

VIRGINIA:

At a regular meeting of the Washington County Board of Supervisors held Tuesday, April 27, 2004, at 7:00 p.m., at the County Administration Building in Abingdon, Virginia the following were present:

PRESENT:

John B. Roberts, Sr. Chairman
 Phillip B. McCall, Vice Chairman
 Bobby D. Ingle
 Dulcie M. Mumpower
 Odell Owens
 Anthony S. Rector
 Kenneth O. Reynolds

Mark K. Reeter, County Administrator
 Lucy E. Phillips, County Attorney
 Mark W. Seamon, Accounting Manager
 Naoma A. Mullins, Recording Clerk

1. Call to Order

The meeting was called to order by Mr. John Roberts, Chairman of the Board, who welcomed everyone in attendance.

2. Invocation and Pledge of Allegiance

Supervisor Kenneth Reynolds gave the Invocation and led the Pledge of Allegiance.

3. Approval of Agenda

On motion of Mr. McCall, second by Mr. Reynolds, it was resolved to approve the agenda as presented.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

4. Approval of Minutes

On motion of Mr. Reynolds, second by Mr. Owens, it was resolved to approve the minutes of the April 23, 2004, Regular Meeting as presented.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

5. Consideration of Modification of Performance Agreement with AFG

Assistant County Administrator Christy Parker addressed the Board concerning the modification of the Performance Agreement with AFG Industries, Inc. Ms. Parker explained that when the original agreement with AFG was executed there were two funding agencies, the Virginia Economic Development Partnership and the Tobacco Commission mentioned in the agreement, but not included as signing parties. The Attorney General's Office is now requiring that both agencies be added as parties since they will be providing funds. Therefore, County Attorney Lucy Phillips has drafted a modification to the Performance Agreement, which adds the Virginia Economic Development Partnership and the Tobacco Commission as parties. Ms. Parker advised the Board that the modification has been approved by the Attorney General and also by the Washington County Industrial Development Authority.

On motion of Mr. Rector, second by Mrs. Mumpower, it was resolved to approve the modification to the Performance Agreement with AFG Industries, Inc. and authorize the Chairman to sign.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

Scrivener's Note: The modified Performance Agreement with AFG Industries referenced above is included as Minutes Exhibits Item 2004-04-27-A.

6. Consideration of Appointments to Boards and Commissions

a. Highlands Community Services Board:

<u>Appointee</u>	<u>District</u>	<u>Term Ending</u>
Pat McClanahan (unexpired term)	Jefferson District	June 30, 2005

This appointment was deferred to a later meeting.

b. Virginia Highlands Community College Board:

<u>Appointee</u>	<u>District</u>	<u>Term Ending</u>
Pauline "Blue" Gotham	At-Large	June 30, 2008

On motion of Mr. Ingle, second by Mr. Owens, it was resolved to reappoint Pauline "Blue" Gotham to the Virginia Highlands Community College Board for a term ending June 30, 2008.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

c. Mount Rogers Planning District Commission

<u>Appointee</u>	<u>District</u>	<u>Term Ending</u>
Douglas Cline	Glade Spring	June 30, 2006

On motion of Mr. Rector, second by Mr. Reynolds, it was resolved to reappoint Douglas Cline to the Mount Rogers Planning District Commission for a term ending June 30, 2006.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

7. **Presentation Concerning Veteran's Memorial Park in Abingdon and Memorial Day Commemoration**

Representatives for this Agenda Item had not yet arrived at the meeting; the Board by consensus moved to Item 8.

8. **Presentation by Virginia Department of Mines, Minerals and Energy**

Mr. Gary Barney, Mine Inspector Supervisor and Mr. Mack Hagy, Area Mine Inspector with the Virginia Department of Mines, Minerals and Energy (DMME) gave a presentation on the mining regulations in Virginia. Mr. Barney explained that mineral mining is a regulated activity under Chapter 16, Title 45.1, as well as Chapters 14.1, 14.4-14.7 and Chapter 18 of the Code of Virginia. In addition, Safety and Health regulations have been adopted and are included in the Virginia Administrative Code in Chapters 31, 35 and 40. He provided the Board with a copy of the mining regulations.

In an overview of the mining laws, Mr. Barney explained that a mineral mining operation must obtain a mine safety license and a mine reclamation permit. These permits must be renewed on an annual basis. An application package must be submitted to the DMME Division of Mineral Mining. Some requirements of the application include a list of company owners, corporate officers, corporate structure, emergency contacts, proof of legal right of entry, permit map that meets the Statue standards, contact information for independent contractors, and a history of any mining operations that the applicant has had in the State of Virginia. In addition, the applicant must submit as part of the application an operations plan detailing the operation and reclamation process, a drainage plan, a ground water management plan, and a post mining and vegetation plan. Also, part of the application process requires that adjacent landowners within 1000' be notified, as well as the local government and utility companies. Before any permit is considered by DMME, the applicant must meet all requirements of the application.

The Reclamation Rules and Regulations cover in part methods of operation, mine maps, site development plans, storm drainage, erosion and sediment control, and reclamation bonding at \$1,000 per acre (after a company does business in the State for five years they are eligible to join the Minerals Reclamation Fund). In addition, the Reclamation rules address grading and seeding requirements, final reclamation and stabilization, and bond release. The DMME monitors vegetation growth for two growing seasons (18-24 months) to insure stabilization before the release of a bond. The Division of Mineral Mining handles citizen and worker complaint investigations. A performance measurement is in place by the department that requires an investigation to begin within five days. Mr. Barney explained that the Division when possible begins investigation of a complaint the day it is received or at least the day after.

The Safety and Health Regulations address personal protections, mobile equipment safety, electrical safety, health issues i.e. (hearing protection and air quality), materials handling, fire prevention and control, accident and complaint investigations. DMME requires that mine employees carry certain certifications depending on the job they perform. The DMME administers the certification and testing programs.

Mr. Barney explained that issues not covered in the mining laws include land use issues, zoning regulations, hours of operations, life of a mining operation, traffic on public roads and property values. These are issues delegated to the local governments.

In conclusion, Mr. Barney reviewed enforcement matters. He explained that State Statute allows for issue of special orders, notice of non-compliance, bond forfeiture or a permit revocation. A notice of violation is issued for all health and safety violations. A closure order can be issued for eminent danger if an inspector identifies an area or piece of equipment that they believe will cause harm or injury. Mr. Barney added that only a judge could overturn closure orders. Inspections of mining operations are required at least twice per year, however a mine inspector will go on site as often as the need dictates. Further, additional inspections will be conducted for complaint investigation and enforcement follow-up to insure that compliance of violation a notice or special order has been gained

At this time, a question and answer period ensued.

Responding to inquiries from the Board, Mr. Barney reiterated that DMME requires all components of the application be submitted prior to the review and issuance of the permits, and that the DMME would share all information contained in an application package with the local government.

Responding to another inquiry, Mr. Barney stated that DMME has identified three mineral mining sites in Washington County. To date, DMME has issued permits to Ball Log Homes and Northside Stone. Cherokee Natural Stone is in the process of obtaining required permits.

Supervisor Bobby Ingle addressed the Board with his concerns regarding reclamation of the Northside Stone site should the County not issue them a Special Exception Permit and any potential appeals be denied by the courts.

Mr. Barney explained to the Board if this were to occur Northside Stone would be required to follow the DMME Rules and Regulations for Reclamation. If the company failed to do so their bond would be forfeited. The DMME would use funds from the Minerals Reclamation Fund to reclaim the land and could seek damages from Northside Stone.

Responding to an inquiry, Mr. Hagy stated that Northside is not currently in violation of any of the DMME permit regulations. He advised the Board that Northside had received permits and was bonded for 16 acres and have basically disturbed all of this acreage.

Mr. Ingle requested that the DMME Inspectors check the Northside Stone site again for possible violations. He explained that he had seen an excavator at this site removing trees. The property owner informed Mr. Ingle that Northside Stone was taking the trees down as part of reclamation process.

Responding to questions from the County Attorney, Mr. Hagy explained that many rock picking operations in Southwest Virginia have been investigated and there was no sign of land disturbance until 2002. At this time, DMME identified that several of the rock picking sites in Washington County were disturbing land; therefore, because of the significant amount of land disturbance the sites were classified as quarries, which resulted in the requirement of obtaining Mineral Mining Permits. Mr. Hagy further explained the region he covers includes eleven counties with a total of 31 rock sites. He stated that there are no civil penalties included in non-compliance issues. However, each non-compliance violation is considered a Class I Misdemeanor. If compliance is not met by the end of the period designated by DMME then bond forfeiture procedures begin.

Continued discussions ensued.

7. Presentation Concerning Veteran's Memorial Park in Abingdon and Memorial Day Commemoration

Mr. Emmitt Yeary, President of the Veterans Memorial Fund of Abingdon, Inc., addressed the Board. Mr. Yeary provided the Board with the history of the Veteran's Memorial Park project. He explained that a Veterans' Memorial Park has been developed on property located on Cummings Street that was donated by the Town of Abingdon. The Park has been designated as a permanent place to allow people to pay respect and tribute, and remember all those who paid the ultimate sacrifice of their life for our liberty and to give recognition and honor to all those who have served and continue to serve our nation in order to preserve our freedom. A corporation has been formed and the Board of Directors is composed of a representative from each of the veterans' organizations in the County and a representative from the Town of Abingdon. The Board of Directors is requesting that Washington County designate an individual to serve on their Board.

Mr. Yeary advised the Board that a Memorial Day celebration is being planned for May 29 beginning at noon and will be held in conjunction with the anniversary of World War II. A monument honoring World War II veterans will be dedicated during this ceremony. Mr. Yeary invited members of the Board to attend. Also, he asked the Board to adopt a resolution honoring World War II veterans.

Mr. Yeary shared with the Board conceptual drawings of the future plans for the Veteran's Memorial Park. He stated that the Board of Directors would solicit input regarding the plans from the Board of Supervisors and from the community.

Chairman John Roberts, on behalf of the Board of Supervisors, commended the efforts and work of the Veteran's Memorial Fund of Abingdon, Inc. Board of Directors.

9. Recess

It was consensus of the Board not to take a recess at this time.

10. County Administrator Reports:

a. Consideration of Second Revision of County Budget Calendar

County Administrator Mark Reeter reviewed with the Board the second revision to the County Operating Budget Calendar. Mr. Reeter explained that he tentatively scheduled the delivery of the County Administrator's Proposed and Recommended Operating Budget to the Board on Tuesday, May 18. However, he recently learned that the Washington County Industrial Development Authority and the Washington County Chamber of Commerce would be hosting a dinner on this date to recognize existing industry leaders. He proposed rescheduling the delivery of the proposed budget to Monday, May 17. Mr. Reeter further explained that the Budget Calendar includes a joint meeting with the Washington County School Board for May 13.

Discussion ensued.

On motion of Mrs. Mumpower, second by Mr. Rector, it was resolved to adopt the second revision of the County Operating Budget Calendar and to reschedule the deliver of the County Administrator's Proposed and Recommended Operating Budget to May 17.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

11. County Attorney Reports

a. Consideration of "Cafeteria Plan" Program for County Employees

County Attorney Lucy Phillips addressed the Board explaining each year the County must revise, as necessary, and re-adopt its plan for Section 125 Benefits for county employees. Ms. Phillips explained that the only significant change was the elimination of the disability insurance. Disability insurance will still be offered to employees, but the premium will not be pre-taxed.

On motion of Mr. Rector, second by Mr. Reynolds, the Board acted to adopt the revised Section 125 Plan as described in the Adoption Agreement and Plan Description, and to authorize Mark Reeter, County Administrator, to certify the plan document to signify Board adoption.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

12. Board Information

County Administrator Mark Reeter drew attention to various correspondences in the Board Information section. Particularly correspondence from the State Board of Elections regarding grant funding for voting machines, and the 2003 Annual Report for the Virginia Highlands Small Business Incubator.

Discussion ensued.

13. Consent Agenda

On motion of Mr. Ingle, second by Mr. McCall, it was resolved to approve the following Consent Agenda Items:

- a. Line-Item Transfer of Funds Request – WC Sheriff*
- b. Supplemental Appropriation Request – WC Sheriff*
- c. Transfer from Reserve for Contingencies to Legal Services*
- d. Revenue Refunds – Animal Sterilization Fee*
- e. Budget Status Reports for March 31, 2004*

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

14. Board Member Reports

Supervisor Tony Rector congratulated Supervisor Odell Owens for the distinguished Real Estate Sales Award that he received.

Supervisor Phillip McCall expressed appreciation to the Washington County Extension Office for hosting the dinner for the Board of Supervisors. Mr. McCall commended the job being done by the 4-H Program.

Supervisor John Roberts reported that he received correspondence from the Virginia Department of Housing and Community Development indicating approval of an extension of the Glade Highlands Business Enterprise Zone to include additional areas of the Town of Chilhowie.

15. Closed Meetings:

- a. Request for Closed Meeting pursuant to Virginia Code Section 2.2-3711(A)(7) for consultation with the County Attorney pertaining to the matter of Circuit Court Case No.: CL-03-11: County of Washington, Virginia v. City of Bristol, Virginia; Trammell Investments, LLC; Leonard, L.P.; Henard Enterprises, Inc.; J.H. Spurgeon; R.J. Development Co., L.L.C.; Crown Point Development, Inc.; and Jason Travers, Trustee in liquidation, as director of Crown Point Development, Inc., and the related landowner-initiated petition for annexation currently pending before the Commission on Local Government where such consultation and briefing in open meeting would adversely affect the negotiating or litigating posture of the Board of Supervisors and which require the provision of legal advice by legal counsel**

- b. *Request for Closed Meeting pursuant to Virginia Code Section 2.2-3711(A)(7) for consultation with the County Attorney pertaining to the matter of Circuit Court Case No.: 02-304 Wilton H. Hilt, et al. v. Washington County Board of Supervisors, et al. where such consultation and briefing in open meeting would adversely affect the negotiating or litigating posture of the Board of Supervisors*

On motion of Mr. Ingle, second by Mr. Rector, it was resolved to convene in Closed Meeting pursuant to Code of Virginia Section 2.2-3711(A)(7) for consultation with the County Attorney pertaining to the matter of Circuit Court Case No.: CL-03-11: County of Washington, Virginia v. City of Bristol, Virginia; Trammell Investments, LLC; Leonard, L.P.; Henard Enterprises, Inc.; J.H. Spurgeon; R.J. Development Co., L.L.C.; Crown Point Development, Inc.; and Jason Travers, Trustee in liquidation, as director of Crown Point Development, Inc., and the related landowner-initiated petition for annexation currently pending before the Commission on Local Government where such consultation and briefing in open meeting would adversely affect the negotiating or litigating posture of the Board of Supervisors and which require the provision of legal advice by legal counsel and to include County Administrator Mark Reeter, Assistant County Administrator Christy Parker, Industrial Development Authority Chairman Russell Owens and Attorney Richard Cranwell (via conference call) in the closed meeting. It was further resolved to conduct a second closed meeting for consultation with the County Attorney pertaining to the matter of Circuit Court Case No.: 02-304 Wilton H. Hilt, et al. v. Washington County Board of Supervisors, et al. where such consultation and briefing in open meeting would adversely affect the negotiating or litigating posture of the Board of Supervisors and to include County Administrator Mark Reeter in the closed meeting.

The Board approved a ten-minute recess prior to the closed meetings.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

On motion of Mrs. Mumpower, second by Mr. Ingle and unanimous vote in favor, the Board of Supervisors now reconvenes in open meeting. At this time, any participant in the closed meeting who believes that there was a departure from the requirements of the Virginia Freedom of Information Act during the closed meeting, please state the substance of the departure that you believe has taken place.

Hearing no such statements, on motion of Mr. McCall, second by Mr. Reynolds, it was resolved to certify the closed meeting in accordance with the requirements of the Virginia Freedom of Information Act. By vote in favor of this motion, each member certifies that the closed meeting was conducted in conformity with Virginia law, and that only public business matters lawfully exempted from open meeting requirements and identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the closed meeting.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

16. Adjourn

On motion of Mr. Rector, second by Mr. Reynolds, it was resolved to adjourn the meeting.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

Prepared by:

Naoma A. Mullins, Recording Clerk

Approved by the Washington County Board of Supervisors:

John B. Roberts, Sr., Chairman