

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 5TH DAY OF DECEMBER, NINETEEN HUNDRED NINETY-FOUR, AT 5:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Perry M. DePue, Chairman, Powhatan District
David L. Sisk, Vice Chairman, Roberts District

Jack D. Edwards, Berkeley District
Robert A. Magoon, Jr., Jamestown District
Stewart U. Taylor, Stonehouse District
David B. Norman, County Administrator
Frank M. Morton, III, County Attorney

B. WORK SESSION - Water Issues

Mr. David B. Norman, County Administrator, introduced Mr. Larry M. Foster, General Manager, James City Service Authority, who gave a presentation on impacts and options of meeting short-term and long-term water needs of the County.

Mr. DePue declared a break at 6:00 p.m.

Mr. DePue reconvened the regular meeting at 7:00 p.m.

C. PRESENTATION - Employee Outstanding Service Awards

Mr. DePue presented certificates to Kim Johnson, Richard Garrett, and Norman Greenleaf of the Fire Department for coordination of donations of material and money and renovation of a trailer as a Safe House for tours to teach children and adults the benefits of fire safety.

He presented certificates to Steve Stephenson and in absentia to Bernard Farmer, Jr., and Rose King for their individual and collective efforts of saving County funds while replacing underground storage tanks at four sites.

D. MINUTES - November 21, 1994

Mr. DePue asked if there were additions or corrections to the minutes.

Mr. Sisk made a motion to approve the minutes.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

E. PUBLIC HEARINGS**1. Case No. SUP-26-94. Kingsmill Resort Ground Mounted Antenna**

Mr. Gary A. Pleskac, Planner, stated that Mr. Ed Warren, on behalf of Kingsmill Resort, had applied for a special use permit to install a 1.8 meter diameter satellite dish antenna and ground mount at Kingsmill Resort Center at 1010 Kingsmill Road, further identified as Parcel (1-1) on James City County Real Estate Tax Map No. (50-4).

Staff determined the proposal met the zoning ordinance requirements. In concurrence with staff, the Planning Commission unanimously recommended approval with conditions listed in the resolution.

Mr. DePue opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

RESOLUTION**CASE NO. SUP-26-94. KINGSMILL RESORT GROUND MOUNTED ANTENNA**

WHEREAS, James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 8, 1994, voted 7-0 with 1 abstention to recommend approval of Case No. SUP-26-94 to permit the installation of a ground mounted satellite dish antenna at the Kingsmill Resort Center at 1010 Kingsmill Road, further identified as Parcel (1-1) on James City County Real Estate Tax Map No. (50-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-26-94 as described herein with the following conditions:

1. If the antenna dish is not installed within one year from the date of Board of Supervisors' approval, the special use permit shall become void.
2. The diameter of the ground mounted antenna dish shall not exceed 2.0 meters.
3. Placement of the antenna shall be in the location shown in the application material and as described herein.

2. Case No. SUP-27-94. G Square, Inc., Duplex

Mr. Mark J. Bittner, Planner, stated that Mr. Jerry A. Parker, on behalf of G. Square, Inc., had applied for a special use permit to construct a residential duplex on approximately 0.5 acres, 3,000 square feet in size, zoned R-2, General Residential, located at 4086 Ironbound Road, further identified as Parcel (4-1) on James City County Real Estate Tax Map No. (38-4).

Staff determined that the application was consistent with the surrounding zoning and development, but conflicted with the established development pattern of the Brookhaven subdivision.

In concurrence with staff, the Planning Commission unanimously recommended denial of the special use permit.

Mr. DePue opened the public hearing.

1. Mr. Al Johnson, 118 Brookhaven, presented a petition from residents of the Brookhaven subdivision stating opposition to construction of a duplex dwelling.

Mr. DePue closed the public hearing.

Mr. Edwards made a motion to reject the application.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

3. Case No. SUP-29-94. Upper County Park Master Plan

Mr. Pleskac stated that Mr. Darrell Gray, Facilities Coordinator for Division of Parks and Recreation, had applied for a special use permit to construct community park facilities at Upper County Park, on 56 acres, zoned A-1, General Agricultural, located in the Toano area, further identified as Parcels (1-1) and (1-3) on James City County Real Estate Tax Map No. (11-2).

Staff determined the proposal was in accordance with the Comprehensive Plan. In concurrence with staff, the Planning Commission recommended approval, by a 7-1 vote, with conditions listed in the resolution.

Mr. DePue opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

RESOLUTION

CASE NO. SUP-29-94. UPPER COUNTY PARK MASTER PLAN

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 8, 1994, voted 7-1 to recommend approval of Case No. SUP-29-94 to permit the construction of public recreation facilities as shown in the Upper County Park Master Plan in the A-1, General Agricultural District, on the property identified as Parcel Nos. (1-1) and (1-3) on James City County Real Estate Tax Map No. (11-2); and

WHEREAS, in accordance with Section 15.1-456 Code of Virginia, the James City County Planning Commission at its November 8, 1994, meeting, found the Upper County Park Master Plan to be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, finds that the facilities proposed in the Upper County Park Master Plan are consistent with the Comprehensive Plan.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-29-94, as described herein with the following conditions:

1. If construction has not commenced on the project within 18 months from the issuance of the special use permit, the permit shall become void. Construction shall be defined as the acquisition of permits for, or the commencement of, clearing and excavation necessary for the installation of, any of the facilities appearing on the Master Plan for Upper County Park.
2. A traffic generation study shall be provided with any site plan for development beyond the pool renovation. It shall include a phasing plan of the proposal during the term of the project. The study shall assess the impact the proposed development will have on Leisure Road and Old Stage Road, and recommend any improvements to those roads in order that they may adequately serve the needs of the park and assure the safety of local citizens. Development of the park facilities shall not occur prior to projected road improvement needs as part of a phased implementation plan.
3. Proposed facilities shall be linked with a pedestrian trail network.

F. BOARD CONSIDERATIONS

1. Little Creek Reservoir Park Master Plan

Mr. Pleskac stated that Mr. Darrell Gray, Facilities Coordinator of the Division of Parks and Recreation, had requested that the Board determine if the Little Creek Reservoir Park Master Plan was consistent with the Comprehensive Plan. He further stated that SUP-39-85 provided details of the proposed project for Upper County Park, a 38.5 acre site zoned A-1, General Agricultural, further identified as Parcel (1-26) on James City County Real Estate Tax Map No. (21-1).

In concurrence with staff, the Planning Commission unanimously recommended approval of the Master Plan.

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

RESOLUTION

LITTLE CREEK RESERVOIR PARK MASTER PLAN

WHEREAS, in accordance with Section 15.1-456 Code of Virginia, the James City County Planning Commission at its November 8, 1994, meeting found the facilities shown in the Little Creek Reservoir Park Master Plan to be consistent with the Comprehensive Plan; and

WHEREAS, in accordance with Section 15.1-456 Code of Virginia, the Planning Commission must report this finding to the Board of Supervisors for their action.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, finds the facilities shown in the Little Creek Reservoir Park Master Plan to be consistent with the Comprehensive Plan.

2. Route 5 Road Improvement Proffer Policy

Mr. John T. P. Horne, Manager of Development Management, stated that the Board had requested information for assistance in setting policy for acceptance of voluntarily proffered contributions to road improvements in the Route 5 Corridor. He gave a brief history of previous accepted proffered contributions from 1985 to the present and identified two areas of future roadway need - finance and construct Alternate Route 5 as a two-lane project on a four-lane right-of-way and add those two additional lanes on Alternate Route 5 by the year 2010.

Mr. Horne defined three policy options:

A. Accept no further proffers; rely on existing Transportation Improvement District (TID) to fully finance the initial two lanes of Alternate Route 5, even if costs exceed projections and the TID needs to extend its time of taxation; rely on possible future public funds from the County and State for construction of additional lanes on Alternate Route 5.

B. 1. Continue to accept proffers based on Governor's Land and Greensprings model of cash plus TID membership with cash being roughly equivalent to the above; or

2. Accept totally cash proffer equivalent of the above; apply cash to either two lanes or four lanes at the discretion of the County.

C. Allow TID to remain as presently defined; accept cash proffers at a similar value to the previous pattern; staff will recommend \$2,150 per unit; apply cash to either two lanes or four lanes at the discretion of the County.

Staff recommended Option B.2 as most consistent with past actions of the Board.

After a lengthy discussion, the Board asked staff to consider a deferral of the case for two weeks.

Mr. Horne responded that a rezoning case was scheduled for the Planning Commission at its December 13 meeting.

Mr. Alexander Kuras, Chairman, Planning Commission, stated that any decision on that case could be made contingent on pending Board action.

Without objection, Mr. DePue declared a deferral of the Route 5 Improvement Proffer Policy item until Monday, December 19, 1994, Board of Supervisors' meeting.

3. Fleet Maintenance - College of William and Mary

Mr. John E. McDonald, Manager of Financial and Management Services, stated that the College of William and Mary had requested the County assume vehicle maintenance responsibilities for its fleet vehicles. He explained that detailed provisions of a one-year agreement had been negotiated.

Staff recommended approval of the resolution and agreement.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

RESOLUTION**FLEET MAINTENANCE - COLLEGE OF WILLIAM AND MARY**

WHEREAS, the Board of Supervisors of James City County has been asked to consider a one-year trial agreement to provide fleet maintenance service to the College of William and Mary.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute, on its behalf, an agreement with the College that authorizes the County to provide maintenance services for the College for a 12-month period, said agreement is attached and made part of this resolution.

4. **Issuance of Revenue Bonds, Patriots Colony, Inc.**

Mr. Sanford B. Wanner, Assistant County Administrator, stated that the Peninsula Ports Authority of Virginia had passed a resolution for the issuance of up to \$29,000,000 in residential care facility revenue bonds for Patriots Colony, Inc., to assist in financing the acquisition, construction and equipping of a 150-unit continuing care retirement facility for the residence and care of the aged, located on the north side of State Route 5 opposite John Rolfe Lane in James City County, Virginia.

Staff recommended approval of the resolution with conditions listed.

Mr. Magoon made a motion to approve the resolution.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

RESOLUTION OF THE BOARD OF SUPERVISORS**OF JAMES CITY COUNTY, VIRGINIA**

WHEREAS, The Peninsula Ports Authority (the "Authority"), has considered the application of Patriots Colony, Inc. (the "Applicant"), a nonprofit Virginia nonstock corporation described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and exempt from tax under Section 501(a) of the Code, having its principal place of business c/o Riverside Senior Services, 1010 Old Denbigh Boulevard, Newport News, Virginia 23602. In that application, the Applicant requested the Authority to issue, pursuant to Chapter 46 of the Virginia Acts of Assembly of 1952, as amended (the "Act") up to \$29,000,000 of its revenue bonds for the residence and care of the aged (the "Bonds"); and

WHEREAS, The proceeds of the Bonds will be used to assist the Applicant in: 1) financing the acquisition, construction and equipping of a 150-unit continuing care retirement facility for the residence and care of the aged, consisting of a five-story apartment building, a one-story community center and eight one-story attached villa courtyards, located on approximately 76 acres of land in James City County, Virginia (the "County") on the north side of State Route 5 opposite John Rolfe Lane and adjacent on its north and east boundaries to the Greensprings Plantation Historical Site (the "Project"); 2) funding capitalized interest on the Bonds; 3) funding a debt service reserve fund for the Bonds; and 4) payment of the costs of issuing the Bonds. The Authority held a public hearing regarding this matter on behalf of the Authority, the County and the City of Newport News, Virginia (the "City") on November 16, 1994, which is a date within sixty (60) days of the adoption of this resolution; and

WHEREAS, Section 147(f) of the Code provides that both the governmental unit having jurisdiction over the issuer of private activity bonds and the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds. The Project is located in the County, and the Board of Supervisors of the County (the "Board") constitutes the highest elected governmental unit of the County; and

WHEREAS, The Authority has recommended that the Board approve the issuance of the Bonds and has forwarded to the Board a copy of the Authority's resolution approving the issuance of the Bonds, subject to terms to be agreed upon, which was adopted following its public hearing on November 16, 1994, a copy of the Fiscal Impact Statement submitted by the Applicant and a brief summary of the comments made at the public hearing.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia:

1. The recitals made in the first and second paragraphs of this Resolution are hereby adopted as a part of this Resolution.
2. The Board hereby ratifies the public hearing held on its behalf by the Authority on November 16, 1994, and the publication of notice thereof.
3. The Board approves the issuance of the Bonds by the Authority in an aggregate principal amount not to exceed \$29,000,000 for the benefit of the Applicant, to the extent required by Section 147(f) of the Code and Clause 2 of Chapter 514 of the Virginia Acts of Assembly of 1983.
4. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Applicant or the Project, and, as required by the Act and Virginia law, the Bonds shall provide that neither the Commonwealth of Virginia, the County, the City, nor the Authority shall be obligated to pay the principal, or premium, if any, of the Bonds or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefore and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, the County, the City, or the Authority shall be pledged thereto.
5. Pursuant to the limitation contained in Temporary Treasury Regulation Section 5f.103-2(f)(1), this Resolution shall remain in effect for a period of one year from the date of its adoption.
6. The County, including its elected representatives, officers, employees and agents, shall not be liable and hereby disclaims all liability for any damage to the Applicant or the Project, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.
7. This resolution shall take effect immediately upon its adoption.

G. PUBLIC COMMENT

1. Ms. Linda Tiexiera, 904 Wood Duck Commons, spoke of many concerns regarding shrink swell soils that she had for County citizens and asked that the call-in show on shrink swell soils be rebroadcast.

2. Mr. Ed Oyer, 139 Indian Circle, spoke regarding the impact of a compost plant, and was supportive of keeping the Grove Convenience Center open as a service rather than using funds to subsidize recreation.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Norman recommended the Board go into executive session pursuant to Section 2.1-344(A)(1) of the Code of Virginia to consider a personnel matter, appointment of individuals to Boards and/or Commissions, and to Section 2.1-344(A)(7) of the Code of Virginia to consult with staff on a matter involving litigation.

Mr. Norman asked Mr. Foster to present a solid waste update.

Mr. Foster detailed the trash recycling and disposal program and costs; refuse tonnage of landfill versus transfer station; daily number of users and estimated operating costs and revenues for 1995 of the waste collection convenience centers.

Board discussion ensued regarding closure of one or all convenience centers, increase of disposal fee, and reduction of hours.

Individual Board members asked staff to check with private trash haulers about volume of waste being collected; check with other communities that might have similar convenience center waste collection systems for usage/cost comparison; and, suggested publishing names of offenders who dump garbage along roadways.

Mr. Norman remarked that any suggestions for trimming costs at budget time would be appreciated.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Taylor asked staff to have police patrol Ware Creek Road (Rt. 606) to Laurel Road (Rt. 608) for illegal dumping of garbage in fields.

Mr. Magoon announced a meeting, Tuesday, December 6, 1994, at Walsingham Academy school cafeteria to discuss proposed improvements to Neck-O-Land Road. He stated he had encouraged the nearby civic associations to pass resolutions and be specific about their requests and he would bring a report back to the Board.

Mr. DePue made a motion to go into executive session as recommended by the County Administrator, at 9:00 p.m.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

Mr. DePue reconvened the Board into open session at 10:06 p.m.

Mr. Edwards made a motion to approve the executive session resolution.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

RESOLUTION

MEETING DATE: December 5, 1994

CERTIFICATION OF EXECUTIVE MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge; i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies; and, ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board.

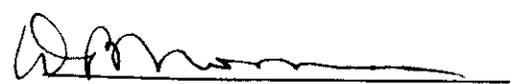
Mr. DePue made a motion to appoint Timothy Mills to serve a five-year term, term expiring 12/5/99, and to appoint Beth Crowder to serve as an alternate to Roger Guernsey on the Board of Building Adjustments and Appeals; to appoint Pat Curd to the Williamsburg Regional Library Board to fill an unexpired term, term expiring 6/30/97; and, to reappoint Donald C. Hunt to the Planning Commission for a four-year term, term expiring 1/31/99.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

Mr. Taylor made a motion to recess until 5:00 p.m., Monday, December 19, 1994, for a work session on the Strategic Plan.

On a roll call, the vote was: AYE: Magoon, Edwards, Taylor, Sisk, DePue (5). NAY: (0).

The Board recessed at 10:08 p.m.


David B. Norman
Clerk to the Board

AGREEMENT

THIS AGREEMENT is made as of this 1st day of January, 1995, by and between the COLLEGE OF WILLIAM AND MARY ("College") and the COUNTY OF JAMES CITY, VIRGINIA ("County").

WHEREAS, the College is seeking to provide maintenance services to approximately 137 vehicles from the College motor pool, 11 buses from the College transportation services and such other vehicles as may be acquired from time to time; and

WHEREAS, the County is willing to provide vehicular maintenance service to the College through the County's Division of Fleet Maintenance; and

WHEREAS, the County is willing to employ Clarence F. Smith ("Mr. Smith"), master mechanic for the College.

WITNESSETH

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and the mutual covenants contained herein, the parties agree as follows:

1. Services to be provided.

(a) All vehicular maintenance for the College's motor pool and buses shall be provided by the County under the terms and conditions set forth herein.

(b) The College shall have the option to include its vehicles in the County's Preventative Maintenance Program.

(c) On an emergency basis, the County shall provide wrecker service and road call assistance, as necessary, for College vehicles.

2. Term of Agreement. The term of this Agreement shall run from January 1, 1995 through December 31, 1995. This Agreement shall renew automatically for a one (1) year period on January 1 of each year thereafter, unless terminated as provided herein. Prior to the expiration of any term, either party may terminate this Agreement by giving not less than thirty (30) days written notice.

3. Fees and payment.

(a) During the initial term of this Agreement, the County shall bill the College on a monthly basis at an hourly rate of \$34.50 for all labor performed on College vehicles. For each additional term, the County shall bill the College at the same rate charged to County departments.

(b) The College shall remit payment to the County for services provided in compliance with the Prompt Payment Act.

(c) The County shall charge the College for parts at the same rate that is charged to County departments.

(d) The College may purchase gasoline and diesel fuel from the County at the published rates for County Departments.

(e) All work which must be subcontracted out by the County shall be billed to the College at the cost incurred by County.

4. Employment of mechanic.

The County agrees to employ Mr. Smith as an at-will employee under the County's Personnel Policies and Procedures Manual. Mr. Smith shall be compensated at a rate equivalent to his current salary (which falls within the salary range for a similar County job classification) with the standard benefits provided to other County employees. Mr. Smith's job classification with the County shall be equivalent to his job classification with the College. Mr. Smith may bring with him to the County a leave balance up to 40 hours each of annual and sick leave, provided that the College pays the County for those hours at Mr. Smith's hourly rate. In all other ways, Mr. Smith shall be treated as a new employee with the County which includes a post-offer employment physical examination with drug testing, a probationary period, and a leave accrual rate of one day a month each of annual and sick leave.

5. Accounting and reporting.

(a) All vehicles of the College shall be assigned maintenance priority codes in accordance with the County guidelines for vehicle usage.

(b) All vehicles of the College shall be given separate vehicle department codes and identification numbers for accounting and reporting purposes. The County shall provide the College with

monthly vehicle maintenance reports, as are currently generated for County vehicles.

6. Assignment. Neither party shall sell, assign, sublet, or convey its rights under this Agreement without the prior written approval of the other party. The County, however, shall be allowed to subcontract out labor which it cannot perform without receiving the prior written approval of the College.

7. Breach of agreement. In the event that either party breaches any part of this Agreement, the other party may terminate this Agreement by providing written notice to the breaching party and allowing ten (10) calendar days to correct such breach. In the event of a proper termination, the parties shall have no action at law or equity against the other party under this Agreement, except for a recovery, by the County of any amount due for services provided prior to the breach.

8. Notice. All notices or other communications shall be deemed to have been given if the same shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, and addressed as set forth below:

To College:

Charles A. Dombek
Director Auxiliary Services
College Apartment #2
P.O. Box 8795
Williamsburg, VA 23187-8795

To County:

Steve Stephenson
JCC Fleet Maintenance Services

103 Tewing Road
Williamsburg, VA 23185

9. Amendments. This Agreement may be amended only by a writing signed by the parties.

IN WITNESS WHEREOF, the undersigned, being first duly authorized, have executed this Agreement as of the day first above written.

COLLEGE OF WILLIAM AND MARY

By: William F. Merck, II
William F. Merck, II
Vice President for
Administration and Finance

Approved as to form:

COUNTY OF JAMES CITY, VIRGINIA

Leo P. Rogers
County Attorney

By: David B. Norman
David B. Norman
County Administrator