

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 21ST DAY OF NOVEMBER 2006 AT 3:30 P.M.

PRESENT: DORETHA E. MOODY – CHAIR ELECTION DISTRICT #4
MICHAEL W. STONE - VICE CHAIR ELECTION DISTRICT #5
DONALD L. HARAWAY ELECTION DISTRICT #2
JOHN V. TALMAGE ELECTION DISTRICT #3

ABSENT: HARRISON A. MOODY ELECTION DISTRICT #1

ADMINISTRATION

PRESENT: KEVIN MASSENGILL, COUNTY ADMINISTRATOR
MICHAEL DREWRY, COUNTY ATTORNEY
ANNE HOWERTON, FINANCE DIRECTOR

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1.2.& 3. ROLL CALL – INVOCATION – PLEDGE OF ALLEGIANCE

The Chair called the meeting to order at 3:30 p.m. followed by the roll call, invocation and pledge of allegiance.

ROLL CALL

PRESENT: Mr. Haraway
Mr. Talmage
Mr. Stone
Ms. Moody

ABSENT: Mr. Moody

4. AMENDMENTS TO AGENDA

Mr. Haraway requested that Consent Item E. Tax Sale Attorney Contract be pulled from the Consent Agenda and voted on separately as he planned to abstain on that item.

Upon motion of Mr. Stone, seconded by Mr. Haraway

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the agenda is approved as amended.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
Nays: None
Absent: Mr. Moody

5.A. CONSENT AGENDA: APPROVAL OF MINUTES FOR OCTOBER 17, 2006 REGULAR MEETING

Upon motion of Mr. Stone, seconded by Mr. Haraway,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the October 17, 2006 Regular Meeting Minutes are approved.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
Nays: None
Absent: Mr. Moody

CONSENT AGENDA : APPROVAL OF MINUTES FOR OCTOBER 25, 2006 SPECIAL MEETING

Upon motion of Mr. Stone, seconded by Mr. Haraway,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the October 25, 2006 Special Meeting Minutes are approved.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
Nays: None
Absent: Mr. Moody

5. B. CONSENT AGENDA: CLAIMS

Upon motion of Mr. Stone, seconded by Mr. Haraway,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the following claims are approved and funds appropriated for same.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
 Nays: None
 Absent: Mr. Moody

CLAIMS Check Numbers	October 20, 2006 1055719- 1055797	October 25, 2006 1055799- 1055884	November 3, 2006 1055968- 1056017	November 10, 2006 1056019-1056057	November 17, 2006 1056059-1056129	Payroll - Oct 2006 1055886- 1055965	TOTALS
	VOID 1055718	VOID 1055798	VOID 1055967	VOID 1056018	VOID 1056058	VOID 1055885	
101 - General Fund	\$90,062.54	\$266,289.28	\$49,505.88	\$17,443.05	\$58,254.31	\$646,297.44	\$1,127,852.50
103 - Jail Commission							\$0.00
209 - Litter Grant Fund		\$130.32		\$354.00			\$484.32
222 - E911 Fund	\$656.17	\$8,163.84	\$634.91	\$496.74	\$1,590.72	\$54,751.29	\$66,293.67
225 - Courthouse Maintenance Fees	\$6,338.69	\$70.00					\$6,408.69
226 - Law Library			\$28.00				\$28.00
228 - Fire Programs & EMS		\$348.00	\$16.68		\$2,863.96		\$3,228.64
229 - Forfeited Asset Sharing Program							\$0.00
304 - CDBG Grant Fund	\$106.94	\$306.87	\$60.20	\$467.59	\$316.25	\$7,913.79	\$9,171.64
305 - Capital Projects Fund	\$120,719.80	\$891.01	\$337.00		\$20,758.76		\$142,706.57
401 - County Debt Service			\$298,777.56		\$20,235.48		\$319,013.04
TOTALS	\$217,884.14	\$276,199.32	\$349,360.23	\$18,761.38	\$104,019.48	\$708,962.52	\$1,675,187.07

**5.C. CONSENT AGENDA: SCHOOL BOND REQUISITION FROM PROJECT FUND:
ES- 22; HS- 20**

The Board received the following requisitions from Dr. Charles Maranzano, Jr., Superintendent of Schools. These requisitions were approved by the School Board at their meeting on November 13, 2006.

Upon motion of Mr. Stone, seconded by Mr. Haraway,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that a total disbursement of \$335,682.46 from the Lease Revenue and Refunding Bonds, Series 2004B is approved.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
 Nays: None
 Absent: Mr. Moody

REQUISITION FROM THE PROJECT FUND

[Indicate whether from Note Account or Bond Account of Project Fund by marking a line through incorrect amount]

Note/Bond Account

Industrial Development Authority of Dinwiddie County, Virginia
~~\$15,000,000 Leave Revenue Notes, Series 2004A and~~
\$41,040,000 Lease Revenue and Refunding Bonds, Series 2004B

TO: SunTrust Bank

FROM: The Industrial Development Authority of Dinwiddie County, Virginia,
Project Fund

DATE: November 13, 2006

The undersigned Authorized County Representative requests that you make the following disbursements from the referenced Project Fund:

<u>AMOUNT</u>	<u>TO</u>	<u>PURPOSE</u>
\$ 2,973.88	Moseley Architects	Construction Administration
\$ 91.08	Keith Fabry Reproductions	Miscellaneous (SPECS)
\$ 3,822.50	Froehling & Robertson, Inc.	Construction Testing Services
\$ 328,795.00	Kenbridge Construction Co., Inc.	Application for Payment No. 3
\$ 335,682.46	TOTAL OF THIS REQUISITION	

Upon motion of Mr. Stone, seconded by Mr. Haraway,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that a total disbursement of \$946,577.45 from the Lease Revenue and Refunding Bonds, Series 2004B is approved.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
Nays: None
Absent: Mr. Moody

No. HS-20

REQUISITION FROM THE PROJECT FUND

[Indicate whether from Note Account or Bond Account of Project Fund by marking a line through incorrect amount]

Note/Bond Account

Industrial Development Authority of Dinwiddie County, Virginia
~~\$15,000,000 Leave Revenue Notes, Series 2004A and~~
\$41,040,000 Lease Revenue and Refunding Bonds, Series 2004B

TO: SunTrust Bank

FROM: The Industrial Development Authority of Dinwiddie County, Virginia,
Project Fund

DATE: November 13, 2006

The undersigned Authorized County Representative requests that you make the following disbursements from the referenced Project Fund:

<u>AMOUNT</u>	<u>TO</u>	<u>PURPOSE</u>
\$ 9,580.00	Moseley Architects	Construction Administration

\$ 14,472.00	Moseley Architects	Engineering (Alignment Survey)
\$ 7,484.00	Froehling & Robertson, Inc.	Construction Testing Services
\$ 37,768.45	Royal Pump & Well Company, Inc.	Utilities
\$ 290.00	Dinwiddie County Water Authority	Utilities
\$ 876,983.00	Kenbridge Construction Co., Inc.	Application for Payment No. 4
\$ 946,577.45	TOTAL OF THIS REQUISITION	

5.D. CONSENT AGENDA: VDOT FORM AM-4.3: ADDITION IN SECONDARY SYSTEM OF STATE HIGHWAYS – TOWER HILLS

Upon motion of Mr. Stone, seconded by Mr. Haraway,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the resolution of dedication of State Route 1386, State Route 1399 and State Route 1399 is approved.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
 Nays: None
 Absent: Mr. Moody

The Board of Supervisors of Dinwiddie County, Virginia, in regular meeting on the 21st day of November, 2006, adopted the following:

**RESOLUTION
 Dedication of State Route 1386, State Route 1399 & State Route 1399**

WHEREAS, the Department of Transportation recommends that the roads described in this resolution be added to the secondary system of state highways pursuant to §33.1-229 of the Code of Virginia, 1950, as amended and Commonwealth Transportation Board policy, because the roads meet current minimum standards, the condition of the existing hard surface is serviceable, the roads have provided continuous public service since their establishment and currently serve three or more occupied dwellings.

NOW, THEREFORE, BE IT RESOLVED, this Board requests the following streets be added to the secondary system of state highways, pursuant to §33.1-229 of the Code of Virginia, 1950, as amended.

Name of Street: **Raymond Road, State Route Number 1386** Length: 0.03 miles
 From: 0.15 South Rte 1359 To: 0.04 Mi SE to 1399
 Guaranteed Right of Way: 50 feet Plat Book 17, Page 343 & 344

Name of Street: **Tower Court, State Route Number 1399** Length: 0.19 miles
 From: Intersection with 1386 To: Cul-de-sac
 Guaranteed Right of Way: 50 feet Plat Book 17, Page 343 & 344

Name of Street: **Tower Court, State Route Number 1399** Length: 0.9 miles
 From: Cul-de-sac To:
 Guaranteed Right of Way: 50 feet Plat Book 17, Page 343 & 344

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right of way, as described, and any necessary easements for cuts, fills and drainage; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the Resident Administrator of the Virginia Department of Transportation.

5. E. TAX SALE ATTORNEY CONTRACT

Note: This item was voted on separately from the consent agenda.

The Board received the memo below from Michael Drewry, County Attorney.

Earlier this year the County Attorney and County Treasurer initiated collection of delinquent real estate taxes on approximately 277 parcels. To date, the owners of 113

parcels have paid in full or signed payment agreements. In furtherance of the collection process, legal action will be initiated to sell the remaining parcels at public auction to pay the delinquent taxes and related costs.

In order to assist with the selling of delinquent real estate tax parcels, a Request for Proposal ("RFP") was released to procure the services of an attorney to represent the County and County Treasurer with such tax sales. Although an RFP is not required by the Va. Code for the selection of a Tax Sale Attorney, the RFP was released to insure a fair method of selecting an attorney and to solicit innovative methods of collection and fee structure.

The County Attorney and County Treasurer reviewed the responses to the RFP and selected two attorneys to interview. Based upon their responses and interviews, James W. Elliott, Esquire was selected for contract negotiations. Mr. Elliott was selected due to his 30 years of specializing in the collection of delinquent real estate taxes, unique fee proposal, and the ability of his law firm to handle all steps of the tax sale process. The unique ability of Mr. Elliott's law firm to handle all aspects of the process will allow greater and more efficient over-sight of the process by the County Attorney and County Treasurer. Mr. Elliott's proposed fee schedule is also unique and comparable to other attorneys' collection fees. All legal fees will be billed to the delinquent taxpayer in accordance with the Code of Virginia. The proceeds of all tax collections or sales will be distributed first to the payment of delinquent taxes and reimbursement of costs, and secondly to the payment of attorney fees. The County Attorney and County Treasurer are pleased that an attorney with the experience and expertise of Mr. Elliott responded with an advantageous proposal. The negotiated agreement and Mr. Elliott's proposal and resume are attached.

The County Treasurer has the authority to collect all taxes due and incur expenses for such collection. However, as the Tax Sale Attorney will be representing the County Treasurer and the County in tax sale proceedings, it is advisable that both parties sign the Agreement for the Provision of Legal Services for Delinquent Tax Sales ("Agreement"). It is recommended by the County Attorney and County Treasurer that the Board of Supervisors approves the selection of James W. Elliott, Esquire to provide legal services for delinquent tax sales in accordance with the presented Agreement.

Upon motion of Mr. Stone, seconded by Mr. Talmage,

BE IT RESOLVED, by the Dinwiddie County Board of Supervisors, that Kevin Massengill, County Administrator, is hereby authorized and directed to execute the necessary documents to obtain the services of James W. Elliott, Esquire to represent the County in delinquent tax sales in accordance with the presented Agreement.

Ayes: Mr. Talmage, Mr. Stone, Ms. Moody
Nays: None
Abstain: Mr. Haraway
Absent: Mr. Moody

Agreement for the Provision of Legal Services for Delinquent Tax Sales

THIS AGREEMENT, made as of this _____ day of November, 2006 by and between the County of Dinwiddie, Virginia, hereinafter referred to as "County", and Treasurer, County of Dinwiddie, Virginia, hereinafter referred to as "Treasurer", and James W. Elliott, hereinafter referred to as "Attorney".

WITNESSETH THAT:

WHEREAS, County desires to obtain the services of an attorney to represent the County in its delinquent tax sales, and

WHEREAS, Attorney has represented to County that it is fully capable of performing the services described in this Agreement, and County has relied on such representation to select James W. Elliott to perform these services; and

WHEREAS, Attorney was selected by County based on Attorney's proposal dated October 2, 2006 (the "Proposal") submitted in response to the Request for Proposal # 07-100606-01 ("RFP") the terms of which Proposal and RFP are incorporated into this Agreement by reference and attached to this Agreement. A copy of the Proposal is attached as Attachment A. A copy of the RFP is attached as Attachment B.

In consideration of the mutual covenants hereinafter set forth, the parties covenant and agree that Attorney shall perform the services necessary to complete the Program as defined below in a professional manner, and shall give the best possible services,

consultation and advice to County during the performance of this Agreement. The parties further agree as follows:

ARTICLE I
THE PROGRAM

- 1.1 Description of Program. The Program shall consist of representation of County in its delinquent tax sale proceedings, described in the Proposal and in the RFP and any additional services, without limitation, in the collection of delinquent real estate taxes owed to County in accordance with Section 58.1-3965 *et. seq.* of the Code of Virginia (1950), as amended ("Virginia Code") and other applicable law.
- 1.2 Standards for Completion of Program. Attorney shall perform all services under this Agreement in a manner which is acceptable to County in strict accordance with generally accepted professional standards, the policies of the State and the provisions of the RFP. Attorney shall provide County the best service, performance, work, advice and consultation available in the marketplace.
- 1.3 Understanding of the Program. Attorney understands the requirements of County as they relate to the Program and agrees to supply all personnel necessary to satisfy the requirements of County. Attorney, as evidenced by his signature to this Contract, accepts this employment and agrees to render to the best of his ability the services described in this Contract during the term of this Contract. Attorney shall proceed against all accounts expediently and shall not accept offer for partial payment or compromise settlement without approval from County. Attorney agrees that any property submitted to him for tax sale shall be sold within one year after litigation has commenced on the subject property. Attorney shall comply with the requirements of the RFP, in particular the requirements noted in Section 4(B) of the RFP.

ARTICLE II
COUNTY'S RESPONSIBILITIES

- 2.1 County shall provide to Attorney upon request information in possession of County which relates to County's requirements for the Program or which is relevant to the Program so long as the provision of such information is consistent with applicable law and the needs of County.
- 2.2 County shall be responsible for performing tasks as set forth in the RFP.

ARTICLE III
TERM OF AGREEMENT

- 3.1 The term of this Contract shall be for a period of one year, commencing on November 30, 2006 and terminating on November 30, 2007. This Contract shall be automatically renewed annually, up to four (4) additional years by the parties unless either party sends notice in writing to the other party, no later than thirty (30) days prior to expiration of this Contract.

ARTICLE IV
PAYMENTS TO ATTORNEY

- 4.1 Limit on Compensation. Compensation will be limited to the fee structure contained in the Proposal (Attachment A) submitted in response to the RFP. Furthermore, if requested by the County, for the recovery of unclaimed sale proceeds as provided for in §58.1-3967 of the Code of Virginia, 1950, as amended, Attorney shall be compensated using the fee schedule established for the preparation and mailing of the demand letter.
- 4.2 Costs. County shall be responsible for all ad, filing fees, and any court-required bond expenses. Attorney shall endeavor to recover for County all of these costs whenever permitted by law. Attorney shall be responsible for all other costs and fees and the recovery of those costs and fees whenever permitted by law.
- 4.3 Time of Payment Attorney shall submit to County an invoice as expenses are incurred. The invoice shall include a summary describing the services performed by Attorney. County shall make payments to Attorney subject to the compensation limits set out in this Article and in response to Attorney's invoice, within a reasonable time from receipt by County of such invoice, but no later than thirty (30) days from receipt.

ARTICLE V
AUDIT PROVISION

- 5.1 Attorney's records, necessary to substantiate charges related to this Agreement (all the foregoing hereinafter referred to as "records") shall be open to inspection and

subject to audit and reproduction, during normal working hours, by County to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by Attorney pursuant to this Agreement.

- 5.2 For the purpose of such audits, inspections, examinations and evaluations, County shall have access to said records from the effective date of this Agreement, for the duration of the Program, and until five (5) years after the date of final payment by County to Attorney pursuant to this Agreement.

ARTICLE VI GENERAL PROVISION

- 6.1 Termination for Non-appropriation. Should the Dinwiddie County Board of Supervisors fail to appropriate necessary funding, County may immediately terminate this Agreement or any unfounded portion of the Agreement without incurring any penalty, liability or additional costs whatsoever. It is understood and agreed that County shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this Agreement.
- 6.2 Termination for Any Reason. This Agreement or a portion of this Agreement may be terminated by either party, with or without cause, upon thirty (30) days written notice to the other party, provided, however, that if any work is in progress but not completed as of the date of such termination, this Agreement may be extended by County, under the same terms and conditions stated herein, until such work is completed and accepted by County. In the event that either party elects not to renew the Contract, or County or Attorney elects to terminate the Contract, Attorney shall have the right to continue any matter where litigation proceedings have commenced, unless County objects to Attorney's continuance of such matters in writing. In the event that County objects to Attorney continuing such cases, Attorney shall be paid reasonable legal fees for the time Attorney has expended on such cases and Attorney shall immediately return its files to County. In such instance, Attorney shall promptly provide County with an itemized statement detailing actual time spent for services rendered to County. Attorney agrees to cease work on any matter and return such case files to County in all matters in which suit has been filed, for good causes shown, during any instance where Attorney has been permitted by County to continue work on such cases after either party has elected no to renew the contract or County has terminated the Agreement. In the event Attorney elects to terminate the Agreement, Attorney shall immediately return such files to County and receive no compensation for any work performed.
- 6.3 Termination due to Breach of Agreement by Attorney. In the event of breach by Attorney of any provision of this Agreement, County shall have the right immediately, to rescind, revoke or terminate the contract. Notice of such rescission, revocation or termination shall be sent by certified mail, and be effective upon mailing. In the alternative, County may give written notice by certified mail to Attorney specifying the manner in which the contract has been breached. If a notice of breach is given and Attorney has not corrected the breach within ten (10) days of receipt of the written notice, County shall have the right to immediately terminate this contract. In the event of rescission, revocation or termination of this contract resulting from an event of breach, Attorney will receive compensation when the properties are sold or redeemed. The compensation will be the difference in the amount of legal fees collected and the hourly rate charged by the substitute attorney to complete the case. If there are multiple properties in the case and they are disposed of and the compensation shall be based on the total amount received from the sale of such properties and not the sale of each separate property.
- 6.4 Non-Performance Clause
- Attorney shall notify County in writing of accounts that have not been approved for sale within eighteen (18) months of the filing of the suit and give reason for the delay. If Attorney fails to respond, or at the time the suit becomes twenty-four (24) months old, County may require Attorney to return the account for inability to timely complete. Attorney shall return all documents, notes, files, and records pertaining to the case.

In the event cases are removed from Attorney pursuant to this section, Attorney will receive compensation when the properties are sold or redeemed. The compensation will be the difference in the amount of legal fees collected and the hourly rate charged by the substitute attorney to complete the case. The substitute attorney shall be determined in the sole discretion of County. If there are multiple properties in the case and they are disposed of at different times, Attorney will be

paid after all the properties are disposed of and the compensation shall be based on the total amount received from the sale of such properties and not the sale of each separate property.

If County determines, at its sole discretion, that the case cannot be completed as files, and is required to dismiss the case, Attorney shall forfeit all legal fees.

- 6.5 Documents. All documents, including but not limited to case records, case notes, counseling records and photographs, furnished or created by Attorney pursuant to this Agreement shall be the sole property of County.
- 6.6 Successor and Assigns. County and Attorney bind themselves and any successors or assigns to this Agreement. Attorney shall not assign, subcontract or transfer its interest in this Agreement without the written consent of County. Nothing herein shall be construed as creating any liability on the part of County to any subcontractor nor shall this Agreement be construed as giving or creating any rights or benefits hereunder to anyone other than County and Attorney.
- 6.7 Subcontracting. Subcontracting by Attorney shall only be permitted in instances where there is a conflict of interest by Attorney in representing County in any particular matter, provided however, Attorney is authorized to contract with a third party to handle the auction of the property in all instances. Prior approval of such third party must be obtained from County in writing. Attorney shall require all subcontractors, if any, to comply with the provisions of this Agreement by insertion of the requirements hereof in a written contract Agreement between Attorney and such subcontractors. Failure to obtain such written contract which includes such provisions shall be reason to exclude some or all of the subcontractor's fees from amounts payable to Attorney pursuant to this Agreement.
- 6.8 Subcontractors. Any subcontractors selected by Attorney must be approved in writing by County prior to the subcontractor performing any work on the Program. County reserves the right to reject any subcontractor selected by Attorney.
- 6.9 Indemnity. Attorney agrees and binds itself and its successors and assigns to indemnify, keep and hold County and its officers, employees, agents, volunteers and representatives free and harmless from any liability on account of any injury or damage of any type to any person or property growing out of or directly or indirectly resulting from any act or omission of Attorney.
- 6.10 Insurance. Attorney shall, at its sole expense, obtain and maintain during the life of this Agreement the insurance policies and bonds required by this Section. Any required insurance policies and bonds shall be effective prior to the beginning of any work or other performance by Attorney under this Agreement. The following policies and coverage are required:

(1) Professional Liability Insurance in the amount of \$500,000

(2) Workers' Compensation. *(to be included only if Attorney employs others than himself)* Workers' Compensation insurance covering Attorney's statutory obligation under the laws of the Commonwealth of Virginia and Employer's Liability insurance shall be maintained for all its employees engaged in work under this Agreement. Minimum limits of liability for Employer's Liability shall be \$100,000 bodily injury by accident each occurrence; \$500,000 bodily injury by disease (policy limit); and \$100,000 bodily injury by disease (each employee). With respect to Workers' Compensation coverage, Attorney's insurance company shall waive rights of subrogation against the County, its officers, employees, agents, volunteers, and representatives.

The insurance coverage and amounts set forth in this section may be met by an umbrella liability policy following the form of the underlying primary coverage. Should an umbrella liability insurance coverage policy be used, such coverage shall be accompanied by a certificate of endorsement stating that it applies to the specific policy number indicated for the insurance providing the coverage required by subsections (1) and (2) and it is further agreed that such statement shall be made a part of the certificate of insurance furnished by Attorney to County.

All insurance shall meet with the following requirements:

- (1) Attorney shall furnish County a certificate or certificates of insurance showing the type, amount, effective dates and date of expiration of the policies. Certificates of insurance shall include any insurance deductibles.
- (2) The insurance covered by this Agreement shall not be cancelled or materially altered, except after thirty (30) days written notice has been received by the Treasurer for the County of Dinwiddie.
- (3) Any insurance company providing coverage under this Agreement shall be authorized to do business in the Commonwealth of Virginia.

- 6.11 Employees. Neither Attorney, its officers, employees, assignees or subcontractors shall be deemed employees of County while performing under this Agreement.
- 6.12 Non-Discrimination. During the performance of this Agreement, Attorney agrees as follows:
- A. Attorney will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of Attorney. Attorney agrees to post, in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this non-discrimination clause.
- B. Attorney, in all solicitations or advertisements for employees placed by or on behalf of Attorney, will state that Attorney is an equal opportunity employer.
- C. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purposes of meeting the requirements of these sections.
- Attorney shall include the provision of the foregoing paragraphs 6.12 A., B., and C., in every subcontract or purchase order over Ten Thousand dollars (\$10,000.00) so that the provisions will be binding upon each subcontractor or vendor.
- 6.13 Drug-free workplace: During the performance of this Agreement, Attorney shall: (i) provide a drug-free workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Attorney's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Attorney that Attorney maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over ten thousand dollars and no cents (\$10,000.00) so that the provisions will be binding upon each subcontractor or vendor. For the purpose of this section, a drug-free workplace means a site for the performance of work done in connection with this Agreement.
- 6.14 Licenses, Permits and Certificates. All licenses, permits and certificates required for and in connection with any and all parts of the Program shall be secured by Attorney entirely at its own expense.
- 6.15 Laws and Ordinances. Attorney shall comply with the laws of the County of Dinwiddie, the Commonwealth of Virginia and the United States as they may apply. Attorney shall also keep all necessary records as required by law or by County.
- 6.16 Confidential Matters. All documents and information created or obtained by Attorney or its subcontractors pursuant to this Agreement, including but not limited to reports, case records, case notes, recommendations, statements, referrals, resumes, drawings and photographs, shall be treated by Attorney and its subcontractors as strictly confidential to the same extent that such documents and information are treated as confidential by the County's Department of Social Services. Attorney agrees not to communicate or disclose, and agrees to prevent its subcontractors from communicating or disclosing, the aforesaid documents and information to a third party.
- 6.17 Modification. This Agreement shall not be modified, altered, or amended in any respect unless in writing and signed by the parties hereto.
- 6.18 Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or illegal, then such provision shall be deemed to be stricken herefrom, and this Agreement, as so modified shall remain in full force and effect.
- 6.19 Governing Law and Exclusive Venue. Attorney and County agree that this Agreement is made in the Commonwealth of Virginia and that all claims, disputes, and other matters relating to this Agreement shall be decided according to the laws of the Commonwealth of Virginia. Any legal action filed by either party to this Agreement involving a claim, dispute or other matters relating to this Agreement shall be filed in a court of competent jurisdiction in the County of Dinwiddie, Virginia and in no other forum.
- 6.20 No Authority to Bind Other Party. Nothing in this contract will be construed as authority for either party to make commitments which will bind the other party beyond the Scope of Service contained herein.

6.21 Assignment. Attorney shall not assign, sublet, or subcontract any work related to this contract or any interest it may have herein without the prior written consent of County.

6.22 Titles and Headings. The titles, section headings and paragraph headings are inserted only for convenience and are in no way to be construed as a limitation of the scope of this Agreement.

6.23 Mailing of Notices and Statements. All written notices under this Agreement shall be sent to the parties at the following addresses:

To County: County of Dinwiddie
Office of Treasurer
P. O. Box 178
Dinwiddie, Virginia 23841

To Attorney: James W. Elliott, Esquire
P. O. Box 1410
Yorktown, Virginia 23692

All notices required or permitted under the Agreement shall be deemed to have been given to a party when deposited in the United States mail, properly stamped and addressed to the party at the party's address listed above, or, if United States Mail is not used when delivered to such party. A party may change its address for notice hereunder by giving written notice to the other party.

6.24 Advertising, Publicizing or Marketing. Attorney prior to advertising, publicizing or marketing the Program in a written publications, or before a political or governmental body, and prior to its subcontractors' so advertising, publicizing or marketing the Program, will provide such advertising, publicizing or marketing to County for its approval, which approval shall not be unreasonably withheld. This pre-approval obligation shall not apply to Attorney's advertising, publicizing or marketing of the Program to businesses, business organizations or other persons for the sole purpose of performing its obligations under this Agreement.

6.26 Entire Agreement. This Agreement contains all the terms and conditions agreed upon by the parties. No other prior agreements, oral or otherwise, regarding the subject matter of the Agreement or any part thereof shall have any validity or bind any of the parties. This Agreement supersedes all prior written or oral agreements or proposals between the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of this day _____ of November, 2006.

5.F. CONSENT: TOWN OF MCKENNEY AGREEMENT

The Board received the following memo from Michael Drewry, County Attorney.

The *Interlocal Shared Services Agreement Between The County Of Dinwiddie And The Town Of McKenney And The Sheriff's Office Of Dinwiddie County* was presented to you in August for informational purposes.

You will recall that the Code of Virginia confers limited powers to the Board of Supervisors and the County within the limits of a Town without an Agreement. The purpose of the Agreement is to clarify the role of the County and Sheriff's Office within the Town of McKenney – specifically with regard to the following services:

1. Animal Control
2. Building Inspection
3. Fire and EMS
4. Sheriff's Office – Law Enforcement
5. Zoning Administration

Per direction of the Town Council of the Town of McKenney, the matter was advertised and brought before you at your September and October meetings, with formal action by this board being deferred both times, pursuant to formal action by the Town Council.

To date, the Town Council has not taken formal action. The Council discussed the matter at their October meeting. They have communicated that they still have issues with the section regarding Fire and EMS services and will be providing me with more specifics.

Therefore, I recommend that you remove this matter from the Board of Supervisors' agenda until the McKenney Town Council takes formal action. At that time, this matter will be re-advertised for public comments and brought back to this Board.

Upon motion of Mr. Stone, seconded by Mr. Haraway,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the Town of McKenney Agreement is deferred indefinitely.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
Nays: None
Absent: Mr. Moody

6. A. REPORT: VIRGINIA DEPARTMENT OF TRANSPORTATION

Mr. Ray Varney, Resident Engineer, discussed the following topics: Area Headquarters Closing; sidewalk repairs in McKenney – update; Brills Road/McKissocks Road Update; Chesdin Lake Area – second traffic counts; desired temporary road closings – Horsetail Road (Route 699) and Wilson Road (Route 639) – Closure time approximately 2 weeks at each location between December and February; a.) Horsetail 0.4 miles west of Namozine Road – Traffic count - 86 AADT; b.) Wilson Road 0.4 miles south of Springston Road over White Oak Creek – Traffic count - 312 AADT; Route 40 Bridge Rehab – Bridge over Reedy Creek – Advertisement Date 12/12/06, Construction likely to begin March '07; request of the Board to pass a resolution to have Squirrel Level Road reclassified from a Rural Minor Collector to a Rural Major Collector; guardrail on Halifax Road – Estimated Cost; bridge funds in the SSYP; and Mr. Varney inquired as to any maintenance requests.

6.B. REPORT: SCHOOL CONSTRUCTION UPDATE

The Board received the following summary update from Mr. Kirby Childers, Construction Administrator.

Elementary School Project:

During the current reporting period some progress has been made on critical path activities on the overall construction schedule. However, continued persistent rains have limited the earthwork progress resulting in an adverse impact on the project schedule. The Contractor has requested a time-only contract extension that is currently being evaluated. The remaining building pad areas, B, C, D, and E, have been brought to grade. Earthwork related to grading of the remaining site continues to be ongoing including the parking lot, bus loop, and areas behind the school. Footings have been completed in areas D and E, and the majority of area A. Footings in area C have been marked and are expected to be dug and poured soon. Masonry block work is underway in areas A and D with area E block work starting soon. The original construction sequence has been modified slightly as area C was the most difficult section to bring to grade. This caused wing areas D and E to get ahead of wing area C and area B is used to access area C. Below ground electrical and plumbing work has started in area A. The main domestic/fire water line around the building site has been primarily completed. Tie-in of the domestic water supply at highway 460 is pending easement completion. The sanitary sewer line has been completed from the tie-in location at the Walmart property line back to the building site. Materials (electrical, plumbing, masonry, steel door frames, etc.) continue to be staged on site as construction activities increase. Off-site construction activities include fabrication of roof trusses and structural steel.

High School Project:

The earlier start of site work at the High School along with different earthwork conditions have resulted in construction activities being less affected by the persistent rains at the High School site than at the Elementary School site. High School construction is currently on schedule. The remaining building pad areas, A, B, C, and D, have been brought to grade. Finished grading has been completed on approximately half of the parking lot with gravel, curb, and gutter work underway. The tennis courts and bus loop are at grade. Significant below ground electrical and plumbing work has been completed in areas E/F with electrical ground work also starting in area C/D. Floor slabs have been poured in sections of areas E/F with other areas being graveled and prepared for slab pours. Masonry wall work is underway in areas E/F including the installation of steel door frames. The retaining wall at the Cemetery is in progress. Digging and pouring of footings in areas C/D is underway. Masonry foundation block has started in areas C/D where footings are complete. The storm piping along with the primary water main and sanitary sewer main around the school are installed. Materials (electrical, plumbing, masonry, steel, etc.) continue to be staged on site. Off-site work includes roof truss and structural steel fabrication. The masonry mock-up including Owner selected brick has been constructed near the contractors site office. Meetings with Planning and Zoning, Public Safety, Utilities, etc. continue to be conducted related to the project. Verizon has communicated that work will start soon on the relocation of their utilities on Courthouse Road and Carter Lane.

6.C. REPORT: DINWIDDIE COUNTY EXTENSION OFFICE

Mr. Mike Parrish, Extension Agent, discussed the program areas of agriculture and natural resources; 4-H youth; family and consumer services; farm management; and the Master Gardner program.

6.D. REPORT: DINWIDDIE COUNTY HISTORICAL SOCIETY

Artrette Spicely, President, introduced Sonny Crumpler and Cindy Sandlin. Ms. Sandlin stated that they were requesting the use of The Old Court House to be a county sponsored Museum and Historical Reference Facility. She said that this project would highlight the significance of this building as a Historic Landmark on the National Registry. It would also provide county citizens and visitors to this area an educational and historical reference facility. As a subcommittee of the Dinwiddie Historical Society, Ms. Sanlin stated that they appealed to the Board of Supervisors for their consideration and support in the establishment of a Museum at the Old Dinwiddie County Court House and Commons. She said that this museum would enable them to preserve the many historical items and collections of artifacts of the people of Dinwiddie County. She stated that the intention was to seek grants and donations for support to assist in deferring the operational costs of this endeavor. In addition, they requested that the County provide environmental and security upgrades for the protection of all the valuable items donated to and/or on loan for the Museum's collections. She requested the Board's support in establishment of this museum and also for the proposal to be included in the upcoming Dinwiddie County Comprehensive Improvement Plan in order to initiate this project while additional funds are sought and become available.

6.E. REPORT: DINWIDDIE COUNTY DECAL POLICY

The Board received the following memo from William Jones, Treasurer.

You have asked that I provide you with a recommendation on the future of vehicle decal distribution and display. Over the past year a considerable amount of time has been spent on weighing all the options. I have met with Lori Stevens, Commissioner of Revenue, Michael Drewry, County Attorney, Kevin Massengill, County Administrator, and Anne Howerton, Finance Director, during this time and kept myself abreast of the "movement" by what other localities are doing. This "movement" was initiated by citizen distaste over the decal display process and by the technological enhancements for collection that have been afforded Treasurers over the years. As of October 10, 2006, forty-five counties and cities have eliminated, or are going to eliminate the requirement for decal display. A listing of those localities is attached. I feel this number will increase over the years because of its popularity statewide. Therefore, I recommend that Dinwiddie County eliminate its current vehicle decal purchase and display requirement effective January 1, 2008. Making it effective 2008 would give us time for ordinance changes, meeting current budgetary totals, setting future totals and notifying the citizens of the intention during the 2007 decal distribution season.

To offset the loss of revenue, it is recommended that a registration fee or license tax be assessed on the Personal Property tax statement for the first half. This license tax would include all vehicles assessed on the tax statement. This is the procedure that is used by the localities that have eliminated display requirements. The current full value vehicle fee amounts would still apply. In speaking with other Treasurers, this process sets well with the citizenry.

I can anticipate, at this time, two negative aspects. Once is the elimination of a great tax collection tool. The other is cash flow. Tax collections for January and February would drop some, but should be made up through other collection methods in March and April. The decal fees would not be realized until near the end of the fiscal year when we begin collecting first half 2008 taxes. Chesterfield County indicated no disparate loss in tax collections.

I would like to emphasize that an adoption of this recommendation does not in any way lessen our current workload status. If anything, I anticipate an increase in our workload, due to increased delinquent collection efforts. Discussions with staff did center on a permanent decal. This was mainly for landfill entry requirements and not necessarily a registration requirement. If the County wants to pursue some landfill or dumpster facility entry requirement, I would recommend the purchase of a landfill permit/decal.

Mr. Haraway requested that Mr. Jones provide the Board a cash analysis as to the cost of this project.

lowest responsive and responsible vendor, or Best Value in accordance with written guidelines. A Purchase Order or Contract approved as to form by County Attorney and signed by both vendor and County Administrator shall be required.

If the aggregate or the sum of all phases is expected to exceed \$30,000.00, a contract for professional services (which include accounting, actuarial services, architecture, land surveying, landscape architecture, law, medicine, dentistry, optometry, pharmacy, or professional engineering) shall only be procured through competitive negotiation in accordance with the Virginia Public Procurement Act, Virginia Code §§2.2-4300, *et seq.*, and Board of Supervisors' approval of the award must be obtained.

If the aggregate or the sum of all phases is expected to exceed \$50,000.00, a contract for goods and services shall be procured by competitive sealed bids or competitive negotiation in accordance with the Virginia Public Procurement Act, Virginia Code §§2.2-4300, *et seq.*, and Board of Supervisors' approval of the award must be obtained.

If the minimum required quotes are not obtained, a statement of the reasons why the quotations were not possible shall be in writing, approved by the Department Head and the Director of Finance, and placed in the purchase file. If it is determined that there is only one source practically available for that which is to be procured, such determination shall also be in writing, approved by the Department Head and the Director of Finance, and placed in the purchase file.

Small purchase procurement awards shall be made to the lowest responsive and responsible vendors. However, when it is in the best interests of the County to allow factors other than price to be considered in making an award, Best Value may be utilized if approved by the Department Head and Director of Finance, and reasons for such determination is in writing and placed in purchase file. Best Value means the overall combination of quality, price, and various elements of required services that, in total, are optimal relative to County needs.

In cases of emergency, when the Small Purchase Procurement Policy can not be reasonably followed, a written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the purchase file and public written notice shall be issued stating that the contract is being awarded on an emergency basis, identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. When practicable under the circumstances, such procurement shall provide competition, and be pre-approved by the County Administrator or Director of Finance.

7.B. ACTION ITEM: TRUCK PARKING ORDINANCE – INITIATING RESOLUTION

The Board received the following memo from Michael Drewry, County Attorney.

During past years, the Planning Commission and Board of Supervisors ("Board") have discussed and considered amendments to the Dinwiddie Code concerning the parking of commercial vehicles on residential streets and on residential zoned property. The most recent discussion occurred at the August 2, 2005 meeting of the Board. At this meeting after a public hearing on a proposed ordinance amendment, the Board did not take action on the ordinance amendment. The Board requested that staff research further revisions to the ordinance including different restrictions on five-acre versus half-acre lots in residential zoned areas.

In response to this request, two ordinances have been drafted and are attached. Ordinance amendment, Sec. 14-8 addresses the parking of commercial vehicles along public streets within a residential district. The definition of commercial vehicles is limited to vehicles designed to transport sixteen or more passengers, and tractor truck / trailer combinations. This ordinance is enforced as a traffic infraction.

Ordinance amendment, Sec. 22-244 addresses the parking of commercial vehicles in residential zoned areas. The definition of commercial vehicles is the same as defined in Sec. 14-8. The ordinance applies to all residential zoned areas except District RR which allows five acre lots. Va. Code Sec. 15.2-2282 requires that all zoning regulations shall be uniform for uses throughout each district. As such, the Va. Code does not allow a restriction to be enforced against certain types of properties within a specific zoning district such as lot sizes. The ordinance does not apply to listed vehicle types and commercial vehicles screened from view of a public street and adjoining dwellings. This ordinance is enforced as a zoning violation.

Upon motion of Mr. Haraway, seconded by Mr. Talmage,

WHEREAS, in accordance with Virginia Code §§ 15.2-2285 and 15.2-2286, the Dinwiddie County Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of the following amendments.

NOW, THEREFORE, BE IT RESOLVED that the Dinwiddie County Board of Supervisors does hereby request staff to initiate review of Chapter 14 and Chapter 22 of the Code of the County of Dinwiddie for inclusion of ordinances concerning the parking of commercial vehicles on residential streets and in residential zoned areas. County staff shall forward such amendments to the Planning Commission. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinances and shall forward its recommendations thereon to the Board of Supervisors in accordance with law.

Ayes: Mr. Haraway, Mr. Talmage, Mr. Moody

Nays: Mr. Stone

Absent: Mr. Moody

7.C. ACTION ITEM: APPOINTMENTS

There were no appointments at this time.

8. CITIZEN COMMENTS

The Chair opened the citizen comments period.

1. Anne Scarborough – Dinwiddie – asked when the Board was going to increase proffers in Dinwiddie County. She had a question regarding a newspaper article that stated funds were available to Dinwiddie for damages caused by Tropical Storm Ernesto. She said she had asked for a line item accounting for this money but was told there had not been any expenditure. She asked where the information had come from and whether the County was going to get the money.

Chief Hale responded that it was money given to VDOT to replace Oak Grove Road where it had washed out; and to SEC to repair the power lines. The money was given from the State and had to be given through the jurisdiction (but was not money given to the County).

2. Heather Manson – Department of Forestry – 13209 Courthouse Road – said she had signed up under citizen comments because she didn't know until the last minute that she would be able to attend the meeting. She said she just wanted to check with the Board and let them know she was available if they had any forestry questions.
3. Michael W. Bratschi – 23500 Cutbank Road – McKenney – congratulated Mr. Talmage on his appointment. He said he had heard a lot of good things about his Town Hall meetings. He had comments regarding the County courts, and that it was admirable that three of the County employees were allowed to go to jury duty. He said that the Dinwiddie court system was not professional.
4. David M. Dudley – 25907 Smith Grove Road – Petersburg – said that the county ditches needed to be pulled.

As there was no one else signed up to speak, the Chair closed the citizen comments period.

9. COUNTY ADMINISTRATOR COMMENTS

W. Kevin Massengill, County Administrator, stated that he felt a meeting with Mr. Varney was in order before the next regular meeting. He said that the Board packs are now being done electronically. Mr. Massengill said that he would like to have some additional conversation with the Board regarding the Commerce Park and the overall makeup of the Park. He stated that the Christmas Parade will be Saturday, December 9th at 2:00 p.m., and the rain date is Sunday, December 10th. This year's parade is being sponsored by the Chamber of Commerce. The route will be on Courthouse Road, starting at Bonneville Lane, and ending at the County Courthouse.

Mr. Massengill said a meeting had been scheduled with Mr. Moody and himself in regards to public transportation in the first week of December with the Department of Rail and Public Transportation. On November 29th there will be a small proffer policy workshop with the following: the Chair and Vice Chair of the Board of Supervisors, the Chair and Vice Chair of the Planning Commission, the Director of Planning, and the County Administrator. He said on December 7th at 8:30 a.m. Dinwiddie will be hosting the Bio-diesel Workshop at the Eastside Community Enhancement Center. He said that the S.P.C.A. had offered to the County that if the County would raise funds for the outfitting of the animal shelter, that they would donate dollars to that as well. He said the County had risen over \$30,000 and the S.P.C.A. will be donating another \$20,000.

Mr. Massengill said that on December 6th the Crater Planning District Commission, as well as the Dinwiddie County Chamber of Commerce and all the other Chambers of Commerce, will have procurement meetings. He said that any contractors or subcontractors who will be working in conjunction with the BRAC expansion can attend the "Getting Qualified" workshop at that time. He said there will be two sessions, one from 8:00 a.m. to 10:00a.m., and the other from 6:00 p.m. to 8:00 p.m.

Mr. Massengill stated that he sent out the proposed budget calendar. He also discussed the 4" sewer line that runs from the Courthouse to the existing high school. At a meeting a little over a year ago the decision was made to run another 4" line beside the existing line to serve the new high school. He said the Chairman of the IDA had called him recently regarding his concerns about this line. Mr. Massengill said that in conversation with Robert Wilson of the Water Authority, Mr. Wilson had stated that the difference in cost between a 4" line and a 6" line is \$55,000. That may be something the Board wishes to ask the School system to go ahead and include in the project cost as an overall upgrade.

10. BOARD MEMBER COMMENTS

Mr. Stone stated the next District 5 Town Hall meeting would be on December 4th from 7:00 p.m. to 9:00 p.m. at McKenney Town Hall. He said he was working with Robert Wilson of the Water Authority and with the Planning Committee of McKenney to plan a meeting regarding the town's infrastructure, the water system, and some grant opportunities. Mr. Stone also requested that the time of the proffer workshop meeting that was scheduled for November 29th be moved from 3:00 p.m. to 4:00 p.m.

Mr. Talmage said that when he had his town hall meeting a couple of weeks prior a lady had brought up the question as to whether prisoners who were being housed at the jail could be used to clean the roads, or do some grass cutting, etc. He stated that he had met with Captain Booth at the Sheriff's office; and that he also talked with the County Attorney, Mr. Drewry. Mr. Talmage said that this will be implemented around the first of January, and that prisoners will be picking up debris around the dumpsters. After seeing if that goes well, the program will be expanded into doing road work, cleaning up trash on the roads, etc. There will be no violent offenders used. Mr. Talmage said the prisoners will be paid approximately \$1.25 per hour to do this. Mr. Talmage said that during his meeting Captain Booth also went over the jail problems. Mr. Talmage stated that he had really gained some insight into the problems, and that the Board needs to support the Sheriff's Office in seeking a solution.

Mr. Haraway stated he would like to have additional conversation regarding the commerce park. He said he would like to see more emphasis on retail and office space.

Ms. Moody stated that the Dinwiddie County Food Bank Volunteers need space to store and dispense food. She said they are currently in a trailer that does not provide adequate space. Ms. Moody asked staff to help her find a place.

11. CLOSED SESSION

Upon motion of Mr. Stone, seconded by Mr. Talmage,

The Board of Supervisors of Dinwiddie County, Virginia convened in a closed meeting under:

- a. §2.2-3711 (A) (1):
 - Appointments:
 1. Board of Zoning Appeals
 2. Industrial Development Authority
 3. Dinwiddie County Water Authority
 - Personnel:
 1. Recreation Director

- b. §2.2-3711 (A) (3) Land Acquisition
 - Donation of Land
- c. §2.2-3711 (A) (5) Business and Industry Development:
 - Prospective Business & Industry
- d. §2.2-3711 (A) (7) Legal Matters
 - Illuka Mineral Assessments
 - Board Bylaws

Ayes: Mr. Haraway, Mr. Talmage, Mr. Stone, Ms. Moody
 Nays: None
 Absent: Mr. Moody

Upon motion of Mr. Stone, seconded by Mr. Talmage,

The Board reconvened into open session.

Ayes: Mr. Haraway, Mr. Talmage, Mr. Stone, Ms. Moody
 Nays: None
 Absent: Mr. Moody

CERTIFICATION

WHEREAS, this Board convened in a closed meeting under:

- a. §2.2-3711 (A) (1):
 - Appointments:
 1. Board of Zoning Appeals
 2. Industrial Development Authority
 3. Dinwiddie County Water Authority
 - Personnel:
 1. Recreation Director
- b. §2.23711 (A) (3) Land Acquisition
 - Donation of Land

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. Haraway, seconded by Mr. Talmage, this Certification Resolution was adopted.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
 Nays: None
 Absent: Mr. Moody

Mr. Massengill stated that he would like to amend the agenda under 13. Old/New Business, to add b. Commerce Park Design; and also after 14. Citizens Comments, there was a need to go back into Closed Session under §2.2-3711 (A) (5) Business and Industry Development, Prospective Business & Industry; and §2.2-3711 (A) (7) Legal Matters, Iluka Mineral Assessments and Board Bylaws as there had not been time to include those items in the first closed session period.

Upon motion of Mr. Stone, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the agenda is amended as stated.

Ayes: Mr. Haraway, Mr. Talmage, Mr. Stone, Ms. Moody
 Nays: None
 Absent: Mr. Moody

7:00 P.M. – PUBLIC HEARINGS

12.A. PUBLIC HEARING: P-06-09 DANIEL DAVIS, REZONING

Mark Bassett, Director of Planning, presented the summary below.

The applicant, Mr. Davis, was present to address any questions from the Board members.

The Chair opened the public hearing in this case.

1. Rotesha Colbert – 6704 Boydton Plank Road – spoke in opposition to this case. She stated safety concerns because of traffic in the area.
2. Tamara Colbert – 6704 Boydton Plank Road - spoke in opposition to this case. She stated that she had a group of individuals with her who were also opposed. She said that this shop would attract crime and noise into the neighborhood. She said that Mr. Talmage had suggested that Mr. Davis visit some of the neighbors so that this issue could be discussed. She said that no one had been visited by Mr. Davis.
3. Roosevelt Colbert – 6704 Boydton Plank Road – spoke in opposition to this case. He stated that he was also concerned about traffic issues and safety.
4. Michael Wilde – 11647 Old Stage Road – spoke in favor of this case. He stated that this would be a good place for kids to hang out and for the man to operate his business.

As there was no one else signed up to speak, the Chair closed the public hearing in this matter.

The applicant, Mr. Davis, spoke and apologized to the neighbors. He said he did not know the policy of how to handle these types of situations. He said he had a lot of money invested, and he would do whatever he could to make the business work and not be a nuisance in the area. He said he did not feel it would be a traffic hazard as people would be slowing down to turn into his shop.

Ms. Tamara Colbert was given permission to speak to the Board again. She said that people do not slow down even though someone may be turning in. She said there is a trailer court at one end of the road and cottages on the other. She stated that there was no where for children to walk except to cut across yards, and down the highway. She said some child would be hit. She presented a petition that had been signed by all the people in her area who were not able to attend the meeting.

Mr. Stone stated that his concern was the race traffic. He said that children would have to go through the neighbors' yards if they were walking to the shop as there was no where else for them to walk except the highway.

CASE OVERVIEW

The applicant, Mr. Daniel Davis, is seeking a rezoning of one (1) land parcel containing approximately 1.06 acres from Agricultural, General A-2 to Business, General B-2 in order to construct an ice cream shop. The subject property is located on the south side of Boydton Plank Road (Route 1) near the Route 1/Route 460 intersection. The property is further defined as Tax Map 21, Parcel 98. As set forth in the Comprehensive Land Use Plan, this property is located within the Urban Planning Area which includes commercial development.

BACKGROUND INFORMATION

There are numerous business establishments located within the general area. These business establishments are located a few blocks to the west of the subject property, and currently, there are no ice cream shops along the Route 1 corridor.

ZONING ANALYSIS

The properties in the area around this land parcel have mixed uses which include commercial, open space, agricultural, and residential uses. The properties located to the north along Boydton Plank Road (Route 1) are zoned Business, General, B-2 and Residential, Limited R-1, to the south properties are zoned Agricultural, General, A-2, to the east along Boydton Plank Road (Route 1) the properties are zoned Business, General, B-2 and to the west along Boydton Plank Road (Route 1) the properties are zoned Business, General, B-2 and Agricultural, General A-2.

The Business, General, B-2 zoning district covers the portion of the community intended for the conduct of general business to which the public requires direct and frequent access. This includes such uses as retail stores, banks, theaters, business offices,

newspaper offices, printing presses, restaurants, taverns and garages and service stations, and this includes the proposed use, an ice cream shop.

The property under review is designated by the Comprehensive Land Use Plan as being a part of the Urban Planning Area. As such, page X-14 of the Comprehensive Plan states that the area is "expected to accommodate approximately 70% of future industrial and commercial development". The Comprehensive Plan also encourages cluster commercial developments within that Planning Area. In this area, all developments will need adequate buffers installed between the different incompatible land uses (i.e. residential and commercial uses).

Chapter XI of the Comprehensive Plan, which outlines the policies, goals and objectives, includes a policy stating that the county wants to "maintain and enhance the county's ability to coordinate a balanced land-use program among various types of residential, commercial, and industrial interests by encouraging development within areas defined as growth centers and/or growth corridors." As previously stated, the subject property is located in the Urban Planning Area; thus, the subject property is appropriately located in one of the county's designated growth centers.

Chapter XI of the Comprehensive Plan, which outlines the policies, goals and objectives, relating to economic development, states that the county wants to "encourage commercial developments to cluster in various areas of the county designated for business uses as well as to encourage small businesses to locate in the county." Again, the subject property is located in one of these designated commercial areas and thus it is appropriate to zone the property with a business zoning classification.

The Route 1 and Route 460 Corridor Enhancement Study designates this general area of the county as the Visitor Focus Area which is considered a primary visitor destination. The study recommends enhancing the properties within The Visitor Focus Area through landscaping and informal plantings. This focus area also supports businesses such as restaurants and hotels along this two-lane section of Route 1. This focus area will likely undergo increased land use changes and visitor related uses should be encouraged. The focus area also recommends clustering new business development near the Route 1/Route 460 intersection. The proposed ice cream shop fits into the general types of businesses that are being encouraged to locate in this Visitor Focus Area. As discussed in the Enhancement Study for this section of Route 1, the applicant should consider leaving uninhabited space along the front of property for the future widening of Route 1.

OVERVIEW OF IMPACTS

Public Utilities, School System, & Public Safety Impacts

The potential impacts on the subject property are minimal. The proposed business will be connecting to public water service. The soil types on the property are not suitable to handle a conventional septic system drainfield; therefore, an engineered drainfield system is required. No impact on the public school system is anticipated, due to the fact that no new residences will be constructed as a result of this rezoning. The potential impact on public safety will be minimal; there are no specific public safety requirements for an ice cream shop. The subject property has an existing fire hydrant located on site. Upon the necessary rezoning approval from the Board of Supervisors, the applicant is required to submit a site plan for the ice cream shop to the planning staff as a part of the site plan review process.

Transportation Impacts

The impacts on the existing transportation network should be minimal. The subject property has adequate access since it fronts directly on Boynton Plank Road (Route 1). The road system in this particular area is more than adequate to handle the traffic that will be generated by the proposed use. There is also an existing turn lane, which could be utilized by traffic turning into the property heading west down Route 1. The property does not require a turn lane or taper lane for traffic heading west bound on Route 1 as stated by VDOT. The applicant will be required to obtain a VDOT commercial entrance permit for the subject property.

Soils Report

The applicant acquired a soil consultant to conduct a soil feasibility study to determine if a septic system is appropriate for the site. The soil feasibility study suggested that the soils were not adequate to handle a conventional septic drainfield system. The soils, however, are adequate to handle an engineered septic drainfield system. There is an existing drainfield easement on the subject property. The study states that the existing drainfield can be reduced in size so as not to negatively impact the applicant's development plans.

PROFFER STATEMENT

The applicant has submitted a proffer statement to the county to address the proposed use's potential impacts on the subject property. The applicant has limited the permitted uses on the property. Those permitted uses are listed below:

<u>Limited Types of Businesses</u>
▪ Retail stores and shops
▪ Restaurant
▪ Office Building(s)

The limited uses outlined above are suitable for the property based on the lot size and location. Under the Zoning Ordinance, the proposed use could generally be classified as either a retail shop or a restaurant. In County Code Section 22-1, a retail shop is defined as "Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood and lumber yards), such as the following, which will serve as illustration: Drugstore, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barbershop and beauty shop", within which an ice cream shop could be classified as such a use. Also, in County Code Section 22-1, a restaurant is defined as "Any building in which food or beverages are dispensed for consumption on the premises, including, among other establishments, cafes, tearooms, confectionery shops or refreshment stands", which also could be an acceptable classification for the proposed use. Staff feels that since both of these are permitted use in the B-2 zoning district, that staff would recommend that the applicant add the restaurant use as a part of the limited uses in the proffer statement.

Staff does have some concerns regarding the design of the proposed building. The building has a very creative and playful design, which shall definitely attract the attention of the public, but the building design does not meet the design standards recommended in the Route 1/Route 460 Corridor Enhancement Study. The Study encourages building styles to feature pitched roofs, articulated entrances, and the use of attractive timber fencing, and building height should also be strictly limited. However, staff does feel that the proposed business would be defined as a "visitor business" which is strongly encouraged in this area of the County.

The applicant also addresses security lighting which would keep the glare contained on the site. The applicant will install a business sign which shall meet the requirements of the Dinwiddie Code section regarding signs and receive an approved sign and building permit by the Planning and Building Code Departments.

The applicant will be required to have five (5) parking spaces (four (4) customer parking spaces for ice cream shop and one (1) handicap van accessible parking space) as stated in Dinwiddie Code section 22-237-(L)-8. The applicant has proffered that all areas around the building shall be paved.

The applicant has also proffered to locate the commercial entrance to the business at the VDOT approved location. The applicant will obtain a VDOT Land Use Permit and the commercial entrance will meet VDOT's standards.

The applicant has also proffered to install a twenty (20) foot wide area of landscaping across the front of the property as well as a short distance down the sides of the property. The applicant will also leave a ten (10) foot buffer of trees along the sides and rear of the property as a buffer zone. Selective cutting shall be allowed to maintain the health of the trees with approval from the Planning Director.

Staff Recommendation:

The staff has reviewed the rezoning request and is satisfied that the applicant has addressed the impacts of rezoning the property to allow a commercial use on the subject property.

Staff recommends APPROVAL WITH PROFFERS of the request to rezone the subject property based on the following reasons:

1. The zoning classification requested, B-2, Business General, is compatible with the surrounding zoning pattern;
2. The requested zoning classification and uses permitted under this classification conform with the underlying uses outlined in the Community Planning Area set forth in the Comprehensive Land Use Plan;

3. The applicant has provided signed proffers addressing the impacts of the proposed use on the subject property; and
4. Subject to the rezoning being approved the applicant will submit a site plan for the ice cream shop for review and approval by the planning staff.

Planning Commission Recommendation:

The Planning Commission heard the rezoning request, P-06-9, at their October 11, 2006 meeting and voted to recommend approval of the rezoning request with proffers by a vote of 5-2.

Upon motion of Mr. Stone, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that in order to ensure compliance with Virginia Code §15.2-2286 (A) (7) it is stated that for the public purpose for which this resolution is initiated is to fulfill the requirement of public necessity, convenience, general welfare, and good zoning practice that rezoning case P-06-9 is disapproved by the Board of Supervisors.

Ayes: Mr. Talmage, Mr. Stone, Ms. Moody
Nays: Mr. Haraway
Absent: Mr. Moody

13.A. OLD / NEW BUSINESS: APPOINTMENTS

Upon motion of Mr. Haraway, seconded by Mr. Stone,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Gene Witt is reappointed to the Dinwiddie County Water Authority for a term ending December 31, 2010.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
Nays: None
Absent: Mr. Moody

13.B. OLD / NEW BUSINESS: COMMERCE PARK DESIGN

Mr. W. Kevin Massengill, County Administrator, presented the three designs under consideration for the commerce park design. He stated that the potential use could be based upon the marketing study to see which would be marketed first. He said that in all the scenarios there is an office park type of environment, light industrial/manufacturing distribution type facilities in the back, and retail/commercial. He discussed the access road, wetlands crossing, and the railroad line. The consensus was to have a higher end retail/commercial business park as long as the market study supports it.

14. CITIZEN COMMENTS

The Chair opened the citizen comment period.

1. Joe Hoggood – 4306 Sunset Drive – Petersburg – said that his street is used as a shortcut between US1 and Rt. 226. He said his street catches all of the traffic coming through there; and that the traffic has become atrocious. He said he had asked VDOT to put two speed bumps on Sunset Drive and two on Franklin in order to slow the traffic down. Mr. Hoggood asked the Board to please ask VDOT to block off Sunset Drive.
2. Michael Wilde – 11647 Old Stage Road – said that in the earlier part of the meeting he was dismayed that no one could define a commercial vehicle.

As there was no one else signed up to speak, the citizen comment period was closed.

Mr. Stone asked that Mr. Massengill write a letter to the Sheriff's Office to put up stationary radar on a secondary road (Sunset Drive) for five or six mornings in a row, and five or six evenings in a row.

Upon motion of Mr. Stone, seconded by Mr. Talmage,

The Board of Supervisors of Dinwiddie County, Virginia convened in a closed meeting under:

§2.2-3711 (A) (5) Business and Industry Development:

- Prospective Business & Industry

§2.23711 (A) (7) Legal Matters

- Iluka Mineral Assessments
- Board Bylaws

Ayes: Mr. Haraway, Mr. Talmage, Mr. Stone, Ms. Moody
Nays: None
Absent: Mr. Moody

CERTIFICATION

WHEREAS, this Board convened in a closed meeting under:

§2.2-3711 (A) (5) Business and Industry Development:

- Prospective Business & Industry

§2.23711 (A) (7) Legal Matters

- Iluka Mineral Assessments
- Board Bylaws

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. Haraway, this Certification Resolution was adopted.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody
Nays: None
Absent: Mr. Moody

15. ADJOURNMENT

Upon motion of Mr. Stone to adjourn, seconded by Mr. Talmage,

Ayes: Mr. Haraway, Mr. Talmage, Mr. Stone, Ms. Moody
Nays: None
Absent: Mr. Moody

The meeting was adjourned at 9:30 p.m.

Doretha E. Moody, Chairperson

ATTEST: _____
W. Kevin Massengill
County Administrator
Clerk to the Board

/wjm