V I R G I N I A:

At a regular meeting of the Washington County Board of Supervisors held Tuesday, April 13, 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

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1. Call to Order

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

2. Invocation and Pledge of Allegiance

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

3. Approval of Agenda

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

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***

4. Approval of Minutes

March 23, 2004 Recessed Meeting

On motion of Mr. Ingle, second by Mrs. Mumpower, it was resolved to approve the minutes as presented.

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***

March 23, 2004 Regular Meeting

On motion of Mr. Owens, second by Mr. Rector, it was resolved to approve the minutes with the following correction:

Page 13255, Item 14, Board Member Reports: Correct second paragraph to read, "Chairman John Roberts asked for Board permission to invite Jacob Preston Holmes, member of Boy Scout Pack 117, to one of the April meetings to be recognized for his accomplishments. At age 14, Jacob is one of the youngest in the United States to earn the honor of being designated an Eagle Scout."

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***

Scrivener's Note: The above corrections have been made to the recorded Minutes of the referenced meeting.

5. Presentation of Certificate of Meritorious Service to Jacob Preston Holmes

Chairman John Roberts presented Jacob Preston Holmes with a Certificate of Meritorious Service for his leadership and service to his community through school, church and Boy Scout Troop 117. Mr. Roberts recognized many of Jacob's accomplishments. One of his greatest accomplishments is at age of 14, Jacob is one of the youngest in the United States to earn the honor of Eagle Scout. Mr. Roberts stated that Jacob had received letters recognizing this honor from President and Mrs. George W. Bush, Vice President Dick Cheney and John Glen, Air Force Commander.

6. Public Hearings

Requests for Special Exception Permits:

(1). ***Bobby A. Blevins, Property Tax Map # 087-9-2G*****: Request for a Special Exception Permit to expand an existing machine shop on property located on the west side of State Route 735 near the intersection of State Route 735/Route 11 in an A-2 (Agricultural, General) zone, Monroe Magisterial District**

Mr. Roberts opened the public hearing to receive comments both in support of and in opposition to the application of Bobby A. Blevins for a Special Exception Permit.

Mr. Bobby Blevins, owner of the machine shop, addressed the Board explaining that he has a machine shop in Meadowview and Damascus. Mr. Blevins stated that his business has grown over the last year and just recently picked up new contracts. The growth in the business has dictated the need to expand the facility in Meadowview, which is the larger of the two facilities with 80 employees. In addition, Mr. Blevins explained that he wishes to consolidate the Damascus and Meadowview operations to the facility in Meadowview. The expansion would provide a storage area and an office facility.

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

On motion of Mr. Rector, second by Mr. Ingle, it was resolved to follow the recommendation of the Washington County Planning Commission and approve the application of Bobby A. Blevins for a Special Exception Permit to expand an existing machine shop on property located on the west side of State Route 735 near the intersection of State Route 735/Route 11 in an A-2 (Agricultural, General) zone, Monroe Magisterial District.

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***

(2). ***Teresa L. and David Hutton on behalf of James O. Frazier, Property Tax Map # 130C-1-19, 20, 21, 22, 23, 27, 28*****: Request for a Special Exception Permit to operate a small business in general, more specifically, a school for boarding, riding and training of horses on property located on the south side of State Route 722 near the intersection of State Route 722/Route 721 in an A-1 (Agricultural, Limited) an A-2 (Agricultural, General) zone, Taylor Magisterial District**

Mr. Roberts opened the public hearing to receive comments both in support of and in opposition to the application of Teresa L. and David Hutton on behalf of James O. Frazier for a Special Exception Permit.

Ms. Teresa Hutton addressed the Board explaining that she is the owner of the property in question and is in the process of selling it to James O. Frazier. Ms. Hutton stated that she has used the property to breed horses. Mr. & Mrs. Frazier plan to utilize the property to Board horses and provide riding lessons.

Discussion ensued. Responding to an inquiry regarding why a Special Exception Permit is needed, Chairman John Roberts explained that fees will be collected for boarding horses and riding lessons, which makes the operation a business. Therefore, a Special Exception Permit is required.

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

On motion of Mr. McCall, second by Mr. Owens, it was resolved to follow the recommendation of the Washington County Planning Commission and approve the application of Teresa L. and David Hutton on behalf of James O. Frazier for a Special Exception Permit to operate a small business in general, more specifically, a school for boarding, riding and training of horses on property located on the south side of State Route 722 near the intersection of State Route 722/Route 721 in an A-1 (Agricultural, Limited) an A-2 (Agricultural, General) zone, Taylor Magisterial District.

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***

7. <u>Consideration of Resolution Requesting Incorporation of Portions of Westinghouse Road and Oak Park Drive into State System of Secondary Highways</u>

Assistant County Administrator Christy Parker presented the Board with a request from the Industrial Development Authority (IDA) for the adoption of a resolution to the Virginia Department of Transportation (VDOTO requesting that portions of Westinghouse Road and Oak Park Drive be incorporated into the State System of Secondary Highways. Ms. Parker explained that the IDA had the roads constructed according to VDOT specifications.

Responding to an inquiry, Ms. Parker explained that the IDA considered renaming Westinghouse Road, but because of the familiarity of the road among emergency services organizations the IDA decided against the renaming.

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

RESOLUTION 2004-06

ADDITION OF 2,540 LINEAR FEET OF OAK PARK DRIVE AND 900 LINEAR FEET OF WESTINGHOUSE ROAD TO SECONDARY SYSTEM OF STATE HIGHWAYS
OAK PARK: CENTER FOR BUSINESS & INDUSTRY

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)

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

***Scrivener's* Note:** Additions Form SR-5A referenced above is included as Minutes Exhibits Item 2004-04-13A.

8. Consideration of Resolution Regarding Graceland Lane in the Monroe Magisterial District to Request Acceptance into State System of Secondary Highways and to Refund Pro Rata Shares of Pre-Payments made by Owners of Abutting Properties

County Attorney Lucy Phillips explained that the Board is being requested to consider two resolutions relative to the Graceland Lane project. The first resolution states the Board's request to the Virginia Department of Transportation (VDOT) that it accept Graceland Lane into the State System of Secondary Highways, it directs the County Treasurer to initiate the special assessments in the amount of $2,342.42 against each adjoining property to fund the County's share of the expense and it further directs the County Treasurer to issue refunds, as necessary, for overpayment from participants who made advance payment of their share of the road improvement expense. Ms. Phillips advised the Board that VDOT completed construction at 57 percent of the originally estimated cost.

The second resolution is for the purpose of final settlement of all claims raised in the matter of Maggie H. Naylor v. Board of Supervisors. Ms. Naylor had appealed to Circuit Court for review of the assessment made against her property because her property was not part of the subdivision for which Graceland Lane

was constructed. The settlement proposed by Ms. Naylor is that she will record in land records of the County a restrictive covenant that prohibits any construction of access from Graceland Lane to her property adjoining Graceland Lane unless the amount of $2,342.42 is first paid to the County. Additionally, Ms. Naylor will move the Circuit Court to dismiss her appeal of the assessment. The County will release the lien against Ms. Naylor's property and move that Circuit Court dismiss its counterclaims against Ms. Naylor.

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

RESOLUTION 2004-07
REGARDING GRACELAND LANE
IN THE MONROE MAGISTERIAL DISTRICT

WHEREAS, by Resolution 2003-26 adopted by this Washington County, Virginia, Board of Supervisors (Board) on June 10, 2003, the Board found that Graceland Lane, as described below, (Project Street) met the eligibility requirements stated in section 33.1-72.1(C) of the 1950 Code of Virginia, as amended, to participate in the process described in that section for the taking of streets into secondary system and resolved to request the Virginia Department of Transportation (Department) to improve Project Street to the prescribed minimum standards in accordance therewith; and

WHEREAS, by Resolution 2003-27 adopted by the Board on June 10, 2003, the Board resolved to fund said improvements according to special assessment and advance pro rata payment by holders of speculative interests as allowed by section 33.1-72.1 of the 1950 Code of Virginia, as amended; and

WHEREAS, such special assessments were properly recorded in the Washington County Office of the Circuit Court Clerk and advance pro rata payment collected from the holders of speculative interests as required by section 33.1-72.1 of the 1950 Code of Virginia, as amended; and

WHEREAS, the Department honored the Board's request and accepted Project Street as eligible for the procedures prescribed by section 33.1-72.1 of the 1950 Code of Virginia, as amended; and by letter dated January 21, 2004 from the Resident Engineer of the Department, the Department reported to the Board, that such improvements were completed and the Project Street now meets the standards required for acceptance into the secondary system of state highways, pursuant to section 33.1-72.1 of the 1950 Code of Virginia, as amended; and

WHEREAS, the Department reported that, as a result of its services in improving a portion of Graceland Lane, it incurred expenses in the total amount of $85,039.94; and

WHEREAS, Maggie H. Naylor, pursuant to the provisions of Sections 15.2-2410 and 15.2-2411 of the 1950 Code of Virginia, as amended, exercised her right to appeal said assessment to the Circuit Court of Washington County, Virginia (Chancery No. 03-172) and the Board filed a counterclaim in response; and

WHEREAS, after Ms. Naylor perfected her appeal and prior to a trial therein, Ms. Naylor offered, as complete and full settlement and satisfaction of Ms. Naylor's appeal and of the Board's counterclaim filed against Ms. Naylor, to record a restrictive covenant binding on her property adjoining the right-of-way within which lies Graceland Lane, which restrictive covenant has been reviewed and considered by the Board,

NOW, THEREFORE, BE IT RESOLVED, this Board requests that Project Street, as described by the following information, be added to the secondary system of state highways, pursuant to section 33.1-72.1 of the 1950 Code of Virginia, as amended:

Name of Street:	***Graceland Lane***
Length:	***Full length (approx. 0.5 mile)***
From:	***State Route 609 (Hillman Highway)***
To:	***State Route 609 (Hillman Highway)***
Guaranteed Right-of-Way Width:	***40 feet***
Plat Recordation Date:	***July 7, 1988 (Plat Book 23, Page 231)***

and

BE IT FURTHER RESOLVED, that a certified copy of this resolution and county check for the total amount due from the County in accordance with the requirements of section 33.1-72.1 of the 1950 Code of Virginia, as amended, and in accordance with the Resolution 2000-26, be forwarded to the Resident Engineer of the Virginia Department of Transportation. Said certified check shall be in the amount of $42,876.47, which includes the combined amounts of (1.) $42,163.47 to fund 50% of the Department's costs after deduction of the speculative interest pro rata share plus (2.) the advance pro rata payments received from the holders of speculative interests in the total amount of $713.00; and

BE IT FURTHER RESOLVED, the County Attorney shall direct the Treasurer of Washington County to initiate special assessments from Landowners, other than Maggie H. Naylor, as stated in detail in Resolution 2003-27 adopted on June 10, 2003, in the amount of $2,342.42 and to provide refund checks, as necessary, for overpayment from participants who made advance payment of their share of the road improvement expense; and

BE IT FURTHER RESOLVED, that the Board directs the County Attorney to release the lien against the property of Maggie H. Naylor pursuant to compromise and settlement of Ms. Naylor's appeal and of the Board's counterclaim filed against Ms. Naylor, as described in more detail in Resolution 2004-07, adopted by this Board on April 13, 2004.

RESOLUTION 2004-08

REGARDING SETTLEMENT OF THE MATTER OF <u>MAGGIE H. NAYLOR V. WASHINGTON COUNTY BOARD OF SUPERVISORS</u> (CH 03-172)

WHEREAS, by Resolutions 2003-26 and 2003-27 adopted by said Washington County, Virginia, Board of Supervisors (Board) on June 10, 2003, the Board resolved to participate in the process described in that Va. Code section 33.1-72.1 for the taking of Graceland Lane into secondary system of state highways, resolved to request the Virginia Department of Transportation (Department) to improve Graceland Lane to the prescribed minimum standards in accordance therewith, and resolved to fund said improvements by special assessment as authorized by Va. Code section 33.1-72.1; and

WHEREAS, such special assessments were properly recorded in the Washington County Office of the Circuit Court Clerk and advance pro rata payment collected from the holders of speculative interests as required by section 33.1-72.1 of the 1950 Code of Virginia, as amended; and

WHEREAS, Maggie H. Naylor, pursuant to the provisions of Sections 15.2-2410 and 15.2-2411 of the 1950 Code of Virginia, as amended, exercised her right to appeal said assessment to the Circuit Court of Washington County, Virginia (Chancery No. 03-172) and the Board filed a counterclaim in response; and

WHEREAS, after Ms. Naylor perfected her appeal and prior to a trial therein, Ms. Naylor offered, as complete and full settlement and satisfaction of Ms. Naylor's appeal and of the Board's counterclaim filed against Ms. Naylor, to record a restrictive covenant binding on her property adjoining the right-of-way within which lies Graceland Lane, which restrictive covenant has been reviewed and considered by the Board,

NOW, THEREFORE, BE IT RESOLVED, that said Board accepts the offer of compromise and settlement offered by Maggie H. Naylor, as follows:

1. ***Ms. Naylor has agreed to record in the land records of the Clerk of the Circuit Court of Washington County, Virginia, a restrictive covenant as presented in this Resolution; and***

2. ***Said Restrictive Covenant shall be indexed in the names of:***

   GRANTORS: ***Maggie H. Naylor and***
   William R. Naylor

   GRANTEE: ***Board of Supervisors of County of Washington, Virginia; and***

3. ***Ms. Naylor has agreed to request the Circuit Court of Washington County, Virginia, to dismiss with prejudice her appeal of the lien for special assessment made against her property (CH 03-172); and***

4. ***In consideration of Ms. Naylor's recordation of said Restrictive Covenant and request for dismissal of her appeal, the Board directs the County Attorney, on or before April 30, 2004, to make a full and complete release of the lien placed upon Ms. Naylor's said property in connection with the improvement of Graceland Lane, which release shall be based upon the ground that Ms. Naylor has no obligation to pay said assessment because of her and the Board's agreement to compromise the issues raised by Ms. Naylor's appeal and the Board's counterclaim; and***

5. ***In addition, the Board directs that the County Attorney shall request the Circuit Court of Washington County, Virginia, to dismiss with prejudice the Counterclaim that the Board filed against Ms. Naylor in the aforementioned chancery cause and is further authorized to execute such other documents as may be necessary to settle the lawsuit pending between Ms. Naylor and the Board consistent with said Resolution and the terms of the Restrictive Covenant; and***

6. ***The County Attorney shall cause said Resolution or a certified copy thereof to be recorded in the aforesaid Clerk's Office on or before April 28, 2004, and there indexed, as are deeds, with the Board being a Grantor and Maggie H. Naylor being a Grantee; and***

7. ***Pursuant to the terms of said Resolution and the Restrictive Covenant described herein, all obligations of Maggie H. Naylor under the aforementioned Resolutions 2003-26 and 2003-27 are hereby cancelled and rescinded; and***

8. ***Neither the Board nor the County of Washington, Virginia, shall take any action to require or attempt to require the owner, present or future, of the property now owned by Ms. Naylor that was the subject of the aforementioned special assessment to contribute to the cost of improving or maintaining Graceland Lane, except that Washington County, Virginia, may collect the assessment amount, namely, $2,342.42, without interest, provided that said assessment amount becomes due to Washington County, Virginia under the terms of said Restrictive Covenant; and***

9. ***If the assessment amount referenced in the Restrictive Covenant becomes due to Washington County, Virginia under the terms of said Restrictive Covenant and is paid, the County Administrator, within fourteen (14) days after payment of said assessment amount, shall cause to be recorded in the aforesaid Clerk's Office written acknowledgment of the payment of said assessment amount, which written acknowledgment by the County Administrator, upon its recordation shall constitute a full and complete release of said Restrictive Covenant; and***

10. ***Neither Washington County, Virginia, nor the Board shall be determined to have any ownership interest in the property now owned by Ms. Naylor that is affected by the aforementioned Restrictive Covenant; and***

11. ***The Chairman of the Board is authorized and directed to execute the Restrictive Covenant, on behalf of the Board, in substantially the same form as follows:***

RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT, made and entered into said the _____ day of _____, 2004, by and between MAGGIE H. NAYLOR, first party, WILLIAM R. NAYLOR, husband of Maggie H. Naylor, second party; and BOARD OF SUPERVISORS OF WASHINGTON COUNTY, VIRGINIA, third party;

WHEREAS, the first party owns that certain tract or parcel of land located in the Monroe Magisterial District of Washington County, Virginia, containing 29.86 acres, more or less, she having acquired fee simple title thereto by deed of partition dated the 26th day of April, 1974, by and between herself, second party, and others, which deed is of record in the Clerk's Office of the Circuit Court of Washington County, Virginia, in Deed Book 522, Page 267, although she had owned an undivided interest in said property for many years prior to the date of said partition deed; and

WHEREAS, adjoining a portion of the eastern boundary of first party's said property is a portion of the right-of-way shown on a map entitled in part "PROPERTY DIVISION OF THE FLOYD O. PARRIS AND HARVALINE H. PARRIS LANDS DEED TO BE RECORDED", Dated 5/26/87, which map is of record in said Clerk's Office in Plat Book 23, Page 231; and

WHEREAS, the portion of first party's said eastern boundary that adjoins said right-of-way is a line that begins in the southern right-of-way line of the Hillman Highway (Virginia Secondary Route 609) and extends there from in a southeasterly direction (the degree call of which line is S 27 41 E per

the survey by which first party's said property is described and S 26 04 E per said plat so of record in Plat Book 23, Page 231) for a distance of 383.58 feet; and

WHEREAS, within said right-of-way shown on said map so of record in Plat Book 23, Page 231, which right-of-way is approximately 50 feet in width, is a road now known as Graceland Lane; and

WHEREAS, the portion of said right-of-way, within which lies Graceland Lane, that is hereinafter referenced in the Restrictive Covenant hereinafter set forth is described as follows: Same begins at the northeastern corner of first party's said property in the southern right-of-way line of the Hillman Highway (Virginia Secondary Route 609) and extends therefrom in a southeasterly direction (the degree call of which line is S 27 41 E per the survey by which first party's said property is described and S 26 04 E per said plat so of record in Plat Book 23, Page 231) for a distance of 383.58 feet; same then extends in an easterly direction for a distance of approximately 50 feet to a point in the western line of Lot 8 shown on said map so of record in Plat Book 23, Page 231; same then extends on a line that has a degree call of N 26 04 W for a distance of 395.77 feet to a point in the southern right-of-way line of the Hillman Highway; and then same extends along the southern right-of-way line of the Hillman Highway in a westerly direction approximately 51.46 feet to the aforesaid point of beginning; and

WHEREAS, third party, by Resolution No. 2003-26 adopted June 10, 2003, requested the Virginia Department of Transportation to improve Graceland Lane to the prescribed minimum standards for inclusion into the state secondary highway system and to take same, as improved, into its state secondary highway system, pursuant to the provisions of Section 33.1-72.1 of the 1950 Code of Virginia, as amended; and third party in said resolution guaranteed Virginia Department of Transportation that Graceland Lane had a right-of-way width of 40 feet; and

WHEREAS, third party, by Resolution No. 2003-27, also adopted on June 10, 2003, assessed first party with a portion of the costs required to bring Graceland Lane (or at least 40 feet of its width) up to said prescribed minimum standards for its inclusion into the state secondary highway system in an amount not to exceed $4,132.00, which amount was to have been determined with exactitude after the completion of the work so required, and, further, caused an abstract of said resolution to be recorded in the Judgment Lien Docket in said Clerk's Office which has been indexed in the name of first party and other property owners affected by said resolution; and

WHEREAS, first party, pursuant to the provision of Sections 15.2-2410 and 15.2-2411 of the 1950 Code of Virginia, as amended, exercised her right to appeal said assessment to the Circuit Court of Washington County, Virginia (Chancery No. 03-172); and

WHEREAS, after first party perfected her appeal and prior to a trial therein, first party and third party have agreed as follows:

1. ***First party and second party shall impose and record a Restrictive Covenant upon first party's said real property which Restrictive Covenant is hereinafter set forth in this instrument; said Restrictive Covenant shall be executed by first party and second party on or before April 13, 2004, and by third party on or before April 16, 2004; and first party and second party shall cause said***

Restrictive Covenant to be recorded in the aforementioned Clerk's Office on or before April 26, 2004;

2. ***Contingent upon recordation of said Restrictive Covenant, third party, on or before April 28, 2004, shall adopt and record in the aforementioned Clerk's Office, a resolution, that (a) cancels and rescinds all obligations of first party under said two resolutions adopted by third party on June 10, 2003; and (b) directs that a full and complete release of the lien placed upon first party's said property be made by the County Attorney for Washington County, Virginia, on or before April 30, 2004, which release will be based upon the ground that first party has no obligation to pay said assessment because of her and third party's agreement to compromise the issues raised by first party's said appeal; and (c) provides that neither third party nor Washington County, Virginia, shall take any action to require, or attempt to require, the owner, present or future, of the hereinbefore described portion of the eastern boundary of said property now owned by first party to contribute to the cost of improving or maintaining the portion of Graceland Lane that lies within the hereinbefore described portion of the right-of-way shown on said map so of record in said Clerk's Office in Plat Book 23, Page 231, except that Washington County, Virginia, may collect the assessment amount, without interest, referenced in the Restrictive Covenant hereinafter set out, provided that said assessment becomes due to Washington County, Virginia, under the terms of said Restrictive Covenant; and***
3. ***First party shall request that the Circuit Court of Washington County, Virginia, dismiss with prejudice her appeal (Chancery No. 03-172), and third party shall request said Court to dismiss with prejudice the Counterclaim against first party, which third party filed in said Chancery Cause; and***
4. ***Neither Washington County, Virginia, nor third party shall be determined to have any ownership interest in the property now owned by first party that is affected by the Restrictive Covenant hereinafter set out; and***
5. ***If the assessment amount referenced in said Restrictive Covenant becomes due to Washington County, Virginia, under the terms of said Restrictive Covenant, and is paid, third party, within fourteen (14) days after payment of said assessment amount, shall cause to be recorded in the aforementioned Clerk's Office written acknowledgement by the County Administrator of Washington County, Virginia, of payment of said assessment amount, which written acknowledgement, upon its recordation, shall constitute a full and complete release of said Restrictive Covenant; and***

WHEREAS, the aforementioned work on Graceland Lane has now been completed, and third party has determined that the amount of the assessment which first party would have been required to pay to Washington County, Virginia, but for her said appeal is $2,342.42, which amount is sometimes herein referred to as the assessment amount.

NOW THEREFORE, in consideration of the aforesaid agreement with third party, first party and second party do hereby impose the following Restrictive Covenant upon said property of first party, which Restrictive Covenant is for the exclusive benefit of third party:

No owner, present or future, of the hereinbefore described portion of the eastern boundary of said property now owned by first party shall in connection with any commercial or residential development of said property now owned by first party construct a right-of-way, road, entrance or other means of vehicular access to and from the hereinbefore described portion of the eastern boundary of said property and the portion of Graceland Lane that lies within the hereinbefore described portion of the right-of-way shown on said map so of record in said Clerk's Office in Plat Book 23, Page 231, unless such owner first pays unto Washington County, Virginia, the assessment amount, without interest, which first party would have been required to pay to said County but for her said appeal, namely, the sum of $2,342.42, before such owner's gravelling or paving such means of ingress and egress and such owner's putting same in such a condition that same easily provides access by automobiles between said portion of said eastern boundary and said portion of Graceland Lane that lies within said portion of said right-of-way; and, until the present or any future owner of the hereinabove described portion of the eastern boundary of said property now owned by first party so pays said assessment amount of $2,342.42, said Restrictive Covenant shall remain in effect; however, upon such payment of such assessment amount and the recordation in the aforesaid Clerk's Office of the aforementioned acknowledgment by the County Administrator of Washington County, Virginia, of such payment, which recordation shall constitute a full and complete release of said Restrictive Covenant, Restrictive Covenant shall cease to have further effect.

Third party is joining herein to acknowledge acceptance of the foregoing Restrictive Covenant, to further acknowledge that the terms of the aforementioned agreement between it and first party are correct, and to establish its right to collect the assessment amount mentioned in the foregoing Restrictive Covenant by any means legally available to it in the event that same becomes due to Washington County, Virginia, under the terms of said Restrictive Covenant and in the further event that same is not paid to Washington County, Virginia, per the terms of said Restrictive Covenant.

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***

9. <u>Board Consideration of Request for Appointment of the Nature Conservancy to Perform Certain Functions of Washington County under Section 147(F) of the Internal Revenue Code of 1986, as amended, with Respect to the Proposed Issuance of Colorado Educational and Cultural Facilities Authority Revenue Bonds (The Nature Conservancy Project) Series 2003A</u>

County Attorney Lucy Phillips addressed the Board advising them that this item comes at the request of the Nature Conservancy. Ms. Phillips explained that the Nature Conservancy has purchased a 4,836 tract of land located on the Clinch Mountain of which 4,806 acres lie in Washington County and 30 acres in Russell County. The Nature Conservancy proposes to use funds from Colorado Facilities Authority Revenue Bonds (The Nature Conservancy Project) Series 2003A to finance the purchase. Prior to issuance of the Bonds, the Nature Conservancy and the Colorado Educational and Cultural Facilities

Authority must satisfy public hearing requirements established by the Internal Revenue Service. She further explained that the IRS requires that the governmental unit having jurisdiction over lands to be purchased with bond proceeds, in this case, the Washington County Board of Supervisors, hold a public hearing concerning the proposed issuance of the bonds at which a reasonable opportunity to be heard will be provided for persons with differing views on both the issuance of the Bonds and the location and nature of the lands to be purchased. However, the IRS allows that the Board may appoint the Nature Conservancy to publish notice of the hearing, to oversee and perform the hearing, and to issue a report concerning the hearing to the Board of Supervisors. Ms. Phillips advised the Board that the Nature Conservancy requests appointment by the Board.

Mr. Matthew Crum of the Nature Conservancy appeared before the Board to answer questions.

Supervisor Bobby Ingle stated that he was pleased that the Nature Conservancy was proceeding with the purchase of the land on the Clinch Mountain and that the land would be used as it was intended. Mr. Ingle expressed appreciation to the Nature Conservancy for their work.

Responding to an inquiry regarding public access to the crevices located on the property, Mr. Crum explained the Nature Conservancy would study the habitat that exists on the land and then determine if public access could be possible. He explained the Nature Conservancy would have to take serious precautions to prevent accidents and take into consideration the costs involved for maintaining the trails. He stated that the Nature Conservancy would very much like to allow public access.

On motion of Mr. Ingle, second by Mr. Owens, the Board acted to authorize the Chairman of the Board to certify the appointment of the Nature Conservancy, as described in the proposed form of appointment, to perform certain functions of Washington County under section 147(f) of the Internal Revenue Code of 1986, as amended, with respect to the proposed issuance of Colorado Educational and Cultural Facilities Authority Revenue Bonds (The Nature Conservancy Project) Series 2003a, for the purpose to purchase the 4,836 acre Burns/Carroll tract of land (located on the Clinch Mountain range) of which 4,806 acres lie in Washington County, Virginia, and to pay certain bond issuance expenses.

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. <u>Recess</u>

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

11. County Administrator Reports

a. Consideration of Recommendation of County Personnel Committee Regarding Consolidation of Departments of Information Technology and Geographic Information Systems

County Administrator Mark Reeter presented the Board with a recommendation from the County Personnel Committee proposing to consolidate the Departments of Information Technology (IT) and Geographic Information Systems (GIS) into a new Department of Information Systems (IS) effective July 1, 2004. The new IS Department would be managed by Nadine Culberson. Currently, the GIS Department consists of one full-time GIS Assistant position with departmental management being outsourced to Brandon Moore of King-More Inc. acting in the capacity of a GIS Consulting Manager. This arrangement was made about two hears ago when Mr. Moore elected to leave regular full-time employment with the County as GIS Manager in order to pursue private consultant work. The arrangement was formalized by contract between the County and King-Moore, Inc. and has worked well over time with Mr. Moore keeping office hours two days per week in the GIS Department. During this time, Ms. Culberson assumed general managerial responsibility and oversight of the GIS Assistant on an informal basis. For the past two years, the County's GIS database has developed rapidly and is now more in a "maintenance" mode rather than under intensive development. Now that the initial development phase of the database is past, the time is right to consider a more long-term managerial and oversight structure of the GIS Department.

Mr. Reeter explained that the GIS Assistant's skill and familiarity with the County's GIS database has developed significantly to the extent that it appears no longer necessary for the County to employ a full- or part-time GIS Manager. As part of the proposed reorganization Ms Culberson's position would be retitled to Information Systems Manager and her Position Description amended to include responsibilities previously assigned to the GIS Manager's position. Similarly, current positions with the GIS and IT Departments would be retitled and their Position Descriptions amended, as follows:

- IT Supervisor – retitled to Information Systems Specialist
- GIS Assistant – retitled to Geographic Information Systems Specialist
- IT Technician – retitled to Information Systems Technician

Mr. Reeter further explained that it is proposed to continue to retain King-Moore, Inc. as a consultant for the County GIS database on a reduced hourly basis per month beginning in July of this year.

Mr. Reeter stated that Ms. Culberson has performed a cost analysis of the proposed merger and has recommended certain salary adjustments for the affected personnel. He advised the Board that the County will save approximately $10,000 by consolidating the two departments.

Mr. Reeter presented a recommendation for a proposed amendment to the County Personnel Manual Section 05-03, *Designation of Positions and Position Classes*. With respect to the new position titles for the current IT Supervisor and GIS Assistant, it is recommended that the current *Supervisor* Class of positions be expanded to include the use of the term "specialist" in position titles for certain positions in this class. Accordingly, Section 05-03 is proposed for revision to reflect the modification of the *Supervisor* Class to *Supervisor/Specialist* Class.

The Board of Supervisors discussed this issue at length.

Supervisor Dulcie Mumpower commended the work of IT Manager Nadine Culberson and her staff. Mrs. Mumpower stated that Washington County is far ahead of other counties in the region in the area of information technology and with its GIS system.

Supervisor Tony Rector addressed the Board explaining that he supports the proposal to consolidate the IT and GIS Departments, but takes issue with the proposed increase in salary for the GIS Specialist and Information Services Manager. Mr. Rector stated that during the last year the Board has approved a salary increase for the current GIS Assistant to keep the employee from accepting another job offer. He stated that approving above a three percent salary increase for these employees would not be fair to the other County employees. Mr. Rector further explained that the County should solicit bids for the services now performed by Brandon Moore.

Responding to an inquiry from the Board, Mr. Reeter explained that the County has maintained the services of Brandon Moore primarily because he built the Geographic Information System from the ground up. He stated that the County could contract another company to perform the work performed by Mr. Moore, but would be hard pressed to find another consultant in the region that would be as good with the County's system.

Supervisor Odell Owens expressed concern about the County's dependency on Mr. Moore, and inquired about the justification for the proposed salary increases.

Information Technology Manager Nadine Culberson provided the Board with the justification for the proposed salary increases. Ms. Culberson explained that the increase being requested for her position is because of the additional managerial responsibilities of the GIS Department. An increase in the salary of the Geographic Information Systems Specialist is justified from the additional workload of this employee. This employee is responsible for fixing the majority of the GIS problems. Ms. Culberson further explained that the $55 per hour fee charged by King-Moore, Inc. is a good buy for the County.

On motion of Mrs. Mumpower, second by Mr. Ingle, it was resolved to approve consolidation of County Departments of Information Technology and Geographic Information Systems into a new Department of Information Systems effective July 1. It was further resolved to approve the revised Position Descriptions for the current IT Manager, IT Supervisor, IT Technician and GIS Assistant positions and amendment of County Personnel Manual Section 05-03 as presented.

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. Consideration of First Revision to County Operating Budget Calendar

Mr. Reeter reviewed the first revision of the County Operating Budget calendar. Mr. Reeter explained that he proposes the Board hold only one agency/departmental hearing and compress the budget adjustment workessions into three. He explained that most likely the County Administrator's

recommended budget would not be presented on May 4 due to the lack of action taken by the General Assembly.

Supervisor Phillip McCall requested the Board be provided with a paper copy of the budget calendar.

It was consensus of the Board to adopt the revised budget calendar as presented.

12. County Attorney Reports

a. Request for Board Authorization to Proceed with Agreement for Solid Waste Transportation and Disposal Services

County Attorney Lucy Phillips addressed the Board explaining that the procurement procedures to obtain a new contract for transportation and disposal of solid waste collected at the County Transfer Station have been completed. Bids were received and opened on Friday, March 26, 2004. Bids were received from Waste Management ($30.85 per ton) and BFI Waste Systems of Tennessee ($23.39 per ton). Ms. Phillips further explained that the Board is being asked to consider if they wish the County to enter into the Solid Waste Transportation and Disposal Agreement with BFI Waste Systems of Tennessee, LLC, at the initial rate of $23.39 per ton to secure services pursuant to its terms to begin October 12, 2004. The Agreement is for an initial term to end on June 30, 2011, with an option held by the County of automatic renewal for one additional three-year period.

On motion of Mr. Rector, second by Mr. Owens, it was resolved to authorize the Chairman of the Board and the County Administrator to certify the County's entry into the solid waste transportation and disposal services agreement with BFI Waste Systems of Tennessee, LLC to begin October 12, 2004.

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***

***Scrivener's* Note:** The Solid Waste Transportation and Disposal Agreement referenced above is included as Minutes Exhibits Item 2004-04-13B.

13. Board Information

County Administrator Mark Reeter drew attention to various correspondences in the Board Information section. Particularly the annual report from the Virginia Tobacco Commission and a letter from Virginia Highlands Community College regarding the appointment of Pauline "Blue" Gotham which expires on June 30, 2004. Mr. Reeter advised the Board that this appointment would be placed on the April 27, 2004, agenda.

14. Consent Agenda

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

a. Payment of Bills – April 2004
b. Revenue Refund – Building Permit Fee, $306.00 to Stanley & Jane Cook
c. Revenue Refund – Solid Waste Fee, $25.00 to HAPCO and $40.32 to Byrd & Goff Construction
d. Cancelled Check – General Fund, #0131861, Vac Factory, Inc., $184.65
e. Supplemental Appropriation-Treasurer's Office, $8,769.38
f. Revenue Refunds – Animal Sterilization Fees
Danny R. Roberts, 50.00
Jack & Virginia Kincheloe, $50.00

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***

15. Board Member Reports

Supervisor Dulcie Mumpower expressed her gratitude to the Board members for their sympathy and support during the loss of her sister Sandra, who passed away on March 29, 2004, after a four-year battle with cancer. Mrs. Mumpower also thanked the County employees who extended expressions of sympathy.

Supervisor Bobby Ingle expressed admiration for Supervisor Mumpower's dedication to her work and to the Board of Supervisors despite all that she has endured the past few years.

Mr. Ingle reported that the House of Delegates passed a Budget Bill that includes a 700,000,000.00 dollars increase in revenue and a ½ percent increase in the sales tax.

In another matter, Mr. Ingle reported that the William King Regional Art Center has a donor who is willing to contribute $50,000 to the Art Center to be used toward construction of a warehouse for the Washington County School Board. He advised the Board that the donor wishes that the old gymnasium behind the Art Center currently being utilized as the warehouse be demolished in favor of additional parking and possibly a new entrance to the Art Center. Mr. Ingle stated that the offer for the $50,000 contribution is good until July 1 of this year.

Mr. Ingle stated that General Services Manager Frank Canter has identified some good warehouse space at Exit 14 that could be leased at the rate of $1,000 per month. He expressed the importance of identifying permanent warehouse space for the School Board.

The Board devoted considerable discussion to this item. One of the primary issues discussed was the importance of reestablishing dialogue between the Board of Supervisors and School Board. It was suggested that a joint meeting be scheduled so both parties could discuss and come up with recommendations for permanent warehouse space.

County Administrator Mark Reeter advised the Board that Dr. Alan Lee and Mr. Ronnie Walls were taken on a tour of the current jail facility to determine if it could be utilized as a warehouse. Mr. Reeter explained that the ceilings on the first floor of the jail were not tall enough for the equipment to enter the building.

It was consensus of the Board to request that Tony Rector and Kenneth Reynolds, members of the Joint County School Budget Committee, reestablish dialogue with the appropriate School Board personnel at their April 15 meeting.

Supervisor Tony Rector congratulated Kenneth Reynolds for his election has Vice Chair to the Mount Rogers Planning District Commission (MRPDC) Board of Directors.

Supervisor Kenneth Reynolds advised the Board that the MRPDC might be requesting an additional appointment to the Disabilities Board.

Mr. Reynolds reported that the MRPDC had a very informative annual meeting. He stated there was a good presentation made on the Crooked Road project.

16. <u>Adjourn</u>

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

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***

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Prepared by:

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Naoma A. Mullins, Recording Clerk

Approved by the Washington County Board of Supervisors:

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John B. Roberts, Sr., Chairman