

VIRGINIA:

At a regular meeting of the Washington County Board of Supervisors held Tuesday, September 28, 2010, at 6:30 p.m., at the County Administration Building in Abingdon, Virginia the following were present:

PRESENT:

Dulcie M. Mumpower, Chair
Odell Owens, Vice Chair
Phillip B. McCall
Nicole M. Price
Kenneth O. Reynolds
Joseph C. Straten
Thomas G. Taylor

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

1. Call to Order

The meeting was called to order by Ms. Dulcie M. Mumpower, Chair of the Board, who welcomed everyone in attendance.

Ms. Mumpower noted there were people present that would receive special recognition.

2. Invocation and Pledge of Allegiance

Supervisor Nicole Price gave the Invocation and led the Pledge of Allegiance.

At this time, Ms. Mumpower asked County Emergency Management Director Pokey Harris to come forward and introduce the County's new Deputy Director of Emergency Management.

Ms. Harris introduced Ms. Theresa Kingsley as the County's Deputy Director of Emergency Management. She commented that Ms. Kingsley comes to the County from the Southwest Virginia Emergency Management Services Council and has 20+ years experience in fire and emergency medical services. Ms. Harris stated that she feels confident in Ms. Kingsley's abilities.

3. Public Comment

There were no public comments.

4. Approval of Agenda

On motion of Mr. McCall, second by Mr. Owens, it was resolved to approve the agenda with the following amendment:

New Item 6.e. Public Hearing

- 1. Public Hearing and Consideration of Adoption of an Emergency Ordinance Pursuant to Virginia Code Section 15.2-1427 (F) to Amend Chapter 66, Subsections 1, 549, 550, and 560, Update Provisions for Regulation of Land Use in Flood Hazard Zones for Consistency with State and Federal Law.**

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Ms. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Straten</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

5. Special Recognitions and Presentations:

Ms. Mumpower and Mr. Reynolds presented a resolution to William ‘Bear’ Lloyd recognizing and commending him for his outstanding work as Washington County’s 2010 Virginia Farm Bureau Ambassador.

Mr. Lloyd thanked the Board for the recognition.

6. Consent Agenda:

On motion of Mr. Reynolds, second by Mr. Straten, the Board acted to approve items a, b and d of the Consent Agenda as set forth below.

a. Approval of Minutes:

- 1. August 2, 2010 Joint Recessed Meeting**
- 2. September 14, 2010 Regular Meeting**

b. Approval of Routine Financial Matters:

- 1. Request for Revenue Refunds - Washington County Sheriff’s Office - Animal Sterilization Fees**
- 2. Request to Cancel Account Payable Checks - Washington County General Fund**

3. Request for Supplemental Appropriation - Washington county sheriff's office and Commonwealth's Attorney Office for Forfeited Asset Seizure Funds
4. Request for Transfer from Reserve for contingencies - Utilities Fund for Exit 19 Sewer Subsidy for \$15,000.00
5. Request for Supplemental Appropriations-Additional FY 2009-2010 Carryovers
6. Payment of Bills - Period of August 11, 2010 thru September 10, 2010
7. Budget Status Report - As of August 31, 2010
- c. Award of Bids and Approval of Contracts
- d. Authorization of Routine Business Matters:
 1. Resolution in Support of Designation of The Wilderness Road: Virginia's heritage Migration Route - Approved as follows:

**RESOLUTION 2010-35
IN SUPPORT OF THE DESIGNATION OF
THE WILDERNESS ROAD: VIRGINIA'S HERITAGE MIGRATION ROUTE
FROM WINCHESTER TO CUMBERLAND GAP
(INCLUDING THE DANIEL BOONE WILDERNESS TRAIL),
AND THE TWO APPLICABLE SPURS:
THE CAROLINA ROAD AND THE FINCASTLE/CUMBERLAND GAP TURNPIKE,
AS VIRGINIA BYWAYS AND NATIONAL BYWAYS**

WHEREAS, from 1775-1810 an estimation of nearly 300,000 settlers traveled through Virginia to the Cumberland Gap. This migration and western movement is a significant point of Virginia history and to the development of the United States of America. Today, an estimated 43 million Americans can trace their ancestors to the migration through Virginia along The Wilderness Road: Virginia's Heritage Migration Route, and

WHEREAS, the historical migration of early settlers and pioneers to Virginia followed closely to what is now Route 11, 58 and 23 from Winchester to Cumberland Gap (including the Daniel Boone Wilderness Trail – Route 58 from Moccasin Gap to Cumberland Gap), but also followed other “spur” migration routes such as The Carolina Road along Route 220 and The Fincastle Turnpike along Routes 42, 61, 19, 460, 71 and 72, and

WHEREAS, these migration routes are now being developed as driving routes/trails to preserve, interpret and promote the history, heritage and culture of the early pioneer settlement and migration through Virginia, and the role that Virginia played in the migration of settlers through Virginia and to other states of our growing of the nation, and

WHEREAS, The Wilderness Road organization has been formed as a recognized non-profit organization under the leadership and guidance of the Virginia Tourism Corporation, in partnership with tourism representatives from 28 tourism localities and 12 state/federal partners, to develop and promote the driving route of The Wilderness Road: Virginia's Heritage Migration Route, and spurs

known as The Carolina Road, and The Fincastle/Cumberland Gap Turnpike, connecting with the Daniel Boone Wilderness Trail, and individual community loops for each locality, and

WHEREAS, the mission of The Wilderness Road organization is to develop a new tourism product to increase economic growth, and tourism spending in the region. The purpose of the organization is to promote The Wilderness Road: Virginia's Heritage Migration Route from Winchester to Cumberland Gap in a way that preserves and interprets the heritage of the migration era from the 1700s to the mid 1800s, to increase tourism visitation and economic impact of tourism spending, and

WHEREAS, the Commonwealth of Virginia has recognized the driving route as The Wilderness Road: Virginia's Heritage Migration Route, which shall not affect any other designation heretofore or hereafter applied to this route or any portions thereof, and

WHEREAS, there are more than 2,700 miles of roads designated as Virginia Byways, to help attract visitors and support economic development through tourism, and the Virginia Department of Transportation (VDOT), the Virginia Tourism Corporation (VTC), the Virginia Department of Conservation and Recreation (DCR) and the Commonwealth Transportation Board (CTB), encourages local governments to nominate roads for Virginia Byway designation, and

WHEREAS, the United States Secretary of Transportation recognizes certain roads (including multi-state) as All-American Roads or National Scenic Byways based on one or more archeological, cultural, historic, natural, recreational and scenic qualities, with The Wilderness Road: Virginia's Heritage Migration Route, (including the Daniel Boone Wilderness Trail), and applicable spurs known as The Carolina Road, and The Fincastle/Cumberland Gap Turnpike include each of these intrinsic qualities, and

WHEREAS, the National Scenic Byways Program is part of the U.S. Department of Transportation, Federal Highway Administration, and the program is a grass-roots collaborative effort established to help recognize, preserve and enhance selected roads throughout the United States, and

WHEREAS, since 1992, the National Scenic Byways Program has provided funding for almost 1500 state and nationally designated byway projects in 48 states;

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of Washington County, Virginia (hereinafter Board) that the Board hereby expresses its support to the Virginia Department of Transportation and the Virginia General Assembly to provide Virginia Byway designation of The Wilderness Road: Virginia's Heritage Migration Route (including the Daniel Boone Wilderness Trail), and The Fincastle Turnpike and The Carolina Road spur routes.

BE IT FURTHER RESOLVED, that the Board expresses its support to the U.S. Department of Transportation, Federal Highway Administration, and United States Secretary for National Byway Designation of The Wilderness Road: Virginia's Heritage Migration Route (including the Daniel Boone Wilderness Trail), and the spur Fincastle Turnpike and Carolina Road routes.

BE IT FURTHER RESOLVED, that the Board fully supports the efforts of the Wilderness Road organization to develop and promote The Wilderness Road: Virginia's Heritage Migration Route

(including the Daniel Boone Wilderness Trail), and the spur Fincastle Turnpike and Carolina Road routes, as Virginia Byway(s) and National Scenic Byway(s).

2. Approval of Records Destruction, Office of County Treasurer

3. Approval of Sale of Surplus County Property, County Department of General Services

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Ms. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Straten</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

6.e. Public Hearings(s)

1. Public Hearing and Consideration of Adoption of an Emergency Ordinance Pursuant to Virginia Code Section 15.2-1427 (F) to Amend Chapter 66, Subsections 1, 549, 550, and 560, and to Add new Subsection 560.1, to the Code of the County of Washington, Virginia, to Update Provisions for Regulation of Land Use in Flood Hazard Zones for Consistency with State and Federal Law

Ms. Phillips explained the Board adopted an ordinance at its September 14, 2010, regular meeting to update the County’s Flood Hazard Zoning District regulations for purposes of continued compliance with requirements of the U. S. Department of Homeland Security’s Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP). FEMA set a deadline of September 29, 2010, for localities to update floodplain management ordinances in order to maintain eligibility for the NFIP. The ordinance adopted by the Board was submitted to FEMA for review, and the County learned from FEMA that several additional amendments were necessary. She further explained additional draft revisions were prepared in accordance with the FEMA comments, and the draft version was submitted to FEMA for review. FEMA representatives have advised the County that with the revisions all requirements for a compliant and enforceable floodplain ordinance have been addressed. Ms. Phillips explained due to the September 29 deadline for eligibility in the NFIP, the Board is asked to hold a public hearing and adopt the ordinance on an emergency bases, as allowed by Virginia Code §15.2-1427(F). The law allows adoption of the ordinance on an emergency basis without benefit of advance public notice, but it also requires that the ordinance must be re-adopted using the standard procedures of advanced notice within sixty days. Ms. Phillips provided a review of the proposed revisions.

Discussions ensued among the Board and Ms. Phillips concerning FEMA’s comments, and the proposed emergency ordinance.

Ms. Mumpower opened the public hearing regarding adoption of an emergency ordinance pursuant to Virginia Code Section 15.2-1427 (F) to amend Chapter 66, Subsections 1, 549, 550, and 560, and to add new subsection 560.1, to the Code of the County of Washington, Virginia to update provisions for regulation of land use in flood hazard zones for consistency with State and Federal law.

There being no comments, Ms. Mumpower declared the public hearing closed.

On motion of Mr. McCall, second by Mr. Taylor, the Board acted to adopt the following emergency ordinance as presented and to authorize the County Attorney to schedule an additional public hearing for re-adoption of ordinance within sixty (60) days:

AN EMERGENCY ORDINANCE TO AMEND CHAPTER 66, SUBSECTIONS 1, 549 AND 560 OF THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA, TO FURTHER REVISE AND UPDATE PROVISIONS FOR REGULATION OF LAND USE IN FLOOD HAZARD ZONES FOR CONSISTENCY WITH STATE AND FEDERAL LAW

WHEREAS, the United States Department of Homeland Security Federal Emergency Management Agency (FEMA) requires local regulation of development in flood hazard areas to meet federally set standards if the locality wishes to be eligible for participation in the National Flood Insurance Program (NFIP);

WHEREAS, Virginia Code section 15.2-2223 established that each local governing body in the Commonwealth may by ordinance adopt a plan for the physical territory within its jurisdiction for management of flood plain and drainage and the Code of the County of Washington, Virginia (County Code) includes such measures that govern the management of flood plains;

WHEREAS, FEMA updated its Flood Insurance Rating Maps (FIRMaps) and established September 29, 2010, as the date the new maps would go into effect and set the same date as a deadline for localities to update their local regulations for compliance with federal requirements to allow continued participation in the National Flood Insurance Program (NFIP);

WHEREAS, the Board of Supervisors of the County of Washington, Virginia (Board) at its September 14, 2010, regular meeting adopted an ordinance with the intent that it would bring Washington County flood plain management regulations into compliance with federal law, but FEMA reviewed the adopted ordinance and advised that additional revision was necessary to achieve complete compliance;

WHEREAS, the Board finds it a matter of urgent need to maintain eligibility for Washington County residents to have flood insurance under the NFIP; and

WHEREAS, upon due consideration, the Board has found it in the best interest of the public health, safety, and welfare to adopt this ordinance on an emergency basis to amend County Code Chapter 66, Zoning, to update its provisions and conform them to the requirements of federal regulation and to direct that the ordinance be re-set for public hearing and consideration for adoption after public notice within sixty (60) days of the effective date of this emergency ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Supervisors of the County of Washington, Virginia, after public hearing, as required by law:

- 1. That this emergency ordinance shall become effective immediately;*
- 2. That the ordinance shall be re-set for public hearing and consideration for re-adoption after public notice within sixty (60) days of the effective date of this emergency ordinance;*

3. *That the Editor is directed to revise the formatting and section designations of the emergency ordinance for consistency with the Code of the County of Washington, Virginia (2002, as amended);*
4. *That should any section or provision of this emergency ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or the Washington County Code; and*
5. *That Chapter 66, Subsections 1, 549, 550, and 560 are amended and new section 560.1 is added, as set forth below:*

Chapter 66.
ZONING

Article I. In General
Sec. 66-1 Definitions.

GIS Map or Geographic Information Systems Map means the digital map maintained by the County Department of Information Systems and published on the County Internet website. This map shall be the official map of the county for purposes of designation of zoning districts, including overlay districts.

Article V. Districts
*Division 15. Flood Hazard District FH**
Sec. 66-546. - Purpose.

The purpose of the FH flood hazard district is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, the impairment of the tax base, and the loss of recognizable ecological values, by:

- (1) Regulating uses, activities and developments that, acting along or in combination with other existing or future uses, activities and developments, will cause unacceptable increases in flood heights, velocities, and frequencies.*
- (2) Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.*
- (3) Requiring all those uses, activities and developments that do occur in floodprone areas to be protected and/or floodproofed against flooding and flood damage.*
- (4) Protecting individuals from buying lands and structures that are unsuited for intended purposes because of flood hazards.*

(Code 1997, § 66-631)

* Cross reference—Flood control and drainage in subdivisions, § 54-56 et seq.

State Law Reference – Authority to regulate flood plains, Code of Virginia § 15.2-2280.

Sec. 66-547. - Applicability.

The provisions of this division shall apply to all lands within the jurisdiction of the county and identified as being floodprone as stipulated in this division.

(Code 1997, § 66-632)

Sec. 66-548. - Compliance.

No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this division and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this division.

(Code 1997, § 66-633)

Sec. 66-548.1 – Abrogation and Greater Restrictions.

This ordinance supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

Sec. 66-548.2 - Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Sec. 66-549. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the Floodplain Administrator and the Zoning Administrator of the county.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation means the Federal Emergency Management Agency (FEMA) designated one hundred (100)-year water surface elevation or 1% annual chance flood. The water surface elevation of the base flood in relation to the datum specified on the Flood Insurance Rate Map, which is incorporated into the Geographic Information System (GIS) by the County.

Basement means any area of the building having its floor sub-grade (below ground-level) on all sides. In the event the Virginia Uniform Statewide Building Code provides a more stringent definition of "basement" the Virginia Uniform Statewide Building Code definition shall control.

Code of Federal Regulations or CFR means the United States Code of Federal Regulations, as amended.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, mining, dredging, filling, grading, paving, excavating, ~~or~~ drilling operations, or storage of equipment or materials.

Digital Flood Insurance Rate Map or DFIRM means Flood Insurance Rate Map or FIRM as herein defined.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of the floodplain.

Federal Emergency Management Agency or FEMA means the agency of the federal government by that name.

Fill means the placing, storing or dumping of any material, such as (by way of illustration but not of limitation) earth, clay, sand, concrete, rubble or waste of any kind, upon the surface of the ground that results in increasing the natural ground surface elevation.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1. The overflow of inland or tidal waters.*
- 2. The unusual and rapid accumulation or runoff of surface waters from any source.*
- 3. Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.*

Normally, a "flood" is considered as any temporary rise in stream flow or stage that results in significant adverse effects in the vicinity. Adverse effects may include damages from overflow of land areas, temporary backwater effects in sewer and local drainage channels, creation of unsanitary conditions or other unfavorable situations by deposition of materials in stream channels during flood recessions, rise of groundwater coincident with increased stream flow, and other problems.

Flood hazard district means the land located within the 100-year floodplain that includes the floodway, floodway fringe, and approximate floodplain.

Flood Insurance Rate Map or FIRM means the ~~digital flood insurance map found in the GIS.~~ official map of a community on which the Federal Insurance Administrator with the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. The FIRM applicable to the county shall be designated on the GIS map. In the event the GIS conflicts with the FIRM panel maintained by FEMA, the FEMA FIRM panel shall control.

Flood Insurance Study or FIS means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain means a relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation and to the unusual and rapid accumulation of runoff of surface waters from any source.

Floodplain management is a term applied to the full range of public policy and action for ensuring wise use of the floodplains. It includes everything from collection and dissemination of flood control information to actual acquisition of floodplain lands, including the enactment and administration of floodplain regulations, including building codes and the building of flood-modifying structures.

Floodprone area means any land area susceptible to being inundated by water from any source.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to properties and structures that reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings. In the event the Virginia Uniform Statewide Building Code provides for a more stringent definition of "floodproofing" the Virginia Uniform Statewide Building Code definition shall control.

Floodway means the designated area of the 100-year floodplain required to carry and discharge floodwaters of a given magnitude.

Floodway fringe means the remaining portions of the 100-year floodplain adjacent to the floodway.

Freeboard means one (1) foot above base flood elevation.

Historic structure means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the federal Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;*
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;*
- (3) individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or*
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

 - ii) by an approved state program as determined by the Secretary of the Interior; or,*
 - iii) directly by the Secretary of the Interior in states without approved programs.**

Lowest floor ~~means the~~ ~~The~~ lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR §60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision ~~means~~ a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction ~~means for~~ ~~For~~ the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after March 16, 1988, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after March 8, 1988, and includes any subsequent improvements to such structures.

One-hundred year flood or 100-year flood means the flood level that is estimated to have a one percent chance of occurring each year. It does not imply that no greater flood is likely to occur, nor that such a flood will not happen more often than once every 100 years.

Recreational vehicle means a vehicle that is:

- (1) built on a single chassis;*
- (2) four hundred (400) square feet or less when measured at the largest horizontal projection;*

- (3) *designed to be self-propelled or permanently towable by a light duty truck; and*
- (4) *designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.*

Shallow flooding area means a special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special flood hazard area means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section 66-549 of this ordinance.

Start of construction, for other than new construction and substantial improvement, means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date.

Structure means, for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Title 44 of the Code of Federal Regulations, Secs. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Code 1997, § 66-634)

Cross reference—Definitions generally, § 1-2.

Sec. 66-550. - Establishment of flood hazard districts.

(a) Basis of districts. The various flood hazard districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the digital flood insurance rate map (DFIRM) and the flood insurance study (FIS) for Washington County prepared by the Federal Emergency Management Agency, effective September 29, 2010, as amended

(1) The floodway district is delineated for purposes of this article using the criteria that a certain area within the floodplain must be capable of carrying the water of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. These areas included in this district are specifically defined in the above-referenced flood insurance study and shown on the accompanying flood insurance rate map. "Floodway" shall be that area identified as "Floodway" in Table 2 in the FIS (flood insurance study) prepared by the Federal Emergency Management Agency (FEMA). The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the FIS prepared by the Federal Emergency Management Agency.

(2) The flood fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of this district shall be the 100-year flood elevations contained in the flood profiles of the flood insurance study referenced in subsection (1) of this section and as shown on the accompanying flood insurance rate map.

(3) The "approximated floodplain area" shall be that floodplain area for which no detailed flood elevations or floodway information is provided. Such areas are shown as zone A on the maps accompanying the flood insurance study prepared by the Federal Emergency Management Agency. For these areas, elevation and floodway information from other federal, state or other acceptable source shall be used when available.

(b) Overlay concept.

(1) The flood hazard districts described above shall be overlays to the existing underlying zoning districts as shown on the official zoning ordinance map; and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

(2) Where there happens to be any conflict between the provisions or requirements of any of the flood hazard districts and those of any underlying district, the more restrictive provisions of either shall apply.

(3) *If any provision concerning a flood hazard district is declared inapplicable as a result of any legislative or administrative action or judicial discretion, the underlying district provisions shall remain applicable.*

(c) *Official zoning map. The boundaries of the flood hazard districts are established as shown on the flood insurance rate map which is declared to be a part of this article and which shall be kept on file by the county.*

(d) *District boundary changes. The delineation of any of the flood hazard districts may be revised by the board of supervisors where natural or manmade changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, the Tennessee Valley Authority, or other qualified agency or where an individual documents the need or possibility for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.*

(e) *Interpretation of district boundaries. Initial interpretations of the boundaries of the flood hazard district shall be made by the administrator or his designee. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.*

(Code 1997, § 66-635)

Sec. 66-550.1 – Submitting Technical Data.

Base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the data such information becomes available, the administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that, upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

Sec. 66-551. - Zoning permit required for utilization of the flood hazard district.

(a) *Generally. All uses, activities and development occurring within any flood hazard district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code referenced in section 14-1 and the county subdivision regulations of chapter 52. Prior to the issuance of any such permit, the administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channel or floodways of any watercourse, drainage ditch, or any other drainage facility or system. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this*

jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and the Federal Insurance Administrator.

(b) Application. All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

- (1) For structures that have been elevated, the elevation of the lowest floor, including basement.*
- (2) For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed.*
- (3) The elevation of the 100-year flood.*
- (4) Topographic information showing existing and proposed ground elevations at two-foot contour intervals or less, using best available data.*

(Code 1997, § 66-636(a), (b))

Sec. 66-552. - Permitted uses.

The following uses shall be permitted in the floodway district, provided that they are in compliance with the provisions of the underlying district:

- (1) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, and farming, and wild-crop harvesting.*
- (2) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, and fishing areas.*
- (3) Open accessory residential uses, such as yard areas, gardens, play areas and previous loading areas, but not storage or other structures.*
- (4) No development shall be permitted which increases flood heights and produces hazardous velocities. The effect of such development on flood heights must be offset by accompanying improvements which have been approved by all federal, state and local authorities. This section is not intended to prevent property owners from installing fencing that has an insignificant effect on flood heights.*

(Code 1997, § 66-636(c))

Sec. 66-553. - Special exception uses.

The following uses may be permitted in the floodway district as a special exception as provided in this chapter, provided that they are in compliance with the provisions of the underlying district:

- (1) *Structures, except for manufactured homes, accessory to the uses and activities in section 66-551(a).*
- (2) *Utilities and public services.*
- (3) *Temporary uses, such as circuses, carnivals and similar activities.*
- (4) *Other similar uses and activities, provided that they cause no increase in flood heights and/or velocities. All uses, activities and developments shall be undertaken in strict compliance with the floodproofing provisions contained in this division and all other applicable codes and ordinances.*

(Code 1997, § 66-636(d))

Sec. 66-554. - Prohibited uses.

No use, structure, fill, deposit, obstruction and/or storage of materials or equipment will be permitted in the flood hazard district that, acting along or in combination with existing or future uses, will result in affecting the capacity of the floodway or unduly increasing flood limits. Such limits will be those established by the Federal Emergency Management Agency and the Virginia Uniform Statewide Building Code.

(Code 1997, § 66-636(e))

Sec. 66-555. - Manufactured homes prohibited.

The placement of any manufactured home within the Flood Hazard district is specifically prohibited.

(Code 1997, § 66-636(f))

Sec. 66-556. - Floodway fringe and approximated floodplain districts.

In floodway fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of underlying district provided that all such uses, activities and/or development shall be undertaken in strict compliance with the elevation, floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code, Supplement section 1313.0, and all other applicable portions of the county Code and ordinances.

(Code 1997, § 66-636(g))

Sec. 66-557. - Records.

The administrator shall obtain and maintain records of actions associated with administering this ordinance including but not limited to the lowest floor elevations and floodproofing levels for all new or substantially improved structures within the designated floodplain.

(Code 1997, § 66-636(h); Ord. No. 2000-01, § 1(66-636), 4-11-2000)

Sec. 66-558. - Procedures for considering special exceptions, rezoning, variances and zoning amendments in the flood hazard districts.

(a) Variances shall be issued only upon:

- (i) a showing of good and sufficient cause,***
- (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and***
- (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in***
 - a. unacceptable or prohibited increases in flood heights,***
 - b. additional threats to public safety,***
 - c. extraordinary public expense; and will not***
 - d. create nuisances,***
 - e. cause fraud or victimization of the public, or***
 - f. conflict with local laws or ordinances.***

(b.) While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

(c.) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(d.) In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors. All actions by any agent, commission or board of the county, including rezoning, special exceptions, and amendments to this chapter, shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and the following additional factors:

- (1) The danger to life and property due to increased flood heights or velocities which may be caused by encroachments.***
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others.***

- (3) *The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.*
- (4) *The susceptibility of the proposed facility or use and its contents to flood damage, and the effect of such damage on the individual owner.*
- (5) *The importance of the services provided by the proposed facility or use to the community.*
- (6) *The requirements of the facility or use for a waterfront location.*
- (7) *The availability of alternative locations not subject to flooding for the proposed use.*
- (8) *The compatibility of the proposed use or structure with existing and anticipated development.*
- (9) *The relationship of the proposed use to the comprehensive plan and the floodplain management program to a town and surrounding area.*
- (10) *The safety of access to the property in terms of flood for ordinary and emergency vehicles.*
- (11) *The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected on the site.*
- (12) *Such other factors which are relevant to the purpose of this article.*

(b) Compliance with state building code. When considering special exceptions and/or variances, the board of supervisors, the planning commission, and the board of zoning appeals will ensure that the granting of the special exception and/or variance will comply with the requirements of the Virginia Uniform Statewide Building Code. In addition, no special use and/or variance within the floodway will be granted if it will cause an increase in the 100-year flood elevation.

(c) Request for technical assistance. The board of supervisors, planning commission, or board of zoning appeals may refer an application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

(d) Issuance of special exceptions and variances. Special exceptions and/or variances shall only be issued after the board of supervisors and board of zoning appeals have determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety or extraordinary public expense; create nuisances; cause fraud or victimization of the public; or conflict with local laws or ordinances.

(e) Minimum relief. Special exceptions and/or variances shall only be issued after the board of zoning appeals has determined that the special exception and/or variance will be the minimum relief to any hardship.

(f) *Notification of increased insurance rates. The board of zoning appeals and board of supervisors, or their designated representatives, shall notify the applicant for a special exception and/or variance, in writing, that the issuance of a special exception and/or variance to construct a structure below the 100-year flood elevation increases risks to life and property and will result in increased premium rates for flood insurance.*

(g) *Record of notification. A record of the notification referred to in subsection (f) of this section, as well as all variance actions, including justification for issuance, shall be maintained; and any variance which is issued shall be noted in the annual or biennial report submitted to the Federal Emergency Management Agency.*

(Code 1997, § 66-637)

Sec. 66-559. - Existing structures in floodplain districts.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with this division, may be continued subject to the following conditions:

- (a.) *Existing structures and/or uses located in the floodway district shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements to the stream. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the existing and proposed expansion would not result in any increase in the base flood elevation.*
- (b.) *Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain areas to an extent or amount of less than fifty percent of its market value shall conform to the Virginia Uniform Statewide Building Code.*
- (c.) *The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the Virginia Uniform Statewide Building Code.*

(Code 1997, § 66-638)

Sec. 66-560. - Site design regulations.

(a) *Consistency with state building code. All subdivision proposals and other new developments in the flood hazard district, including utilities and drainage, shall be located and designed to be consistent with the need to minimize flood damage as stated in the Virginia Uniform Statewide Building Code referenced in section 14-1.*

(b) *Site plan criteria. . The administrator shall review all proposed building sites to determine that they will be reasonably safe from flooding. The owner or developer of any proposed subdivision and/or other new development in the flood hazard district shall submit a site plan to the administrator that includes the following information:*

- (1) *All requirements stated heretofore in this article.*

(2) *Name of engineer, surveyor or other qualified person responsible for providing the information required in this section.*

(3) *A map showing the location of the proposed subdivision and other new development with respect to the county and adjacent town floodprone areas, proposed lots and sites, fills, flood or erosion protection facilities, and areas subject to special deed restriction. In addition, it is required that all subdivision proposals greater than 25 lots or five acres, whichever is the lesser, shall include base flood elevation data.*

(4) *Where the subdivision and other new development lies partially or completely in the floodprone areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities, and building sites. All such maps shall also show contours at intervals of two or less feet, depending upon the slope of the land, and shall identify accurately the boundaries of the floodprone areas. Property with slopes less than 20 percent shall show contours at intervals of two feet.*

(c) *Design criteria. For additional information required for purposes of flood hazard mitigation in proposed subdivisions or other developments which are within the floodplain districts as delineated, the following additional provisions shall be met:*

(1) *All new or replacement sanitary sewer facilities and private package sewage treatment plants, including all pumping stations and collector systems, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.*

(2) *All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and shall be located and constructed to minimize or eliminate flood damages.*

(3) *All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall ensure drainage away from buildings and on-site waste disposal sites. Drainage plans shall be consistent with facilities' discharge of excess runoff into adjacent properties.*

(4) *All utilities such as gas lines, electrical and telephone systems being placed in floodprone areas should be located, elevated, where possible, and constructed to minimize the chance of impairment during a flooding occurrence.*

(5) *All electric water heaters, electric furnaces and other critical electrical installations shall be permitted only at elevations at or above the level of the 100-year flood.*

(6) *Water supply systems, sanitary sewage systems, and gas and oil supply systems shall be designed to preclude infiltration of floodwaters into the systems and discharges from the systems into floodwaters.*

(7) *Adequate drainage shall be provided to minimize exposure to flood heights.*

(8) *The preliminary plat requirements shall include a map showing the location of the proposed subdivision and/or land development with respect to any designated flood district, including information on but not limited to, the 100-year flood elevations,*

boundaries of the floodplain district, proposed lots and sites, fills, flood or erosion protective facilities, and areas subject to special deed restrictions.

(Code 1997, § 66-639)

Sec. 66-560.1 – Construction Design Standards

(a) All new construction and substantial improvements that are located in the flood hazard district shall be designed in accordance with flood protection requirements of the Virginia Uniform Statewide Building Code referenced in section 14-1 of the county code.

(b) All new construction and substantial improvements that are located in the flood hazard district shall be constructed in accordance with the following criteria:

(i) All new construction and substantial improvement shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(ii) All residential structures shall have the lowest floor (including basement) elevated to or above the base flood level, unless the community is granted an exception by the Federal Insurance Administrator for the allowance of basements in accordance with 44 CFR 60.6 (b) or (c).

(iii) All non-residential structures shall (i) have the lowest floor (including basement) elevated to or above the base flood level or, (ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(iv.) Where a non-residential structure is intended to be made watertight below the base flood level, (i) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of 44 C.F.R. 60.3(c)(3)(ii) or (c)(8)(ii), and (ii) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained with the official designated by the community under 44 CFR 59.22(a)(9)(iii).

(v.) For all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(vi.) Until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AI-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Sec. 66-561. - Regulation of real estate sales in flood hazard areas.

(a) Any owner or partial owner of real estate or his agent and any real estate broker or his agent who contracts to sell or sells real estate in the flood hazard district without first notifying in writing the buyer or his agent that such real estate is subject to floodplain regulations shall be subject to the penalties set forth in subsection (c) of this section.

(b) Floodplain regulations referred to in subsection (a) of this section include the requirements of this chapter, subdivision regulations set forth in chapter 52, and building codes set forth in chapter 14 that impose restrictions specifically relating to flooding on the whole or a portion of the lands.

(c) The penalties for violation of subsection (a) of this section may, at the discretion of the court, include:

- (1) Rescission of the contract at the option of the buyer.*
- (2) Payment to the buyer of damages he may have suffered whether the buyer rescinds the contract or not.*
- (3) A fine of not more than \$1,000.00.*

(Code 1997, § 66-640)

Sec. 66-562. - Penalties.

In addition to the penalty prescribed in section 1-15, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article; the imposition of a fine or penalty for any violation or noncompliance or permitting it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this article may be declared by the board of supervisors to be a public nuisance and abatable as such.

(Code 1997, § 66-641)

Sec. 66-563. - Liability.

The granting of a permit or approval of a subdivision or development plan in an identified floodprone area shall not constitute a representation, guarantee or warranty of any kind, by the county or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the county, its officials or employees.

(Code 1997, § 66-642)

Secs. 66-564—66-580. - Reserved.

Further discussions ensued among the Board.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Ms. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Straten</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

7. General Business:

a. Action Items:

1. Consideration of Dog Damage Claim, Delores Stein

Ms. Phillips commented that Animal Control Officers Wes Wright and Jason Alexander, and Delores Stein were in attendance and would make a presentation concerning the dog damage claim request. Ms. Phillips explained the payment of dog damage claims are limited to fair market value of an animal, and may not exceed \$400.00 per animal. County Extension Agent Phil Blevins has provided a certified value of \$515 for Ms. Stein’s animals that were killed.

Sergeant Jason Alexander and Ms. Delores Stein presented the dog damage claim to the Board.

Sergeant Alexander explained Ms. Stein had livestock killed in December of last year. The Animal Control Department investigated the claim at that time and determined Ms. Stein’s livestock was not killed by a domesticated animal. The animal tracks leading to the livestock were not consistent with those of a domesticated animal. He further explained the investigation into the claim presented before the Board at this time does not present clear evidence that the livestock was killed by a domesticated animal. Sergeant Alexander commented however that there were stray dogs found in the area of Ms. Stein’s farm. One of the dogs has since been captured. He distributed pictures of the livestock killed that shows wounds to the animals and tracks of the animal believed to have inflicted the wounds. Sergeant Alexander explained the pictures show some of the animals to have sharp, defined cuts not normally seen

with a domesticated attack. Therefore, it has been difficult for Animal Control to make a clear determination if Ms. Stein’s livestock were killed by domesticated animals.

Ms. Stein addressed the Board and explained there have been two dogs, believed to be labs that have been roaming in and around her property. She does not know the owner of the dogs. Ms. Stein commented her property is desolate, and she has had people walk her property who have told her there are no signs of a wild animal attack. She advised the Board her reason for not filing a claim in December when some of her livestock were killed was because of personal issues. Ms. Stein stated the animals killed in December and the ones killed as part of the claim before the Board at this time was killed in the same manner.

Discussions ensued among the Board and Ms. Stein.

On motion of Mr. Taylor, second by Mr. Owens, the Board acted to authorize payment to Delores Stein in the amount of \$515.00.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Ms. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Straten</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

2. Consideration of Proposed Conveyance of Land from Grace Rust Estate to County for Subsequent Conveyance to Emory & Henry College for Natural Area Preserve and Outdoor Classroom

Ms. Phillips explained the last will and testament of Grace Estella Rust bequeathed to the County of Washington, Virginia, 119 acre tract of mountainous, undeveloped land in the Tyler Magisterial District, subject to the restriction that the land is to be used only as a wildlife preserve and that the small family cemetery on the property be protected. She further explained there is a natural gas well on site used for storage. The mineral rights were given to another party. Ms. Phillips next explained that County Administrator Mark Reeter has looked at the property and does not think the County would be interested. The attorney for the Grace Rust Estate contacted Mr. Neal Kilgore with the Virginia Outdoor Foundation, which subsequently led to conversation with Emory & Henry College. The College indicated that it would be pleased to accept the property to maintain as wildlife preserve and to use it, as such, for an outdoor classroom. The Virginia Outdoor Foundation would hold a conservation easement on the property to protect the Estate’s interest in the preservation of the property for wildlife. In order to meet the requirements of the bequest by Will, the Estate would convey the property to the County; the County would give the conservation easement to the Foundation; and the County would convey the property, subject to the conversation easement, to the College. The executors of the Estate have provided written correspondence stating their agreement with the proposal. Ms. Phillips advised that the County is not obligated to accept the property; however, the proposal supported by the executors of the Estate, the Foundation and the College would benefit the College, fulfill the wishes of the Estate, and create no cost liability to the County.

Ms. Phillips explained if the Board is receptive to the proposal, she requests their authorization to schedule a public hearing on the proposed conveyance of the property from the County to Emory & Henry College as required by Virginia Code §15.2-1800.

Dr. Ed Davis with Emory & Henry College addressed the Board concerning the College's use of the property as an outdoor classroom. Dr. Davis explained the College is having surveys completed on the property to determine its boundaries. He commented on what an outdoor classroom means and what students would be learning.

Mr. Neil Kilgore with the Virginia Outdoor Foundation addressed the Board and commented on the importance of protecting the property. He explained there is a stream that lies below the property that feeds into the North Fork of the Holston River which is a premier spot for bass fishing. This stream could be impacted if the property is not protected. Mr. Kilgore stated his belief that a solution could be identified for all parties involved to make the property an asset for Emory & Henry College.

Discussions ensued among the Board, Ms. Phillips, Dr. Davis and Mr. Kilgore concerning the gas well located on the property and the lease payments being made on the well. There was also discussion concerning access to the property.

On motion of Mr. Taylor, second by Ms. Price, the Board acted to authorize the County Attorney to schedule a public hearing on the proposal to convey the Grace Rust Estate property to Emory & Henry College.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Ms. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Straten</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

3. Consideration of County Contributions to Charitable Organizations

Mr. Seamon addressed the Board and explained in December 2009, all charitable organizations receiving less than \$15,000.00 annually from the County were requested to complete an Organization Profile Statement. The profile statement and supporting documentation provides the County with vital information about each organization's structure and operations. A second request for this information was made on August 24, 2010, to those charitable organizations who failed to respond to the first request. At the present time, the Accounting Department is withholding County funds from the four (4) organizations who have not submitted the requested Organization Profile Statement.

Mr. Seamon next explained that some charitable organizations who have submitted their Organization Profile Statements do not presently meet the established requirements to receive funding from the County according to the Board's General Policies, Article 6.7.1. He stated Abingdon Farmer's Market, Justin Foundation and Little Rebel Football have met with him and are now contemplating their options in regards to becoming recognized as a non-profit organization. Also, each of these organizations has requested the Board's consideration to release their County funds now.

Mr. Seamon explained the Accounting Department seeks Board guidance concerning the release of appropriated funds to the charitable organizations who are not presently in compliance with the Board’s policy, or who have not completed an Organization Profile Statement.

Lengthy discussions ensued among the Board, Mr. Seamon and Mr. Reeter concerning the issues presented by Mr. Seamon.

It was consensus of the Board to direct the Accounting Department not to release County funds until the organizations comply with the Board of Supervisors General Policies.

4. Consideration of Appointments to Various Boards, Authorities and Commissions

Mount Rogers Planning District Commission

On motion of Mr. Taylor, second by Mr. Owens, the Board acted to appoint Steve Cannon as the Town of Glade Spring representative to the Mount Rogers Planning District Commission.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Ms. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Straten</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

Washington County Industrial Development Authority

On motion of Mr. Owens, second by Mr. Taylor, the Board acted to re-appoint Chad E. Gardner to represent the Tyler Election District on the Washington County Industrial Development Authority for a four year term beginning November 14, 2010 and expiring November 13, 2014.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Ms. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Straten</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

On motion of Mr. Reynolds, second by Ms. Price, the Board acted to re-appoint Clarence B. “C.B.” Hale to represent the Madison Election District on the Washington County Industrial Development Authority for a four year term beginning November 14, 2010 and expiring November 13, 2014.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Ms. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Straten</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

Washington County Service Authority (Wilson District representative):

Ms. Mumpower requested this appointment be placed on the agenda for the October 12 meeting.

b. Information Items:

1. Presentation of Virginia Highlands Community College Annual Report

Virginia Highlands Community College (VHCC) President Dr. Ron Proffitt addressed the Board and thanked them for the opportunity to present the VHCC Annual Report for 2009-2010. Dr. Proffitt thanked the Board for their support of VHCC, and stated the College is a key player to the economic and educational development in the area. Over 60% of the student enrollment at VHCC comes from the Washington County Service region. This fall, 28-30% of high school graduates from the four high schools in Washington County enrolled at VHCC. He commented one of his goals will be to enroll more high school graduates at VHCC. At this time, Dr. Proffitt distributed the 2009-2010 Annual Report to the Board for their review.

2. Update on County Election District Public Information Meetings

Ms. Christy Parker, Assistant County Administrator/Community & Economic Development, addressed the Board and provided an update on the upcoming fall series of Board of Supervisor District Based Public Information Meetings. Ms. Parker explained the purpose of these meetings is to increase public awareness of county programs, initiatives and accomplishments. The program or agenda for each meeting can be individualized by each hosting supervisor based on the needs in each election district. She commented that administrative staff will work to assure the program meets the specific needs of each board member. Currently, administrative staff is working on the agenda/program for the Taylor Election District Meeting hosted by Joe Straten that will be held on Thursday, September 30, at 6:30 p.m., Rhea Valley Elementary School.

Ms. Parker explained at the Board’s direction, she has begun to coordinate, advertise and publicize the meetings. A press release was prepared providing information about the meetings, and a schedule of the meetings. The press release was distributed to the Washington County News, and will be provided to the Bristol Herald Courier. She commented other ways of advertising the meetings include postcards that will be sent to residents of each election district informing them of their respective district meeting. Also, Mr. Jim Sullivan, Interim Superintendent for Washington County Schools, has arranged with the principals of each school in the County to send flyers home with students advertising the meetings.

Ms. Mumpower thanked Ms. Parker for her efforts in organizing the public information meetings.

Mr. McCall requested that a representative from the Abingdon Town Council be asked to participate in the Harrison/Madison Joint Public Information Meeting.

Ms. Parker stated that a personal note would be sent to officials in each respective district.

Mr. Taylor requested that all appointees to County Board, Authorities and Commissions be invited including the school board representative.

Further discussions ensued among the Board concerning the Public Information Meetings.

8. Board Member Reports

Mr. Reynolds reported on the Washington County Fair. He commented that this year's fair was very successful with record participation and attendance. The Fair attracts a lot of people from throughout the region and is an economic boost to the area. Mr. Reynolds added that the weather was nice during the week of the fair.

Mr. McCall thanked Sheriff Fred Newman and the officers for their work during the Washington County Fair. He stated their presence was visible and were available when needed.

Mr. Taylor reported on a complaint from a County resident that lives near the Washington County Industrial Park concerning odors coming from MXI. He stated the person complains the odor is very strong in the mornings and evenings. This individual has been to the Virginia Department of Environmental Quality (VDEQ). VDEQ advised the individual that they do not regulate odors. Mr. Taylor commented that other neighbors in the area of the industrial park are also concerned. He expressed his concerns about the odor issues at MXI and their impact on the nearby residential areas, the new hospital, and other medical facilities that will be constructed. Mr. Taylor suggested the County communicate with MXI to make them aware of the problem that is developing for them.

Mr. McCall asked Board members to review the information they were provided on a dangerous railroad crossing located on Hillman Highway. A presentation will be made about this crossing at the October 12 meeting.

Ms. Mumpower reported on the ceremony held for the Glade Spring Branch Library project.

9. Board Information and Reminders

Mr. Reeter reviewed the following Board Reminders and Information:

Reminders

Performance evaluations of County Administrator and County Attorney scheduled for Wednesday, September 29 at 6:30 p.m. (Board of Supervisors Recessed Meeting). Mr. Reeter noted that the evaluations will be conducted in closed meeting. Also, the Board will have a closed meeting concerning an economic development matter.

Joint recessed meeting of the Board of Supervisors and Washington County Industrial Development Authority scheduled for Monday, October 25 at 6:30 p.m., in Conference Room 1, County Administration Building.

County offices will be closed on Monday, October 11 for the Columbus Day Holiday.

Information:

2010 Commonwealth Zoning & Land Use Conference - - October 10-12 at the Hotel Roanoke.

Virginia Association of Counties' Annual Conference -- November 7-9, The Homestead, Hot Springs, Virginia & 2010 Legislative Program.

Correspondence from Virginia Department of Education dated September 10, 2010 - Federal Education Jobs Fund Guidance and Local Funding Allocations.

Correspondence from Virginia Department of Transportation dated September 15, 2010 - FY2011 Revenue Sharing Program Allocation to Washington County.

Correspondence from Virginia Association of Counties dated September 17, 2010 - Bolling Commission Recommendations Concerning Repeal of Local Machinery & Tools Tax.

Mr. Reeter noted that the Manufacturers Association is lobbying repeal of the Machinery & Tools tax. If the General Assembly acts to repeal this tax without a replacement source of income it would have a devastating impact on Washington County. The Machinery & Tools tax is the third largest revenue source behind the real property tax and sales tax. VACo will keep localities updated on this issue.

Mr. McCall asked if the Board needs to consider a Resolution making the state aware of the fiscal impact to Washington County that repealing the Machinery & Tools Tax would have.

Mr. Reeter explained that VACo would be providing guidance as to actions that should be taken by localities.

At this time, Ms. Mumpower commended the County Constitutional Officers for complying with all aspects of the state audit.

10. Adjourn or Recess

On motion of Mr. McCall, second by Mr. Owens, it was resolved to recess to September 29, 2010 at 6:30 p.m.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Ms. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>

Mr. Straten
Mr. Taylor

Aye
Aye

Prepared by:

Naoma A. Norris, Recording Clerk

Approved by the Washington County Board of Supervisors:

Dulcie M. Mumpower, Chairman