

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 2<sup>ND</sup> DAY OF MARCH, 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: ANN NEIL COSBY COUNTY ATTORNEY  
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**IN RE: CLOSED SESSION**

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

**§2.2-3711 A. 7 – Consultation with Legal Counsel – Bio-Solids  
Amendments**

**§2.2-3711 A. 1 – Personnel matters – Appointments;**

**§2.2-3711 A. 3 – Acquisition of Real Property**

Ms. Moody seconded the motion. Mr. Stone, Mrs. Moody, Mr. Bowman, Mr. Moody, Mr. Haraway, voting "Aye", the Board moved into the Closed Meeting at 6:12 P.M.

The meeting reconvened into Open Session in the Board Meeting Room at 7:38 P.M.

**IN RE: CERTIFICATION**

Whereas, this Board convened in a closed meeting under:

**§2.2-3711 A. 7 – Consultation with Legal Counsel – Bio-Solids  
Amendments**

**§2.2-3711 A. 1 – Personnel matters – Appointments;**

**§2.2-3711 A. 3 – Acquisition of Real Property**

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.

**Mr. Moody excused himself for the discussion of the Biosolids  
Amendments.**

Upon motion of Mr. Stone, Seconded by Mr. Bowman, 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 7:39 P.M. followed by the Lord's Prayer and the Pledge of Allegiance.

**IN RE: AMENDMENTS TO THE AGENDA**

The County Administrator stated there is a need to continue the Closed Session after the meeting for Personnel §2.2-3711 A. 1 for *Appointments*; and

add 6 a. Jailor Position for Sheriff's Department; 6 b. Legal Opinion for Biosolids Amendments; 6 c. Presentation by Michael Bratschi.

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

**IN RE: MINUTES**

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

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the minutes of the February 10, 2004 Continuation Meeting, February 17, 2004 Continuation Meeting, and the February 17, 2004 Regular Meeting are approved in their entirety.

**IN RE: CLAIMS**

Upon motion of Mr. Moody, Seconded by Ms. Moody, Ms. Moody, Mr. Stone, Mr. Bowman, 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 1038542 through 1038777 (void check(s) numbered 1038224, 1038543, and 1038613)

**Accounts Payable:**

(101) General Fund	\$ 129,998.17
(103) Jail Commission	\$ 297.61
(209) Litter Control	\$ 110.00
(222) E911 Fund	\$ 2,551.26
(225) Courthouse Maintenance	\$ 634.70
(226) Law Library	\$ 897.10
(228) Fire Programs & EMS	\$ 3,614.00
(304) CDBG Grant Fund	\$ 152.80
(401) County Debt Service	\$ <u>22,392.97</u>
<b>TOTAL</b>	<b>\$ 160,649.09</b>

**PAYROLL 02/27/04**

(101) General Fund	\$ 415,896.91
(222) E911 Fund	\$ 3,543.43
(229) Forfeited Asset	\$ 205.46
(304) CDBG Fund	\$ <u>7,701.86</u>
<b>TOTAL</b>	<b>\$ 427,347.66</b>

**IN RE: AUTHORIZATION TO ADVERTISE FOR PUBLIC HEARING -TO TRANSFER PARTIAL OWNERSHIP IN CARSON ELEMENTARY SCHOOL TO PRINCE GEORGE COUNTY**

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

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the County Attorney is authorized to advertise for a public hearing to transfer the County's interest in the four parcels that comprise the Carson School site to Prince George County.

**IN RE: APPROVAL OF CONTRACT – SCBA & TURNOUT GEAR**

**“TO:** BOARD OF SUPERVISORS

**FROM:** David M. Jolly  
Director of Public Safety

**DATE:** February 25, 2004

**SUBJECT: Request to enter into Contract for SCBA and Turnout Gear**

As authorized at the February 17<sup>th</sup> Board meeting, we have negotiated both the Self-Contained Breathing Apparatus and the Turnout Gear.

The SCBA vendor, Fire Protection Equipment, has agreed to provide additional face pieces for the SCBA's at no cost. This will allow each member of the system once trained to have his/her personnel face piece. This will be great step toward compliance with NFPA & OSHA standards. In addition, we have negotiated the ability to provide the member with the ability to convert the face pieces to also protect them from bio-hazard type concerns.

The Turnout Gear vendor, Municipal Equipment Services, has agreed to provide on-site sizing of members, the ability for us to renew this contract for up to three years with no more than a 4% increase annually, and they have agreed to deliver within 60 days of an order being placed.

Overall, I am very pleased with the outcome of the negotiations and am requesting authorization to enter into a contract with each of the above vendors. As you will recall, this project is funded through the Federal FIRE ACT grant. In order to provide the ability to purchase from both vendors I am requesting funding not to exceed \$582,988 for both projects. This would allow us to complete the project with only a \$71,000 commitment from County funds. These funds were approved in the Capital Improvement Program.”

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

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the County Administrator is authorized to sign the contract with Fire Protection Equipment for the Self-Contained Breathing Apparatus and Municipal Equipment Services for the Turnout Gear in an amount not to exceed \$582,988 (funded through the Federal Fire Act Grant); with an additional funding of \$71,000 from County funds from the CIP fund.

**IN RE: NAMOZINE LADDER TRUCK REPAIR**

**“TO:** BOARD OF SUPERVISORS

**FROM:** David M. Jolly  
Director of Public Safety

**DATE:** February 25, 2004

**SUBJECT: Repair to Ladder Truck**

Chief Ronald Erb, Namozine Volunteer Fire Department, has contacted me about a needed repair to the ladder truck. The waterway that allows water to be pumped into the bottom of the ladder in order to utilize the master stream that is attached to the ladder has developed a leak. This water leaking causes the electrical wiring of the ladder to malfunction. This in turn causes serious operational problems with the ladder.

Chief Erb has received two quotes from the only two vendors that are able to repair the unit. The Singer Associates quote is the low bidder with a price of \$6,460.50.

The quotes are as follows:

<u>Company</u>	<u>Part</u>	<u>Bid</u>
Singer & Associates	Hydromotion Swivel	\$4,893.00
	Fabricated Inlet	<u>1,567.50</u>
		\$6,460.50
American Fire Equipment	Hydromotion Swivel	\$5,056.00
	Fabricated Inlet	<u>1,738.15</u>
		\$6,794.15

I am requesting this repair be funded from the capital repair line item (101-032200-3310) from the volunteer fire budget for the repair of the ladder truck.”

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

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the Namozine Volunteer Fire Department is authorized to make the repairs described above to the ladder truck in an amount not to exceed \$6,460.50 to be funded from the capital repair line item (101-032200-3310) from the volunteer fire department budget.

**IN RE: PUBLIC HEARING – A-04-1 – ORDINANCE TO AMEND AND READOPT SECTION 19-5 OF THE DINWIDDIE COUNTY CODE TO SET FEBRUARY 15 AS THE FILING DATE FOR ANNUAL RETURNS OF TAXABLE TANGIBLE PERSONAL PROPERTY & MACHINERY & TOOLS BEGINNING CALENDAR YEAR 2005**

This being the time and place as advertised in the Monitor on February 18, 2004 and February 25, 2004, for the Board of Supervisors of Dinwiddie County, Virginia to conduct a Public Hearing to solicit public comment on the following matter:

**A-04-1 - AN ORDINANCE TO AMEND AND READOPT SECTION 19-5 OF THE DINWIDDIE COUNTY CODE TO SET FEBRUARY 15<sup>TH</sup> AS THE DATE FOR FILING ANNUAL RETURNS OF TAXABLE TANGIBLE PERSONAL PROPERTY AND MACHINERY AND TOOLS BEGINNING CALENDAR YEAR 2005.**

Mr. Haraway opened the public hearing. There was no one present desiring to make any comments on the amendment. Mr. Haraway closed the public hearing.

Upon motion of Mr. Bowman, Seconded by Ms. Moody, Ms. Moody, Mr. Stone, Mr. Bowman, Mr. Moody, Mr. Haraway voting “Aye”, Section 19-5 of the Code of the County of Dinwiddie, Virginia is hereby amended and readopted to read as follows:

**WHEREAS**, the date by which annual returns of taxable tangible personal property and machinery and tools must be filed in Dinwiddie County has been February 15<sup>th</sup> of each year; and

**WHEREAS**, the filing date for 2004 was extended to March 1 by a resolution adopted by the Board of Supervisors on January 20, 2004; and

**WHEREAS**, the Commissioner of the Revenue of Dinwiddie County has recommended that, other than for 2004, February 15<sup>th</sup> continue to be the filing date for such returns.

**NOW THEREFORE BE IT ORDAINED**, that Section 19-5 of the Code of the County of Dinwiddie, Virginia be amended and readopted to read as follows:

Sec. 19-5. *Filing Date*; failure to file return; penalty; extensions

(a) *The due date for filing annual returns of taxable tangible personal property and machinery and tools shall be February 15<sup>th</sup>, of each such calendar year.*

(b) If a person required to file a return fails to file by *the date due, February 15<sup>th</sup>*, then a penalty shall be added to such tax in the amount of ten (10) percent of the tax assessed. Penalty for failure to file a return shall be assessed on *February 16<sup>th</sup>*. No penalty for failure to file a return shall be greater than ten (10) percent of the tax assessed or ten dollars (\$10.00), whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable.

(c) Notwithstanding the provisions set forth above, the commissioner of the revenue may grant an extension of time for failing to file such a return, not to exceed ninety (90) days, whenever good cause exists. The commissioner of the revenue shall keep a record of every such extension. If any person who has been granted an extension for filing his return fails to file his return within the granted time, his case shall be treated the same as if no extension had been granted.

(Ord. of 12-20-89)

**Note** – Similar provisions at § 13-11.

**State law reference** – Authority for above section, Code of Virginia, § 58.1-3916.

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

**IN RE: NAMOZINE FIRE STATION RENOVATIONS CONTRACT**

The County Administrator commented at the direction of the Board the Architect, Frank DeStefano, David Jolly and Gene Jones have negotiated the renovation bid for Namozine with the low bidder. Mr. Jolly is here to present the results.

Mr. David Jolly distributed copies of the generator bids for the project.

**“Generator for Namozine Fire Station**

<b>Vendor</b>	<b>Type Unit</b>	<b>Cost of Unit</b>
Fidelity Engineering Corporation	100 KW	19,271.00
Cummins Power Generation	100 KW	19,375.00
Carter Cat	100 KW	26,460.00

After reviewing the bids, it is our recommendation that we enter in contract with Fidelity Engineering Corporation.

This cost has been included in the CIP Project worksheet in order to show total cost of the project.”

Mr. Jolly informed the Board that Pro-Construction had reduced their fee at the time of the bid in order to win the project. They left \$60K+ between the next two competitors. However, they did reduce the time of completion from 270 days to 210 days, which is important to the volunteers and reduced the project cost by \$3,417 to make some minor changes. There is also a possibility of a 4-5% savings by value engineering the HVAC & plumbing cost depending on what is allowed. In addition to these savings, if the two windows in the bunk area were left out, \$7,000 could also be deducted from the contract.

Mr. Haraway, Mr. Bowman, and Mr. Moody voiced their concerns about the safety of the volunteers in case of a fire or emergency if the windows were left out. The Public Safety Director stated code did not call for any windows but if the Board wanted to leave them it was up to them.

Mr. Moody stated he was the one who had initially asked for the windows but if the volunteers and code did not require them he would make the motion to accept the contract in the amount of \$614,121.

Mr. Bowman commented he just could not vote to leave the windows out. The Buildings and Grounds Director, Gene Jones, suggested leaving one window in if the contractor would agree to do it for \$3,500.

Mr. Moody agreed to amend his motion to include one window at an increase of \$3,500 for a contract price of an amount not to exceed \$617,621. Mr. Stone seconded the motion, Ms. Moody, Mr. Stone, Mr. Bowman, Mr. Moody, Mr. Haraway voting “Aye”,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the County Administrator is authorized to enter into a contract with Pro-Construction Services to renovate the Namozine Fire Station at a cost not to exceed \$617,621.

**IN RE: SHERIFF’S DEPARTMENT– AUTHORIZATION TO HIRE  
ERIC O’NEAL MABRY – COUNTY JAILOR POSITION**

Sheriff Samuel H. Shands sent a memo requesting authorization to hire Eric O’Neal Mabry to fill a vacant county jailor 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 authorization is granted for the Sheriff’s Department to employ Mr. Eric O’Neal Mabry for the County Jailor position, at an annual salary of \$23,854.

**IN RE: LEGAL OPINION BIOSOLIDS ORDINANCE AMENDMENT**

Ms. Ann Neil Cosby, County Attorney stated she had been requested to give a legal opinion on Biosolids amendments. To date, the Virginia Supreme Court has only held that local governments may not ban biosolids when the state has granted a Biosolids Use Permit under the Biosolids Use Permit. The Court found such a ban is inconsistent with state law and held that localities may not adopt local biosolids regulations that are inconsistent with state law. (Blanton v. Amelia County)

After the Blanton decision, the Code of Virginia was amended such that localities were granted the express authority to adopt local ordinances related to the testing and monitoring of biosolids. After that statutory amendment, the Attorney General, a federal court hearing a case brought against Appomattox

County, and most recently the Circuit Court in Spotsylvania all held that the Virginia statute amendment effectively limits the authority of local governments over biosolids to the adoption of regulations related to testing and monitoring. Under these decisions, any other regulations, including zoning regulations, would likely be held invalid.

None of these decisions, nor the AG opinion, are binding in Dinwiddie, and there is a strong argument that these decisions go too far in restricting local authority over biosolids. As the Virginia Supreme Court has not directly weighed in on the issue, it is currently unclear if the Court would agree with the Attorney General and the decisions in Appomattox and Spotsylvania, or if the Court would find that state law does not limit local control over biosolids to solely testing and monitoring, but also allows localities to enact regulations pursuant to their police and zoning powers.

Until such time as the Supreme Court or the General Assembly directly addresses the issue, any regulation is subject to a legal challenge. With regard to a Conditional Use Permit requirement, in Appomattox and Spotsylvania, overlay districts (which are very similar to CUPs) were expressly challenged and struck down by the courts' decisions. Also struck down were posting, insurance and other requirements. Thus, while many biosolids regulations may reflect sound policy and good zoning practices, such regulations are all subject to a court challenge (except those related to testing and monitoring) and it is unclear; at least, what would be the result of any such litigation. The same analysis applies to sludge lagoons that are also regulated under the Biosolids Use Regulations. The Virginia Department of Health has advised that it disfavors large "routine" sludge storage facilities and has advised that it would seek input from local governments before any facility is permitted. However, it has also advised that that agency does not believe it is required to follow any recommendation from a local government as to whether a sludge storage facility should be permitted.

We believe the current ordinance is valid under existing law, but it and any amendments are subject to legal challenge. Before any changes are made, the conservative approach would be to wait until the Virginia Supreme Court or the state legislature directly addresses these issues.

**IN RE: PRESENTATION BY MICHAEL BRATSCHI – DRUG PARAPHERNALIA AVAILABILITY IN LOCAL STORE**

Mr. Michael Bratschi reported on February 19, 2004 two females from Richmond were next door to his home on an empty lot at 3:00 A.M. looking for drugs. He called the Sheriff's Department and they responded to the call and investigated the incident. As a result of the incident and rumors he heard, Mr. Bratschi said he decided to investigate the availability of drug paraphernalia in a local store near him. He presented a display with the items he bought in the local stores for drug use.

He requested that the Board allow the County Administrator and Assistant County Administrator to investigate whether or not the county could adopt an ordinance with more "bite" under the "Dillion Rule" which would allow the County Code Enforcement Officer and/or Public Safety Officer power/authorization to make inspections of stores selling illegal drug paraphernalia in the County.

The County Administrator stated she would find out what authority the Board had and work with the Commonwealth Attorney and Sheriff on addressing the concerns. Mr. Bowman requested that the County Administrator contact the surrounding counties to see if they have this ordinance also.

**IN RE: CITIZEN COMMENTS**

Mr. Haraway stated we have a new timing device tonight, which is on the counter. When your time starts there is a green light that will stay lit for 2 minutes; then the yellow light will come on for 1 minute to allow you to conclude your comments; when the red light comes on a beep will sound indicating your time is up.

Mr. Haraway asked the Deputy Clerk if there were any citizens signed up to speak or present who wished to address the Board during this portion of the meeting.

1. Geri Barefoot – 7411 Frontage Road, Petersburg, Virginia – commented at the February 3, 2004 meeting Mr. Bowman asked the County Attorney if anyone could contact the State Police to have an investigation of the destruction of County records. The County Attorney stated she did not know if the State Police had jurisdiction over this office, but a call could be made to them to see if an investigation could be done. However, Ms. Barefoot stated after researching the matter she found; no investigation of any elected official of the Commonwealth or any Political Subdivision to determine whether a crime violation has occurred, is occurring, or is about to occur, under the provision of 52-8.1 shall be initiated undertaken or continued except upon the request of the Governor, the Attorney General, or a grand jury. She said she didn't think any of those were present at the Board meeting. Therefore, the Board cannot request an investigation and neither can the citizens. She also stated when citizens come up and have questions for the Board they never get them answered. Mr. Haraway agreed that the questions should be answered and if they aren't let staff know.
2. Glen Alvis – 21850 Carson Road – Dinwiddie, Virginia – commented he was here for the meeting for the discussion of the Hunting Ordinance amendments and the issue came up regarding the high-powered muzzle loading rifles. The Board can adopt an amendment to control that by going back to the original rifles with a range of 75 to 100 yards. The amendment would disallow the usages of in lines and/or jacketed or sabot bullets.
3. Sabrina Weber – 23500 Cutbank Road, McKenney, Virginia – commented today 7 Middle School students were expelled or recommended for expulsion for drugs, possession of weapons, and unauthorized medications. As the school becomes more populated these things become more dangerous and common. Continuing she commented something should be done immediately and suggested staggering the bells temporarily and then build a new school.
4. Michael Bratschi – 23500 Cutbank Road, McKenney, Virginia – stated he already removed one of his children from the Middle School and home schooled her for two years because of problems there. He asked the Board to try and come together with the School Board and move forward and build a new one. He said the Board should consider offering Mr. T.O. Rainey the position of County Attorney because this County is only a number with the existing law firm; before this Biosolids ordinance becomes Bio Fuels.
5. Robert Belcher – 27516 Flank Road, Petersburg, Virginia – asked the following questions: 1) What happened to the directional signs for the County buildings that was discussed about 12 months ago? 2) When is the pavilion going to be built at Eastside? Mr. Haraway stated plans are now being done for the Pavilion and something should be forthcoming within the next month. The County Administrator



responded that the directional signs were included in the Corridor Study which they are presently working on.

Mr. Haraway reported at a meeting last month someone had asked which departments were allowed to drive the County vehicles home. At the present time 3 County vehicles are driven home – the Public Safety Director and the two Animal Control Officers.

**IN RE: COUNTY ADMINISTRATOR COMMENTS**

- 1) The County Administrator commented that the Board had worked on the changes in the proposed By-Laws, which Staff had compiled for them. She said if the Board had any other additions or changes to please let staff know. They will be placed on the March 16<sup>th</sup> agenda for adoption.

**IN RE: BOARD MEMBER COMMENTS**

Mr. Stone commented he would like to set up a meeting with Ms. Cathy Carwile, Information Technology, Mrs. Ralph and Mr. Massengill to discuss IT procedures. He said he was also going to schedule a meeting with the Clerk of the General District Court to discuss the counter needs for the record books and to try to see if the records can be microfilmed. He asked the County Attorney if it would be a conflict of interest (since he works for a company who deals with towers) if he gave the County a price for a communications tower? He stated they were not doing the work just submitting a cost estimate; or would it be better, if he had another company to submit an estimate. She suggested that it would be better if he had another company to give the County an estimate. The Town Meeting for District 5 is scheduled for March 15<sup>th</sup> from 7:00 – 9:00 P.M. here in the Board Room. He commented if other citizens wanted to participate they were welcome to attend.

Mr. Bowman stated he had requested that Mr. Guy Scheid, Director of Planning, give his opinion regarding Mr. Bowman's request to reduce the number of planning commissioners from 7 to 5 and according to his memo he agreed. The County of Chesterfield only has 5 members presently. He commented he felt that there should not be a Board of Supervisor representative on that board either. He said it would help streamline things in the County and asked the Board members to think about it.

Ms. Moody asked if there was an existing ordinance, which would require that, the Quarry on Route 226 have a fence or barrier around it to protect people from getting seriously hurt or killed on that property.

Mr. Haraway requested that the Financial Officer have Davenport look at our bond issues to see if it would be advantageous to refinance since the rates are at an all time low. He also asked if the department heads would be submitting their reports in the format he requested soon? The County Administrator explained that they were working on a format, which could be used for all of the departments, and it has been difficult, but they are working on it.

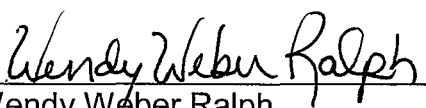
**IN RE: INFORMATION IN BOARD PACKET OR DISTRIBUTED**

1. Department of Environmental Quality – subject – proposed air permit application from Chaparral Steel.
2. Copy of Virginia Motorsports Park 2004 schedule of events and request for 19 Special Use Permits.

**IN RE: ADJOURNMENT**

Upon Motion of Mr. Stone, Seconded by Mr. Bowman, Mr. Stone, Ms. Moody, Mr. Bowman, Mr. Moody, Mr. Haraway voting "Aye", the meeting adjourned at 8:41 P.M.

  
Donald L. Haraway, Chairman

ATTEST:   
Wendy Weber Ralph  
County Administrator

/abr