabilization accomplished in the project or section thereof. Adequate stabilization will consist of at least 85% vegetative cover. The program Administrator shall have the sole authority to determine whether adequate vegetation exists.

These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

SECTION 9-7. MONITORING, REPORTS, AND INSPECTIONS

A. The Certified Inspector shall provide for and/or conduct periodic inspections of the land-disturbing activity, and may require monitoring and reports from the person responsible for carrying out the plan, to insure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, Permittee or person responsible for carrying out the plan shall be given notice of the inspection.

A. The certified inspector shall provide for periodic on-site inspections as set forth in VESCR 4 VAC 50-30-60B and require that an individual holding a certificate competence, as provided by regulations of the board, or other competent individual pursuant to 82-35(b)(1), be in charge of and responsible for carrying out the land-disturbing activity. Pursuant to Code of Virginia, 10.1-566(A), the owner, permittee or person responsible for carrying out the plan shall be provided an opportunity to accompany the official. Notice of the right of inspection shall be included in all land disturbing permits issued. The certified inspector shall be responsible for developing and implementing a filing system for land disturbing projects. The individual holding a certificate of competence, as required under the State program, who will be in charge of and responsible for carrying out the land-disturbing activity shall be required by the certified inspector to periodically inspect the land-disturbing activity.

~~If the Certified Inspector determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.~~

The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and, upon conviction shall be subject to the penalties provided by the ordinance.

B. Upon receipt of a sworn complaint of a violation of this ordinance or section 10.1-563 or 10.1-564 the Program Administrator or his designee, either may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue a stop work order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken or, if land-disturbing activities have commenced without an approved plan require that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where an alleged noncompliance is caused or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, a stop work order may be issued whether or not the alleged violator has been issued a notice to comply. Otherwise, such a stop work order may be issued only after the alleged violator has failed to comply with a notice to comply. The stop work order shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the enforcing authority or alleged violator for appropriate relief to the circuit court of Dinwiddie County.

If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the Administrator, or his designee, may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained.

A stop work order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the County of Dinwiddie. The owner may appeal the issuance of an order to the Circuit Court of the County of Dinwiddie.

Any person violating or failing, neglecting or refusing to obey an order issued by the Administrator or his designee may be compelled in a proceeding instituted in the Circuit Court of the County of Dinwiddie to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the Administrator or his designee from taking any other action authorized by this ordinance.

SECTION 9-8. PENALTIES, INJUNCTIONS, AND OTHER LEGAL ACTIONS

A. Violators of this ordinance shall be guilty of a Class 1 misdemeanor.

B. Any person who violates any provision of this ordinance shall upon a finding of the District Court of the County of Dinwiddie, be assessed a civil penalty. In any civil trial for a violation of this ordinance, the County of Dinwiddie shall have the burden of showing, by the preponderance of the evidence the liability of the violator. The civil penalty for any one violation shall be \$100, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense.

In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000, except that a series of violations arising from the commencement of land disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.

An admission or finding of civil liability shall not be a criminal conviction for any purpose.

The assessment of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of this section.

C. The Administrator, or his designee or the owner of property which has sustained damage or which is in imminent danger of being damaged may apply to the Circuit Court of the County of Dinwiddie to enjoin a violation or a threatened violation of this ordinance, without the necessity of showing that an adequate remedy at law does not exist; however, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing damage to his property.

D. In addition to any criminal or civil penalties provided under this ordinance, any person who violates any provision of this ordinance may be liable to the County of Dinwiddie in a civil action for damages.

E. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to this section, shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. The County of Dinwiddie may bring a civil action for such violation or failure.

F. Any civil penalties assessed by a court shall be paid into the treasury of the County of Dinwiddie, except that where the violator is Dinwiddie County, itself or its agent, the court shall direct the penalty to be paid into the State Treasury.

G. With the content of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance, the County of Dinwiddie may provide for the payment of civil charges in violation in specific sums set forth in Paragraph J, not to exceed the limit specified in Paragraph E of this section. Such civil charges shall be instead of any appropriate civil penalty, which could be imposed under Paragraphs B or E of this section.

H. The Commonwealth's Attorney shall, upon request of the County of Dinwiddie or the permit issuing authority, take legal action to enforce the provisions of this ordinance.

I. Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

J. The following charges shall apply for violation of specific minimum standards (MS) set forth in the State Code:

Land Disturbing (without a permit).....	100.00 per day
MS-01...Permanent seeding req'd	100.00 per day
MS-02...Stabilize stock piles	100.00 per day
MS-03...Vegetation established	100.00 per day
MS-04...Sediment basin/traps	100.00 per day
MS-05...Stabilization of dams, etc.	100.00 per day
MS-06...Basin required over 3 acres	100.00 per day
MS-07...Slope stabilization	100.00 per day
MS-08...Temporary flume, channel	100.00 per day
MS-09...Slope face-provide drainage	100.00 per day
MS-10...Storm sewer inlet protection.....	100.00 per day
MS-11...Conveyance channel protection.....	100.00 per day
MS-12...Work in watercourse	100.00 per day
MS-13...Temporary stream crossing.....	100.00 per day
MS-14...Fed/State regs - watercourse	100.00 per day
MS-15...Bed and bank stabilization	100.00 per day
MS-16...Underground utility work.....	100.00 per day
MS-17...Construction entrance	100.00 per day

SECTION 9-9. APPEALS AND JUDICIAL REVIEW

A. Any applicant under the provision of this ordinance who is aggrieved by any action of the County of Dinwiddie or its agent in disapproving plans submitted pursuant to this ordinance shall have the right to apply for and receive a review of such action by the Board of Supervisors. In reviewing the agent's actions, the Board of Supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the Board of Supervisors may affirm, reverse or modify the action. The Board of Supervisors' decision shall be final, subject only to review by the Circuit Court of the County of Dinwiddie. Any applicant may seek an appeal hearing before the Board of Supervisors provided that the applicant file a written notice requesting review by the Board of Supervisors within 30 days of the County of Dinwiddie's or its agent's actions.

B. Final decisions of the County of Dinwiddie under this ordinance shall be subject to review by the Circuit Court, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

The Board did not take action on the proposed Erosion Control Ordinance.

**IN RE: PUBLIC HEARING – A-04-11 – AMENDMENT TO THE
DINWIDDIE COUNTY CODE SECTION 1-14-1 TO
INCREASE AND CODIFY THE COUNTY RECORDATION
TAX**

This being the time and place as advertised in the Progress Index on August 18, 2004 and the Monitor on August 21, 2004 and August 31, 2004, for the Board of Supervisors of Dinwiddie County, Virginia to conduct a Public Hearing to solicit public comment on the following matter:

AN ORDINANCE TO INCREASE AND CODIFY THE COUNTY RECORDATION TAX

“Memorandum

To: Wendy W. Ralph, County Administrator
From: Adam R. Kinsman
RE: County Recordation Tax

Recently, the clerk of the circuit court contacted you regarding the County's recordation tax. She questioned what effect the General Assembly's recent increase in the state recordation tax rate would have on the County's rate. You have requested that we provide you with guidance regarding this issue.

Pursuant to the Virginia Recordation tax Act, the state imposes a tax whenever any taxable instrument (e.g., a deed, deed of trust, contract, sale of rolling stock, etc.) is recorded in the clerk's office, unless exempted by law. In the budget bill passed in its 2004 special session, the General Assembly increased this state tax from \$0.15 to \$0.25 per \$100 of value reported on the document to be recorded. In addition to the state recordation tax, localities may also impose a local recordation tax equal one-third of the amount levied by the state. Because the state tax has increased, local recordation taxes may also increase to \$0.083 per \$100 of value.

The County currently imposes a local recordation tax, but it is not codified in the *Dinwiddie County Code*. In the past, the clerk has collected an amount equal to one-third of the previous state recordation tax rate, or \$0.05 per \$100 of value. You were unable to locate the original recordation ordinance within the County's minute books; consequently, it is unclear whether the ordinance sets the County rate at a particular numerical amount (\$0.05 per \$100) or if it is simply one-third of the state recordation tax. If the County rate is set as one-third of the rate imposed by the state, then the County tax will automatically adjust along with any increase or decrease in the state rate. In this case, the county rate will increase from \$0.05 to \$0.83 per \$100 of value.

To ensure that the County is able to benefit from the state increase and to eliminate the need to adopt a new ordinance every time the state rate changes, we suggest that the Board adopt the attached ordinance stating that the local recordation tax is equal to one-third of the amount imposed by the state.”

The County Administrator stated because the clerk of the circuit wanted to start collecting the tax on September 1, 2004; we were able to get it advertised in enough time to meet the code requirement. Therefore, the Board can adopt the ordinance tonight.

Mr. Haraway opened the public hearing. No one spoke in support or in opposition to the ordinance. Mr. Haraway closed the public hearing.

Upon motion of Mr. Moody, Seconded by Mr. Bowman, Mr. Stone, Ms. Moody, Mr. Bowman, Mr. Moody, Mr. Haraway, voting “Aye”, the County Recordation Tax Ordinance A-04-11 was adopted.

**AN ORDINANCE TO INCREASE AND CODIFY THE COUNTY RECORDATION
TAX**

WHEREAS, the Code of Virginia permits localities to impose a local recordation tax upon every taxable instrument recorded in the office of the clerk of the circuit court, unless exempted by law;

WHEREAS, the local recordation tax may be equal to one-third of the amount of the state recordation tax collectable for the Commonwealth;

WHEREAS, the County has imposed a local recordation tax equal to one-third of the amount of the state recordation tax;

NOW THEREFORE BE IT ORDAINED, that in the interest of public health, safety, and welfare and pursuant to the authority granted to it under §§ 58.1-814 and 58.1-3800 et seq. of the Code of Virginia that the following section of the Code of the County of Dinwiddie, Virginia be enacted to read as follows:

Sec. 1-14.1 Local recordation tax.

There is hereby imposed a county recordation tax in the amount equal to one-third of the amount of the state recordation tax collectable for the Commonwealth, upon the first recordation of each taxable instrument in the county. No tax shall be levied under this section upon any instrument in which the state recordation tax is \$0.50. Where a deed or other instrument conveys, covers, or relates to property located partly in the county and partly in another county or city, the tax imposed under authority of this section shall be computed only with respect to the property located in the county.

The clerk of the circuit court of the county shall collect the tax imposed under this section and shall pay the same into the treasury of the county.

* * *

If any section, sentence, paragraph, term, or provision of this Ordinance is determined to be illegal, invalid, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term, or provision of this Ordinance, all of which will remain in full force and effect.

This Ordinance shall become effective immediately upon its adoption by the Board of Supervisors.

**IN RE: PUBLIC HEARING – ROUTE 1 & ROUTE 460 CORRIDOR
ENHANCEMENT STUDY**

This being the time and place as advertised in the Monitor on August 21, 2004 and August 31, 2004, for the Board of Supervisors of Dinwiddie County, Virginia to conduct a Public Hearing to solicit public comment on the following matter:

Mr. William C. Scheid, Director of Planning, introduced Ms. Vaughn Rinner of Landmark Design Group and said she would have a brief presentation of the study. He commented he knew the Board was aware of the many hours and days that had been put into the project. There were many opportunities given for all the people in the community to have input in the process and the document. He thanked all the members of the steering committee and added a

special thanks to George Whitman, Betty Bowen, Anne Blazek, Sam Hayes, Will Greene, and Geri Barefoot.

Ms. Rinner stated it had been a pleasure working with the Steering Committee and with the community on this project. "The reason this plan was undertaken was to determine first, what the citizens of the County desire for the appearance, transportation function, and land uses along Route 1 and Route 460 corridors through the County, and second, how might the desired results be achieved." The plan outlines a vision. It was developed to provide a tool to guide the development along the highways, rather than allowing the development and engineering of individual projects to govern the aesthetics and character of these key corridors. The Enhancement Study is a planning document to give a framework, which should be incorporated into the County's Comprehensive Plan. Ms. Rinner pointed out that the corridor overlay zones would provide the most flexible and effective method for guiding, evaluating and encouraging development patterns along the corridors. The committee identified a series of focus areas along the corridors with varying character and goals.

Mr. Haraway asked how the plan would be implemented. Is someone hired to do the project or is it made a part of the department job? Ms. Rinner replied most of it is done within the departments and they get additional specific assistance. But a lot of it is generated internally once the framework is done. Additional staff would be necessary for enforcement and plan review. There also needs to be a process for review. Then create an ordinance that does the overlay then decide how you want to handle specifics about the codes and plan reviews. The implementation of the recommendations and concepts in the plan will require further detailed work, which may be undertaken by County staff in conjunction with the county attorney, or through hiring consultants to assist the staff. She stated one thing the steering committee felt strongly about was hiring additional staff for the planning department.

Mr. Haraway opened the public hearing for citizen comments.

- 1) George Whitman – stated he was not in agreement with the study.
- 2) Will Greene – spoke in support of the document.
- 3) Anne Scarborough – commented the existing zoning codes and regulations weren't being enforced now in the County.
- 4) Mrs. Jones – requested a copy of the corridor study.

Mr. Haraway closed the public hearing.

Mr. Bowman stated he would know the planning department was busy now, but in a couple of months he would like for them to meet with the planning commissioners and bring back to the Board some recommendations and suggestions for ordinances and road way set backs. He said this is something he felt was very important to the future of Dinwiddie County and one of the biggest things to this Board; and that is how this County will look in twenty to fifty years.

Ms. Moody stated she saw several changes that needed to be made and did not support adopting the document tonight. She made a motion to further study the Route 1 and 460 Corridor Enhancement Plan and meet with the Planning Commission to make some changes before it is adopted.

Mr. Bowman stated he would like to adopt this tonight and to make it a part of the Comprehensive Land Use Plan and it could be revised later.

Ms. Moody withdrew her motion.

Mr. Bowman made the motion to adopt the Route 1 and 460 Corridor Enhancement Study and to make it a part of the Dinwiddie County Comprehensive Land Use Plan. Mr. Moody seconded the motion.

Mr. Scheid explained that the Comprehensive Land Use Plan is not a legal document; it has legal binding rules and regulations that you have to go through. It is a statement or framework for decision-making by the governing body. If the Enhancement Study is made a part of the Land Use Plan you could refer to this document and it would have the same binding effect because it is a part of it. The document can be amended and the State mandates that it be looked at every five years. The same holds true for this document. He stated if the Board wants to go back and make additional changes at this time a supplement would have to be made to the contract for Landmark Design because they have provided the services that were required. If you want to revisit it say within the next two months or do it with the Comprehensive Land Use Plan, it would have to be done anyway. He commented what Mr. Bowman is saying, by making it a part of the plan now it is in place for documentation for the future if it is requested.

Mr. Stone asked if the document would be provided in a Microsoft Word form for future use. Ms. Rinner and Mr. Scheid replied yes.

Mr. Stone, Mr. Bowman, Mr. Moody, Mr. Haraway, voting "Aye", Ms. Moody voting "Nay", motion carried.

Ms. Moody made a motion to further study the Route 1 and 460 Corridor Enhancement Study because once it is made part of the Comprehensive Land Use Plan it will lay there and there are some things in it that she was not happy with; and to have the Planning Commission and Board meet one more time to see if they can be straightened out. Mr. Haraway asked if her motion included having the steering committee meet with them also. Ms. Moody replied yes. Mr. Bowman seconded the motion.

Mr. Stone commented he feared additional legal fees from this...say a developer comes in one thing being in place, this being changed... another thing in progress, and he felt it would be opening the County up for additional legal fees and consulting on something that is going to be in the middle of a process or will be grand fathered if it is not. Mr. Bowman stated we are in the process of a lot of things in the County right now with the growth management study and what the Board is doing and coming up with this plan and proffers. Hopefully, the Board can get it done before any legal fees are incurred.

Mr. Moody stated the Comprehensive Land Use Plan it is not an ordinance or a regulation nor is it legally binding; but it is a tool used to guide the County to look at what we would like to do.

Ms. Moody, Mr. Bowman, Mr. Stone, Mr. Moody, Mr. Haraway, voting "Aye", motion carried.

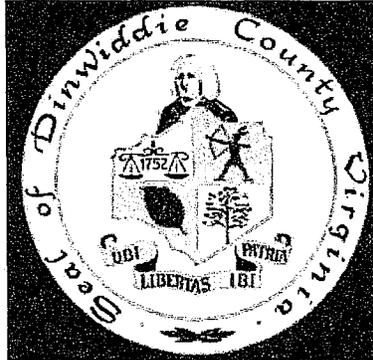
IN RE: RECESS

The Chairman called for a recess at 9:21 P.M. The meeting reconvened at 9:29 P.M.

IN RE: MICROWAVE SYSTEM STATUS UPDATE

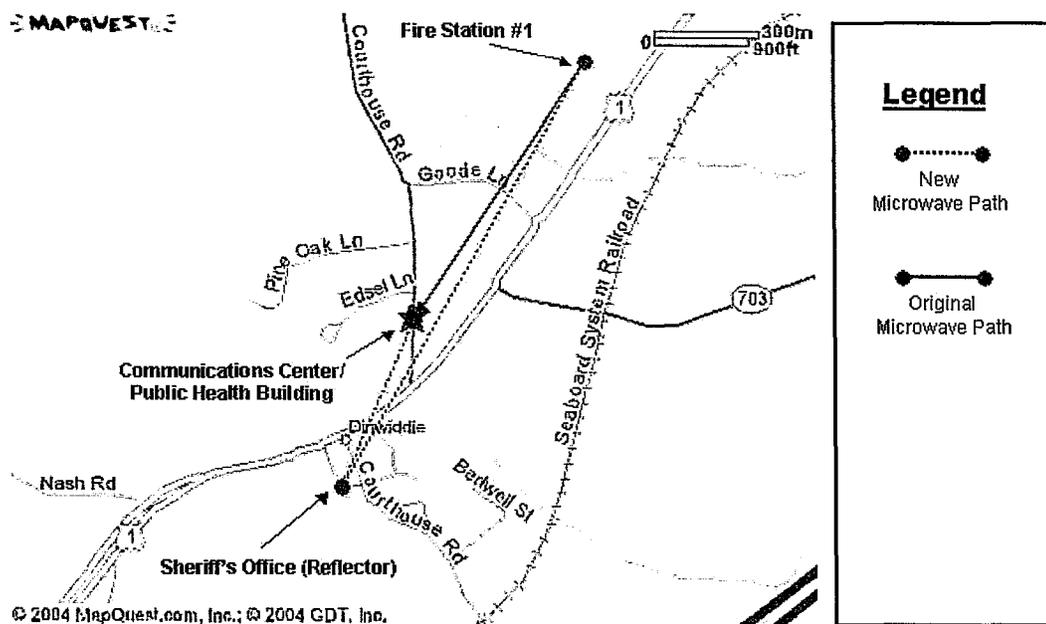
Mr. Curt Andrich, with L. Robert Kimball and Associates, Ms. Barbara Toumbalakis, Project Manager with Motorola, and Mr. Gary Thompson with Microwave Networks provided the following status update on the microwave coverage for the radio system between the Dinwiddie VFD and Public Safety Building.

Dinwiddie County, VA



Microwave System Status September 7, 2004

Communications Center to Fire Station Microwave Paths



Original Microwave Path

- Uncharacteristic microwave propagation anomaly
- Unanticipated poor path performance due to deciduous tree growth
- Result: Intermittent short duration received signal failures

New Microwave Path

- Increased received signal level
- Minimized signal fluctuation by eliminating path obstructions
- Calculated path availability at 100%

Path Calculations – New Design

- No changes to Fire Station equipment
- Add 3'x 4' flat panel reflector at 160' level on Sheriff's Office tower
- Re-locate Comm Center antenna to Health Building rooftop
- Extend existing trenching from Comm Center to Health Building
- No increase in maintenance requirements
- No additional cost incurred by Dinwiddie County

	Health Building	Fire Station #1
Elevation (ft)	274.31	265.00
Latitude	37 04 48.58 N	37 05 11.2 N
Longitude	077 30 07.58 W	077 30 47.31 W
Time zone (hr)	-05:00	-05:00
Vertical curve (ft)	0.00	0.00
Antenna model	PLA-10TC	PLA-10TC
Antenna height (ft)	25.00	120.00
Antenna gain (dBS)	40.00	40.00
Platform loss (dB)	1.00	1.00
FX loss type	FX-00	FX-00
FX loss height (ft)	25.00	140.00
FX loss level (dB)	0.00	0.00
FX loss loss (dB)	7.00	6.64
Clearance loss (dB)	0.00	0.00
Frequency (MHz)	1115.00	
Polarization	Vertical	
Path length (mi)	1.20	
Free space loss (dB)	220.57	
Plasma Gain (dB)	25.75	
Atmospheric absorption loss (dB)	0.00	
Net path loss (dB)	204.82	204.82
Radio model	CM1110054115051570	CM1110054115051570
FX power (watts)	0.10	0.10
FX power (dBm)	20.00	20.00
ERP (dBm)	26.75	26.75
Clearance clearance	30.00 FT	30.00 FT
FX clearance level (dBm)	56.75 dBm	56.75 dBm
FX signal (dBm)	-47.31	-47.31
Planned fade margin (dB)	30.00	30.00
Designated fade margin (dB)	30.00	30.00
Dispersion fade margin (dB)	1.20	
Effective fade margin (dB)	30.00	30.00
Channel factor	1.00	
Fade margin (dB)	30.00	
CFactor	0.20	
Fade occurrence factor (FF)	4.75E-05	
Average annual interruption (hr)	0.00	
Vertical month - multi-path (%)	100.0000	100.0000
Annual - multi-path (%)	100.0000	100.0000
Annual - multi-path (hr)	0.00	0.00
FX - loss	100.0000	100.0000
Plan margin	30.00	30.00
Effective fade margin - loss (dB)	30.00	30.00
Annual multi-path - loss (%)	100.0000	100.0000

File: Aug 31 2004
Health Building-Sheriff's Office to Dinwiddie Fire Station #1.gis
Dinwiddie-Virginia - Rural
Plan - Data

Mr. Thompson stated the tower at the Sheriff's Department would be utilized to place a reflector on it for the system. He stated with the placement of the reflector and dish, the path calculation availability would be retained at 100%, which is a minimum requirement for subcontractors, by Motorola. Also, by using the microwave system it would eliminate the need to have to clear any trees from the path.

Mr. Andrich explained a dish would be placed on top of the Health Department next to the brick chimney but it would be barely visible in this location (pictures were provided to show the location).

Mr. Thompson stated the maintenance would be minimal to the system. Occasionally after high winds, hurricanes and storms some adjustments would be required. He reiterated there would be no additional costs to the County for the system.

Mr. Andrich stated he had his engineers to take a look at the solution and they are very confident that it will work and Motorola's engineers have given their approval as well.

Mr. Bowman asked if the tower at the Sheriff's Office should be upgraded? Mr. Thompson replied at their cost, there would be a structural analysis of that tower and also the Health Department Building roof to insure the integrity of both of them; and it will be certified by a structural engineer.

IN RE: REPORT RADIO SYSTEM COVERAGE IN COUNTY

Mr. Andrich gave a brief report on the field tests that had been conducted for the radio coverage in the County. He said the County had been divided into 2000 test grids; and the goal was that 95% of those grids had to pass in order for the system to work. They were physically able to get to 1417 test grids of that only 5 failed. Three of them failed analog only but the digital side worked and two failed completely, 1 was at the Dinwiddie, Brunswick line and the other one was at Stony Creek, Dinwiddie line. Overall the test results showed 99.5% reliability coverage in the County. It was engineered for 95% but it actually came close to 100% and that was with portable radios traveling around the County in moving vehicles.

IN RE: CHANGE ORDER FOR EXTENSION OF CAD SYSTEM TRAINING

The County Administrator stated due to the Communication Supervisors leaving it delayed the hiring of the dispatchers; therefore, the contract for the CAD System needs to be extended from 120 days to 210 days. A change order is needed for InterAct Public Safety Systems to place the training classes on hold until the County can hire the dispatchers and to extend its contract completion time frame from 120 to 210 days.

Upon motion of Mr. Moody, Seconded by Mr. Stone, Mr. Stone, Ms. Moody, Mr. Bowman, Mr. Moody, Mr. Haraway, voting "Aye", the change order for InterAct Public Safety Systems to extend its contract completion time frame from 120 to 210 days was approved.

IN RE: CITIZEN COMMENTS

1) David Dudley – 25907 Smith Grove Road, Petersburg, VA - voiced his disapproval because the Board did not adopt the biosolids resolution that several jurisdictions have adopted requesting the General Assembly to take a look at biosolids issues; and to provide local governments the opportunity to participate in the regulations governing the applications.

2) Geri Barefoot – 7411 Frontage Road, Petersburg, VA – stated there has not been a study on biosolids since 1985. She cited the State Code section, which provides that any person may petition an agency to amend an existing regulation. She requested that the Board adopt the "Prince Edward Resolution" which requests the Virginia General Assembly to fully investigate state policy on land application of biosolids and to include local governments in any changes to those regulations. She stated all they were asking for is more representation.

3) Anne Scarborough – Boydton Plank Road, Dinwiddie, VA – commented she was in accord with what these people are saying and she did not understand why the Board declined to ask the General Assembly to take a look. Mrs. Scarborough stated the environmental land technician position hasn't been filled

and she felt the reason was because there were too many duties involved in the position. She called the State today and they pay the following: \$16 per hour, (for doing that job only) \$0.32 per mile for vehicle, \$2,000 for testing and up to \$1,200 a year for training. She stated she wanted someone to tell her what the face amount of the School Bond issue was going to be, \$55 Million or \$56,115,000 Million? She also asked that the Board have the law firm submit their invoices for payment in a timely manner.

4) Michael Bratschi - 23500 Cutbank Road, McKenney, VA – requested that the Board seriously consider hiring a new county attorney. He stated why adopt another Biosolids resolution when the County can't even get a murder conviction in the County so why even try to get a biosolids violation. He commented he didn't know who the Special Prosecutor, Mr. Fisher, was but he was not impressed with his track record. He requested that the Board meet with him (if he is the new Assistant Commonwealth Attorney) to see where he is coming from.

IN RE: GAS & FUEL OIL BIDS – AWARD OF CONTRACT

The County Administrator stated that the County received the following bids for gasoline, fuel oil and diesel:

<u>COMPANY</u>	<u>UNLEADED GASOLINE</u>		<u>DIESEL</u>	
	<u>PROPOSAL/ALT. 1</u>	<u>PROPOSAL/ALT. 1</u>	<u>PROPOSAL/ALT. 1</u>	<u>PROPOSAL/ALT. 1</u>
PARKER OIL	\$1.337	\$1.2484	\$1.2840	\$1.2971
PETROLEUM TRA	no bid	no bid	\$1.2690	\$1.2841 (no credit card service)
SOUTHSIDE	no bid	no bid	no bid	\$1.3122
2003 PRICES	\$1.0470		\$.9060	

*Alternate 1 is Fluctuating Price

FUEL NO. 2

PARKER OIL	\$1.2760
PETROLEUM TRA	\$1.3111
SOUTHSIDE	\$1.3915
2003 PRICES	\$.8980

Mrs. Ralph commented this is a bad time to be going out for bids but the contract has ended for this year. Petroleum Traders has the lowest bid for diesel but they do not offer credit card service, which is very important to the Fire/EMS providers in the northern end of the County. She recommended that the fixed price for FY 04-05 from Parker Oil be accepted and the contract for gasoline, diesel and fuel oil be awarded to them. She stated it is a very volatile market we are in because of the war situation and she felt this would be the best choice at this time.

Mr. Haraway questioned how many gallons of gasoline and diesel was used last year and in dollar amounts how much did it relate to in the budget. The gasoline is a 28% increase over last year. Mrs. Ralph replied she did not bring those figures with her but she would get them for him. Mr. Haraway commented the fluctuating rate was always a gamble but the fuel oil rate was a 42% increase. He asked if it had to be approved tonight? The County Administrator

replied yes. The bid prices have been extended only to the date of the Board meeting.

Mr. Moody stated he had been through this longer than anyone else on the Board and it is always a gamble but it seemed the County has come out ahead by going with the fixed rates. He stated he favored the fixed rates going with Parker Oil.

Upon Motion of Mr. Moody, Seconded by Ms. Moody, Ms. Moody, Mr. Bowman, Mr. Stone, Mr. Moody, Mr. Haraway, voting "Aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Parker Oil be awarded the contract to provide gas, fuel oil and diesel for FY 04-05 at a fixed price of: Unleaded - \$1.337 per gallon; Diesel - \$1.2840 per gallon; Fuel Oil - \$1.2760 per gallon.

Mr. Haraway requested that Staff prepare a report by the next Board meeting to show the present year volume times the gallons. And how much was budgeted this year so we will be able to know if we are going to have an unfavorable variance with the budget.

IN RE: COMMONWEALTH ATTORNEY COMMENTS

The Commonwealth Attorney, George Marble, III, stated he was not one to stand by and let things slide. There were some incorrect statements that were made by Mr. Bratschi. Mr. Fisher is not a representative of the Commonwealth Attorney's Office. He is not the Assistant; he is a Special Prosecutor brought in from another jurisdiction. He commented he could not have any dealings with the Zak case because he represented Stephanie Zak. Ms. Zak was never charged with murder. She was charged with felony child abuse and neglect. There could not be a murder conviction because there was no murder charge.

The correct person as based on the facts and present by the former Commonwealth Attorney was charged with murder and tried for the murder and the jurors found him not guilty.

He said Mr. Fisher was appointed by the Circuit Court Judge in this jurisdiction as the Special Prosecutor for this trial and he could not have anything to do with this case. He stated he did not want the implication to be brought to the Board that it was something that his office did or failed to do as far as handling that case.

He also reported that an appeal has been filed but he could not have anything to do with it either.

He commented he had some good people in his office. The dockets are full and he did not think it was going to get any better. There are three murder cases going on at this time and all three have been certified to the grand jury. He told the Board and citizens if they had any questions to give him a call.

IN RE: NAMOZINE VOLUNTEER FIRE DEPARTMENT CHANGE ORDER REQUEST FOR CABINETS

The County Administrator stated there was a change order request for the installation of cabinets in the radio room of the Namozine VFD. The cabinets were removed during the renovations but the architect did not include new cabinetry in the drawings. She stated Mr. Gene Jones secured three bids for the cabinetwork and his recommendation is the low bid from Bishop Custom Cabinets for \$2,450.00. This project is being supplemented by the cabinetmaker and donations from Ragsdale Building Supply.

Mr. Moody made the motion to approve the change order for the cabinets in the amount of \$2,450.00 for Bishop Custom Cabinets. Mr. Bowman seconded the motion.

Mr. Stone stated in the future he would like to see the details for bids. There did not appear to be any included for this change order. The County Administrator stated the details were sent to all the vendors; but it was not included when it was sent back. But that was a good point; it should be outlined.

Mr. Bowman, Ms. Moody, Mr. Stone, Mr. Moody, Mr. Haraway, voting "Aye", motion carried.

**IN RE: REQUEST FOR RESOLUTION FOR CONSTITUTION
WEEK SEPTEMBER 17 – 23, 2004**

The Frances Bland Randolph Chapter of the National Society Daughters of the American Revolution sent in a request for a resolution/proclamation proclaiming September 17th, 2004 as the two hundred seventeenth anniversary of the drafting of the Constitution of the United States of America.

Upon motion of Mr. Stone, Seconded by Mr. Bowman, Mr. Stone, Ms. Moody, Mr. Bowman, Mr. Moody, Mr. Haraway voting "Aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Staff is authorized to prepare a resolution proclaiming September 17th, 2004 as the two hundred seventeenth anniversary of the drafting of the Constitution of the United States of America and to send copies to each of the Schools in the County.

IN RE: COUNTY ADMINISTRATOR COMMENTS

The County Administrator commented the Dinwiddie County Historical Society will be presenting a Robert E. Lee reenactment on September 26, 2004 at the old Courthouse. They are also endeavoring to start a gift shop. They would like to place some area rugs on the floor and staff doesn't have a problem with that as long as it keeps with the time of that period, if the Board members are ok with it. The Board concurred.

IN RE: BOARD MEMBER COMMENTS

Mr. Stone stated he had requested that Staff contact the School Superintendent about getting the cost for them to do the maintenance work on the County vehicles done at the School Bus Garage. Also he, Mrs. Ralph, Captain Booth and Mr. Townsend from the Sheriff's Department met to discuss incentive programs to retain members of the Jail and Sheriff Deputies on the road and they would like to discuss that during the salary discussions as well.

Mr. Bowman thanked Mr. Jolly and the volunteers for the all the extra work they did during the high waters.

Ms. Moody stated as the County progresses and grows change will come but she would like for the ordinances already in place be adhered to before new ones are created. She also commented she would like for everyone to be treated the same and in a fair manner.

Mr. Moody stated he hoped that Staff sent a letter of thanks to Ragsdale Supply for saving the County some money. The Tobacco Commission has spent a lot of money on Broadband, which is going to all of their industrial buildings throughout the region, and it might be something the County is going to do at the industrial sites. He suggested that it might be a good idea to have them come and give the Board a presentation because it might open up other avenues. The County Administrator commented a meeting has been scheduled with Mid-

Atlantic representatives for September 22 to see how it would benefit the County. He commented on several occasions lately he had been traveling on Route 226 and almost hit pedestrians walking in the middle and side of the road. He said he didn't know if anything could be done but at night it was difficult to see them. He requested that staff contact the Sheriff and have a deputy patrol the area more. He stated Dinwiddie County is very fortunate to have the planning staff that has been keeping up with the regulations that are in place. Mr. Moody stated he had talked to supervisors from some of the counties that were talked about tonight that are unaware that there is an ordinance or one that could be put into place that would allow them to have a biosolids monitor; and that the State would reimburse them for the monitor. He thanked the Staff for keeping the county abreast of what is going on so the Board can make informed decisions.

Mr. Haraway stated he was glad to have Mrs. Anne Howerton with us tonight. She is the new Director of Finance and he welcomed her to the County. She graduated at the top of her class at Dinwiddie High School; she graduated from the University of Virginia with honors and received her accounting certification from the Virginia Commonwealth University. Mrs. Howerton is also a CPA and lives in McKenney.

IN RE: APPOINTMENT – ROBERT BOWMAN, IV - VIRGINIA'S GATEWAY REGION BOARD

Upon motion of Mr. Stone, Seconded by Ms. Moody, Mr. Stone, Ms. Moody, Mr. Moody, Mr. Haraway voting "Aye", Mr. Bowman, "Abstaining",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Mr. Robert Bowman, IV is appointed to serve on the Virginia's Gateway Region Board for a term of one year, term expiring September 30, 2005.

IN RE: REAPPOINTMENT – MILTON I. HARGRAVE, JR. - VIRGINIA'S GATEWAY REGION BOARD

Upon motion of Mr. Stone, Seconded by Mr. Bowman, Mr. Stone, Ms. Moody, Mr. Moody, Mr. Bowman, Mr. Haraway voting "Aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Mr. Milton I. Hargrave, Jr. is hereby reappointed to serve on the Virginia's Gateway Region Board for a term of one year, term expiring September 30, 2005.

IN RE: CLOSED SESSION

Mr. Stone stated I move to close this meeting in order to discuss matters exempt under section:

§2.2-3711 A. 1 – Personnel matters

Mr. Moody seconded the motion. Mr. Stone, Mrs. Moody, Mr. Bowman, Mr. Moody, Mr. Haraway, voting "Aye", the Board moved into the Closed Meeting at 10:44 P.M.

The meeting reconvened into Open Session in the Board Meeting Room at 11:31 P.M.

IN RE: CERTIFICATION

Whereas, this Board convened in a closed meeting under: §2.2-3711 A. 1 – Personnel matters;

And whereas, no member has made a statement that there was a departure from the lawful purpose of such closed meeting or the matters identified in the motion were discussed.

Now be it certified, that only those matters as were identified in the motion were heard, discussed or considered in the meeting.

Upon motion of Mr. Stone, Seconded by Mr. Moody, Mr. Stone, Ms. Moody, Mr. Bowman, Mr. Moody, Mr. Haraway, voting "Aye", this Certification Resolution was adopted.

IN RE: CLAIMS

Upon motion of Mr. Moody, Seconded by Mr. Bowman, Mr. Bowman, Ms. Moody, Mr. Stone, Mr. Moody, Mr. Haraway voting "Aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the following claims are approved and funds appropriated for same using checks numbered 1045990 and 1045991,

FY – 04/05

Accounts Payable:

(101) General Fund

\$ 5,564.90

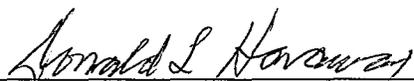
IN RE: ASSISTANT COUNTY ADMINISTRATOR INCREASE IN SALARY

Upon motion of Mr. Bowman, Seconded by Mr. Stone, Mr. Stone, Ms. Moody, Mr. Moody, Mr. Bowman, Mr. Haraway voting "Aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the Assistant County Administrator's salary is increased to \$70,000 annually effective September 7, 2004.

IN RE: ADJOURNMENT

Upon Motion of Mr. Moody, Seconded by Mr. Bowman, Mr. Stone, Ms. Moody, Mr. Bowman, Mr. Moody, Mr. Haraway voting "Aye", the meeting adjourned at 8:34 P.M. to be continued until 8:30 A.M. on Tuesday, September 21, 2004 for the bond pricing at Davenport and Company in Richmond, VA.



Donald L. Haraway, Chairman

ATTEST: 

Wendy Weber Ralph
County Administrator

/abr