

VIRGINIA:

At a regular meeting of the Washington County Board of Supervisors held Tuesday, May 25, 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 Tony Rector 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 with the following amendment:

New Item 20a - Addition of a 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>

4. Approval of Minutes

May 11, 2004 Regular Meeting

On motion of Mr. Rector, second by Mr. Owens, it was resolved to approve the minutes of the May 11, 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>

May 17, 2004 Recessed Meeting

On motion of Mr. Reynolds, second by Mr. Ingle, it was resolved to approve the minutes of the May 17, 2004, recessed 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. Public Hearings

a. Public Hearing and Consideration of Adoption of an Ordinance to Vacate Lot 19 on Macedonia Road (State Route 1815) from Blue Springs Place Subdivision in the Madison Magisterial District

County Attorney Lucy Phillips addressed the Board explaining the purpose of the public hearing is for consideration of an ordinance to vacate Lot 19 on Macedonia Road (State Route 1815) from Blue Springs Place Subdivision in the Madison Magisterial District. Ms. Phillips further explained the lot is part of a subdivision plat that is recorded in the records of the Circuit Court Clerk and shows the tract to be a building lot. The County received a request to vacate the lot from Ken Johnson, who wishes to construct a road across the lot to access adjoining undeveloped property. She stated that state law requires the Board to review the matter and determine if the tract can be used for construction of a road.

Mr. Roberts opened the public hearing to receive comments both in support of and in opposition to the proposed ordinance.

Mr. Ken Johnson addressed the Board explaining that he is requesting the lot be vacated in order to construct a road that would provide access to the remaining 40 acres of land within the Blue Springs Place Subdivision. Mr. Johnson stated that the road would be built according to the Virginia Department of Transportation's guidelines.

There being no further comments, Mr. Roberts declared the public hearing closed.

On motion of Mr. Reynolds, second by Mr. Owens, it was resolved to adopt the following ordinance:

ORDINANCE 2004-05

***AN ORDINANCE TO VACATE LOT 19 ON MACEDONIA ROAD (VA. ROUTE 1815)
FROM BLUE SPRINGS PLACE SUBDIVISION (PLAT BOOK 15, PAGE 78)
IN THE MADISON MAGISTERIAL DISTRICT OF
WASHINGTON COUNTY, VIRGINIA***

WHEREAS, a subdivision of property in the Madison Magisterial District was recorded in the Office of the Clerk of Court of Washington County, Virginia, on the 9th day of October, 1973, and referenced in Plat Book 15, Page 78, to create Blue Springs Place Subdivision; and

WHEREAS, Restrictive Covenants were recorded in the Office of the Clerk of Court of Washington County, Virginia, in Deed Book 512, at Page 520, to govern the use of lots created by the Blue Springs subdivision; and

WHEREAS, Paragraph 13 of such Restrictive Covenants referenced the use of an undeveloped lot in the subdivision for roadway access to property lying outside of the boundary of Blue Springs Place if such use was specifically allowed by written consent of the original developer; and

WHEREAS, by Deed of conveyance of Lot 19 (DB 513, P 523) the original developer gave its written consent to the use of Lot 19 as roadway access to adjoining property outside the boundary of Blue Springs Place, and such consent was referenced in subsequent deeds of conveyance (DB 699, P 485; DB 1072, P 49; Instrument No. 18834); and

WHEREAS, the owners of Lot 19 now wish to construct a roadway to the adjoining property lying outside of the boundary of Blue Springs Place subdivision and to subdivide said adjoining property for development as a residential subdivision and have, therefore, applied for vacation of Lot 19 from the subdivision plat; and

WHEREAS, adoption of an ordinance to vacate Lot 19 from the recorded subdivision plat is required by Virginia Code § 15.2-2272(2), to allow it to be used for roadway access to an adjoining residential subdivision; and

WHEREAS, the Board of Supervisors of Washington County, Virginia, after public notice and public hearing, as required by law, does hereby find that vacation of Lot 19 from the subdivision plat would not harm the public interest or public safety or cause irreparable harm to the owner of any lot shown on the plat recorded for creation of Blue Springs Place subdivision.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Supervisors of Washington County, Virginia, that the Board does hereby adopt the following ordinance pursuant to Virginia Code § 15.2-2272(2):

- 1. Lot 19 of Subdivision of Blue Springs Place subdivision (Plat Book 15, Page 78) is hereby vacated pursuant to Virginia Code § 15.2-2272(2) from the recorded subdivision plat to allow construction of a thoroughfare across it to the adjoining property which may be subdivided for development as a residential subdivision; and***

Pursuant to Virginia Code §§ 15.2-2272(2) and 15.2-2276, after the effective date of this ordinance, the Clerk of Circuit Court of Washington County, Virginia is directed to mark Lot 19 as “Vacated” on the subdivision plat recorded at Plat Book 15, Page 78 and record a certified copy of this ordinance in the Office of the Clerk of Circuit of Washington County, Virginia indexed to Plat Book 15, Page 78; and

That should any section or provision of this ordinance be decided by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or the Washington County Code.

That this ordinance shall become effective thirty (30) days after its adoption unless an appeal pursuant to Virginia Code § 15.2-2272(2) is filed within that time period, in which case, this ordinance shall become effective as directed by a court of competent jurisdiction.

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>

Public Hearing and Consideration of Adoption of an Ordinance to Vacate Lot 41 on Stone Mountain Road (State Route 1511) from Stone Mountain Subdivision in the Harrison Magisterial District

County Attorney Lucy Phillips addressed the Board explaining the purpose of the public hearing is for consideration of an ordinance to vacate Lot 41 on Stone Mountain Road within the Stone Mountain Subdivision in the Harrison Magisterial District. Ms. Phillips stated that the subdivision plat recorded in the records of the Circuit Court Clerks Office show Lot 41 to be a building lot. She further explained that the proposed ordinance was prepared at the request of Greg Davis and Kip Davis, who wish to construct a road across Lot 41 to access adjoining undeveloped 33.33 acres of property for the purpose of developing a residential subdivision. Currently, there is no other means of access.

Mr. Roberts opened the public hearing to receive comments both in support of and in opposition to the proposed ordinance.

Mr. Clifford Davis addressed the Board explaining that many years ago his father purchased 33 acres in Stone Mountain Subdivision with the understanding that Lot 41 could be used to construct an access road.

Mr. Davis stated that after his father's death, he inherited the 33 acres and would like to utilize it for residential development.

There being no further comments, Mr. Roberts declared the public hearing closed.

On motion of Mr. Ingle, second by Mr. Rector, it was resolved to adopt the following ordinance:

ORDINANCE 2004-06

***AN ORDINANCE VACATING LOT 41 FROM STONE MOUNTAIN SUBDIVISION
(PLAT BOOK 16, PAGE 70) IN THE HARRISON MAGISTERIAL DISTRICT OF WASHINGTON
COUNTY, VIRGINIA***

WHEREAS, in 1976, James P. Litton and Anna S. Litton caused to be subdivided a tract of land in the Harrison Magisterial District owned by them and designated it as Stone Mountain Subdivision, and the plat of same was recorded in the Office of the Clerk of Court of Washington County, Virginia, (Clerk's Office) in Plat Book 16, Page 70; and

WHEREAS, Restrictive Covenants were recorded in the Clerk's Office, in Deed Book 571, Page 578, to govern development and use of the lots created in Stone Mountain Subdivision, and

WHEREAS, paragraph 12 in said Restrictive Covenants provided that the developer James P. Litton, could use any unsold lot for the purpose of constructing a street or streets for entry into other property to be developed by James P. Litton, should it become necessary or advisable; and

WHEREAS, by recordation of deed in the Clerk's Office in Deed Book 748, Page 248, the developer, James P. Litton, entered into an arrangement of shared ownership of Lot 41 of the Stone Mountain, subdivision resulting in the developer holding one-third ownership of said Lot 41 and Clifford Davis, Sr. and Arbutus Davis, husband and wife, owning one-third share of ownership of said Lot 41 and L.E. Litton, Jr., and Phyllis R. Litton, husband and wife, owning the other one-third share of said Lot 41; and

WHEREAS, by recordation of deed in the Clerk's Office in Deed Book 748, Page 250, the developer, James P. Litton, entered into an arrangement of shared ownership of two tracts of land immediately adjoining Lot 41 of Stone Mountain Subdivision, said two lots containing a total of 33.33 acres, more or less, and Clifford Davis, Sr. and Arbutus Davis, husband and wife, owning one-third share of ownership of said adjoining parcels and L.E. Litton, Jr., and Phyllis R. Litton, husband and wife, owning the other one-third share of said adjoining parcels; and

WHEREAS, information presented to the Board of Supervisors in public hearing held in consideration of adoption of this Ordinance indicated that the parties involved in shared ownership of Lot 41 of Stone Mountain Subdivision, and the 33.33 acres immediately adjoining Lot 41 intended, with James P. Litton's consent, to use Lot 41 for the purpose of constructing a street or streets for entry into the adjoining 33.33 acres to be developed by James P. Litton, as holder of one-third interest, and

WHEREAS, prior to development of the adjoining 33.33 acres, by recordation of deed in the Clerk's Office in Deed Book 818, Page 297, James P. Litton and Anna S. Litton, husband and wife, and L. E. Litton, Jr. and Phyllis R. Litton, husband and wife, conveyed their one-third shares,

respectively, of Lot 41 of Stone Mountain Subdivision, and of the adjoining 33.33 acres to Clifford Davis (who died on September 26, 2000) and Arbutus Davis, husband and wife, and

WHEREAS, by deed of conveyance dated December 31, 2003, and recorded in the Clerk's Office as Instrument No. 453324, Arbutus Davis, unmarried, conveyed to her sons, Gregory Alan Davis and Clifford J. Davis, a ninety percent share of ownership of Lot 41 of the Stone Mountain Subdivision, and the adjoining 33.33 acres. Ms. Davis reserved a ten percent share of ownership for herself; and

WHEREAS, Gregory Alan Davis and Clifford J. Davis, with consent of Arbutus Davis, wish to exercise the right they understood to exist to use Lot 41 for the purpose of constructing a street or streets for entry into the adjoining 33.33 acres for development as a residential subdivision; and

WHEREAS, there is no other point of access from public street to the 33.33 acres held by Arbutus Davis, Gregory Alan Davis, and Clifford J. Davis; and

WHEREAS, adoption of an ordinance to vacate Lot 41 from the recorded subdivision plat is required by Virginia Code § 15.2-2272(2) (1950, as amended) to allow use of the lot, shown on the recorded subdivision plat as a building lot, for the purpose of constructing a street or streets for entry into the adjoining 33.33 acres; and

WHEREAS, the Board of Supervisors of Washington County, Virginia, after public notice and public hearing, as required by law, does hereby find that vacation of Lot 41 from the subdivision plat for Stone Mountain Subdivision, would not harm the public interest or public safety nor cause irreparable harm to the owner of any lot in said subdivision.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Supervisors of Washington County, Virginia, that the Board does hereby adopt the following ordinance pursuant to Virginia Code § 15.2-2272(2):

- 1. Lot 41 of Subdivision of Stone Mountain (Plat Book 16, Page 70) is hereby vacated pursuant to Virginia Code § 15.2-2272(2) from being part of the recorded subdivision plat to allow construction of a thoroughfare to the adjoining parcel which may be developed as a residential subdivision; and*
- 2. That this ordinance shall become effective thirty (30) days after its adoption unless an appeal pursuant to Virginia Code § 15.2-2272(2) is filed within that time period, in which case, this ordinance shall become effective as directed by a court of competent jurisdiction; and*
- 3. Pursuant to Virginia Code §§ 15.2-2272(2) and 15.2-2276, after the effective date of this ordinance, the Clerk of Circuit Court of Washington County, Virginia, is directed to mark Lot 41 as "Vacated" on the subdivision plat recorded at Plat Book 16, Page 70 and record a certified copy of this ordinance in the Office of the Clerk of Circuit of Washington County, Virginia indexed to Plat Book 16, Page 70; and*
- 4. That should any section or provision of this ordinance be decided by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or the Washington County Code.*

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>

6. Consideration of Dog Damage Claim – Tom Ryburn

Animal Control Officer Darrell Thacker and Mr. Tom Ryburn appeared before the Board to present a Dog Damage Claim request. Officer Thacker explained that on April 29, 2004, Mr. Ryburn notified the Animal Control Department that one of his Charlois steers had been found dead and believed it was killed by a dog. Mr. Thacker further explained that approximately an hour after Mr. Ryburn's complaint he began an investigation. Pictures show the steer was forced through a fence, and dog bites are obvious on the ears and tail of the steer.

Mr. Ryburn was reimbursed \$425.00 from his insurance company and is requesting compensation from the County in the amount of \$275 to make up the difference in the estimated fair market value of \$700.00 for the steer.

On motion of Mrs. Mumpower, second by Mr. McCall, it was resolved to authorize payment of a dog damage claim in the amount of \$275.00 to Tom Ryburn.

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. Consideration of Resolution Requesting Incorporation of Denham Drive into State System of Secondary Highways, Grandview Subdivision

On motion of Mr. McCall, second by Mrs. Mumpower, the Board acted to adopt the following resolution:

**RESOLUTION 2004-09
ADDITION OF 1,750 LINEAR FEET OF DENHAM DRIVE TO SECONDARY SYSTEM
OF STATE HIGHWAYS
GRANDVIEW SUBDIVISION**

WHEREAS, the street(s) described on the attached Additions Form SR-5A, fully incorporated herein by reference, are shown on the plats recorded in the Clerk’s Office of the Circuit Court of Washington County, and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation;

NOW, THEREFORE, BE IT RESOLVED this Board requests the Virginia Department of Transportation to add the street(s) described on the attached Additions Form SR-5A to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department’s Subdivision Street Requirements, and

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

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

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: Additions Form SR-5A referenced above is included as Minutes Exhibits Item 2004-05-25A.

8. Presentation of Portal Technology and its Application to County Information Systems

Information Systems Manager Nadine Culberson presented the Board with information concerning implementation of Portal technology to the County information systems. Portal technology allows for secure access to County computer databases from anywhere high-speed Internet service is available including wireless. The application of this technology will serve to make available all County computer databases virtually anywhere and has the potential of significantly changing how many aspects of County government operations are conducted. Mrs. Culberson provided an example of an application of the Portal technology. She explained that the County Treasurer’s Office through the Portal would provide

attorneys access to delinquent tax records from their office. The attorneys will register with the County Treasurer’s Office and receive a user ID and password.

Mrs. Culberson stated that Washington County Schools would launch a pilot of the Portal on July 1 of this year.

Discussion ensued.

9. Consideration of Resolution Authorizing Temporary Closure of State Route 645 (Wallace Pike) for Repairs by Virginia Department of Transportation

Mr. Stephen Buston, Resident Engineer with the Abingdon Residency of the Virginia Department of Transportation (VDOT), addressed the Board explaining that VDOT would like authorization to temporarily close a portion of State Route 645 (Wallace Pike) sometime during the summer of 2005 for repairs and bridge work. Mr. Buston further explained that many accidents have occurred on this road and VDOT-Abingdon Residency has received safety money to make the improvements. The safety money required a 10% local match, which was taken from the secondary road fund. He stated that VDOT believes by temporarily closing the road they can keep the project costs low. The project will go to bid sometime late this summer and it is anticipated that work will actually begin in summer of 2005.

The Board held discussions concerning the request.

Responding to an inquiry, Mr. Buston explained that two to three weeks prior to the temporary closure of the road message boards would be placed in the area to alert the public. In addition, the temporary closure will be advertised in the newspaper.

On motion of Mrs. Mumpower, second by Mr. Owens, it was resolved to adopt the following resolution:

**RESOLUTION 2004-10
TEMPORARY CLOSING OF STATE ROUTE 645 (WALLACE PIKE)**

BE IT RESOLVED, the Washington County, Virginia Board of Supervisors does hereby resolve to authorize the Virginia Department of Transportation to close structure number 6204 on State Route 645 (Wallace Pike), structure is north of intersection of Route 645 and 781 for the length of time necessary to complete repairs.

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

Mr. Ingle	Aye
Mr. McCall	Aye
Mrs. Mumpower	Aye
Mr. Owens	Aye
Mr. Rector	Aye
Mr. Reynolds	Aye
Mr. Roberts	Aye

10. Consideration of Supplemental Appropriation to Washington County School Board for Lease of Temporary Warehouse Space

Supervisor Bobby Ingle addressed the Board concerning a supplemental appropriation in the amount of \$6,000.00 to the Washington County School Board to pay for temporary leased warehouse space for the County school system. Mr. Ingle explained that warehouse space had been identified in the Exit 14 vicinity. The school system will provide the remaining funds needed for the warehouse project.

On motion of Mr. Ingle, second by Mr. Reynolds, it was resolved to approve a supplemental appropriation in the amount of \$6,000.00 from Reserves for Contingencies to the Washington County School Board to be used costs associated with leasing temporary warehouse space for a six month period.

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. Consideration of Request by Smyth-Washington Regional Industrial Facilities Authority to Initiate Eminent Domain Proceedings to acquire land necessary for access road to Highlands Business Park

Representatives for this Agenda Item had not yet arrived at the meeting; the Board by consensus moved to Item 12.

12. Consideration of Authorization to Execute Public Approval Certificate regarding Proposed Issuance of Colorado Educational and Cultural Facilities Authority Revenue Bonds for the Nature Conservancy Project

County Attorney Lucy Phillips addressed the Board explaining that at their April 13 meeting, they directed the Nature Conservancy to conduct a public hearing concerning the proposed issuance of \$3.6 million in bonds by the Colorado Educational and Cultural Facilities Authority for the purchase of approximately 4,800 acres of forest property on Brumley Mountain. The Nature Conservancy advertised and held the public hearing on May 12. No one attended the Public Hearing. Ms. Phillips further explained that the Certificate presented for their approval is a report of the public hearing.

On motion of Mr. Ingle, second by Mr. McCall, the Board acted to authorize the Board Chairman to execute the Public Approval Certificate.

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

<i>Mr. Ingle</i>	<i>Aye</i>
------------------	------------

Mr. McCall *Aye*
Mrs. Mumpower *Aye*
Mr. Owens *Aye*
Mr. Rector *Aye*
Mr. Reynolds *Aye*
Mr. Roberts *Aye*

Scrivener's Note: The above referenced Public Approval Certificate is included as Minutes Exhibits Item 2004-05-25B.

13. Consideration of Appointments to Boards and Commission Expiring June 30, 2004

Bristol Virginia Utilities Board

<u>Appointee</u>	<u>Representing</u>	<u>Term Expires</u>
Dulcie M. Mumpower	Washington County	June 30, 2004

On motion of Mr. McCall, second by Mr. Rector, it was resolved to recommend the reappointment of Dulcie M. Mumpower to serve as the Washington County representative on the Bristol Virginia Utilities Board for a one year term that begins July 1, 2004 and expires June 30, 2005.

The vote on this motion was as follows: (6-0-1)

Mr. Ingle *Aye*
Mr. McCall *Aye*
Mrs. Mumpower *Abstained*
Mr. Owens *Aye*
Mr. Rector *Aye*
Mr. Reynolds *Aye*
Mr. Roberts *Aye*

Washington County Planning Commission

<u>Appointee</u>	<u>Representing</u>	<u>Term Expires</u>
Dr. Stephen L. Fisher	Monroe District	June 30, 2004

On motion of Mr. Rector, second by Mr. Reynolds, it was resolved to reappoint Dr. Stephen L. Fisher to represent the D-01 "Monroe" Election District on the Washington County Planning Commission for a four year term that will begin July 1, 2004, and expire on June 30, 2008.

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

Mr. Ingle *Aye*
Mr. McCall *Aye*
Mrs. Mumpower *Aye*
Mr. Owens *Aye*
Mr. Rector *Aye*
Mr. Reynolds *Aye*

Mr. Roberts Aye

Highlands Juvenile Detention Board of Directors

<u>Appointee</u>	<u>Representing</u>	<u>Term Expires</u>
Tony Rector (resigned)	Washington County	January 27, 2008

On motion of Mr. Rector, second by Mr. Owens, it was resolved to appoint Kevin Downs to represent Washington County on the Highlands Juvenile Detention Board of Directors to fill the unexpired term of Tony Rector. The term shall be effective immediately and expire on January 27, 2008.

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

Mr. Ingle Aye
Mr. McCall Aye
Mrs. Mumpower Aye
Mr. Owens Aye
Mr. Rector Aye
Mr. Reynolds Aye
Mr. Roberts Aye

14. Recess

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

15. County Administrator Reports

a. Consideration of County Employee Picnic, August 1, 2004, Leo Sholes Park

County Administrator Mark Reeter presented the Board with a proposal to conduct a County Employee Picnic at the Leo “Muscle” Sholes Memorial Park in Glade Spring. The proposed date for the picnic is August 1 with a rain date of August 8. Mr. Reeter explained that the County currently has approximately 250 employees among all County Constitutional Offices, Library, Social Services and County Administration. He estimates a 60% participation rate, plus adding in about 1.5 family members per attending employee, it is estimated that the picnic may involve 225-250 people. The cost per person is estimated to be \$6 to \$8 per person. With some other miscellaneous expenses factored in the total estimated cost of the event would be about \$3,000.00.

On motion of Mrs. Mumpower, second by Mr. Rector, it was resolved to approve the County employee picnic for August 1 and approval of expenditures up to \$3,000.00.

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

Mr. Ingle Aye
Mr. McCall Aye
Mrs. Mumpower Aye
Mr. Owens Aye

Mr. Rector *Aye*
Mr. Reynolds *Aye*
Mr. Roberts *Aye*

b. Review of County Operating Budget Calendar

Mr. Reeter reviewed the remaining schedule of County Operating Budget meetings. He stated that he does not anticipate further revisions to the budget calendar unless the Washington County School Board is delayed in getting their budget request submitted to the County.

16. County Attorney Reports

a. Preliminary Review of Draft Ordinance to Establish Mobile Telecommunications Tax

County Attorney Lucy Phillips addressed the Board explaining that upon request of the County Administrator the Board was provided with an old draft of an ordinance that would establish a tax on purchases of mobile telecommunication services. Ms. Phillips stated that at this time the ordinance is provided for information purposes.

Discussion ensued among the Board.

It was consensus of the Board to authorize the County Attorney to update the draft ordinance to establish a tax on purchases of mobile telecommunications services and to advertise for a public hearing on the possibility of adoption of the ordinance at the earliest possible meeting.

11. Consideration of Request by Smyth-Washington Regional Industrial Facilities Authority to Initiate Eminent Domain Proceedings to acquire land necessary for access road to Highlands Business Park

Mr. Russell Owens, Chairman, Smyth-Washington Regional Industrial Facilities Authority (SWIFA), presented a request to the Board concerning the initiation of condemnation proceedings on a piece of property located adjacent to the Highlands Business Park. SWIFA requests that the Board of Supervisors, as the governing body where the land is located, to request that VDOT initiate eminent domain procedures to acquire the land. Once obtained, the land would be used for construction of an additional lane on U. S. 11 for traffic from the industrial park to merge with the through-traffic lane. Mr. Owens explained that SWIFA would be responsible for all costs involved with the project and therefore, would reimburse Washington County for any expenses they incur during the process. Also, VDOT would retain legal counsel to handle the eminent domain procedures with SWIFA reimbursing the legal fees.

Mr. Owens further explained that SWIFA has tried to acquire the land from the property owner. SWIFA retained an independent appraiser to appraise the property and obtained assistance from VDOT to negotiate a reasonable purchase price. SWIFA offered the property owner a purchase price in excess of the appraised value. The property owner would not accept the offer.

The Board discussed this request at length.

On motion of Mr. Ingle, second by Mr. Rector, the Board acted to adopt the following resolution:

RESOLUTION 2004-11
TO REQUEST THAT VIRGINIA DEPARTMENT OF TRANSPORTATION INITIATE EMINENT
DOMAIN PROCEEDINGS AGAINST MARTIN ROSENBAUM TO ACQUIRE PROPERTY
NECESSARY FOR CONSTRUCTION OF ACCESS ROAD TO HIGHLANDS BUSINESS PARK

WHEREAS, the Highlands Business Park, located in the County of Washington, Virginia, is an economic development effort mutually pursued by Smyth County and Washington County through the Smyth-Washington Regional Industrial Facilities Authority (SWIFA); and

WHEREAS, the Virginia Department of Transportation has determined it necessary that a traffic merge lane be constructed at the entrance to Highlands Business Park, but Martin Rosenbaum, Jr., who lives at 32576 Lee Highway, Glade Spring, Virginia 24340, owns the land alongside U.S. Highway 11 over which the merge lane must be constructed (the Property); and

WHEREAS, after having an independent appraiser determine a reasonable value for the Property, SWIFA made every reasonable effort to negotiate with Mr. Rosenbaum for purchase of the Property, but a negotiated purchase was not obtained; and

WHEREAS, acquisition of the Property for alteration of U.S. Highway 11 is necessary for construction of the access road to Highlands Business Park; and

WHEREAS, pursuant to Virginia Code section 33.1-89, the Commonwealth Transportation Commissioner is vested with the power of eminent domain to acquire such lands and rights of way deemed to be necessary for the construction, reconstruction, alteration, maintenance and repair of the public highways of the Commonwealth, and for these purposes and all other purposes incidental thereto, may condemn property in fee simple and rights of way of such width and on such routes and grades and locations as by the Commissioner may be deemed requisite and suitable;

NOW, THEREFORE, BE IT RESOLVED, this Board finds it in the best interests of the public health, safety, and welfare, that the alteration of U.S. Highway 11, as required by VDOT, be constructed to allow development of the access road to Highlands Business Park; and

BE IT FURTHER RESOLVED that this Board requests that the Commonwealth Transportation Commissioner, on behalf of VDOT, initiate condemnation proceedings against Mr. Martin Rosenbaum, Jr. to acquire the appropriate legal interest in the portion of his land that adjoins U.S. Highway 11 that is necessary for construction of the access road to the Highlands Business Park; and

BE IT FURTHER RESOLVED that the County shall be initially responsible to pay to VDOT all costs, legal expenses, and fees in this matter but such payment is subject to reimbursement by SWIFA, which reimbursement shall be approved by the SWIFA Board of Directors at the SWIFA meeting date next following the date of invoice of any expenses incurred by Washington County in this matter; and

BE IT FURTHER RESOLVED, that the Clerk forward a certified copy of this resolution to the Resident Engineer of the Virginia Department of Transportation.

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>

17. **Board Information**

Mr. Reeter drew attention to materials in the Board Information section. Particularly correspondence from the Virginia Department of Transportation concerning the Passing Lane Study of State Route 1718 (Westinghouse Road).

18. **Consent Agenda**

On motion of Mr. Rector and second by Mr. Owens, it was resolved to approve the following consent agenda items:

- a. Interdepartmental line item transfers-WC Sheriff's Office*
- b. Line-item transfers-General District Court*
- c. Revenue Refund-Building Permit Fee*

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>

19. **Board Member Reports**

Supervisor Phillip McCall stated that he missed the May 24 joint meeting with the Washington County School Board because of the Washington County Service Authority Board of Commissioners meeting. Mr. McCall reported that the Service Authority approved the water line for Reedy Creek Road and placed the project on their Capital Plan. Also, they reduced the System Development Fee to \$50,000 for the proposed commercial development on the Trammell property.

Chairman John Roberts reminded the Supervisors of the dedication services for the World War II memorial on May 29 at 12:00 PM at the Veteran's Memorial Park in Abingdon, VA.

20. **Closed Meeting**

On motion of Mr. Ingle, second by Mr. Owens, 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 and retained legal counsel Richard Cranwell 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 and Assistant County Administrator Christy Parker. Mr. Richard Cranwell will participate via telephone conference. It was further resolved to take a five-minute recess.

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 Mr. Rector, second by Mr. Reynolds 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. Owens, 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>

21. Recess to 7 :00 PM May 26, 2004 for Second Departmental and Agency Reports Hearing Concerning Fiscal Year 2004-2005 County Operating Budget Requests

On motion of Mr. Ingle, second by Mr. Rector, it was resolved to recess to 7 :00 PM May 26, 2004 for the Second Departmental and Agency Reports Hearing Concerning Fiscal Year 2004-2005 County Operating Budget Requests.

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