

**ACTION ITEM
BOARD OF SUPERVISORS**

DATE February 19, 2008

TO Board of Supervisors

FROM Joseph L. Howard, Jr
County Attorney *Joseph L. Howard Jr*

ISSUE Authorize a Public Hearing Regarding Reimbursement of Expenses Incurred in Responding to Driving Under the Influence Incidents and Other Traffic Incidents

RECOMMENDATION Approval

BUDGET IMPACT Approximately \$30,000

ATTACHMENTS (3)

[1] Background Report [3] Reso/Ord/Proc # R08-91

[2] Proposed Ordinance O08-14 [] Reso/Ord/Proc #

[] [] Reso/Ord/Proc #

REVIEW [X] County Administrator's Office *[Signature]*

[X] Sheriff's Office *[Signature]*

[X] Fire and Rescue *[Signature] / Joe J. Newberry, SFO*

- [X] Consent Agenda [] Other Business [] Public Hearing
- [] Discussion Item [] Presentation [] Unfinished Business
- [] New Business

PRESENTATION BY Sheriff Charles Jett

ELECTION DISTRICT N/A

BACKGROUND REPORT

Section 15 2-1716 of the Code of Virginia (1950), as amended, provides that any locality may provide by ordinance for the reimbursement of expenses incurred in responding to DUI incidents and other traffic incidents. This proposal recognizes that the expenses incurred in responding to DUI and other traffic incidents should be borne by those who have caused the expenses and not by the general citizenry. The estimated annual revenue is \$30,000.

Staff recommends approval of proposed Resolution R08-91 in order to recover the costs of responding to DUI incidents and traffic incidents.

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 4th day of March, 2008

MEMBERS

George H Schwartz, Chairman
M S "Joe" Brito, Vice Chairman
Harry E Crisp II
Mark Dudenhefer
Paul V Milde III
Cord A Sterling
Robert "Bob" Woodson

VOTE

On motion of , seconded by , which carried by a vote of , the following was adopted

AN ORDINANCE TO AMEND AND REORDAIN THE STAFFORD
COUNTY CODE BY ADDING SECTION 15-137 ENTITLED
"REIMBURSEMENT OF DUI AND OTHER TRAFFIC INCIDENTS'
EXPENSES INCURRED"

WHEREAS, the Board desires to consider amending the Stafford County Code by adding Section 15-137 entitled "Reimbursement of DUI and Other Traffic Incidents' Expenses Incurred" in order to recover the costs of responding to DUI incidents and other traffic incidents, and

WHEREAS, pursuant to State Code Section 15-2-1716, any locality may provide by ordinance that a person convicted of certain criminal and traffic offenses shall be liable for restitution at the time of sentencing, or in a separate civil action, to the locality or to any responding volunteer fire or rescue squad, or both, for reasonable expenses incurred by the locality for responding law enforcement, firefighting, rescue and emergency services, including by the sheriff's office of such locality, or by any volunteer fire or rescue squad, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation, and

WHEREAS, the Board has conducted a public hearing after appropriate advertisement in a newspaper of general circulation in accordance with Section 15-2-1427, et seq Virginia Code Ann , as amended, and

WHEREAS, the Board has considered the recommendations of staff, and the testimony at the public hearing, and

WHEREAS, the Board has determined that amending Stafford County Code by adding Section 15-137 is in the best interest of the County,

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 4th day of March, 2008, that the Stafford County Code be and it hereby is amended by the addition of Section 15-137, to read as follows

Sec 15-137 Reimbursement of expenses incurred

Pursuant to the authority of Section 15 2-1716 of the Code of Virginia (1950), as amended, the Board of Supervisors hereby enacts this section for the reimbursement of expenses incurred in responding to DUI incidents and other traffic incidents

(a) Any person convicted of violating any of the following provisions shall be liable for restitution at the time of sentencing or in a separate civil action to the locality or to any responding volunteer fire or rescue squad, or both, for reasonable expenses incurred by the locality for responding law enforcement, firefighting, rescue and emergency services, including by the sheriff's office of such locality, or by any volunteer fire or rescue squad, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to the following State and County Code violations

- (1) The provisions of Virginia State Code § 18 2-51 4, 18 2-266, 18 2-266 1, 29 1-738, 29 1-738 02, or Stafford County Code § 17-35, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident,
- (2) The provisions of Article 7 (§ 46 2-852 et seq) of Chapter 8 of Title 46 2 relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident,
- (3) The provisions of Article 1 (§ 46 2-300 et seq) of Chapter 3 of Title 46 2 relating to driving without a license or driving with a suspended or revoked license,
- (4) The provisions of § 46 2-894 relating to improperly leaving the scene of an accident, or
- (5) The provisions of Stafford County Code, § 15-136 relating to the adoption of state law as to driving under the influence

(b) Personal liability under this section for reasonable expenses of an appropriate emergency response shall not exceed \$1,000 in the aggregate for a particular accident or incident occurring. In determining the "reasonable expenses," a locality may bill a flat fee of \$250 or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, fire-fighting, rescue, and emergency medical services. The court may order as restitution the reasonable expenses incurred by the locality for responding law enforcement, fire-fighting, rescue and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the locality or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle or other conduct as set forth herein.

AJR JLHjr ce

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 19th day of February, 2008

MEMBERS

George H. Schwartz, Chairman
M. S. "Joe" Brito, Vice Chairman
Harry E. Crisp II
Mark Dudenhefer
Paul V. Milde III
Cord A. Sterling
Robert "Bob" Woodson

VOTE

On motion of , seconded by , which carried by a vote of , the following was adopted

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO ADVERTISE A PUBLIC HEARING TO CONSIDER AMENDING AND REORDAINING STAFFORD COUNTY CODE SECTION 15-137 ENTITLED "REIMBURSEMENT OF DUI AND OTHER TRAFFIC INCIDENTS' EXPENSES INCURRED"

WHEREAS, the Board desires to amend the Stafford County Code by adding Section 15-137 entitled "Reimbursement of DUI and Other Traffic Incidents' Expenses Incurred" in order to recover the costs of responding to DUI incidents and other traffic incidents, and

WHEREAS, pursuant to State Code Section 15.2-1716, any locality may provide by ordinance that a person convicted of violating certain provisions set out in the ordinance shall be liable for restitution at the time of sentencing or in a separate civil action to the locality or to any responding volunteer fire or rescue squad, or both, for reasonable expenses incurred by the locality for responding law enforcement, firefighting, rescue and emergency services, including by the sheriff's office of such locality, or by any volunteer fire or rescue squad, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation, and

WHEREAS, a public hearing is required,

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19th day of February, 2008, that the County Administrator be and he hereby is authorized to advertise for a public hearing to allow for presentation and public comment for the purpose of amending the Stafford County Code by adding Section 15-137

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