

VIRGINIA:

At a regular meeting of the Washington County Board of Supervisors held Tuesday, October 14, 2008, at 7:08 p.m., at the County Administration Building in Abingdon, Virginia the following were present:

PRESENT:

Kenneth O. Reynolds, Chairman
Jack R. McCrady, Jr., Vice Chairman
Phillip B. McCall
Dulcie M. Mumpower
Odell Owens
Paul O. Price
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 Mr. Kenneth O. Reynolds, Chairman of the Board, who welcomed everyone in attendance.

2. Invocation and Pledge of Allegiance

Vice Chairman Jack McCrady gave the Invocation and led the Pledge of Allegiance.

3. Approval of Agenda

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

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

Mr. McCall Aye
Mr. McCrady Aye
Mrs. Mumpower Aye
Mr. Owens Aye
Mr. Price Aye
Mr. Reynolds Aye
Mr. Taylor Aye

4. Consent Agenda:

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

a. Approval of Minutes:

1. **September 23, 2008 Regular Meeting**

b. Approval of Routine Financial Matters:

1. **Payment of Bills, September 2008**
2. **Request for Revenue Refunds – Washington County Sheriff’s Office – Animal Sterilization Fees**
3. **Request for Supplemental Appropriation – Washington County sheriff’s Office - Various**

c. Award of Bids and Approval of Contracts

No items for consideration.

d. Authorization of Routine Business Matters

No items for consideration.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. McCrady</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

5. Public Hearings:

a. Request(s) for Rezoning:

1. **Thomas R. Beecroft, Property Tax Map #163A-A-19A: Request to rezone approximately 7.64 acres of property located on the northwest side of State route 648 at the intersection of State Route 648/State Route 649 from R-2 (Residential, General) to A-2 (Agricultural, General), Wilson Magisterial District**

Mr. Reynolds opened the public hearing and invited comments concerning the request to rezone property.

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

On motion of Mrs. Mumpower, second by Mr. McCrady, it was resolved to follow the recommendation of the Washington County Planning Commission and approve the application of Thomas R. Beecroft to rezone approximately 7.64 acres of property located on the northwest side of State Route 648 at the intersection of State Route 648/State Route 649 from R-2 (Residential, General) to A-2 (Agricultural, General), Wilson Magisterial District.

Discussions ensued among the Board primarily concerning legislation adopted by the General Assembly concerning the placement of manufactured homes in residentially zoned districts.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. McCrady</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

- 2. Jeffery K. Branson, Property Tax Map #160-A-46: Request to rezone approximately 27.01 acres of property located on the north side of Nininger Road near the intersection of Nininger Road and Island Road from R-2 (Residential, General) and A-2 (Agricultural, General) to A-2 (Agricultural, General) Tyler Magisterial District**

Mr. Reynolds opened the public hearing to receive comments concerning the request to rezone.

Mr. Jeffrey Branson addressed the Board explaining that 250' (front portion) of his property is zoned R-2 (Residential, General) and he would like it to be rezoned to A-2 (Agricultural, General). Mr. Branson explained that when he purchased the property it was his understanding that the entire tract was zoned A-2. He further explained that he is currently running cattle on the property. Also, there is a barn located on the property.

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

On motion of Mr. Owens, second by Mrs. Mumpower, it was resolved to follow the recommendation of the Washington County Planning Commission and approve the application of Jeffery K. Branson to rezone approximately 27.01 acres of property located on the north side of Nininger Road near the intersection of Nininger Road and Island Road from R-2 (Residential, General) and A-2 (Agricultural, General) to A-2 (Agricultural, General) Tyler Magisterial District.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. McCrady</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

b. Public Hearing and Consideration of Adoption of an Ordinance pursuant to Virginia Code Sections 10.1-560, et. Seq., to Amend the County Erosion and Sediment Control Ordinance to Conform to State Law

Ms. Phillips explained that the proposed ordinance would amend the County's Erosion and Sedimentation Control Ordinance to conform to State law. The proposed changes to the ordinance include new definitions and amendments to some of the language. The proposed ordinance would repeal the current County Erosion and Sediment Control Ordinance in its entirety and be replaced with an ordinance that is modeled after the State legislation to fit Washington County.

Mr. Reynolds opened the public hearing to receive comments concerning the proposed ordinance.

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

On motion of Mr. Owens, second by Mr. Taylor, the Board acted to adopt the following ordinance:

Discussions ensued among the Board concerning the mandated Erosion and Sediment control program. Mr. McCrady proposed that the County petition the Virginia Association of Counties to make the Erosion and Sediment Control Program mandates a legislative issue for the upcoming session of the General Assembly.

***AN ORDINANCE PURSUANT TO VIRGINIA CODE SECTIONS 10.1-560, ET SEQ.,
TO AMEND THE COUNTY EROSION AND SEDIMENT CONTROL ORDINANCE
TO CONFORM TO STATE LAW***

WHEREAS, the Board of Supervisors of the County of Washington, Virginia, elected to adopt and administer an erosion and sediment control program that is based on the Virginia Erosion and Sediment Control Law, Sections 10.1-560, et seq.; and

WHEREAS, state law is amended from time to time, which necessitates amendment of the County ordinance to conform to state law;

NOW THEREFORE, the Board of Supervisors of the County of Washington, Virginia, hereby ordains, as follows:

- 1. That this ordinance shall be effective immediately;***
- 2. That should any section or provision of this 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 Code of Washington County, Virginia (2002, as amended).***
- 3. That Article V, "Erosion and Sediment Control," of Chapter 30, "Environment," of the Code of Ordinances of the County of Washington, Virginia (2002, as amended) is hereby repealed in its entirety and replaced by the following provisions:***

CHAPTER 30 ENVIRONMENT
ARTICLE V. EROSION AND SEDIMENT CONTROL

Section 30-1. TITLE, PURPOSE, AND AUTHORITY

This ordinance shall be known as the "Erosion and Sediment Control Ordinance of the County of Washington, Virginia." The purpose of this chapter is to prevent degradation of properties, stream channels, waters and other natural resources of the county by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced. This Chapter is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4 (Sec. 10.1-560 et seq.), known as the Virginia Erosion and Sediment Control Law.

Section 30-2. DEFINITIONS: *As used in the ordinance, unless the context requires a different meaning:*

- A. *"Agreement in lieu of a plan" means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.*
- B. *"Applicant" means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.*
- C. *"Board" means the Virginia Soil and Water Conservation Board.*
- D. *"Certified inspector" means an employee or agent of the county who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.*
- E. *"Certified plan reviewer" means an employee or agent of the county who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.*
- F. *"Certified program administrator" means an employee or agent of the county who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.*
- G. *"Clearing" means any activity that removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.*
- H. *"County" means the County of Washington, Virginia.*
- I. *"Department" means the Department of Conservation and Recreation.*

- J. *"Development" means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.*
- K. *"Director" means the Director of the Department of Conservation and Recreation.*
- L. *"District" or "Soil and Water Conservation District" refers to the Holston River Soil and Water Conservation District.*
- M. *"Erosion and Sediment Control Plan" or "Plan" means a document containing methods and procedures for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the plan approving authority to assure that the entire unit or units of land will be managed to achieve soil conservation objectives.*
- N. *"Erosion Impact Area" means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.*
- O. *"Excavating" means any digging, scooping or other methods of removing earth materials.*
- P. *"Filling" means any depositing or stockpiling of earth materials.*
- Q. *"Grading" means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.*
- R. *"Land-disturbing Activity" means any land change that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:*
- (1) *Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;*
 - (2) *Individual service connections;*
 - (3) *Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk that is hard-surfaced;*
 - (4) *Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;*
 - (5) *Surface or deep mining;*

- (6) *Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;*
 - (7) *Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 10.1-604 et seq.) of Chapter 6 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Sec. 10.1-1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 10.1-1163;*
 - (8) *Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;*
 - (9) *Disturbed land areas of less than 10,000 square feet in size;*
 - (10) *Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;*
 - (11) *Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this ordinance; and*
 - (12) *Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.*
- S. *"Land-disturbing Permit" means a permit issued by the county for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.*
- T. *"Local erosion and sediment control program" or "local control program" means an outline of the various methods employed by the county to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.*
- U. *"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.*

- V. *"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.*
- W. *"Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular location.*
- X. *"Permittee" means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.*
- Y. *"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.*
- Z. *"Plan-approving authority" means the person designated by resolution of the board of supervisors of the County of Washington, Virginia, to be responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.*
- AA. *"Program authority" means the county, which has adopted a soil erosion and sediment control program that has been approved by the Board.*
- BB. *"Responsible Land Disturber" means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.*
- CC. *"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.*
- DD. *"Single-family residence" means a noncommercial dwelling that is occupied exclusively by one family.*
- EE. *"State erosion and sediment control program" or "state program" means the program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.*
- FF. *"State waters" means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.*
- GG. *"Transporting" means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that*

erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

- HH. *“Water Quality Volume” means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.*

Section 30-3. LOCAL EROSION AND SEDIMENT CONTROL PROGRAM

- A. *Pursuant to section 10.1-562 of the Code of Virginia, the county hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the Board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook, as amended. Any amendment to this ordinance shall be preceded by public notice and public hearing as required by Va. Code section 15.2-1427.*

- B. *In accordance with §10.1-561 of the Code of Virginia, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.*

In accordance with §10.1-561 of the Code of Virginia, any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

- C. *Pursuant to Sec. 10.1-561.1 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The county’s Erosion Control Program shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.*
- D. *The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the county building official.*

Section 30-4. SUBMISSION AND APPROVAL OF PLANS; CONTENTS OF PLANS

- A. *Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the plan-approving authority an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. Where land-disturbing activities involve lands under the jurisdiction of more than one local*

control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Board for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.

- B.** *The standards contained within the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook, as amended, are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence.*
- C.** *The plan-approving authority shall review erosion and sediment control plans submitted to it and grant written approval within 45 days of the receipt of the plan if it determines that the plan meets the requirements of the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide to the plan-approving authority, the name of an individual holding a certificate of competence, as provided by § [10.1-561](#), of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance.*

However, the plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by § [10.1-561](#) of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ordinance.

- D.** *The plan shall be acted upon within 45 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.*

When the plan is determined to be inadequate, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

- E.** *An approved plan may be changed by the plan-approving authority when:*
- (1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or*
 - (2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out,*

and proposed amendments to the plan, consistent with the requirements of this ordinance, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

- F. Variances: The plan-approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:*
- (1). At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.*
 - (2). During ongoing land-disturbing activity, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.*
- G. In order to prevent further erosion, the county may require approval of a plan for any land identified in the local program as an erosion impact area.*
- H. When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.*
- I. In accordance with the procedure set forth by §10.1-563 (E) of the Code of Virginia. Any person engaging, in more than one jurisdiction, in the creation and operation of wetland mitigation or stream restoration banks that have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of wetlands mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation or stream restoration banks annually with the Board for review and approval consistent with guidelines established by the Board.*
- J. State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, Sec. 10.1-564.*

Section 30-5. PERMITS; FEES; SECURITY FOR PERFORMANCE

- A. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.*
- B. No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions*

of this ordinance, and has paid the fees and posted the required bond that are set out in Appendix A, herein.

- C. Administrative fees for erosion and sediment control plan review and for permit issuance, as set forth in Appendix A, hereto, shall be paid to the county at the time of submission of the erosion and sediment control plan.*
- D. No land-disturbing permit shall be issued until the applicant submits to the county with his application an approved erosion and sediment control plan, certification that the plan will be followed, and payment of the fees and surety set forth in Appendix A, hereto.*
- E. All applicants for permits shall provide to the county a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the county to ensure that measures could be taken by the county at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required by the approved plan as a result of the land-disturbing activity.*

The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the county to take such conservation action, the county may collect from the applicant any costs in excess of the amount of the surety held.

Within sixty (60) days of adequate stabilization, as determined by the plan-approving authority in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

Section 30-6. MONITORING, REPORTS, AND INSPECTIONS

- A. The plan-approving authority may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.*
- B. The plan-approving authority shall periodically inspect the land-disturbing activity in accordance with Section 4 VAC 50-30-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.*

If the plan-approving authority determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan

certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.

- C. *Upon determination of a violation of this ordinance, the plan-approving authority may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.*

If land-disturbing activities have commenced without an approved plan or required permits or where alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, the plan-approving authority may, in conjunction with or subsequent to a notice to comply, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply.

The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court of the county.

If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the plan-approving authority may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the county.

The owner may appeal the issuance of an order to the circuit court of the county.

Any person violating or failing, neglecting or refusing to obey an order issued by plan-approving authority may be compelled in a proceeding instituted in the circuit court of the county to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the plan-approving authority from taking any other action authorized by this ordinance.

Section 30-7. PENALTIES, INJUNCTIONS, AND OTHER LEGAL ACTIONS

- A. *Violators of this chapter shall be guilty of a class I misdemeanor.*
- B. *Civil penalties:*

- (1) *A civil penalty in the amount listed on the schedule below shall be assessed for each violation of the respective offenses:*
- a. *Commencement of land disturbing activity without an approved plan as provided in section 8.1-6 shall be one thousand dollars (\$1,000.00) per day.*
 - b. *Vegetative measures. Failure to comply with items 1, 2 and 3 of the minimum standards shall be three hundred dollars (\$300.00) per violation per day.*
 - c. *Structural measures. Failure to comply with items 2, 4, 9, 10, 11, 15 and 17 of the minimum standards shall be three hundred dollars (\$300.00) per violation per day.*
 - d. *Watercourse measures. Failure to comply with items 12, 13 and 15 of the minimum standards shall be three hundred dollars (\$300.00) per violation per day.*
 - e. *Underground utility measures. Failure to comply with item 16(a) and/or (c) shall be three hundred dollars (\$300.00) per violation per day.*
 - f. *Failure to obey a stop work order shall be one thousand dollars (\$1,000) per day.*
 - g. *Failure to stop work when permit revoked one thousand dollars (\$1,000) per day.*
- (2) *Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00), except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00). The assessment of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection (a) of this section.*
- C. *The plan-approving authority may apply to the circuit court of the county to enjoin a violation or a threatened violation of this chapter, without the necessity of showing that an adequate remedy at law does not exist.*
- D. *In addition to any criminal penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the county in a civil action for damages.*
- E. *Civil penalty enumerated. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the county. Any civil penalties assessed by a court shall be paid into the treasury of the county, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.*
- F. *With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this chapter, the county may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in*

subsection (B)(2) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (B) or (E).

- G. *The Commonwealth Attorney shall, upon request of the county or the permit issuing authority, take legal action to enforce the provisions of this chapter.*
- H. *Compliance with the provisions of this chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.*

Section 30-8. CIVIL VIOLATIONS, SUMMONS, GENERALLY.

- A. *The plan-approving authority shall prepare an appropriate erosion and sediment control civil violation summons for use in enforcing the provisions of this chapter.*
- B. *Any certified inspector shall serve upon any owner in violation of this chapter, a summons notifying the owner of said violation. If unable to serve the owner in person, the inspector may notify by summons an owner committing or suffering the existence of a violation by certified, return receipt requested mail, of the infraction. The county sheriff's office may also deliver the summons. The summons shall contain the following information:*
 - (1) *The name and address of the person charged.*
 - (2) *The nature of the violation and chapter provision(s) being violated.*
 - (3) *The location, date, and time that the violation occurred, or was observed.*
 - (4) *The amount of the civil penalty assessed for the violation.*
 - (5) *The manner, location, and time that the civil penalty may be paid to the county.*
 - (6) *The right of the recipient of the summons to elect to stand trial for the infraction and the date of such trial.*
- C. *The summons shall provide that any person summoned for a violation may, within five (5) days of actual receipt of the summons or, within fourteen (14) days from the date of mailing of the summons, whichever is earlier, elect to pay the civil penalty by making an appearance in person or in writing by mail to the county treasurer's office and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the violation charged and provide that a signature to an admission of liability shall have the same force and effect as a judgment in court; however, an admission shall not be deemed a criminal conviction for any purpose.*
- D. *If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the county shall cause the sheriff of county to serve the summons on the person charged in the manner prescribed by law. The violation shall be tried in general district court in the same manner and with the same right of appeal as provided for in Title 8.01 of the Code of Virginia. In any trial for a scheduled violation authorized by this section, it shall be the burden of the county to show the liability of the violator by the preponderance of the evidence. Any admission of liability, or finding of liability shall not be a criminal conviction for any purpose.*
- E. *The remedies provided for in this section are cumulative, and are not exclusive and, except as provided above, shall be in addition to any other remedies by law.*

- F. *The owner or permittee may pay the civil penalty to the treasurer prior to the trial date, provided he also pays necessary court costs in addition to the civil penalty.*
- G. *Within the time period prescribed in (C), above, the owner or permittee, may contest the violation by presenting it to the director, who shall certify the contest in writing, on an appropriate form, to the general district court.*
- H. *Failure to pay the civil penalty, or to contest the violation, within the time period prescribed in (c), above, shall result in the immediate issuance of a stop work order and the revocation of the permit, if any.*

Section 30-9. APPEALS AND JUDICIAL REVIEW

- A. *Any applicant under the provision of this ordinance who is aggrieved by any action of the county or its agent in disapproving plans submitted pursuant to this ordinance shall have the right to apply for and receive a review of such action by the board of supervisors provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the board of supervisors shall be heard at the next regularly scheduled meeting that allows the county to provide at least 30 days prior notice to the applicant and other involved parties. In reviewing the agent's actions, the board of supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the board of supervisors may affirm, reverse or modify the action. The board of supervisor's decision shall be final, subject only to review by the circuit court of the county.*
- B. *Final decisions of the board of supervisors under this ordinance shall be subject to review by the circuit court of the county, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.*

Appendix A. FEE SCHEDULE

<u>Code Section</u>	<u>Description</u>	<u>Fee</u>
30-5 (C)	Administrative Plan Review Fee	\$100
30-5 (C)	Land Disturbing Permit Fee	\$ 25
30-5 (E)	Land Disturbing Activity Surety	\$500 per 10,000 square feet of disturbed area

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

- Mr. McCall Aye*
- Mr. McCrady Aye*
- Mrs. Mumpower Aye*
- Mr. Owens Aye*
- Mr. Price Aye*
- Mr. Reynolds Aye*
- Mr. Taylor Aye*

c. Public Hearing and Consideration of Adoption of an Ordinance to Amend Chapter 14 of the Code of the County of Washington, Virginia to Authorize County Abatement or Removal of Unsafe Structures

Ms. Phillips explained that the proposed ordinance is allowed under State Code Section 15.2-906 and is required before a locality can authorize the abatement or removal of unsafe structures. It proposed that the ordinance be inserted into the building section of the Washington County Code, which provides for building inspection. She further explained that the Washington County Code regulates new construction, but does not enact the second part of the Uniform Statewide Building Code that speaks to the upkeep of current structures. Adoption of the proposed ordinance would amend the Washington County Code to allow the County to follow the procedures enabled by state law, and it would establish a process for Board review and decision making in reference to complaints of unsafe structures.

Ms. Phillips provided the Board with a detailed review of the proposed ordinance. She explained that the proposed ordinance primarily pertains to properties zoned in whole or part Business, Limited and General (B-1 and B-2) and Industrial, Limited and General (M-1 and M-2). However, in the event of imminent and substantial threat to public health and safety, the provisions of the ordinance shall apply to any zoning district in the County.

Lengthy discussions ensued among the Board.

Mr. Reynolds opened the public hearing to receive comments concerning the proposed ordinance.

Dr. Scott Miller addressed the Board explaining that he has a dental practice located on Lee Highway located adjacent to an old motel, which is unsightly not only to his practice, but to his clients that pass by the structure. Dr. Miller talked about the safety of his clients and employees because of the type of people this structure attracts. For example, a homeless person had been living in a shed located on the hotel property. He explained that when his employees work after dark that he walks them to their vehicles to ensure their safety. Dr. Miller encouraged the Board to adopt the proposed ordinance and commended the work of the County Attorney.

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

On motion of Mrs. Mumpower, second by Mr. McCrady, the board acted to adopt the following ordinance:

Further discussions ensued among the Board.

***AN ORDINANCE TO AMEND CHAPTER 14 OF THE CODE OF THE
COUNTY OF WASHINGTON, VIRGINIA TO AUTHORIZE
COUNTY ABATEMENT OR REMOVAL OF UNSAFE STRUCTURES***

WHEREAS; the Board of Supervisors of the County Of Washington, Virginia, finds that deteriorating properties, including the improvements and the land on which they are built, have a deleterious effect on the quality of life in the area surrounding them and may create risks to the public health and safety; and

WHEREAS, the General Assembly, through enactment of Virginia Code section 15.2-906, enabled local governments to remove, repair, or secure buildings or other property improvements that may endanger the public health or safety of other residents of the locality; and

WHEREAS, the Board finds it in the best interest of the health and safety of the community to empower its local officials in accordance with the provisions of state law that allow for removal, repair, or securing of unsafe structures.

NOW, THEREFORE, ON THE BASIS OF THE FOREGOING, BE IT ORDAINED by the Board of Supervisors of the County of Washington, Virginia, that in accord with SECTION 15.2-906 of the 1950 Code of Virginia, as amended, the Code of the County of Washington, Virginia, is hereby amended, as follows:

- 1. This ordinance shall become effective immediately.*
- 2. Should any section or provision of this 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 Code of the County of Washington, Virginia, as amended.*
- 3. Sections 14-1 through 14-8 shall be included in a new Article titled, "Chapter 14, Article I. New construction," and shall include additional reserved subsections.*
- 4. A new Article, titled, "Chapter 14, Article II. Unsafe Structures," shall be added, which shall include the following subsections:*

CHAPTER 14 BUILDINGS AND BUILDING REGULATIONS.

ARTICLE II UNSAFE STRUCTURES

Sec. 14-20. Purpose. Deteriorating properties, including the improvements and land on which they are built, may create a threat to the public health and safety. This article is enacted to provide for the removal, repair, or securing of structures that might endanger the public health or safety.

Sec. 14-21. Applicability. The provisions of this article shall apply to properties zoned in whole or part Business, Limited and General (B-1 and B-2) and Industrial, Limited and General (M-1 and M-2) pursuant to chapter 66 of this Code. In the event of imminent and substantial threat to public health and safety, the provisions of this article shall apply to any zoning district of the county.

Sec. 14-22. Owners' duty to maintain real property and penalty for noncompliance. The owners of real property within the county shall maintain their real property in a manner that does not endanger the public health or safety. Every violation of this ordinance shall be punishable by a civil penalty not to exceed a total of \$1,000 for each offense.

Sec. 14-23. Determination of endangerment to public health and safety.

(a.) Any resident of the county or member of the board of supervisors may submit a written complaint to the board of supervisors for determination that a real property in the county constitutes a threat to the public health or safety.

(b.) Upon receipt of a written request for review of a property, the board of supervisors shall determine in open meeting whether to pursue further investigation of the complaint, and if it is determined that additional investigation is warranted, the board of supervisors shall either:

- 1) *Direct the county administrator to arrange for preliminary investigation of such property as described in subsection (c) of this section; or*
- 2) *If the board of supervisors determines that sufficient facts are presented in the initial complaint to show that any three of the factors listed in subsection (c) are present or that a structure poses an imminent and substantial threat to public health and safety, the board of supervisors may direct the county administrator immediately to take any or all of the steps outlined in subsection (d) of this section.*

(c.) Upon direction of the board of supervisors to pursue preliminary investigation, the presence of the following non-exclusive factors will be determined:

- 1) *Vacant structure. The structure on the property has been continuously vacant for at least one year;*
- 2) *Illegal occupancy. The structure has evidence of use by trespass for shelter or illegal activities;*
- 3) *Nonpayment of taxes. Real estate taxes are currently delinquent and have not been paid on the property for at least three consecutive years;*
- 4) *Vermin infestation. There is evidence of vermin infestation or harborages caused by conditions on the property;*
- 5) *Potential trespass. If the property is vacant, the owner has failed to take adequate precautions to prevent the use of or access to of the property by trespassers;*
- 6) *Attractive Nuisance. A dangerous condition that may attract children onto the property exists, thereby causing a risk to their safety, including, but not limited to, abandoned wells, basements, excavations, or broken fences;*
- 7) *Fire hazard. Any condition exists on the property that has been specifically identified as a fire hazard by the state fire marshal and the owner has failed to remedy such condition after receiving written notice; and*
- 8) *Dilapidated state of repair. A structure or component thereof; including but not limited to a wall, shed, staircase, or building; on the property appears to be in a state of disrepair as to constitute a threat of imminent collapse or pose a threat to public safety generally.*
- 9) *Imminent and substantial threat to public health and safety. A structure shall be deemed to pose an imminent and substantial threat to public health and safety if it threatens collapse in a manner that would cause injury to person in an area that is regularly frequented by general public or damage to structures that are designed and currently in use for residential purposes on adjoining properties.*
- 10) *Other factors. Other factors and considerations that indicate a threat to the public health, safety, and welfare.*

(d.) The county administrator or his designee shall report the results of the preliminary investigation to the board of supervisors. If the written complaint or the preliminary investigation report indicates the presence of any three of the above-listed criteria or if the board of supervisors deems a structure to pose an imminent and substantial threat to public health and safety, the board of supervisors may take any or all of the following actions:

- 1) *Require written notice to be sent to the property owner by registered mail of investigation of the property; findings of the preliminary report, if any; and need for remedy of the property. The board of supervisors may direct that the notice require the owner to submit a plan for remedial action within a specified period of time within not*

less than thirty (30) nor more than sixty (60) days from the date of mailing of the notice.

- 2) *Direct the county attorney to take such steps as are legally necessary to secure a right of access to the property for the purpose of on-site investigation.*
- 3) *Direct the county administrator to retain a licensed professional architect or engineer to evaluate the safety of the property; to recommend a plan of action to best protect the public health and safety; and to estimate the expense of completion of the recommended plan.*
- 4) *Schedule a public hearing for public comment whether to remove, repair, or secure the property.*
- 5) *If the board of supervisors determines, by resolution, that the facts indicate imminent and substantial risk to public health or safety, the board of supervisors may direct that the structure be secured, repaired, or removed in accordance with section 14-25.*

Sec. 14-24. Public hearing.

(a.) *Notice. If the board of supervisors schedules a public hearing on the complaint, notice of the hearing shall be provided as follows. No less than two weeks prior to the public hearing, the county administrator or his designee shall provide, by certified or registered mail, notice of the public hearing to the last known address of the owner of the property. In addition, notice of the public hearing shall be published at least twice prior to the date of the public hearing, with not less than six days elapsing between the first and second publication, in a newspaper published or having general circulation in the county. In addition, notice may be provided to the abutting and adjoining property owners and other known parties of interest.*

(b.) *Contents of Notice. The notice shall specify the date, time, and place of the public hearing at which persons may appear and present their views. In addition, the notice shall require the owner of the property to submit to the county administrator a plan to remediate the structure by securing, repair, or removal of the structure. The notice shall state whether a structure on the property poses a significant threat to public safety such that the county may take action to prevent unauthorized access to the building within seven days of such notice. The notice shall require that the owner of the property immediately take such steps as are necessary to abate or remove the risk to public health and safety.*

(c.) *Determinations to be made by board of supervisors. After the public hearing, the board of supervisors shall, by resolution, make a determination of the following:*

- 1.) *Whether the property endangers the public health or safety.*
- 2.) *Whether the owner has taken action to abate the threat to public health or safety or has presented a plan to do so that would adequately protect the public health and safety in a timely manner.*
- 3.) *Whether the county shall proceed to secure, repair, or remove the unsafe structure.*

Sec. 14-25. County authority to abate or remove. *The county, through its own agents or employees, may secure, repair, or remove any building, wall, or other structure that the board of supervisors has determined might endanger the public health or safety, if the owner of such property has failed to secure, repair, or remove the building, wall or other structure in a timely manner. However, no action shall be taken by the county to secure, repair, or remove any building, wall, or*

other structure for at least thirty days following the later of the date of return of the receipt of written notice to the property owner or the date of newspaper publication, except that the county may take action to prevent unauthorized access to a building within seven days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice.

Sec. 14-26. Notice. Prior to taking action to secure, repair, or remove an unsafe property including the improvements thereon, the county shall provide written notice to the property owner, as follows. The county administrator or his designee shall provide, by certified or registered mail to the last known address of the owner of the property, notice of the county’s plan to secure, repair, or remove a structure that might endanger the public health or safety. In addition, notice shall be published at least twice, with not less than six days elapsing between the first and second publication, in a newspaper published or having general circulation in the county. The notice shall state whether a structure on the property poses a significant threat to public safety such that the county may take action to prevent unauthorized access to the building within seven days of such notice. Notice of the public hearing, as provided for in this section, shall satisfy the notice provision required before the county may take action to remedy an unsafe structure.

Sec. 14-27. County cost recovery. In the event the county, through its own agents or employees, removes, repairs, or secures any building, wall, or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. Every cost recovery authorized by this section with which the owner of any such property has been assessed and that remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. The board of supervisors may, by resolution, waive such liens in order to facilitate the sale of the property if the board of supervisors determines that such action is in the best interests of the public health, safety, and welfare. Such liens may be waived only as to a purchaser who provides to the county a written affidavit that states that such purchaser is unrelated by blood or marriage to the owner and has no business association with the owner. Any such liens that are waived shall remain a personal obligation of the owner of the property at the time the liens were imposed.

Sec. 14-28. Provisions cumulative. The provisions of this article shall be cumulative and shall be in addition to other remedies that may be authorized by law.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. McCrady</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

6. General Business:

a. Actionable Items:

1. Consideration of Resolutions regarding the Issuance of \$2,000,000 Lease Revenue Bond, Series 2008A and \$2,385,000 Lease Revenue Bond Anticipation Note, Series 2008B by the Industrial Development Authority of Washington County

Mr. Roland Kooch with Davenport and Company and Mr. Dan Siegel with Sands Anderson Marks and Miller provided the Board with a presentation concerning bond issuance project by the Industrial Development Authority of Washington County (IDA).

Mr. Siegel provided a review of the proposed Resolutions that are before the Board for consideration that would authorize the issuance of the bonds. Mr. Siegel explained that the first Resolution speaks to the \$2,000,000 bond issuance to finance the purchase of the American Electric Power (AEP) Building, which will be utilized as new office space for the Washington County Sheriff's Department. He advised the Board that since the presentation made at the September 23 meeting of the Board when the Board was told that SunTrust Leasing would be handling the financing, issues have arisen with SunTrust wherein they raised questions about environmental issues relating to the AEP Building. This was an indicator that SunTrust wanted to back out of their proposal to finance. He added that BB&T has resubmitted a proposal to handle the financing. Mr. Siegel further explained that the proposed Resolution approves Davenport and Company to buy the bonds and then resell them to BB&T at an amount not to exceed \$2,000,000 and at an interest rate of 5.75% for 20 years. Mr. Siegel further explained that there will be a Ground Lease between the County and IDA conveying a leasehold interest in the property, and a Lease Agreement between the IDA and the County conveying to the County a leasehold interest in the property and the improvements to the property. The lease payments to the IDA will be equal to the IDA's debt service on the bond issuance. In regards to the financing, Mr. Siegel explained that the original plan of finance anticipated using the County's remaining tax-exempt bank qualified financing capacity. However because of Johnston Memorial Hospital's (JMH) transaction, the tax-exempt bank qualified financing is not available to the County. However, the County and IDA negotiated an agreement with JMH for the hospital to reimburse the County the difference in the costs between the interest rate the County will be charged for the bond financing and the bank qualified rate that the County should have received.

Mr. Reeter explained that the salient point is that the County will have a fee simple title to the AEP building. There is a mechanism in the proposed Resolution that allows for the County to borrow money from the IDA to pay for acquisition of the AEP Building and then in turn repay the IDA through lease payments. The County will have ownership of the building upfront. In addition, this provides a higher level of security to the bond holders.

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

**RESOLUTION 2008-42 OF THE BOARD OF SUPERVISORS
OF WASHINGTON COUNTY, VIRGINIA**

WHEREAS, the Board of Supervisors (the "Board of Supervisors") of Washington County, Virginia (the "County") by joint resolution adopted on August 20, 2008 with the Industrial Development Authority of Washington County, Virginia (the "Authority") had previously directed Davenport & Company LLC as financial consultants and underwriter (the "Underwriter") and Sands, Anderson, Marks & Miller, a Professional Corporation, as the County's Bond Counsel (together, the

Consultants”), to evaluate financing options and to recommend a plan of financing (the “Plan of Financing”) for the costs of the acquisition, design, construction, renovation and equipping of the conversion of an existing building for use as County office facilities for the County Sheriff’s Department (the “Project”);

WHEREAS, the Board of Supervisors adopted a resolution on September 23, 2008 approving the Plan of Financing presented by the Consultants to the Board of Supervisors wherein the Underwriter will purchase the Bond (as defined below) to be repaid by a financing lease between the County and the Authority and in turn, the Board of Supervisors directed the Consultants to prepare the appropriate documentation to complete and fund the Plan of Financing for the costs of the Project;

WHEREAS, the Board of Supervisors will request the Authority to issue, offer and sell its Lease Revenue Bond, Series 2008A in the principal amount of \$2,000,000 (the “Bond”) to finance a portion of the costs of the Project to lease the Leased Property (as defined below) to the County, with level principal payments paid annually and interest at the rate of not to exceed 5.75% per annum, payable semiannually over an approximately 20 year term of the Bond, to accomplish certain purposes of the Virginia Industrial Development and Revenue Bond Act (the “Act”), with the County providing its moral obligation in support of the payment of the Bond; and

WHEREAS, the Authority, based on the request of the Board of Supervisors, would (a) use the proceeds of the Bond to pay the costs incurred and to be incurred in connection with the Project, including costs of issuing the Bond, (b) lease the Leased Property (as defined below) from the County for an approximately 30 year term under a ground lease and in turn, lease the Leased Property to the County for an approximately 20 year term under a lease agreement with the Authority and, (c) secure the Bond by an assignment of its rights under such lease agreements (except the right to receive indemnification, to receive notices and to give consents and to receive its administrative expenses) to the Underwriter, under an assignment agreement between the Authority and the Underwriter, which is to be acknowledged and consented to by the County, all in accordance with a bond purchase agreement among the Underwriter, the County and the Authority;

WHEREAS, there have been presented to this meeting drafts of the following documents (collectively, the “Documents”) in connection with the transactions described above, copies of which shall be filed with the records of the Board of Supervisors:

- a. a Ground Lease, dated as of October 1, 2008, between the County and the Authority conveying to the Authority a leasehold interest in the property described therein (the “Ground Lease”);*
- b. a Lease Agreement, dated as of October 1, 2008, between the Authority and the County (the “Lease Agreement”) conveying to the County a leasehold interest in such real estate and improvements thereon (the “Leased Property”);*
- c. a Bond Purchase Agreement, dated as of October 1, 2008 among the Authority, the County and the Underwriter, pursuant to which the Bond is to be issued (the “Bond Purchase Agreement”);*
- d. an Assignment Agreement, dated as of October 1, 2008 between the Authority and the Underwriter, assigning to the Underwriter certain of the Authority’s rights under the Lease Agreement and the Ground Lease, which is to be acknowledged and consented to by the County (the “Assignment Agreement”);*

- e. *a Limited Offering Memorandum for the offering and sale of the Bond (the “Limited Offering Memorandum”); and*
- f. *a Specimen Bond.*

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of Washington County, Virginia:

1. *All costs and expenses in connection with the undertaking of the acquisition, construction, equipping and furnishing of the Project and the issuance of the Bond including the Authority’s expenses, the fees and expenses of the County, and the fees and expenses of Bond Counsel and the Underwriter and other fees and expenses related thereto, for the sale of the Bond, shall be paid from the proceeds therefrom or other funds of the County. If for any reason the Bond is not issued, it is understood that all such expenses shall be paid by the County and that the Authority shall have no responsibility therefor.*
2. *The Board of Supervisors hereby instructs the Underwriter and Bond Counsel to take all such action as necessary or appropriate to conclude the purchase of the Bond by the Underwriter.*
3. *The Board of Supervisors hereby instructs the Bond Counsel to take all such action as necessary or appropriate to conclude the financing with the Underwriter as set forth in the Bond Purchase Agreement by the issuance of the Bond of the Authority.*
4. *The following plan for financing the costs of the Project is approved. The Authority shall use the proceeds from the issuance of the Bond to finance on behalf of the County, the acquisition, design, construction and equipping of the Project, to lease the Leased Property from the County for a lease term of approximately 30 years and to lease the Leased Property to the County for a lease term not less than the term of the Bond at a rent sufficient to pay when due the interest and principal on the Bond. The obligation of the Authority to pay principal and interest on the Bond will be limited to rent payments received from the County under the Lease Agreement. The obligation of the County to pay rent under the Lease Agreement will be subject to the Board of Supervisors of the County making annual appropriations for such purpose. The Board of Supervisors on behalf of the County has adopted this resolution as its moral obligation to the repayment of the Bond. The Bond will be secured by an assignment of rents to the bondholder as the holder thereof. If the Board of Supervisors exercises its right not to appropriate money for rent payments, the bondholder may terminate the Lease Agreement or otherwise exclude the County from possession of the Project. The issuance of the Bond on the terms set forth in the Bond Purchase Agreement is hereby approved.*
5. *The Board of Supervisors hereby approves the Documents and the form of the Bond in a maximum amount of \$2,000,000 with an amortization of not to exceed 20 years, payable as to principal annually at an interest rate of not to exceed 5.75% payable semiannually with the final terms and interest rate to be approved by the Chairman whose execution thereof shall be conclusive evidence of such approval.*
6. *The Chairman or Vice Chairman of the Board of Supervisors, or either of them, and the County Administrator and Clerk of the Board of Supervisors are each hereby authorized and directed to execute the Documents and such other instruments and documents as are necessary to create and perfect a complete assignment of the rents and profits due or to become due in favor of the Underwriter, to issue the Bond, and to lease the Leased Property.*

7. *The County consents to its Bond Counsel acting as counsel to the Underwriter in this financing.*
8. *The County represents and covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") or otherwise cause the interest on the Bond to be includable in gross income for Federal income tax purposes under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the Authority or the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds from the sale of the Bond.*
9. *Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.*
10. *All other acts of the officers of the County that are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Bond, and the undertaking of the acquisition, construction, equipping and furnishing of the Project are hereby approved, ratified and confirmed.*
11. *The County by acceptance of this financing agrees to indemnify, defend and save harmless, to the extent permitted by law, the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses in any way connected with the Authority, the issuance of the Bond, or the acquisition, construction, equipping and furnishing of the Project.*
12. *Nothing in this Resolution, the Bond or any documents executed or delivered in relation thereto shall constitute a debt or a pledge of the faith and credit of the Authority or the County, and the Authority shall not be obligated to make any payments under the Bond or the Documents except from payments made by or on behalf of the County under the Lease Agreement pursuant to annual appropriation thereof in accordance with applicable law.*
13. *The Board hereby reaffirms and declares, in accordance with U.S. Treasury Regulation Section 1.150-2, as amended from time to time, the County's intent to reimburse the County with the proceeds of the Bond for expenditures with respect to the Project, made on or after August 20, 2008, which date is no more than 60 days prior to the date of the adoption of the joint resolution referred to in the preambles of this Resolution. The County reasonably expects that it will reimburse the expenditures with the proceeds of the Bond. The maximum principal amount of the tax-exempt obligations expected to be issued for the Project is \$2,000,000.*
14. *The County Treasurer is hereby authorized but not required to invest proceeds of the Bond, as appropriate, in the State Non-Arbitrage Program.*
15. *This resolution shall take effect immediately.*

Mr. Siegel next reviewed with the Board the second Resolution for their consideration pertaining to the purchase of property referred to as the Hawkins/Payne Property. He explained that this Resolution is different than the previous Resolution. It is setup as a lease financing arrangement because the property, adjacent to Oak Park: Center for Business and Industry, will be used for the construction of an industrial access road into Oak Park. The property will be owned by the IDA and then leased to the County. A Ground Lease is not involved. The financing for this property will be short term (approximately 27 months) through a Bank Anticipation Note and will include costs for property acquisition and some

design costs for the road. Once the construction costs for the industrial access road have been determined, the County will do a long term financing for the road construction. Mr. Siegel further explained that as with the financing of the AEP Building problems have arisen with SunTrust Leasing. In anticipation of issues with SunTrust a revised bid was obtained from BB&T in the event that SunTrust Leasing does not close on the property.

Mr. Siegel advised the Board that revisions need to be made to the proposed Resolution in regards to the borrowing amount and interest rate. The Resolution as drafted says that the principal amount will be \$2,385,000 with an interest rate not to exceed 4.35%. Because of changes to the preliminary estimate for the industrial access road the principal amount needs to be increased to not exceed \$2,600,000. In addition, because of the uncertainty whether the financing will close with SunTrust or BB&T it is recommended that the interest rate be changed to a not to exceed rate of 4.85%. Both of these changes need to be made on pages 1 through 3 of the proposed Resolution.

On motion of Mr. Owens, second by Mr. McCall, it was resolved to adopt the following Resolution with amendments as proposed:

**RESOLUTION 2008-43 OF THE BOARD OF SUPERVISORS
OF WASHINGTON COUNTY, VIRGINIA**

WHEREAS, the Board of Supervisors (the "Board of Supervisors") of Washington County, Virginia (the "County") by joint resolution adopted on August 20, 2008 with the Industrial Development Authority of Washington County, Virginia (the "Authority") had previously directed Davenport & Company LLC as financial consultants and underwriter (the "Underwriter") and Sands, Anderson, Marks & Miller, a Professional Corporation, as the County's Bond Counsel (together, the Consultants"), to evaluate financing options and to recommend a plan of financing (the "Plan of Financing") to pay the costs of the acquisition of land and related infrastructure design costs for the development of an access road to the County's existing Oak Park Center for Business and Technology (the "Project");

WHEREAS, the Board of Supervisors adopted a resolution on September 23, 2008 approving the Plan of Financing presented by the Consultants to the Board of Supervisors wherein the Underwriter will purchase the Note (as defined below) to be repaid by a financing lease or loan agreement between the County and the Authority and in turn, the Board of Supervisors directed the Consultants to prepare the appropriate documentation to complete and fund the Plan of Financing for the costs of the Project;

WHEREAS, the Board of Supervisors will request the Authority to issue, offer and sell its Lease Revenue Bond Anticipation Note, Series 2008 B in the principal amount of \$2,600,000 (the "Note") to finance the a portion of the costs of the Project, to lease the Leased Property (as defined below) to the County, with an approximately 27 month lease term with interest at the rate not to exceed 4.85% per annum, payable semiannually, with principal to be fully funded on January 15, 2011 (the "Maturity Date"), to accomplish certain purposes of the Virginia Industrial Development and Revenue Bond Act (the "Act"), with the County providing its moral obligation in support of the payment of the Note; and

WHEREAS, the Authority, based on the request of the Board of Supervisors, would (a) use the proceeds of the Note to pay the costs incurred and to be incurred in connection with the Project, including costs of issuing the Note, (b) lease the Leased Property (as defined below) to the County under a lease agreement with the Authority and, (c) secure the Note by an assignment of its rights

under such lease agreements (except the right to receive indemnification, to receive notices and to give consents and to receive its administrative expenses) to the Underwriter, under an assignment agreement between the Authority and the Underwriter, which is to be acknowledged and consented to by the County, all in accordance with a note purchase agreement among the Underwriter, the County and the Authority;

WHEREAS, there have been presented to this meeting drafts of the following documents (collectively, the "Documents") in connection with the transactions described above, copies of which shall be filed with the records of the Board of Supervisors:

- g. a Lease Agreement, dated as of October 1, 2008, between the Authority and the County (the "Lease Agreement") conveying to the County a leasehold interest in such real estate and improvements thereon (the "Leased Property");*
- h. a Note Purchase Agreement, dated as of October 1, 2008 among the Authority, the County and the Underwriter, pursuant to which the Note is to be issued (the "Note Purchase Agreement");*
- i. an Assignment Agreement, dated as of October 1, 2008 between the Authority and the Underwriter, assigning to the Underwriter certain of the Authority's rights under the Lease Agreement, which is to be acknowledged and consented to by the County (the "Assignment Agreement");*
- j. a Limited Offering Memorandum for the offering and sale of the Note (the "Limited Offering Memorandum"); and*
- k. a Specimen Note.*

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Washington County, Virginia:

- 16. All costs and expenses in connection with the undertaking of the acquisition, construction, equipping and furnishing of the Project and the issuance of the Note including the Authority's expenses, the fees and expenses of the County, and the fees and expenses of Bond Counsel and the Underwriter and other fees and expenses related thereto, for the sale of the Note, shall be paid from the proceeds therefrom or other funds of the County. If for any reason the Note is not issued, it is understood that all such expenses shall be paid by the County and that the Authority shall have no responsibility therefor.*
- 17. The Board of Supervisors hereby instructs the Underwriter and Bond Counsel to take all such action as necessary or appropriate to conclude the purchase of the Note by the Underwriter.*
- 18. The Board of Supervisors hereby instructs the Bond Counsel to take all such action as necessary or appropriate to conclude the financing with the Underwriter as set forth in the Note Purchase Agreement by the issuance of the Note of the Authority.*
- 19. The following plan for financing the costs of the Project is approved. The Authority shall use the proceeds from the issuance of the Note to finance on behalf of the County, the acquisition, design, construction and equipping of the Project and to lease the Leased Property to the County for a lease term not less than the term of the Note at a rent sufficient to pay when due the interest and principal on the Note. The obligation of the Authority to pay principal and interest on the Note*

will be limited to rent payments received from the County under the Lease Agreement. The obligation of the County to pay rent under the Lease Agreement will be subject to the Board of Supervisors of the County making annual appropriations for such purpose. The Board of Supervisors on behalf of the County has adopted this resolution as its moral obligation to the repayment of the Note. The Note will be secured by an assignment of rents to the note holder as the holder thereof. If the Board of Supervisors exercises its right not to appropriate money for rent payments, the note holder may terminate the Lease Agreement or otherwise exclude the County from possession of the Project. The issuance of the Note on the terms set forth in the Note Purchase Agreement is hereby approved

- 20. The Board of Supervisors hereby approves the Documents and the form of the Note in a maximum amount of \$2,600,000 with an amortization of not to exceed 30 months with principal due on the Maturity Date and as to interest payable semiannually at a rate of not to exceed 4.85% with the final terms and interest rate to be approved by the Chairman whose execution thereof shall be conclusive evidence of such approval.*
- 21. The Chairman or Vice Chairman of the Board of Supervisors, or either of them, and the County Administrator and Clerk of the Board of Supervisors are each hereby authorized and directed to execute the Documents and such other instruments and documents as are necessary to create and perfect a complete assignment of the rents and profits due or to become due in favor of the Underwriter, to issue the Note, and to lease the Leased Property.*
- 22. The County consents to its Bond Counsel acting as counsel to the Underwriter in this financing.*
- 23. The County represents and covenants that it shall not take or omit to take any action the taking or omission of which will cause the Note to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") or otherwise cause the interest on the Note to be includable in gross income for Federal income tax purposes under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the Authority or the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds from the sale of the Note.*
- 24. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.*
- 25. All other acts of the officers of the County that are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Note, and the undertaking of the acquisition, construction, equipping and furnishing of the Project are hereby approved, ratified and confirmed.*
- 26. The County by acceptance of this financing agrees to indemnify, defend and save harmless, to the extent permitted by law, the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses in any way connected with the Authority, the issuance of the Note, or the acquisition, construction, equipping and furnishing of the Project.*
- 27. Nothing in this Resolution, the Note or any documents executed or delivered in relation thereto shall constitute a debt or a pledge of the faith and credit of the Authority or the County, and the Authority shall not be obligated to make any payments under the Note or the Documents except from payments made by or on behalf of the County under the Lease Agreement pursuant to annual appropriation thereof in accordance with applicable law.*

- 28. *The Board hereby reaffirms and declares, in accordance with U.S. Treasury Regulation Section 1.150-2, as amended from time to time, the County’s intent to reimburse the County with the proceeds of the Note for expenditures with respect to the Project, made on or after August 20, 2008, which date is no more than 60 days prior to the date of the adoption of the joint resolution referred to in the preambles of this Resolution. The County reasonably expects that it will reimburse the expenditures with the proceeds of the Note. The maximum principal amount of the tax-exempt obligations expected to be issued at this time for the Project is \$2,600,000.*
- 29. *The County Treasurer is hereby authorized but not required to invest proceeds of the Note, as appropriate, in the State Non-Arbitrage Program.*
- 30. *This resolution shall take effect immediately.*

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. McCrady</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

2. Consideration of Approval of Design Services Agreement for Beaverdam Creek Park Project

Mr. Reeter explained that Supervisor Jack McCrady, County Recreation Manager Keith Owens and he have been working for the past several months to procure and negotiate a professional services agreement for design and construction management services in connection with the Beaverdam Creek Park Project within the Town of Damascus. The proposed project involves the design and construction of a 200-foot, a 175-foot and a 125-foot baseball/softball fields and a 50-yard by 110-yard multipurpose field on property that the Town of Damascus is leasing to the County for this purpose. After review of the proposals received, it is recommended to the Board that the firm of Barge Waggoner Sumner & Cannon (BWSC) out of Kingsport, TN be selected to provide the necessary professional services for the project.

Mr. McCrady commented that he is excited about the Beaverdam Creek Park Project. He explained that the construction is expected to begin in the spring of 2009 and completion is anticipated to be November 2009. Mr. McCrady further explained that an additional \$123,000 will be needed for Phase I of the project. This additional amount will be requested in the FY 2009-10 County Operating Budget. The total estimated project cost for Phase I is approximately \$795,000, which includes the construction of lighted, playable fields. An additional estimated cost of approximately \$241,000 will be needed for Phase II. Phase II includes other site amenities and improvements to the Park. The Board has provided \$672,500 for this project in the current fiscal year’s budget.

Mr. Reeter explained that BWSC’s estimate for Phase I, which includes the lights for the ballfields, is \$795,000. If the lighting is omitted from Phase I it would defer an estimated \$140,000. However, it is hoped that the project can be bid with the lighting included. The majority of the Phase I project costs is in place with the remaining amount being sought in the next fiscal year if funds are available. If funds are not available, the lighting can be moved to Phase II.

Discussions ensued among the Board. Mr. McCrady commented that corporate partners could be sought to help with the expenses of the project. Mr. McCall inquired if the project costs included drainage and irrigation. Mr. McCrady explained the costs include drainage, but that the irrigation was omitted because of the expense involved.

On motion of Mr. McCrady, second by Mr. Price, the Board acted to approve the professional services agreement with Barge Waggoner Sumner & Cannon for the Beaverdam Creek Park Project as presented.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. McCrady</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

Further discussions ensued at this time concerning the floodplain plan for the Beaverdam Park Project property.

4. Consideration of Approval of Design Services Agreement for Damascus Branch Library & Tourism Center Project

Ms. Phillips explained that the County Library Planning Committee completed a professional services procurement process for the final architectural and construction management services for the Damascus Branch Library & Tourism Center Project. The Committee is recommending the Board award the professional services agreement for this project to McCarty Holsaple McCarty out of Knoxville, TN. The agreement for their services is \$76,030 based in part on 8.7% professional services on an estimated project construction cost of \$780,000 plus certain additional services. Professional services for the project are proposed to be paid from local funds.

Mr. Reeter provided a review of the budget for the project. He explained that the total available funding for the project includes \$582,000 in Federal Transportation Enhancement Program (TEA-21) grant funds; \$300,000 in local funds from the County, and \$100,000 in grant funds from the Virginia Tobacco Commission for a total of \$982,000. An additional \$30,000 has been sought from the Town of Damascus and there is \$127,000 in County funds earmarked within the County’s Undesignated Reserve as project contingency funds. The Library anticipates additional funding will be obtained through fund-raising activities, and the Library Foundation for furnishing and equipping the new branch library facility. Mr. Reeter noted that the TEA-21 funds could be used only to cover expenses associated with the tourism center portion of the project.

On motion of Mr. McCrady, second by Mr. Price, the Board acted to approve the professional services agreement with McCarty Holsaple McCarty for the Damascus Branch Library & Tourism Center Project as presented and to transfer \$78,000 from Line-Item 94321-8450, Damascus Branch Project – Construction to Line-Item 94321-3145, Damascus Branch Project – Purchased Services – Professional.

Discussions ensued among the Board.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. McCrady</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Price</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>

4. Consideration of Former Robert E. Lee Motel Property under County Code Chapter 14, Article II – Unsafe Structures

Ms. Phillips explained that oral complaints have been made to Supervisor Dulcie Mumpower regarding the former Robert E. Lee Motel located on Lee Highway and have been forward to County administrative personnel and Board. According to a recent article in the *Bristol Herald Courier*, the structure was built in the 1940's and used as motel until business operations ceased in 1996. Since that time, the structure has fallen into disrepair such that residents of a nearby residential area and volunteers at the Washington County Fire Department have expressed concern over the safety issues created by the dilapidated structure and unwelcome use of the unsecured building for illegal transient occupancy.

Ms. Phillips further explained that in December 2007, the County Administrator notified the property owner that the County had received complaints regarding the structure, and requested a plan of remediation. She further explained that the owner telephoned and discussed the situation with her. The owner, who lives in California, stated that she planned to visit the structure within several months and that she would provide a plan for remediation. However, no further communications were received from the owner after that point despite a repeated effort at contact by the County Administrator by correspondence dated May 1, 2008. In August 2008, upon request from the County Administrator, General Services Manager Stephen Richardson consulted with a local building contractor to obtain a general estimate of expense to demolish the structure and remove the waste material. The informal estimate of expense was \$38,000, not including any expense necessitated by the presence of asbestos, if any. The General Services Manager's review of the structure was performed from the boundary of the property; therefore, a more precise estimate could be obtained only if entry onto the property were authorized.

Ms. Phillips explained that in the course of the General Services Manager's inspection, it was determined that a small building behind the former motel on the same parcel was occupied illegally. The Washington County Sheriff's Office was notified and took appropriate measures to remove the illegal occupant. In addition, photographs previously submitted to the County indicated other use of the former motel for illegal occupancy.

Ms. Phillips explained that that the County Administrator and she recommends the Board address the former Robert E. Lee Motel under the newly adopted ordinance authorizing County abatement or removal of unsafe structures. She further explained that has been outlined above and in the agenda materials sufficient information has been collected on the structure to satisfy that at least three of the five following factors listed in Section 14-23 (c) of the ordinance are either currently or have been present at the property:

1. Vacant Structure. The structure has been vacant for at least one year;
2. Illegal occupancy. The structure has evidence of use by trespass for shelter or illegal activities;
3. Potential trespass. If the property is vacant, the owner has failed to take adequate precautions to prevent the use of or access to of the property by trespassers;

4. Attractive Nuisance. A dangerous condition that may attract children onto the property exists, thereby causing a risk to their safety (e.g., unsecured rooms and stairwells); and
5. Dilapidated state of repair. A structure or component thereof; including but not limited to a wall, shed, staircase, or building; on the property appears to be in a state of disrepair as to constitute a threat of imminent collapse or pose a threat to public safety generally.

If the Board makes such determination, it is recommended that the Board authorize the County Administrator and County Attorney to proceed with the following measures described in Section 14-23 (d) (Ms. Phillips noted that if the Board chose to do so they could by pass the ordinary first step to order a preliminary review because in essence the Board has already authorized the preliminary review):

1. Require written notice to be sent to the property owner by registered mail of investigation of the property; findings of the preliminary report, if any; and need for remedy of the property. The Board may direct that the notice require the owner to submit a plan for remedial action within a specified period of time within not less than thirty (30) nor more than sixty (60) days from the date of mailing of the notice;
2. Direct the County Attorney to take such steps as are legally necessary to secure a right of access to the property for the purpose of on-site investigation;
3. Direct the County Administrator to retain a licensed professional architect or engineer to evaluate the safety of the property; to recommend a plan of action to best protect the public health and safety; and to estimate the expense of completion of the recommended plan, and
4. Schedule a public hearing for public comment whether to remove, repair, or secure the property.

Discussions ensued among the Board.

Mrs. Mumpower addressed the Board explaining that on several occasions she requested that the Robert E. Lee Motel property be investigated because of complaints received from residents in the area of the area. She explained that the following issues comply with the new County Ordinance: the building has been vacant for eight years; many complaints have been received; there is vermin infestation; the Washington County Fire and Rescue has complained about the fire hazard of the building; the property owner was notified in December 2007, and at that time promised to come forth, but has made no effort to secure the building; and there is an imminent and substantial threat to public health and safety. Mrs. Mumpower discussed her concerns for the safety of the children that live in the neighborhood behind the motel structure. She commented about the curiosity of children and that the old motel is a building that would attract a curious child. There are many hazards to a child that may enter the building. For example, a child could climb to the top floor of the building and then fall out of the window or down the stairs. Mrs. Mumpower stated that the residents in the vicinity of the old motel have been patient, and that the County needs to take action immediately. She commended the County Attorney for her work on the ordinance.

On motion of Mr. Mumpower, second by Mr. McCall, the Board acted to exclude the review process and to authorize the County Administrator and County Attorney to proceed as stated above with appropriate process that follows the County ordinance to take care of issue with the Robert E. Lee motel.

Further discussions ensued.

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. McCrady</i>	<i>Aye</i>

Mrs. Mumpower *Aye*
Mr. Owens *Aye*
Mr. Price *Aye*
Mr. Reynolds *Aye*
Mr. Taylor *Aye*

5. Consideration of Board Attendance at 2008 Virginia Association of Counties' Annual Conference and Voting Credentials for Annual

Mr. Reeter explained that Mr. Reynolds, Mr. McCrady and Mr. Taylor will be attending the Virginia Association of Counties (VACo) Annual Conference to be held November 9-11, 2008. He asked any other supervisors that may be interested in going to let his office know as soon as possible so that their names could be added to the wait list at the conference hotel.

Mr. Reeter explained that the Board needs to designate a voting member for the VACo Annual Business Meeting on November 11, 2008.

It was consensus of the Board to designate Mr. Taylor.

7. Board Member Reports

Mr. Taylor reported that he has received a draft ordinance concerning the plan for purchase of development rights from the committee that has worked on this issue. He explained that he will review the draft ordinance and submit his comments to the committee. A final draft of the ordinance may be ready in the spring of 2009 for the Board of Supervisor's review.

Mr. Taylor reported that he will be attending an informational meeting of the Virginia Resources Authority, and the Board was provided with a copy of the agenda for this meeting. He explained that some items of interest on financing will be discussed particularly financing of broadband projects. Mr. Taylor further explained that this issue will be placed on the agenda for the VACo Annual Conference.

Mr. Owens reported on the proposed library branch for the Benhams area. He explained that he spoke with JoAnn Vickers of the Mendota Community Center Advisory Board about the property purchase in the Benhams area for construction of a branch library and advised her that the property is about three years away. Mr. Owens stated that if the Board chooses, a small branch library could remain at the Mendota Community Center if this is acceptable to the Library Board.

Mr. McCall reported on the events held at Emory and Henry College in September. He explained that Emory and Henry is planning renovations to several buildings on campus and also has plans to relocate the main entrance into the campus. Mr. McCall commented on attending an Emory and Henry Football game and having the privilege to sit with people visiting from Abingdon, England.

Mr. Reynolds commented on the exciting things going on in Washington County including the dedication of the ball room at the Abingdon Senior Citizens Center, the recent visitors from Abingdon, England and the Emory and Henry College Project. He stated that he is proud to be part of a County that is moving forward.

Mr. McCrady discussed the problems associated with the Chestnut Mountain Road Water Extension. He explained that he was told on several occasions that there were problems with the contract for the project. Now he is being told there are acquisition issues.

Mr. McCrady requested that a letter be sent under the County Administrator’s signature to TVA inquiring about any recreational monies that might be available for the purchase/installation of a floating dock at the Washington County Park at South Holston Lake. Reasons for the request are because of TVA’s policy to drop the water level at South Holston Lake, drought conditions in Washington County, and that Washington County has spent \$24,000 on the current boat ramp at Washington County Park, which has not been under water for three years. Also, there are issues with the Americans for Disability Act because of the current situation with the dock at Washington County Park.

Mr. McCrady explained that he would be attending the VACo Annual Conference during the time of the Veteran’s Day Ceremony, and he asked that Mr. Owens attend the ceremony in his place. Mr. Owens explained that he has a medical issue and would not be able to attend. Mr. Price agreed to attend the Veteran’s Day Ceremony to present the Board’s Resolution.

Mr. Reynolds and Mr. McCrady asked that a Resolution to TVA be considered concerning the low water level at South Holston Lake, and to ask TVA to raise the water level at the lake.

8. Board Information and Reminders

Mr. Reeter reviewed the following Board Information:

- Southwest Virginia Local Government Institute, October 28 – Southwest Virginia Higher Education Center

Ms. Phillips reported that the County was successful in their Federal Voter Rights Act bailout process.

At this time, Mr. Taylor stated that he had intended to recognize Town of Glade Spring Council member Jerry Jones who had been in attendance during tonight’s meeting. Mr. Taylor asked that a letter to the Glade Spring Town Council be sent expressing appreciation to Council Member Jerry Jones for attending the Board meeting.

9. Adjourn

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

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

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. McCrady</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Price</i>	<i>Aye</i>
<i>Mr. Taylor</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>

Prepared by:

Naoma A. Norris, Recording Clerk

Approved by the Washington County Board of Supervisors:

Kenneth O. Reynolds, Chairman