

**COLUMBUS COUNTY BOARD OF COMMISSIONERS****November 03, 2008****6:30 P.M.**

The Honorable Columbus County Commissioners met on the above stated date and at the above stated time in the Dempsey B. Herring Courthouse Annex Building, located at 112 West Smith Street, Whiteville, North Carolina, for their regular scheduled meeting on the first Monday.

**COMMISSIONERS PRESENT:**

James E. Prevatte **Chairman**  
 Amon E. McKenzie  
 Sammie Jacobs  
 Lynwood Norris  
 Ricky Bullard  
 Ronald Gore

**APPOINTEES PRESENT:**

William S. Clark, **County Manager**  
 Steven W. Fowler, **County Attorney**  
 June B. Hall, **Clerk to Board**  
 Bobbie Faircloth, **Deputy Finance Officer**

**COMMISSIONER ABSENT:**

Bill Memory, **Vice Chairman**

**6:30 P.M.**

**Public Hearing: Columbus County Voluntary Agricultural District Ordinance - the purpose of this Public Hearing is to receive comments from the public, either oral or written.**

**PUBLIC HEARING CALLED to ORDER:**

At 6:30 P.M., Chairman Prevatte called the Public Hearing to order and stated the purpose of this Public Hearing is to receive comments from the public, either oral or written, on the Columbus County Voluntary Agricultural District Ordinance. Chairman Prevatte requested that Edward Davis, Soil and Water Conservation Director, present some details relative to this Ordinance. Mr. Davis stated the following.

1. The Voluntary Agricultural District Ordinance draws awareness of how much we depend on agriculture;
2. The State of North Carolina is very dependant on agriculture;
3. Agriculture is a \$68 billion industry;
4. Seventeen (17%) percent of North Carolina's workforce is in agriculture;
5. Farmers are producing and/or growing eighty (80) different commodities;
6. This ordinance provides for farmland protection and protects the farmers from nuisance laws;
7. The Voluntary Agriculture Board will oversee the farms, and the members of this board have to be active farmers; **and**
8. There will be a Technical Review Committee (TRC) which will be made up of five (5) people.

Commissioner McKenzie asked Mr. Davis what is the process for enrolling in this program, and what are the benefits. Mr. Davis replied stating the following:

1. The farm needs a base which means the owner must be actively farming;
2. There is no minimum acreage;
3. The farmer has the option to withdraw after three (3) years;
4. The farmer will sign up for a ten (10) year period of time; **and**
5. The benefits of this program will be protection of the farmland, pride for the farmers and will help to protect the farmers against nuisance laws.

Commissioner Gore asked if there was any cost involved for the farmers to participate in this program, and if there was a requirement for signage to be used. Mr. Davis replied stating yes there was cost involved, but at this time I don't know what it will be, and I have asked the question about the signage requirement but have not received a definite answer.

Chairman Prevatte asked Mr. Davis what percentage of people in North Carolina is involved in agriculture. Mr. Davis replied stating seventeen (17%) percent of North Carolina's workforce is involved in agriculture and that is one (1) out of every five (5).

## COMMENTS:

1. **Kipling Godwin (RC&D Member):** stated the following:
  - A. I think this is a great ordinance;
  - B. It is a good neighborhood document;
  - C. The RC&D applied for a grant to help with these costs but did not get the grant this year, but we plan to apply again next year;
  - D. Brunswick County was one of the first counties in the State to pass this ordinance;
  - E. There is a total of sixty (60) counties in North Carolina that already have this Ordinance;
  - F. It ensures that outsiders are notified of the agricultural districts;
  - G. There are two (2) main costs involved with this program as follows:
    - a. Putting the notification on the property deeds; and
    - b. Signage; **and**
  - H. On behalf of the Farmers Market Board, although I don't serve on this Board, I assist them in applying for grants, I do strongly support this ordinance.
  
2. **Robert Adams (Private Citizen):** stated the following:
  - A. I am a semi-retired farmer;
  - B. This ordinance is a good idea;
  - C. I urge the Commissioners to approve this ordinance; **and**
  - D. Hopefully, this will cut down on the city people moving out in the country.

## REGULAR SESSION:

### **Agenda Items #1, #2 and #3: MEETING CALLED to ORDER, INVOCATION and PLEDGE of ALLEGIANCE:**

At 6:30 P.M., Chairman James E. Prevatte called the November 03, 2008 Regular Session Board Meeting to order. The invocation was delivered by Commissioner Ronald Gore. Everyone in attendance stood and pledged Allegiance to the Flag of the United States of America which was led by Commissioner Ricky Bullard.

### **Agenda Item #4: BOARD MINUTES APPROVAL:**

Commissioner Norris made a motion to approve the October 20, 2008 Regular Session Board Meeting Minutes, as recorded, seconded by Commissioner Gore.

Chairman Prevatte stated there was an error in the draft Board Minutes that needed to be corrected on Page 811 as follows:

### **Agenda Item #13:**

**“Steven W. Fowler, County Attorney, requested Board approval of the ~~Identity Theft Prevention Policy~~, on its second reading. ....”**

**Commissioner Norris made a motion to approve the ~~Identity Theft Prevention Policy~~, on its second reading, .....**”

This information should read as follows:

**“Steven W. Fowler, County Attorney, requested Board approval of the Procedure for Monitoring Assistance Funds Recipients Policy, on its second reading. ....”**

**Commissioner Norris made a motion to approve the Procedure for Monitoring Assistance Funds Recipients Policy, on its second reading, .....**”

Commissioner Norris amended his motion to approve the October 20, 2008 Regular Session Board Meeting Minutes, as recorded with the stated correction. Commissioner Gore amended his second to the motion. The amended motion unanimously passed.

### **Agenda Item #5: PUBLIC INPUT:**

There were no public comments made, either oral or written.

**Agenda Item #6: LANDFILL GAS PROJECT - PROPOSAL:**

Hugh Whalen, Business Developer with Environmental Credit Corporation, will present a proposal for the Landfill Gas Project for consideration.

In the absence of Hugh Whalen, Kipling Godwin, Project Manager, stated the following:

1. The Environmental Credit Corporation's attorney has prepared a document that is both a proposal and a contract;
2. Their attorney has been in contact with the Columbus County attorney; **and**
3. I suggest that this matter be tabled until all the details can be worked out between the two (2) attorneys.

Commissioner Gore made a motion to table this matter until the first meeting in December, seconded by Commissioner McKenzie. The motion unanimously passed.

**Agenda Item #7: ORDINANCE -VOLUNTARY AGRICULTURE DISTRICT ORDINANCE APPROVAL and ADOPTION:**

Edward Davis, Director of Soil and Water Conservation, requested the Board to approve and adopt the following Voluntary Agriculture District Ordinance, on its second reading. (The required Public Hearing was held at 6:30 P.M. on this date.

**Columbus County**  
**VOLUNTARY AGRICULTURAL DISTRICTS**  
**ORDINANCE**

**ARTICLE I: TITLE**

This program, adopted by the Board of Commissioners of Columbus County, North Carolina, shall be known as the Columbus County Voluntary Agricultural Districts Ordinance.

**ARTICLE II: AUTHORITY**

The articles and sections of this program ordinance are adopted pursuant to the authority conferred by N. C. General Statutes 106-735 through 106-743 hereby attached and incorporated by reference as Exhibit A.

**ARTICLE III: PURPOSE**

The purpose of this program ordinance is to promote the health, safety, rural agricultural values, and general welfare of the County, and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; increase protection from non-farm development; and increase the protection of farms from suits and other negative impacts on properly managed farms.

**ARTICLE IV: JURISDICTION**

There will be seven (7) areas from which Voluntary Agricultural District Board members will be selected. Each Voluntary Agricultural District Board member will be selected by the Columbus County Commissioner representing the respective District at the time of selection of the Voluntary Agricultural District Board. The selection areas will cover all unincorporated land within Columbus County.

**ARTICLE V: DEFINITIONS**

**Agricultural Board:** The Columbus County Voluntary Agricultural District Board.

**Board of Commissioners:** The Board of Commissioners of Columbus County, North Carolina.

**Chairman:** Chairman of the Columbus County Voluntary Agricultural District Board.

**District:** A Voluntary Agricultural District established under the terms and conditions of this program by the Board of Commissioners.

**Technical Review Committee:** A five (5) member committee. One (1) member each appointed by the Columbus Soil and Water Conservation District, the Columbus County Cooperative Extension Service, the Columbus County Planning Board, the Columbus County Farm Bureau Board, and the Columbus County USDA Farm Service Agency Committee.

## **ARTICLE VI: QUALIFICATIONS AND CERTIFICATION OF FARMLAND**

### **Section 600. Requirements**

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

- (1) The farmland shall be real property; AND
- (2) The farm property shall be participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7, or is otherwise determined by the County to meet all the qualifications of this program set forth in G.S. 105-277.3 hereby attached and incorporated by reference as Exhibit B ; AND
- (3) The property shall be certified by USDA Farm Service Agency and reviewed by the USDA Natural Resources Conservation Service, the Columbus County Cooperative Extension Service, and the Columbus Soil and Water Conservation District as being a farm on which at least two-thirds of the land is composed of soils that:
  - (a) have good farming qualities.
  - (b) are favorable for crops, livestock, ornamentals, Christmas trees or timber common to Columbus County. AND
- (4) The property, if highly erodible land exists on the farm, is managed in accordance with the USDA Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land; AND
- (5) The property is the subject of a conservation agreement, as defined in G.S. 121-35, hereby attached and incorporated by reference as Exhibit C, between the County and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable County watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the Board in accordance with Article VIII of this Ordinance.

### **Section 601. Certification**

The owner of the farm seeking to qualify his property for participation in this farmland preservation program ordinance shall submit written evidence that the property conforms to the requirements of Section 600 of this program. This written information shall be submitted to the Chairman of the Voluntary Agricultural District Board or the designated staff person on forms provided by the Board. The certification shall be submitted at the same time the owner applies for inclusion in a district.

## **ARTICLE VII: APPLICATION, APPROVAL AND APPEAL PROCEDURES FOR VOLUNTARY AGRICULTURAL DISTRICTS**

### **Section 700. Creation of Voluntary Agricultural Districts**

In order to implement the purposes stated in Article III, this program provides for the creation of Voluntary Agricultural Districts, which shall meet the following standards:

- (1) The landowner(s) requesting inclusion in the district shall execute an agreement with the County to sustain agriculture in the district in accordance with Section 600 (5) of this program. Said agreement shall be in a form which is reviewed and approved by the Voluntary Agricultural District Board; AND
- (2) For each district created under the terms of this program, one of the existing Voluntary Agricultural District Board members shall be assigned to represent the district.

**Section 701. Application to Participate**

A landowner may apply to participate in the program by making application to the chairman of the Voluntary Agricultural District Board or to a designated staff person of the Columbus Soil and Water Conservation District, 45 Government Complex Road, Suite B, Whiteville, NC 28472. The application shall be on forms provided and approved by the Columbus County Voluntary Agricultural District Board.

**Section 702. Membership Fee for Participate**

A one time membership fee as approved by the Voluntary Agricultural District Board will be due from each participate and shall be submitted with the application. This membership/application fee provides the landowner with one (1) Voluntary Agricultural District Membership sign to be placed on the property. Additional signs may be purchased through the Voluntary Agricultural District. The fee for said signs will be set by the Voluntary Agricultural District Board.

**Section 703. Approval Process**

Upon review by the technical review committee of the written certification and application submitted by the property owner, the Voluntary Agricultural District Board shall meet within 180 calendar days to review or approve said application. The Voluntary Agricultural District Board or representative agent thereof shall notify the applicants by first class mail of said approval or disapproval of participation in the district.

Notification of new Agricultural Districts shall be sent to the County Tax Assessor quarterly.

**Section 704. Appeal**

If an application is denied by the Voluntary Agricultural District Board, the petitioner has thirty (30) calendar days to record an appeal of the decision to the Clerk to the Board of the Columbus County Board of Commissioners.

Such appeal shall be presented in writing signed by the applicant or his or her Agent and presented to the Clerk to the Board of Commissioners. The decision of the Board of Commissioners is final. If an application is disapproved by the Voluntary Agricultural District Board and the Board of Commissioners, the membership/application fee will be returned to the said applicant.

**ARTICLE VIII: REVOCATION OF CONSERVATION AGREEMENTS**

By written notice to the Voluntary Agricultural District Board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Section 600 (5) of this program, or the Voluntary Agricultural District Board may revoke same preservation agreement based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a Voluntary Agricultural District and the benefits thereof.

Revocation by a landowner of a preservation agreement and the resulting loss of qualifying farmland status for the purpose of participation in a Voluntary Agricultural District shall in no way affect the eligibility of the land to be taxed at its present use value as provided in N.C.G.S. 105-277.2 through N.C.G.S. 105-277.6 hereby attached and incorporated by reference as Exhibit B.

If a Voluntary Agricultural District is removed or demised, all signage shall be returned to the Voluntary Agricultural District Board. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the program, provided they meet all other requirements except the minimum area requirements of Section 700 (1).

**ARTICLE IX: AGRICULTURAL BOARD****Section 900. Creation**

In accordance with N.C.G.S. 106-739, hereby attached and incorporated by reference as Exhibit A, the Board of Commissioners hereby establishes a Voluntary Agricultural District Board to implement the provisions of this program ordinance.

**Section 901. Appointments and Memberships**

The Voluntary Agricultural District Board shall consist of only seven (7) members appointed by the Columbus County Board of Commissioners upon recommendation and nomination by the County Commissioner representing said District.

- (1) **Requirements.** Each Voluntary Agricultural District Board member shall be a resident of Columbus County. Each Voluntary Agricultural District Board member shall be actively engaged in farming or own qualifying farmland in Columbus County.
- (2) **Membership**
  - (a) The Voluntary Agricultural District Board shall consist of no less than seven (7) members which will be appointed by the Columbus County Board of Commissioners. One (1) shall be appointed from each of the seven (7) districts served by each County Commissioner at the time of appointment.
  - (b) In addition, there will be a five (5) member non-voting advisory Technical Review Committee. One (1) member each appointed by the Columbus Soil and Water Conservation District, the Columbus County Cooperative Extension Service, the Columbus County Planning Board, the Columbus County Farm Bureau Board, and the USDA Farm Service Agency Board.
  - (c) The seven (7) members may be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Columbus County Cooperative Extension Service, the Columbus Soil and Water Conservation District, the USDA Farm Service Agency Committee, the Columbus County Planning Department, Columbus County Farm Bureau, or other farm related farming organizations, with an effort to have the broadest geographical and commodity representation possible. Said submitted names are advisory only to the Board of Commissioners.
- 3) **Tenure.** The initial seven (7) members of the Voluntary Agricultural District Board shall consist of two (2) members appointed for a term of one year, two (2) members appointed for a term of two years, and three (3) members appointed for a term of three years. Thereafter, all appointments to the Voluntary Agricultural District Board will be for a period of three years with reappointment permitted for no more than two consecutive terms. The terms for the appointment of the initial Voluntary Agricultural District Board will be determined by lottery procedure determined by this ordinance.
- (4) **Vacancies.** Any vacancy on the Voluntary Agricultural District Board is to be filled by the Board of Commissioners for the remainder of the unexpired term following the same procedure as for the initial appointment.
- (5) **Removal for Cause.** Any member of the Voluntary Agricultural District Board may be removed for cause by the Board of Commissioners upon written charges and after a public hearing by the Board of Commissioners.
- (6) **Funding.** Appropriations for Performance of Duties. Funds may be appropriated by the Board of Commissioners to the Voluntary Agricultural District Board to perform its duties. **As needed,** a budget request will be presented to the County Finance Office annually following procedures as determined by the Board of Commissioners.

**Section 902. Procedures**

The Voluntary Agricultural District Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes.

- (1) **Chairperson;** The Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairman and vice-chairman shall be subject to re-election. The chairperson shall preside over all regular or special meetings of the Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be

elected as needed.

- (2) **Jurisdiction and Procedures: Supplementary Rules**; The jurisdiction and procedures of the Board are set out in this article, except that the Board may adopt supplementary rules of procedure not inconsistent with this article or with other provisions of law.
- (3) **Board Year**; The Board shall use the County fiscal year (July 1 through June 30) as its meeting year.
- (4) **Meetings**; Meetings of the Board, following such notice as required by this article, shall be held at the call of the Chairperson and at such other times as the Board in its rules of procedure may specify. A called meeting shall be held at least semi-annually. A quorum shall consist of a majority of the members of the Board.
- (5) **Voting**; The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or agency to decide in favor of an applicant or to pass upon any other matter on which it is required to act under this article.
- (6) **Records**; The Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Board and shall be a public record.
- (7) **Administrative Services**; The Cooperative Extension Service Office shall serve the Voluntary Agricultural District Board for record keeping, correspondence, and application procedures under this article together with such other services the Board needs to complete its duties.
- (8) **Rules of Procedure**; Other than as specifically differentiated or described by this, or subsequent, Ordinance, the Voluntary Agricultural District Board shall abide procedurally by Suggested Rules of Procedure for the Board of County Commissioners, Third Edition by Joseph S. Ferrell, North Carolina Institute of Government.

### **Section 903. Duties**

The Voluntary Agricultural District Board shall:

- (1) Review and approve applications for qualified farmland and Voluntary Agricultural Districts; AND
- (2) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the County and that will affect agricultural districts; AND
- (3) Perform other related tasks or duties assigned by the Board of Commissioners; AND
- (4) Review and make recommendations to the Columbus County Board of Commissioners concerning proposed amendments to this ordinance; AND
- (5) Develop a county-wide farmland protection plan as defined in N.C.G.S. 106-744(e) (1) hereby attached and incorporated by reference as Exhibit D, for presentation to the Board of Commissioners; AND
- (6) Study additional methods of farmland preservation and make recommendations to the Board of Commissioners.

## **ARTICLE X: LAND USE INCENTIVES TO VOLUNTARY AGRICULTURAL DISTRICT FORMATION**

### **Section 1000. Purpose**

The purpose of this section is to help meet the needs of agriculture as an industry and prevent

conflicts between Voluntary Agricultural District participants and non-farm landowners in proximity to districts. **Nothing in this document should be viewed as a change in the status of the numerous non-farm landowners currently located throughout the county. Those landowners retain the same rights and standing held prior to the enactment of a Voluntary Agricultural District.**

**Section 1001. Public Notification**

- (1) Upon certification of qualifying farmland and designation of real property as a Voluntary Agricultural District, the title to that qualifying farmland and real property, which is contained in the Columbus County Land Records System, shall be changed to include a notice reasonably calculated to alert any person researching the title of a particular tract that such tract is located within one-half (½) aerial mile of a Voluntary Agricultural District. All notice procedures shall be governed by North Carolina law.
- (2) The Voluntary Agricultural District Board, in cooperation with the County, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons in and adjacent to any designated Voluntary Agricultural District with a goal of informing all current and potential residents and property owners in and adjacent to a Voluntary Agricultural District that farming and agricultural activities may take place in this district any time during the day or night.
  - (a) Members of the Voluntary Agricultural District are encouraged to place signs on their individual farms denoting their agricultural district membership in a way calculated to reasonably notify the public and adjoining landowners of the presence of the farm property.
  - (b) Information identifying approved districts shall be provided to the Columbus County Register of Deeds Office, the Columbus Soil and Water Conservation District, the Cooperative Extension Service Office, the Farm Service Agency, the Columbus County Planning Department, and the Columbus County Tax Department. Notice information for each department listed in this section shall be found at the;
 

Columbus Soil and Water Conservation District  
45 Government Complex Road, Suite B  
Whiteville, NC 28472  
Phone: 910-642-2196 Ext. 3  
Fax: 910-642-6766
  - (c) The following notice shall be displayed in a prominent position in the Office of the Register of Deeds and the public access area in the Columbus County Tax Department in accordance with North Carolina law:

**NOTICE TO REAL ESTATE PURCHASERS IN COLUMBUS COUNTY  
OF VOLUNTARY AGRICULTURAL DISTRICTS**

**Columbus County has established Voluntary Agricultural Districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped to inform all purchasers of real property that certain agricultural activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities may take place in these districts any time during the day or night. Maps and/or information on the location and establishment of these districts can be obtained from the Cooperative Extension Service Office, County Planning Department, Register of Deeds, Natural Resources Conservation Service, the Farm Service Agency Office, and the County Tax Department.**

- (3) Limit of Liability -- In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith, either intentionally or by negligence, in connection with the duties or obligations imposed by this ordinance.
- (4) No Cause of Action -- In no event shall any cause of action arise out of the failure of any



person, including a person researching the title of a particular tract, to report to any person the proximity of the tract to a qualifying farm or Voluntary Agricultural District as defined in this ordinance.

### **Section 1002. Expenditure of County Funds for Non-Farm Uses**

Prior to expending any monies which would convert land in a Voluntary Agricultural District to non-farm uses, the County or any other local unit of government shall submit to the Voluntary Agricultural District Board detailed information showing that said governmental unit has considered alternatives.

### **Section 1003. No Districts in Designated Growth Corridors**

Voluntary Agricultural Districts will not be permitted in designated growth corridors as delineated on the official County planning map without the approval of the Board of Commissioners. Upon request, districts located in growth corridors designated after the effective date of this program may be allowed to remain. Upon request, districts located in growth corridors designated after the effective date of this program may be allowed to expand to include adjoining property purchased by a landowner presently participating in the Columbus County Voluntary Agricultural District Ordinance. Any requests made under this Section, should be made through the Planning Board, 111 Washington Street, Whiteville, NC 28472. The approval of the Board of Commissioners will be on a case by case basis.

## **ARTICLE XI: SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW**

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the Voluntary Agricultural Districts within one-half (½) aerial mile of the proposed development.

## **ARTICLE XII: PUBLIC HEARINGS**

### **A. Purpose**

Pursuant to N.C.G.S. §106-740, hereby attached and incorporated by reference in Exhibit A, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a Voluntary Agricultural District until such agency or unit has requested the Voluntary Agricultural District Board to hold a public hearing on the proposed condemnation.

### **B. Procedure**

1. Upon receiving a request, the Voluntary Agricultural District Board shall publish notice describing the proposed action in the appropriate newspapers of Columbus County within five (5) business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within ten (10) calendar days of receipt of the request.
2. The Voluntary Agricultural District Board shall meet to review:
  - a. Whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
  - b. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.
3. The Voluntary Agricultural District Board shall consult with the County Agricultural Extension Agent, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Voluntary Agricultural District Board to be necessary for its review of the proposed action.

4. Within five (5) business days after the hearing, the Voluntary Agricultural District Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public prior to its being conveyed to the decision-making body of the agency proposing the acquisition. This report will be published describing the action in the appropriate newspapers of Columbus County.
5. There will be a period of ten (10) calendar days allowed for public comment on the report of the Voluntary Agricultural District Board.
6. After the ten (10) calendar day period for public comment has expired, the Voluntary Agricultural District Board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision making body of the agency proposing the acquisition.
7. The total time period, from the day that a request for a hearing has been received to the day that a final report is issued to the decision making body of the agency proposing the acquisition, shall not exceed thirty (30) calendar days. If the agency agrees to an extension, the agency and the Voluntary Agricultural District Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.
8. Pursuant to N.C.G.S. §106-740, hereby attached and incorporated by reference in Exhibit A, the Board of Commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Voluntary Agricultural District Board.

### **ARTICLE XIII: NORTH CAROLINA AGENCY NOTIFICATION**

#### **Section 1200. Consultation with N.C. Department of Agriculture and Consumer Services and Other Agencies**

The Voluntary Agricultural District Board may consult with the Cooperative Extension Service Office, the USDA Natural Resources Conservation Service Office, the USDA Farm Service Agency Office, the N. C. Department of Agriculture and Consumer Services, and any other such agency the Voluntary Agricultural District Board deems necessary to properly conduct its business.

#### **Section 1201. Recording the Program Ordinance**

An official copy of this program ordinance shall be recorded with the North Carolina Commissioner of Agriculture's Office after adoption. On July 1 of each calendar year, the Voluntary Agricultural District Board shall submit a written report to the Commissioner of Agriculture, including the status, progress and activities of the County's Farmland Preservation program and Voluntary Agricultural Districting information regarding:

- (1) Number of landowners enrolled;
- (2) Number of acres applied;
- (3) Number of acres certified;
- (4) Number of acres denied; and
- (5) Date certified.

### **ARTICLE XIV: LEGAL PROVISIONS**

#### **Section 1300. Severability, Conflict with Other Ordinances and Statutes, and Amendments**

- (1) **Severability.** If any article, section, subsection, clause, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
- (2) **Conflict with other ordinances and statutes.** Pursuant to relevant North Carolina law, whenever the provisions of this ordinance conflict with other ordinances of Columbus County, the Board of Commissioners shall determine which ordinance shall govern.

Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.

- (3) **Amendments.** This ordinance may be amended from time to time after a public hearing, notice of which shall be sent to program participants by first class mail thirty (30) calendar days prior to the hearing, and in consultation with the Voluntary Agricultural District Board to the Board of Commissioners.

#### **ARTICLE XV: ENACTMENT**

The Columbus County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

**ADOPTED** this the 3<sup>rd</sup> day of November, 2008.

#### **COLUMBUS COUNTY BOARD OF COMMISSIONERS**

/s/ **JAMES E. PREVATTE, Chairman**

#### **ATTESTED BY:**

/s/ **JUNE B. HALL, Clerk to Board**

Approved as to form:

/s/ **STEVEN W. FOWLER, County Attorney**

#### **WAIVER OF CONTENTS TO THE NC GENERAL ASSEMBLY STATUTES**

**While every effort was made to ensure that these documents are accurate and complete, the Columbus Soil and Water Conservation District, the Columbus County Board of Commissioners, the Columbus County Voluntary Agricultural District Board, nor any other agency mentioned herein can not be responsible for errors or omissions found in these statutes. If errors are found in these statutes, please contact the NC General Assembly staff members and have them investigate the irregularities.**

## **EXHIBIT "A"**

### **Article 61.**

#### **Agricultural Development and Preservation of Farmland.**

##### **Part 1. General Provisions.**

#### **§ 106 735. Short title and purpose.**

- (a) This Article shall be known as "The Agricultural Development and Farmland Preservation Enabling Act."
- (b) The purpose of this Article is to authorize counties and cities to undertake a series of programs to encourage the preservation of qualifying farmland, as defined herein, and to foster the growth, development, and sustainability of family farms. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005 390, ss. 2, 9.)

#### **§ 106 736. Agricultural Development/Farmland preservation programs authorized.**

- (a) A county or a city may by ordinance establish a farmland preservation program under this Article. The ordinance may authorize qualifying farms, as defined in G.S. 106 737, to take advantage of one or more of the benefits authorized by the remaining sections of this Article.
- (b) A county or a city may develop programs to promote the growth, development, and sustainability of farming and assist farmers in developing and implementing plans that achieve these goals. For purposes of this Article, the terms "agriculture", "agricultural", and "farming" have the same meaning as set forth in G.S. 106 581.1. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005 390, ss. 2, 10.)

##### **Part 2. Voluntary Agricultural Districts.**

#### **§ 106 737. Qualifying farmland.**

In order for farmland to qualify for inclusion in a voluntary agricultural district or an enhanced voluntary agricultural district under Part 1 or Part 2 of this Article, it must be real property that:

- (1) Is participating in the farm present use value taxation program established by G.S. 105 277.2 through 105 277.7 or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105 277.3;
- (2) Repealed by Session Laws 2005 390, s. 11 effective September 13, 2005.
- (3) Is managed in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodible land; and
- (4) Is the subject of a conservation agreement, as defined in G.S. 121 35, between the county and the owner of such land that prohibits nonfarm use or development of such land for a period of at least 10 years, except for the creation of not more than three lots that meet applicable county zoning and

subdivision regulations. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005 390, ss. 3, 11.)

**§ 106 738. Voluntary agricultural districts.**

- (a) An ordinance adopted under this Part shall provide:
- (1) For the establishment of voluntary agricultural districts consisting initially of at least the number of contiguous acres of agricultural land, and forestland or horticultural land that is part of a qualifying farm or the number of qualifying farms deemed appropriate by the governing board of the county or city adopting the ordinance;
  - (2) For the formation of such districts upon the execution by the owners of the requisite acreage of an agreement to sustain agriculture in the district;
  - (3) That the form of this agreement must be reviewed and approved by an agricultural advisory board established under G.S. 106 739 or some other county board or official;
  - (4) That each such district have a representative on the agricultural advisory board established under G.S. 106 739.
- (b) The purpose of such agricultural districts shall be to increase identity and pride in the agricultural community and its way of life and to increase protection from nuisance suits and other negative impacts on properly managed farms. The county or city that adopted an ordinance under this Part may take such action as it deems appropriate to encourage the formation of such districts and to further their purposes and objectives.
- (c) A county ordinance adopted pursuant to this Part is effective within the unincorporated areas of the county. A city ordinance adopted pursuant to this Part is effective within the corporate limits of the city. A city may amend its ordinances in accordance with G.S. 160A 383.2 with regard to agricultural districts within its planning jurisdiction. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005 390, ss. 3, 12.)

**§ 106 739. Agricultural advisory board.**

An ordinance adopted under this Part or Part 3 of this Article shall provide for the establishment of an agricultural advisory board, organized and appointed as the county or city that adopted the ordinance shall deem appropriate. The county or city that adopted the ordinance may confer upon this advisory board authority to:

- (1) Review and make recommendations concerning the establishment and modification of agricultural districts;
- (2) Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption under this Part or Part 3 of this Article;
- (3) Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farm;
- (4) Advise the governing board of the county or city that adopted the ordinance on projects, programs, or issues affecting the agricultural economy or way of life within the county;
- (5) Perform other related tasks or duties assigned by the governing board of the county or city that adopted the ordinance. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005 390, ss. 3, 13.)

**§ 106 740. Public hearings on condemnation of farmland.**

An ordinance adopted under this Part or Part 3 of this Article may provide that no State or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a voluntary agricultural district under this Part or an enhanced voluntary agricultural district under Part 3 of this Article until such agency has requested the local agricultural advisory board established under G.S. 106 739 to hold a public hearing on the proposed condemnation.

- (1) Following a public hearing held pursuant to this section, the board shall prepare and submit written findings and a recommendation to the decision making body of the agency proposing acquisition.
- (2) The board designated to hold the hearing shall have 30 days after receiving a request under this section to hold the public hearing and submit its findings and recommendations to the agency.
- (3) The agency may not formally initiate a condemnation action while the proposed condemnation is properly before the advisory board within these time limitations. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005 390, ss. 3, 14.)

**§ 106 741. Record notice of proximity to farmlands.**

- (a) Any county that has a computerized land records system may require that such records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one half mile of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or within one half mile of a voluntary agricultural district.
- (b) In no event shall the county or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by any ordinance adopted under subsection (a).
- (c) In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this Article. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005 390, s. 3.)

**§ 106 742. Waiver of water and sewer assessments.**

- (a) A county or a city that has adopted an ordinance under this Part may provide by ordinance that its water and sewer assessments be held in abeyance, with or without interest, for farms, whether inside or outside of a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.
- (b) The ordinance may provide that, when the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

- (c) Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.
- (d) If an ordinance is adopted under this section, then the assessment procedures followed under Article 9 of Chapter 153A of the General Statutes or Article 10 of Chapter 160A of the General Statutes, whichever applies, shall conform to the terms of this ordinance with respect to qualifying farms that entered into conservation agreements while such ordinance was in effect.
- (e) Nothing in this section is intended to diminish the authority of counties or cities to hold assessments in abeyance under G.S. 153A 201 or G.S. 160A 237. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005 390, ss. 3, 15.)

**§ 106 743. Local ordinances.**

A county or a city adopting an ordinance under this Part or Part 3 of this Article may consult with the North Carolina Commissioner of Agriculture or his staff before adoption, and shall record the ordinance with the Commissioner's office after adoption. Thereafter, the county or city shall submit to the Commissioner at least once a year, a written report including the status, progress and activities of its farmland preservation program under this Part or Part 3 of this Article. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005 390, ss. 3, 16

## EXHIBIT "B"

**§ 105 277.2. Agricultural, horticultural, and forestland – Definitions.**

The following definitions apply in G.S. 105 277.3 through G.S. 105 277.7:

- (1) **Agricultural land.** – Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit must be appraised under the use value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in G.S. 105 277.3(a)(1), and each tract must be under a sound management program. If the agricultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent agricultural land, protect water quality of adjacent agricultural land, or serve as buffers for adjacent livestock or poultry operations.
- (1a) **Business entity.** – A corporation, a general partnership, a limited partnership, or a limited liability company.
- (2) **Forestland.** – Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit, but the wasteland included in the unit must be appraised under the use value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in G.S. 105 277.3(a)(3), and each tract must be under a sound management program.
- (3) **Horticultural land.** – Land that is a part of a horticultural unit that is actively engaged in the commercial production or growing of fruits or vegetables or nursery or floral products under a sound management program. Horticultural land includes woodland and wasteland that is a part of the horticultural unit, but the woodland and wasteland included in the unit must be appraised under the use value schedules as woodland or wasteland. A horticultural unit may consist of more than one tract of horticultural land, but at least one of the tracts must meet the requirements in G.S. 105 277.3(a)(2), and each tract must be under a sound management program. If the horticultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent horticultural land or protect water quality of adjacent horticultural land. Land used to grow horticultural and agricultural crops on a rotating basis or where the horticultural crop is set out or planted and harvested within one growing season, may be treated as agricultural land as described in subdivision (1) of this section when there is determined to be no significant difference in the cash rental rates for the land.
- (4) **Individually owned.** – Owned by one of the following:
  - a. A natural person. For the purpose of this section, a natural person who is an income beneficiary of a trust that owns land may elect to treat the person's beneficial share of the land as owned by that person. If the person's beneficial interest is not an identifiable share of land but can be established as a proportional interest in the trust income, the person's beneficial share of land is a percentage of the land owned by the trust that corresponds to the beneficiary's proportional interest in the trust income. For the purpose of this section, a natural person who is a member of a business entity, other than a corporation, that owns land may elect to treat the person's share of the land as owned by that person. The person's share is a percentage of the land owned by the business entity that corresponds to the person's percentage of ownership in the entity.
  - b. A business entity having as its principal business one of the activities described in subdivisions (1), (2), and (3) and whose members are all natural persons who meet one or more of the conditions listed in this sub subdivision. For the purpose of this sub subdivision, the terms "having as its principal business" and "actively engaged in the

business of the entity" include the leasing of the land for one of the activities described in subdivisions (1), (2), and (3) only if all members of the business entity are relatives.

1. The member is actively engaged in the business of the entity.
  2. The member is a relative of a member who is actively engaged in the business of the entity.
  3. The member is a relative of, and inherited the membership interest from, a decedent who met one or both of the preceding conditions after the land qualified for classification in the hands of the business entity.
- c. A trust that was created by a natural person who transferred the land to the trust and each of whose beneficiaries who is currently entitled to receive income or principal meets one of the following conditions:
1. Is the creator of the trust or the creator's relative.
  2. Is a second trust whose beneficiaries who are currently entitled to receive income or principal are all either the creator of the first trust or the creator's relatives.
- d. A testamentary trust that meets all of the following conditions:
1. It was created by a natural person who transferred to the trust land that qualified in that person's hands for classification under G.S. 105 277.3.
  2. At the time of the creator's death, the creator had no relatives as defined in this section as of the date of death.
  3. The trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes as defined in G.S. 105 278.3(d).
- e. Tenants in common, if each tenant is either a natural person or a business entity described in sub subdivision b. of this subdivision. Tenants in common may elect to treat their individual shares as owned by them individually in accordance with G.S. 105 302(c)(9). The ownership requirements of G.S. 105 277.3(b) apply to each tenant in common who is a natural person, and the ownership requirements of G.S. 105 277.3(b1) apply to each tenant in common who is a business entity.
- (4a) Member. – A shareholder of a corporation, a partner of a general or limited partnership, or a member of a limited liability company.
- (5) Present use value. – The value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income and assuming an average level of management. A rate of nine percent (9%) shall be used to capitalize the expected net income of forestland. The capitalization rate for agricultural land and horticultural land is to be determined by the Use Value Advisory Board as provided in G.S. 105 277.7.
- (5a) Relative. – Any of the following:
- a. A spouse or the spouse's lineal ancestor or descendant.
  - b. A lineal ancestor or a lineal descendant.
  - c. A brother or sister, or the lineal descendant of a brother or sister. For the purposes of this sub subdivision, the term brother or sister includes stepbrother or stepsister.
  - d. An aunt or an uncle.
  - e. A spouse of a person listed in paragraphs a. through d. For the purpose of this subdivision, an adoptive or adopted relative is a relative and the term "spouse" includes a surviving spouse.
- (6) Sound management program. – A program of production designed to obtain the greatest net return from the land consistent with its conservation and long term improvement.
- b. Use of the same equipment or labor force.
- (7) Unit. – One or more tracts of agricultural land, horticultural land, or forestland. Multiple tracts must be under the same ownership and be of the same type of classification. If the multiple tracts are located within different counties, they must be within 50 miles of a tract qualifying under G.S. 105 277.3(a). (1973, c. 709, s. 1; 1975, c. 746, s. 1; 1985, c. 628, s. 1; c. 667, ss. 1, 4; 1987, c. 698, s. 1; 1995, c. 454, s. 1; 1995 (Reg. Sess., 1996), c. 646, s. 17; 1998 98, s. 24; 2002 184, s. 1; 2004 8, s. 1; 2005 313, ss. 1, 2.)

### § 105 277.3. Agricultural, horticultural, and forestland – Classifications.

- (a) Classes Defined. – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105 277.2 through G.S. 105 277.7.
- (1) **(Effective for taxes imposed for taxable years beginning before July 1, 2008)**  
 Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which consists of at least 10 acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108 357, Title VI, Fair and Equitable Tobacco Reform Act of 2004. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.
- (1) **(Effective for taxes imposed for taxable years beginning on or after July 1, 2008)**

Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106 758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108 357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.

- (2) Horticultural land. – Individually owned horticultural land consisting of one or more tracts, one of which consists of at least five acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have met the applicable minimum gross income requirement. Land in actual production includes land under improvements used in the commercial production or growing of fruits or vegetables or nursery or floral products. Land that has been used to produce evergreens intended for use as Christmas trees must have met the minimum gross income requirements established by the Department of Revenue for the land. All other horticultural land must have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the horticultural products produced from the land and any payments received under a governmental soil conservation or land retirement program.
  - (3) Forestland. – Individually owned forestland consisting of one or more tracts, one of which consists of at least 20 acres that are in actual production and are not included in a farm unit.
- (b) Natural Person Ownership Requirements. – In order to come within a classification described in subsection (a) of this section, the land must, if owned by a natural person, also satisfy one of the following conditions:
- (1) It is the owner's place of residence.
  - (2) It has been owned by the current owner or a relative of the current owner for the four years preceding January 1 of the year for which the benefit of this section is claimed.
  - (3) At the time of transfer to the current owner, it qualified for classification in the hands of a business entity or trust that transferred the land to the current owner who was a member of the business entity or a beneficiary of the trust, as appropriate.
- (b1) Entity Ownership Requirements. – In order to come within a classification described in subsection (a) of this section, the land must, if owned by a business entity or trust, have been owned by the business entity or trust or by one or more of its members or creators, respectively, for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed.
- (b2) Exception to Ownership Requirements. – Notwithstanding the provisions of subsections (b) and (b1) of this section, land may qualify for classification in the hands of the new owner if all of the conditions listed in either subdivision of this subsection are met, even if the new owner does not meet all of the ownership requirements of subsections (b) and (b1) of this section with respect to the land.
- (1) Exception for assumption of deferred liability. – If the land qualifies for classification in the hands of the new owner under the provisions of this subdivision, then the deferred taxes remain a lien on the land under G.S. 105 277.4©, the new owner becomes liable for the deferred taxes, and the deferred taxes become payable if the land fails to meet any other condition or requirement for classification. Land qualifies for classification in the hands of the new owner if all of the following conditions are met:
    - a. The land was appraised at its present use value at the time title to the land passed to the new owner.
    - b. At the time title to the land passed to the new owner, the new owner acquires the land for the purposes of and continues to use the land for the purposes it was classified under subsection (a) of this section while under previous ownership.
    - c. The new owner has timely filed an application as required by G.S. 105 277.4(a) and has certified that the new owner accepts liability for the deferred taxes and intends to continue the present use of the land.
  - (2) Exception for expansion of existing unit. – If deferred liability is not assumed under subdivision (1) of this subsection, the land qualifies for classification in the hands of the new owner if, at the time title passed to the new owner, the land was being used for the same purpose and was eligible for appraisal at its present use value as other land already owned by the new owner and classified under subsection (a) of this section. The new owner must timely file an application as required by G.S. 105 277.4(a).
- (c) Repealed by Session Laws 1995, c. 454, s. 2.
- (d) Exception for Conservation Reserve Program. – Land enrolled in the federal Conservation Reserve Program authorized by 16 U.S.C. Chapter 58 is considered to be in actual production, and income derived from participation in the federal Conservation Reserve Program may be used in meeting the

minimum gross income requirements of this section either separately or in combination with income from actual production. Land enrolled in the federal Conservation Reserve Program must be assessed as agricultural land if it is planted in vegetation other than trees, or as forestland if it is planted in trees.

- (d1) Exception for Easements on Qualified Conservation Lands Previously Appraised at Use Value. – Property that is appraised at its present use value under G.S. 105 277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105 277.2 through G.S. 105 277.7 as long as the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105 130.34 and G.S. 105 151.12, without regard to actual production or income requirements of this section. Notwithstanding G.S. 105 277.3(b) and (b1), subsequent transfer of the property does not extinguish its present use value eligibility as long as the property remains subject to an enforceable conservation easement that qualifies for the conservation tax credit provided in G.S. 105 130.34 and G.S. 105 151.12. The exception provided in this subsection applies only to that part of the property that is subject to the easement.
- (e) Exception for Turkey Disease. – Agricultural land that meets all of the following conditions is considered to be in actual production and to meet the minimum gross income requirements:
  - (1) The land was in actual production in turkey growing within the preceding two years and qualified for present use value treatment while it was in actual production.
  - (2) The land was taken out of actual production in turkey growing solely for health and safety considerations due to the presence of Poultry Enteritis Mortality Syndrome among turkeys in the same county or a neighboring county.
  - (3) The land is otherwise eligible for present use value treatment.
- (f) Sound Management Program for Agricultural Land and Horticultural Land. – If the property owner demonstrates any one of the following factors with respect to agricultural land or horticultural land, then the land is operated under a sound management program:
  - (1) Enrollment in and compliance with an agency administered and approved farm management plan.
  - (2) Compliance with a set of best management practices.
  - (3) Compliance with a minimum gross income per acre test.
  - (4) Evidence of net income from the farm operation.
  - (5) Evidence that farming is the farm operator's principal source of income.
  - (6) Certification by a recognized agricultural or horticultural agency within the county that the land is operated under a sound management program.

Operation under a sound management program may also be demonstrated by evidence of other similar factors. As long as a farm operator meets the sound management requirements, it is irrelevant whether the property owner received income or rent from the farm operator.
- (g) Sound Management Program for Forestland. – If the owner of forestland demonstrates that the forestland complies with a written sound forest management plan for the production and sale of forest products, then the forestland is operated under a sound management program. (1973, c. 709, s. 1; 1975, c. 746, s. 2; 1983, c. 821; c. 826; 1985, c. 667, ss. 2, 3, 6.1; 1987, c. 698, ss. 2 5; 1987 (Reg. Sess., 1988), c. 1044, s. 13.1; 1989, cc. 99, 736, s. 1; 1989 (Reg. Sess., 1990), c. 814, s. 29; 1995, c. 454, s. 2; 1997 272, s. 1; 1998 98, s. 22; 2001 499, s. 1; 2002 184, s. 2; 2005 293, s. 1; 2005 313, s. 3; 2007 484, s. 43.7T©; 2007 497, s. 3.1.)

**§ 105 277.4. Agricultural, horticultural and forestland – Application; appraisal at use value; appeal; deferred taxes.**

- (a) Application. – Property coming within one of the classes defined in G.S. 105 277.3 is eligible for taxation on the basis of the value of the property in its present use if a timely and proper application is filed with the assessor of the county in which the property is located. The application must clearly show that the property comes within one of the classes and must also contain any other relevant information required by the assessor to properly appraise the property at its present use value. An initial application must be filed during the regular listing period of the year for which the benefit of this classification is first claimed, or within 30 days of the date shown on a notice of a change in valuation made pursuant to G.S. 105 286 or G.S. 105 287. A new application is not required to be submitted unless the property is transferred or becomes ineligible for use value appraisal because of a change in use or acreage. An application required due to transfer of the land may be submitted at any time during the calendar year but must be submitted within 60 days of the date of the property's transfer.
- (a1) Late Application. – Upon a showing of good cause by the applicant for failure to make a timely application as required by subsection (a) of this section, an application may be approved by the board of equalization and review or, if that board is not in session, by the board of county commissioners. An untimely application approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed. Decisions of the county board may be appealed to the Property Tax Commission.
- (b) Appraisal at Present use Value. – Upon receipt of a properly executed application, the assessor must appraise the property at its present use value as established in the schedule prepared pursuant to G.S. 105 317. In appraising the property at its present use value, the assessor must appraise the improvements located on qualifying land according to the schedules and standards used in appraising other similar improvements in the county. If all or any part of a qualifying tract of land is located within the limits of an incorporated city or town, or is property annexed subject to G.S. 160A 37(f1)



- or G.S. 160A 49(f1), the assessor must furnish a copy of the property record showing both the present use appraisal and the valuation upon which the property would have been taxed in the absence of this classification to the collector of the city or town. The assessor must also notify the tax collector of any changes in the appraisals or in the eligibility of the property for the benefit of this classification. Upon a request for a certification pursuant to G.S. 160A 37(f1) or G.S.160A 49(f1), or any change in the certification, the assessor for the county where the land subject to the annexation is located must, within 30 days, determine if the land meets the requirements of G.S. 160A 37(f1)(2) or G.S. 160A 49(f1)(2) and report the results of its findings to the city.
- (b1) Appeal. – Decisions of the assessor regarding the qualification or appraisal of property under this section may be appealed to the county board of equalization and review or, if that board is not in session, to the board of county commissioners. An appeal must be made within 60 days after the decision of the assessor. If an owner submits additional information to the assessor pursuant to G.S. 105 296(j), the appeal must be made within 60 days after the assessor's decision based on the additional information. Decisions of the county board may be appealed to the Property Tax Commission.
- (c) Deferred Taxes. – Land meeting the conditions for classification under G.S. 105 277.3 must be taxed on the basis of the value of the land for its present use. The difference between the taxes due on the present use basis and the taxes that would have been payable in the absence of this classification, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property of the taxpayer as provided in G.S. 105 355(a). The difference in taxes must be carried forward in the records of the taxing unit or units as deferred taxes. The taxes become due and payable when the land fails to meet any condition or requirement for classification. Failure to have an application approved is ground for disqualification. The tax for the fiscal year that opens in the calendar year in which deferred taxes become due is computed as if the land had not been classified for that year, and taxes for the preceding three fiscal years that have been deferred are immediately payable, together with interest as provided in G.S. 105 360 for unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. If only a part of the qualifying tract of land fails to meet a condition or requirement for classification, the assessor must determine the amount of deferred taxes applicable to that part and that amount becomes payable with interest as provided above. Upon the payment of any taxes deferred in accordance with this section for the three years immediately preceding a disqualification, all liens arising under this subsection are extinguished. The deferred taxes for any given year may be paid in that year without the qualifying tract of land becoming ineligible for deferred status.
- (d) Exceptions. – Notwithstanding the provisions of subsection © of this section, if property loses its eligibility for present use value classification solely due to one of the following reasons, no deferred taxes are due and the lien for the deferred taxes is extinguished:
- (1) There is a change in income caused by enrollment of the property in the federal conservation reserve program established under 16 U.S.C. Chapter 58.
  - (2) The property is conveyed by gift to a nonprofit organization and qualifies for exclusion from the tax base pursuant to G.S. 105 275(12) or G.S. 105 275(29).
  - (3) The property is conveyed by gift to the State, a political subdivision of the State, or the United States.
- (e) Repealed by Session Laws 1997 270, s. 3, effective July 3, 1997. (1973, c. 709, s. 1; c. 905; c. 906, ss. 1, 2; 1975, c. 62; c. 746, ss. 3 7; 1981, c. 835; 1985, c. 518, s. 1; c. 667, ss. 5, 6; 1987, c. 45, s. 1; c. 295, s. 5; c. 698, s. 6; 1987 (Reg. Sess., 1988), c. 1044, s. 13.2; 1995, c. 443, s. 4; c. 454, s. 3; 1997 270, s. 3; 1998 98, s. 23; 1998 150, s. 1; 2001 499, s. 2; 2002 184, s. 3; 2005 313, s. 4; 2006 30, s. 4.)

**§ 105 277.5. Agricultural, horticultural and forestland – Notice of change in use.**

Not later than the close of the listing period following a change which would disqualify all or a part of a tract of land receiving the benefit of this classification, the property owner shall furnish the assessor with complete information regarding such change. Any property owner who fails to notify the assessor of changes as aforesaid regarding land receiving the benefit of this classification shall be subject to a penalty of ten percent (10%) of the total amount of the deferred taxes and interest thereon for each listing period for which the failure to report continues. (1973, c. 709, s. 1; 1975, c. 746, s. 8; 1987, c. 45, s. 1.)

**§ 105 277.6. Agricultural, horticultural and forestland – Appraisal; computation of deferred tax.**

- (a) In determining the amount of the deferred taxes herein provided, the assessor shall use the appraised valuation established in the county's last general revaluation except for any changes made under the provisions of G.S. 105 287.
- (b) In revaluation years, as provided in G.S. 105 286, all property entitled to classification under G.S. 105 277.3 shall be reappraised at its true value in money and at its present use value as of the effective date of the revaluation. The two valuations shall continue in effect and shall provide the basis for deferred taxes until a change in one or both of the appraisals is required by law. The present use value schedule, standards, and rules shall be used by the tax assessor to appraise property receiving the benefit of this classification until the next general revaluation of real property in the county as required by G.S. 105 286.
- (c) Repealed by Session Laws 1987, c. 295, s. 2. (1973, c. 709, s. 1; 1975, c. 746, ss. 9, 10; 1987, c. 45, s. 1, c. 295, s. 2.)

## EXHIBIT “C”

### § 121 35. Definitions.

Subject to any additional definitions contained in this Article, or unless the context otherwise requires:

- (1) A "conservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land or improvement thereon or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming or forest use, to forbid or limit any or all (I) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (ii) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (iii) removal or destruction of trees, shrubs or other vegetation, (iv) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, (v) surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition, (vi) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or (vii) other acts or uses detrimental to such retention of land or water areas.
- (2) "Holder" means any public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision or municipal or public corporation, or any instrumentality of any of the foregoing, any agency, department, or instrumentality of the United States, any nonprofit corporation or trust, or any private corporation or business entity whose purposes include any of those stated in (1) and (3), covering the purposes of preservation and conservation agreements.
- (3) A "preservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant, condition or otherwise, in any deed, will or other instrument executed by or on behalf of the owner of the land or any improvement thereon, or in any other [order] of taking, appropriate to preservation of a structure or site historically significant for its architecture, archaeology or historical associations, to forbid or limit any or all (I) alteration, (ii) alterations in exterior or interior features of the structure, (iii) changes in appearance or condition of the site, (iv) uses not historically appropriate, or (v) other acts or uses supportive of or detrimental to appropriate preservation of the structure or site. (1979, c. 747, s. 2; 1995, c. 443, s. 1.)

## EXHIBIT “D”

### Part 4. Agricultural Conservation Easements.

#### § 106 744. Purchase of agricultural conservation easements; establishment of North Carolina Agricultural Development and Farmland Preservation Trust Fund and Advisory Committee.

- (a) A county may, with the voluntary consent of landowners, acquire by purchase agricultural conservation easements over qualifying farmland as defined by G.S. 106 737.
- (b) For purposes of this section, "agricultural conservation easement" means a negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement:
  - (1) May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations;
  - (1a) May permit agricultural uses as necessary to promote agricultural development associated with the family farm; and
  - (2) Shall be perpetual in duration, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question.
- (c) There is established a "North Carolina Agricultural Development and Farmland Preservation Trust Fund" to be administered by the Commissioner of Agriculture. The Trust Fund shall consist of all monies received for the purpose of purchasing agricultural conservation easements or funding programs that promote the development and sustainability of farming and assist in the transition of existing farms to new farm families, or monies transferred from counties or private sources. The Trust Fund shall be invested as provided in G.S. 147 69.2 and G.S. 147 69.3. The Commissioner shall use Trust Fund monies for any of the following:
  - (1) The purchase of agricultural conservation easements, including transaction costs.
  - (2) Public and private enterprise programs that will promote profitable and sustainable family farms through assistance to farmers in developing and implementing plans for the production of food, fiber, and value-added products, agritourism activities, marketing and sales of agricultural products produced on the farm, and other agriculturally related business activities.
  - (3) To fund conservation agreements to bring into or maintain farmland in active production of

- food, fiber, and other agricultural products.
- (4) The costs of administering the program under this Article, including the cost of staff and staff support.
- (c1) The Commissioner shall distribute Trust Fund monies for such purchases, including transaction costs, as follows:
- (1) To a private nonprofit conservation organization that matches thirty percent (30%) of the Trust Fund monies it receives with funds from sources other than the Trust Fund.
  - (2) To counties according to the match requirements under subsection (c2) of this section.
- (c2) A county that is a development tier two or three county, as these tiers are defined in G.S. 143B 437.08, and that has prepared a countywide farmland protection plan shall match fifteen percent (15%) of the Trust Fund monies it receives with county funds. A county that has not prepared a countywide farmland protection plan shall match thirty percent (30%) of the Trust Fund monies it receives with county funds. A county that is a development tier one county, as defined in G.S. 143B 437.08, and that has prepared a countywide farmland protection plan shall not be required to match any of the Trust Fund monies it receives with county funds.
- (c3) The Commissioner of Agriculture shall adopt rules governing the use, distribution, investment, and management of Trust Fund monies.
- (d) This section shall apply to agricultural conservation easements falling within its terms. This section shall not be construed to make unenforceable any restriction, easement, covenant, or condition that does not comply with the requirements of this section.  
 This section shall not be construed to invalidate any farmland preservation program.  
 This section shall not be construed to diminish the powers of any public entity, agency, or instrumentality to acquire by purchase, gift, devise, inheritance, eminent domain, or otherwise and to use property of any kind for public purposes.  
 This section shall not be construed to authorize any public entity, agency, or instrumentality to acquire by eminent domain an agricultural conservation easement.
- (e) As used in subsection (c2) of this section, a countywide farmland protection plan means a plan that satisfies all of the following requirements:
- (1) The countywide farmland protection plan shall contain a list and description of existing agricultural activity in the county.
  - (2) The countywide farmland protection plan shall contain a list of existing challenges to continued family farming in the county.
  - (3) The countywide farmland protection plan shall contain a list of opportunities for maintaining or enhancing small, family owned farms and the local agricultural economy.
  - (4) The countywide farmland protection plan shall describe how the county plans to maintain a viable agricultural community and shall address farmland preservation tools, such as agricultural economic development, including farm diversification and marketing assistance; other kinds of agricultural technical assistance, such as farm infrastructure financing, farmland purchasing, linking with younger farmers, and estate planning; the desirability and feasibility of donating agricultural conservation easements, and entering into voluntary agricultural districts.
  - (5) The countywide farmland protection plan shall contain a schedule for implementing the plan and an identification of possible funding sources for the long term support of the plan.
- (f) A countywide farmland protection plan that meets the requirements of subsection (e) of this section may be formulated with the assistance of an agricultural advisory board designated pursuant to G.S. 106 739.
- (g) There is established the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee. The Advisory Committee shall be administratively located within the Department of Agriculture and Consumer Services and shall advise the Commissioner on the prioritization and allocation of funds, the development of criteria for awarding funds, program planning, and other areas where monies from the Trust Fund can be used to promote the growth and development of family farms in North Carolina. The Advisory Committee shall be composed of 19 members as follows:
- (1) The Commissioner of Agriculture or the Commissioner's designee, who shall serve as the Chair of the Advisory Committee.
  - (2) The Secretary of Commerce or the Secretary's designee.
  - (3) The Secretary of Environment and Natural Resources or the Secretary's designee.
  - (4) Three practicing farmers, one appointed by the Governor, one appointed by the President Pro Tempore of the Senate, and one appointed by the Speaker of the House of Representatives.
  - (5) The Dean of the College of Agriculture and Life Sciences at North Carolina State University or the Dean's designee.
  - (6) The Dean of the School of Agriculture and Environmental Sciences at North Carolina Agricultural and Technical State University or the Dean's designee.
  - (7) The Executive Director of the North Carolina Rural Economic Development Center, Inc., or the Executive Director's designee.
  - (8) The Executive Director of the Conservation Trust for North Carolina or the Executive Director's designee.
  - (9) The Executive Director of the North Carolina Farm Transition Network or the Executive Director's designee.
  - (10) The President of the North Carolina Association of Soil and Water Conservation Districts or the President's designee.

- (11) The Director of the Southeast Regional Office of the American Farmland Trust or the Director's designee.
  - (12) The Executive Director of the North Carolina Agribusiness Council or the Executive Director's designee.
  - (13) The President of the North Carolina State Grange or the President's designee.
  - (14) The President of the North Carolina Farm Bureau Federation, Inc., or the President's designee.
  - (15) The President of the North Carolina Black Farmers and Agriculturalists Association or the President's designee.
  - (16) The President of the North Carolina Forestry Association or the President's designee.
  - (17) The Executive Director of the North Carolina Association of County Commissioners or the Executive Director's designee.
- (h) The Advisory Committee shall meet at least quarterly. The Department of Agriculture and Consumer Services shall provide the Advisory Committee with administrative and secretarial staff. Members of the Advisory Committee shall be entitled to per diem pursuant to G.S. 138 5 or G.S. 138 6, as appropriate. The Advisory Committee shall make recommendations to the Commissioner on the distribution of monies from the Trust Fund at least annually. The Commissioner shall take the recommendations of the Advisory Committee into consideration in making decisions on the distribution of monies from the Trust Fund.
- (I) The Advisory Committee shall report no later than May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources regarding the activities of the Advisory Committee, the agriculture easements purchased, and agricultural projects funded during the previous year. (1991, c. 734, s. 1; 2000 171, ss. 1, 2; 2005 390, ss. 4, 17; 2006 252, s. 2.12; 2007 495, s. 23.)

Commissioner Bullard made a motion to approve the Voluntary Agricultural Districts Ordinance, seconded by Commissioner McKenzie. The motion unanimously passed.

**Agenda Item #8: PURCHASING - APPROVAL OF RESOLUTION APPROVING FINANCING TERMS:**

Stuart Carroll, Purchasing Director, requested Board approval and adoption of the Resolution to award financing to BB&T for the purchase of a Ford pickup truck for Animal Control. Mr. Carroll stated the following:

1. The lowest price I could locate was Quality Ford at thirteen thousand, six hundred, and 00/100 (\$13,600.00) dollars;
2. The financing will be done locally at BB&T at three and six-tenths (3.6%) percent;  
**and**
3. The good thing about this is that Quality Ford will allow us to take possession of the truck now and the payments will not start until July, 2009.

Commissioner Gore stated that this same model truck could be purchased off of State Contract at twelve thousand, six hundred thirty-eight and 00/100 (\$12,638.00) dollars, and asked indeed what was wrong with the truck. Rossie Hayes, Animal Control Officer, replied stating it was the heater coil and the cost for the repair would six hundred and 00/100 (\$600.00) dollars.

After discussion was conducted relative to the actual need for a new truck to be purchased, the cost savings in getting the existing truck fixed, the savings of taxpayer's dollars, and the locating of the best price for the same type vehicle, Commissioner Bullard made a motion to table this matter until November 17, 2008, seconded by Commissioner Gore. The motion unanimously passed.

After discovery was made that the repair cost was not in the Animal Control Budget, Commissioner Norris made a motion to allocate the amount of six hundred and 00/100 (\$600.00) dollars to Animal Control for the repair of the heater coil, seconded by Commissioner Gore. The motion unanimously passed. This money is to be taken out of the Contingency Fund.

**Agenda Item #9: BICENTENNIAL COMMITTEE - PRESENTATION of the COLUMBUS COUNTY BICENTENNIAL COMMITTEE BUDGET:**

The Honorable Kandance Whitehead, Chairman of the Bicentennial Committee, presented the following Bicentennial Budget.

Liability Insurance	\$300.00
Tent Rental	\$500.00
Portable Toilets	\$500.00
Plaques	\$1,000.00
Donations to regiments	\$750.00
Food and Beverages for visiting regiments	\$200.00
Post Office Box Fees	\$70.00
Cost of flyers, certificates, mailings and advertisements	\$500.00
T-shirts and Christmas Ornaments	\$2,000.00
Fireworks	\$5,000.00
Memorial	<u>\$1,050.00</u>
<b>TOTAL:</b>	<b>\$11,870.00</b>

Registrar Whitehead stated the following:

1. We presently have nine thousand and 00/100 (\$9,000.00) dollars from donations that have been given from people in Columbus County;
2. This amount of money is not from any fund raisers that have been held;
3. We sincerely hope that each and everyone will come and participate in this once-in-a-lifetime event; **and**
4. Any monetary amount that the Board will consider giving to the Bicentennial Celebration will be greatly appreciated.

Commissioner Norris made a motion to give the sum of three thousand and 00/100 (\$3,000.00) dollars to the Bicentennial Committee toward the expense of the Bicentennial Celebration, with the stipulation that no taxpayers' dollars will go toward the purchase of fireworks, seconded by Commissioner McKenzie. The motion unanimously passed.

**Agenda Item #10: BICENTENNIAL COMMITTEE - PERMISSION to DISPLAY FIREWORKS on NOVEMBER 22, 2008, and REQUEST to WAIVE PERMIT FEE:**

The Honorable Kandance Whitehead, Chairman of the Bicentennial Committee, requested permission to display fireworks at the Bicentennial Celebration, and requested the permit fee for the fireworks to be waived.

Commissioner Jacobs made a motion to grant permission to the Bicentennial Committee to possess, transport, receive, deliver, and display fireworks at the Columbus County Fairgrounds on November 22, 2008, for the Columbus County Bicentennial Celebration, and to waive the fifty and 00/100 (\$50.00) dollars permit fee from the Fire Marshal's Office. This motion was seconded by Commissioner Gore. The motion unanimously passed.

**Agenda Item #11: ANIMAL CONTROL - DEPARTMENTAL UPDATE:**

Rossie Hayes, Animal Control Officer, delivered the following departmental update to the Board.

1. Our adoption rate of animals is good;
2. Our animals are posted on Petfinder.com which leads people to the Animal Shelter from many states;
3. We were the first Animal Shelter in North Carolina to get licensed which occurred three (3) years ago; **and**

4. We were inspected and were approved.

## **Agenda Item #12: FINANCE - DEPARTMENTAL UPDATE:**

Bobbie Faircloth, Deputy Finance Director, delivered the following departmental update to the Board.

1. The Finance Office is responsible for the following:
  - A. Monitoring expenses and revenues in order to ensure the information is entered into the financial software correctly;
  - B. Generating all county-issued checks to include Accounts Payable, Payroll, HUD and other funds;
  - C. Entering all journal entries, budget amendments and/or corrections to the accounts as necessary;
  - D. Monitoring all capital projects and grants; **and**
  - E. Recording and monitoring all fixed assets;
2. For the fiscal year ending June 30, 2008, Accounts Payable issued 12,874 checks for a total payment to vendors of \$43,899,123.45 which averages to 247 transactions per week or 1,072 transactions per month. Payroll processed 24 payrolls for a total of 14,028 transactions and HUD issued 3,502 checks totaling \$1,765,149.45;
3. Journal entries are always very heavy each month. They range from 75 to 125 per month and budget amendments can range from 5 to 15 per month and is subject to increase at year's end to 30 or greater for the remaining two months of any fiscal year;
4. Works in conjunction with the Budget Officer (County Manager) in preparing and presenting a balanced budget for adoption by the Columbus County Commissioners;
5. We have seven (7) ongoing Capital Projects and eleven (11) grants;
6. We performed a total of 83,483 transactions for year ending June 30, 2007, which included journal entries, Accounts Payable, budget amendments, etc.; **and**
7. We have eight (8) trust fund accounts that we oversee.

## **Agenda Item #13: PRESENTATION - FY 2007 - 2008 AUDIT:**

Alan Thompson, Thompson, Price, Scott, Adams and Company presented the FY 2007 - 2008 Audit to the Board with his findings and the following Management Letter. This document was not made available to the Clerk to the Board.

Dear Commissioners,

In planning and performing our audit of the general purpose financial statements of Columbus County for the year ended June 30, 2008, we considered the internal control structure in order to determine the extent and nature of our auditing procedures for the purpose of expressing an opinion on the financial statements, and not to provide assurance on the internal control system. However, we noted certain matters we considered important enough for your attention. No opinion is being expressed regarding internal control. Had our procedure been designed to express such an opinion other matters might have been noted.

We noted the following items that should enhance your internal control structure and reporting.

1. The Board should make adequate time for the Finance Officer/Deputy Finance Officer to perform random checks of the internal control system in the various departments. This would act as a deterrent since no one knows when their office would be checked. It would also enhance reporting and communication between the county's departments that handle cash. Efforts have been made to implement a policy, but additional efforts should be made.
2. Although the Tax Department is eventually getting over 99% of all taxes for any given year, the tax collection for the current year is below the state average. The current year's collection percentage increased from 94.39% last fiscal year to 94.54%. The collection rate for non-motor vehicles is in line with the state average.

3. The increasing size (growth) of the water districts and the finances related to them need careful attention going forward. The debt repayment and the operational effectiveness of the internal control in regards to the water districts will need constant attention until the growth stabilizes. Their ability to cash flow is crucial for long-term financial stability of the districts.
4. All county departments that handle cash should be monitored at least once a year as part of the county's Finance Department's role.
5. Interest income should be allocated.
6. All departments that handle bank accounts that are not handled directly by the Finance Department should provide this information to the Finance Department each month so the transactions can be properly reported in the financial statements (i.e. Inmate Trust Accounts, Special Alcohol and Drug Accounts, DSS Trust Accounts).
7. All department accounts should be monitored to ensure they stay within the constraints of the approved budget.

We noted a substantial improvement in the financial records of the County for this fiscal year as compared to the prior year. There were several instances of incorrect distributions performed by the software as a result of the change in the chart of accounts, which we believe has since been corrected. Therefore, we feel that the true effect cannot be determined until the 2008-2009 fiscal year audit is completed.

Our firm is available to meet with you at any time to discuss any item in the Audit Report. Our firm continues to be impressed with the quality of work performed by the Administrative staff of the County.

This report is intended for the information of management and the Governing Board. However, this is also a matter of public record, and its distribution is not limited.

/s/ **Thompson, Price, Scott, Adams and Company, P.A.**

In addition to the Management Letter, Mr. Price stated the following:

1. Columbus County received an unqualified opinion;
2. There were no significant findings;
3. There were no management disagreements;
4. Income did increase this year over last year;
5. The bottom figures reflect that the General Fund revenues exceed the General Fund expenditures;
6. The Water Districts Fund reflects a negative figure and that is due to depreciation and indirect cost allocation;
7. The State average is 97.61% for tax collection rate; **and**
8. Human Services is 46.8% of the entire budget which you have no control over.

Chairman Prevatte stated the Board would accept the Audit as information.

**RECESS REGULAR SESSION and enter into a COMBINATION MEETING of COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V BOARD MEETING**

At 7:51 P.M., Commissioner McKenzie made a motion to recess Regular Session and enter into a Combination Meeting of Columbus County Water and Sewer Districts I, II, III, IV and V, seconded by Commissioner Gore. The motion unanimously passed.

**Agenda Item #14: COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V - APPROVAL of BOARD MEETING MINUTES:**

October 20, 2008 Combination Meeting of Columbus County Water and Sewer Districts I, II, III, IV and V Board Meeting (5 Sets).

# 842

This information will be recorded in Minute Book Number 1 for each water district respectively.

**Agenda Item #15: COLUMBUS COUNTY WATER and SEWER DISTRICT IV - UPDATE on STATUS:**

Leroy Sellers, Public Utilities Director, presented the following update to the Board on Columbus County Water and Sewer District IV.

This information will be recorded in Minute Book Number 1 for Columbus County Water and Sewer District IV.

**ADJOURN COMBINATION MEETING of COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V BOARD MEETING and resume REGULAR SESSION**

At 7:57 P.M., Commissioner Jacobs made a motion to adjourn the Combination Meeting of Columbus County Water and Sewer District I, II, III, IV and V, seconded by Commissioner Norris. The motion unanimously passed.

**Agenda Item #15: A P P O I N T M E N T S / R E - A P P O I N T M E N T S - COMMITTEES/BOARDS:**

June B. Hall, Clerk to the Board, requested appointments/re-appointments to the following committees/Boards.

COMMITTEE	ZONE / EB	PERSON(S)	EXPIR. DATE	BOARD ACTION
Bicentennial Committee	IV	Rob Cross	N/A	TABLE
Whiteville (City of) Planning and Zoning Board (Outside City)	EB	Tom Ray	08-01-2010	TABLE
Planning Board	VI	Barry Glezinsky (Replaces Chandler Worley)	09-30-2011	Appointed

**Agenda Item #17: CONSENT AGENDA ITEM:**

**Budget Amendments:**

Commissioner Jacobs made a motion to approve the following Budget Amendments, seconded by Commissioner Gore. The motion unanimously passed.

TYPE	ACCOUNT	DETAILS	AMOUNT
Expenditure	10-5192-512100	BCCP Salaries & Wages	2,000
	10-5192-518100	BCCP FICA	500
	10-5192-518200	BCCP Retirement	250
	10-5192-518300	BCCP Insurance	250
	10-5192-518400	BCCP 401K Contribution	150
	10-5192-519000	BCCP Professional Services	5,350
Revenue	10-3510-430050	BCCP State Grant	8,500



<b>Expenditure</b>	10-4951-526003	Printing * printing info, computer supplies, office equipment,, refreshments, program supplies, office supplies, misc info or material, possibly some of funds used to enclose office space	4,200
<b>Revenue</b>	10-3495-430015	NC Dept of Insurance/Senior Health	4,200
<b>Expenditure</b>	10-5301-549986	Crisis Intervention	19,236
<b>Revenue</b>	10-3530-430068	Crisis Intervention	19,236

**Agenda Item #18: COMMENTS:**

Chairman Prevatte opened the floor for comments. The following spoke.

**B. Board of Commissioners:**

1. **Commissioner McKenzie:** stated the following:
  - A. I would like a discussion of county-wide water placed on the November 17, 2008 Agenda; **and**
  - B. Thank you for approving the funds for the Vietnam Moving Wall.
2. **Chairman Prevatte:** I would like to thank Bobbie Faircloth, Deputy Finance Officer, and the entire staff for their hard work which resulted in a good audit.

- C. **County Manager (William S. Clark):** I would like to encourage everyone to participate in the Bicentennial Celebration, and we need a good turnout.

**RECESS REGULAR SESSION and enter into CLOSED SESSION in ACCORDANCE with N.C.G.S. § 143-318.11 (1) and (3):**

At 8:05 P.M., Commissioner Gore made a motion to recess Regular Session and enter into a Closed Session in accordance with N.C.G.S. § 143-318.11 (1) and (3), seconded by Commissioner Norris. The motion unanimously passed.

**Agenda Item #19: CLOSED SESSION IN ACCORDANCE WITH N.C.G.S. § 143-318.11 (1) AND (3);**

No official action was taken.

**ADJOURN CLOSED SESSION and resume REGULAR SESSION:**

At 9:16 P.M., Commissioner Norris made a motion to adjourn Closed Session and resume Regular Session, seconded by Commissioner Gore. The motion unanimously passed.

**OTHER:****CLOSED SESSION MINUTES - APPROVAL and OPENING of GENERAL ACCOUNTS:**

- Chairman Prevatte stated the following:
1. The Columbus County Board of Commissioners authorizes the Office of the County Attorney to release the unapproved draft minutes and/or notes of Closed Sessions in 2004 and 2005 upon redaction by the County Attorney's Office. Redaction will include issues of personnel and/or continuing Attorney client Privilege including current litigation against Columbus County;
  2. The Board reviewed and approved, in total, the General Accounts for 2005; **and**
  3. In response to a Public Records Request, and with waiver of the Attorney Client Privilege, only to the extent of the released documents, the Board released, with

informed consent, wholly or in part, the General Accounts of the following Closed Sessions for 2005:

January 05, 2004	January 03, 2005	February 21, 2005
April 04, 2005	April 18, 2005	May 02, 2005
June 20, 2005	July 05, 2005	October 03, 2005
October 17, 2005	November 07, 2005	December 05, 2005.

**Agenda Item #20: ADJOURNMENT:**

At 9:21 P.M., Commissioner McKenzie made a motion to adjourn, seconded by Commissioner Jacobs. The motion unanimously passed.

**APPROVED:**

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**JUNE B. HALL, Clerk to Board**

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**JAMES E. PREVATTE, Chairman**

**COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V**  
**COMBINATION BOARD MEETING**

**Monday, November 03, 2008**

**7:51P.M.**

The Honorable Columbus County Commissioners met on the above stated date and at the above stated time in the Dempsey B. Herring Courthouse Annex Building, located at 112 West Smith Street, Whiteville, North Carolina, to act as the Columbus County Water and Sewer Districts I, II, III, IV and V Board.

**COMMISSIONERS PRESENT:**

James Prevatte, **Chairman**  
 Amon E. McKenzie  
 Sammie Jacobs  
 Lynwood Norris  
 Ricky Bullard  
 Ronald Gore

**APPOINTEES PRESENT:**

William S. Clark, **County Manager**  
 Steven W. Fowler, **County Attorney**  
 June B. Hall, **Clerk to Board**  
 Bobbie Faircloth, **Deputy Finance Officer**

**COMMISSIONER ABSENT:**

Bill Memory, **Vice Chairman**

**MEETING CALLED TO ORDER:**

At 7:51 P.M., Chairman Prevatte called the Columbus County Water and Sewer Districts I, II, III, IV and V **Combination** Board Meeting to order.

**Agenda Item #14: COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V - APPROVAL of BOARD MEETING MINUTES:**

Commissioner McKenzie made a motion to approve the October 20, 2008 **Combination Meeting** Minutes of the Columbus County Water and Sewer Districts I, II, III, IV and V Board Meeting, as recorded, seconded by Commissioner Norris. The motion unanimously passed.

**ADJOURNMENT:**

At 7:57 P.M., Commissioner Jacobs made a motion to adjourn, seconded by Commissioner Norris. The motion unanimously passed.

**APPROVED:**

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**JUNE B. HALL, Clerk to Board**

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**JAMES E. PREVATTE, Chairman**

**COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V  
COMBINATION BOARD MEETING  
Monday, November 03, 2008  
7:51P.M.**

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**COMMISSIONERS PRESENT:**

James Prevatte, **Chairman**  
Amon E. McKenzie  
Sammie Jacobs  
Lynwood Norris  
Ricky Bullard  
Ronald Gore

**APPOINTEES PRESENT:**

William S. Clark, **County Manager**  
Steven W. Fowler, **County Attorney**  
June B. Hall, **Clerk to Board**  
Bobbie Faircloth, **Deputy Finance Officer**

**COMMISSIONER ABSENT:**

Bill Memory, **Vice Chairman**

**MEETING CALLED TO ORDER:**

At 7:51 P.M., Chairman Prevatte called the Columbus County Water and Sewer Districts I, II, III, IV and V **Combination** Board Meeting to order.

**Agenda Item #14: COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V - APPROVAL of BOARD MEETING MINUTES:**

Commissioner McKenzie made a motion to approve the October 20, 2008 **Combination Meeting** Minutes of the Columbus County Water and Sewer Districts I, II, III, IV and V Board Meeting, as recorded, seconded by Commissioner Norris. The motion unanimously passed.

**ADJOURNMENT:**

At 7:57 P.M., Commissioner Jacobs made a motion to adjourn, seconded by Commissioner Norris. The motion unanimously passed.

**APPROVED:**

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**JUNE B. HALL, Clerk to Board**

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**JAMES E. PREVATTE, Chairman**

**COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V  
COMBINATION BOARD MEETING**

**Monday, November 03, 2008**

**7:51P.M.**

The Honorable Columbus County Commissioners met on the above stated date and at the above stated time in the Dempsey B. Herring Courthouse Annex Building, located at 112 West Smith Street, Whiteville, North Carolina, to act as the Columbus County Water and Sewer Districts I, II, III, IV and V Board.

**COMMISSIONERS PRESENT:**

James Prevatte, **Chairman**  
Amon E. McKenzie  
Sammie Jacobs  
Lynwood Norris  
Ricky Bullard  
Ronald Gore

**APPOINTEES PRESENT:**

William S. Clark, **County Manager**  
Steven W. Fowler, **County Attorney**  
June B. Hall, **Clerk to Board**  
Bobbie Faircloth, **Deputy Finance Officer**

**COMMISSIONER ABSENT:**

Bill Memory, **Vice Chairman**

**MEETING CALLED TO ORDER:**

At 7:51 P.M., Chairman Prevatte called the Columbus County Water and Sewer Districts I, II, III, IV and V **Combination** Board Meeting to order.

**Agenda Item #14: COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V - APPROVAL of BOARD MEETING MINUTES:**

Commissioner McKenzie made a motion to approve the October 20, 2008 **Combination Meeting** Minutes of the Columbus County Water and Sewer Districts I, II, III, IV and V Board Meeting, as recorded, seconded by Commissioner Norris. The motion unanimously passed.

**ADJOURNMENT:**

At 7:57 P.M., Commissioner Jacobs made a motion to adjourn, seconded by Commissioner Norris. The motion unanimously passed.

**APPROVED:**

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**JUNE B. HALL, Clerk to Board**

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**JAMES E. PREVATTE, Chairman**

**COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V  
COMBINATION BOARD MEETING**

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Ronald Gore

**APPOINTEES PRESENT:**

William S. Clark, **County Manager**  
Steven W. Fowler, **County Attorney**  
June B. Hall, **Clerk to Board**  
Bobbie Faircloth, **Deputy Finance Officer**

**COMMISSIONER ABSENT:**

Bill Memory, **Vice Chairman**

**MEETING CALLED TO ORDER:**

At 7:51 P.M., Chairman Prevatte called the Columbus County Water and Sewer Districts I, II, III, IV and V **Combination** Board Meeting to order.

**Agenda Item #14: COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V - APPROVAL of BOARD MEETING MINUTES:**

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**Agenda Item #15: COLUMBUS COUNTY WATER and SEWER DISTRICT IV - UPDATE on STATUS:**

Leroy Sellers, Public Utilities Director, presented the following update to the Board on Columbus County Water and Sewer District IV. In the absence of Mr. Sellers, Chairman Prevatte requested that Gail Edwards, Executive Assistant to the County Manager, deliver the update. Ms. Edwards stated that before this project can be bid or advertised, two (2) things were needed, as follows:

1. We need approval from DEHNR;
2. There are sixty-eight (68) or sixty-nine (69) easements that have to be done, and the County Attorney's Office is working on these; **and**

3. The new goal that has been established is the first of next year.

**ADJOURNMENT:**

At 7:57 P.M., Commissioner Jacobs made a motion to adjourn, seconded by Commissioner Norris. The motion unanimously passed.

**APPROVED:**

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**JUNE B. HALL, Clerk to Board**

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**JAMES E. PREVATTE, Chairman**

**COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V**  
**COMBINATION BOARD MEETING**

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**COMMISSIONERS PRESENT:**

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 Amon E. McKenzie  
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**APPOINTEES PRESENT:**

William S. Clark, **County Manager**  
 Steven W. Fowler, **County Attorney**  
 June B. Hall, **Clerk to Board**  
 Bobbie Faircloth, **Deputy Finance Officer**

**COMMISSIONER ABSENT:**

Bill Memory, **Vice Chairman**

**MEETING CALLED TO ORDER:**

At 7:51 P.M., Chairman Prevatte called the Columbus County Water and Sewer Districts I, II, III, IV and V **Combination** Board Meeting to order.

**Agenda Item #14: COLUMBUS COUNTY WATER and SEWER DISTRICTS I, II, III, IV and V - APPROVAL of BOARD MEETING MINUTES:**

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**ADJOURNMENT:**

At 7:57 P.M., Commissioner Jacobs made a motion to adjourn, seconded by Commissioner Norris. The motion unanimously passed.

**APPROVED:**

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**JUNE B. HALL, Clerk to Board**

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**JAMES E. PREVATTE, Chairman**