

**VIRGINIA:**

At a regular meeting of the Washington County Board of Supervisors held Tuesday, March 8, 2011, at 6:30 p.m., at the County Administration Building in Abingdon, Virginia the following were present:

**PRESENT:**

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

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

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**1. Call to Order**

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

Ms. Mumpower welcomed members of the Washington County Leadership Program and Program Leader Barry Firebaugh that were attending the meeting. She invited Mr. Firebaugh to make remarks about this year's leadership class.

Mr. Firebaugh addressed the Board and provided remarks about the Washington County Leadership Program's 18<sup>th</sup> session. He discussed projects the leadership participants are involved with.

**2. Invocation and Pledge of Allegiance**

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

**3. Approval of Agenda**

County Attorney Lucy Phillips addressed the Board and asked them to consider delaying the agenda item relating to discussion of the proposed revised agreement for the King College Medical School Project. She recommended the item be postponed to a later meeting date to allow time for the Board and staff to fully consider the revised agreement. Ms. Phillips explained the County only received the revised agreement from King College on Friday of last week after the agenda materials had been prepared and

sent to the Board. She stated that Board members have not seen the revised agreement, and for something of this significance the Board needs an opportunity to review.

Mr. Reeter said the agenda has been amended accordingly.

***On motion of Ms. Price, second by Mr. Taylor, it was resolved to approve the agenda with the following amendments:***

**Remove Closed Meeting (1):**

***Request for Closed Meeting pursuant to Virginia Code Section 2.2-3711(A)(6) for discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected; specifically discussion of the terms and conditions of the Agreement for investment of public funds for establishment of a medical school by King College in Washington County, and request for Closed Meeting.***

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

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

**4. Consent Agenda:**

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

***a. Approval of Minutes:***

- 1. February 22, 2011 Regular Meeting***
- 2. February 24, 2011 Recessed Meeting***

***b. Approval of Routine Financial Matters:***

***There were no routine financial matters presented to the Board.***

***c. Award of Bids and Approval of Contracts:***

***There were no bids or contracts presented to the Board for approval.***

**d. Authorization of Routine Business Matters:**

*There were no routine business matters presented to the Board for approval.*

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

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

**5. Public Hearings:**

**a. Public Hearing and Consideration of Adoption of an Ordinance to Petition the State Corporation Commission to Order the Sounding of Horn or Whistle at the Private Railroad Crossing at Old Trail Road (Mile Post NB389.15) in Washington County, Virginia**

County Attorney Lucy Phillips addressed the Board and provided introductory remarks on the proposed ordinance. Ms. Phillips explained the ordinance was prepared at the request of Mr. Gerald Thompson, who lives near the private railroad crossing on Old Trail Road. She further explained the limited site distance and number of trains traveling over this private crossing at higher speeds than in the past make it dangerous. Norfolk & Southern has reviewed the site and agreed it is dangerous. The State Corporation Commission advised that a locality could adopt an ordinance requiring system trains to sound their horns before they approach a crossing.

Adoption of the proposed ordinance would allow the Board to petition the State Corporation Commission, pursuant to the Commission's Rules of Practice and Procedure, to require locomotive to sound their whistle or horn at the private crossing of Old Trail Road at mile post NB389.15 in Washington County, Virginia.

Ms. Mumpower opened the public hearing and invited comments in regards to the proposed ordinance.

Mr. Gerald Thompson addressed the Board speaking in favor of ordinance. Mr. Thompson explained the proposed ordinance is a "band aid" approach. It is a beginning and will be of benefit; however, a final solution to the dangerous railroad crossing needs to be identified. He further explained the rail line was shut down for two hours for tests to be conducted by state and federal representatives. They agreed the proposed ordinance is the beginning to a permanent solution.

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

Mr. McCall addressed the Board and explained he has spoken with Mr. Thompson a number of times about the issues with the private railroad crossing. He explained the visibility at this crossing is terrible, and agrees the proposed ordinance is a "band aid" approach. Mr. McCall further explained there are other crossings in the County with lots of traffic; however, they have more visibility. He discussed other solutions that have been talked about such as moving the intersection of the road and installation of bars

at the crossing. Mr. McCall stated it will be beneficial to require trains to sound their whistles until a permanent solution is identified.

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

**AN ORDINANCE  
TO PETITION THE STATE CORPORATION COMMISSION  
TO ORDER THE SOUNDING OF HORN OR WHISTLE AT THE PRIVATE RAILROAD  
CROSSING AT OLD TRAIL ROAD (MILE POST NB389.15) IN WASHINGTON COUNTY,  
VIRGINIA**

*WHEREAS, on October 27, 2010, representatives of the Utility and Railroad Safety Division of the State Corporation Commission in Richmond, Virginia, conducted a safety investigation of the railroad crossing of a private road located at mile post NB389.15; otherwise known as the railroad crossing of Old Trail Road in Washington County, Virginia, and*

*WHEREAS, the report of the above-referenced investigation concluded that the grade crossing is owned and maintained by Norfolk Southern and is located on the Virginia Division main line in Abingdon, Virginia, in a two point five degree curve where freight trains travel at a speed of fifty miles per hour, and*

*WHEREAS, the investigation further concluded that ten families live on the private road with this private crossing being their only access; sight distance is limited because of the natural grade of the land; there is no requirement for a train to sound the horn at this private crossing; there are more trains traveling over this private crossing at higher speeds than in the past; as well as other conclusion, and*

*WHEREAS, the general conclusion was stated that: "the private crossing located at mile post NB 389.15 is dangerous, due to the location and the amount of reaction time a driver has from the time a train is detected until the train is on the crossing;" and*

*WHEREAS, Section 56-414 of the 1950 Code of Virginia, as amended, provides that the governing body of any county may by ordinance adopted following a public hearing, petition the State Corporation Commission to enter an order, pursuant to the Commission's Rules of Practice and Procedure, requiring locomotives to sound their whistle or horn at specifically identified private crossings in the same manner as required for public crossings in the interest of safety under all relevant circumstances;*

*NOW, THEREFORE, ON THE BASIS OF THE FOREGOING, and in the best interests of the public health, welfare, and safety, having held a public hearing for consideration of these matters, the Board of Supervisors of the County of Washington, Virginia (Board), hereby ordains the following:*

- 1. The Board finds that the private railroad crossing of Old Trail Road at mile post NB389.15 in Washington County, Virginia, is an unsafe crossing due to limited sight distance and for other reasons as stated in the investigation report of the Utility and Railroad Safety Division of the State Corporation Commission in Richmond, Virginia, dated November 4, 2010, completed by John R. Sherrill;*
- 2. Therefore, the Board hereby petitions the State Corporation Commission, pursuant to the Commission's Rules of Practice and Procedure in the interest of public safety under all*

*relevant circumstances, to enter an order to require locomotives to sound their whistle or horn at the private crossing of Old Trail Road at mile post NB389.15 in Washington County, Virginia, in the same manner as is required for public crossings; and*

3. *The Board directs the County Administrator to send a copy of this Ordinance together with a copy of said investigation report to the State Corporation Commission for its consideration at its earliest convenience.*

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

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

Mr. Taylor asked how the land was subdivided on the north side of the railroad that required a private crossing; and was the land subdivided prior to there being zoning in the County.

Mr. Reeter explained there is long history involved with this land. He stated that he would have County Zoning and Subdivision Official Cathy Freeman research the records and provide a briefing to the Board.

Mr. Taylor explained the information would be helpful when considering future developments in the County. He asked that this information be provided to the Board of Supervisors, or the County Joint Land Use Committee.

- b. Public Hearing and Consideration of Franchise Agreement Renewal for Cable Television Franchise to Comcast of the South

Ms. Phillips addressed the Board and provided introductory remarks regarding the proposed franchise agreement renewal for Comcast of the South.

Ms. Mumpower opened the public hearing and invited comments in regards to the proposed ordinance.

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

*On motion of Mr. Taylor, second by Mr. Owens, the Board acted to adopt the ordinance to enter into a franchise agreement with the Comcast of the South, for operation of a cable television system within the jurisdictional limits of Washington County, Virginia contingent upon Comcast of the South adding to their basic package: WETT, a PBS station out of Knoxville, TN and Sports South.*

Discussions ensued among the Board.

Mr. Straten inquired if there was a requirement that the cable television providers offer service to the majority of households in their respective service area in order to get the franchise agreement.

Ms. Phillips explained there is no such requirement in the franchise agreement.

Further discussions ensued among the Board and Ms. Phillips concerning the renewal of the franchise agreement to Comcast of the South, and the requirements of Comcast to provide cable service.

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

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

*Sciivener's Note: The ordinance referenced above is included as Minutes Exhibits Item 2011-03-08-A.*

- c. Public Hearing and Consideration of Franchise Agreement Renewal for Cable Television Franchise to Marcus Cable Associated, L.L.C. (d/b/a, Charter Communications)

Ms. Phillips addressed the Board and provided introductory remarks. She explained that Marcus Cable Associated, L.L.C. (d/b/a, Charter Communications) provides service in Damascus and on US Route 19 towards Lebanon, VA.

Ms. Mumpower opened the public hearing and invited comments in regards to the proposed ordinance.

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

*On motion of Mr. Straten , second by Mr. Taylor, the Board acted to adopt the ordinance to enter into a franchise agreement with Marcus Cable Associated, L.L.C., doing business as Charter Communications, for operation of a cable television system within the jurisdictional limits of Washington County, Virginia contingent upon Marcus Cable Associated, L.L.C. (d/b/a, Charter Communications) adding to their basic package: WETT, a PBS station out of Knoxville, TN and Sports South.*

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

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

*Sciivener's Note: The ordinance referenced above is included as Minutes Exhibits Item 2011-03-08-B.*

d. Public Hearing to Solicit Public Input on Local Community Development Needs in Relation to Community Development Block Grant (CDBG) Funding

Washington County Service Authority (WCSA) General Manager Robbie Cornett and Matthew Lane with Lane Engineering addressed the Board concerning CDBG funding of a water system improvement project serving the Mendota Community.

Mr. Cornett provided background information on the Mendota Community water system. He explained since 1993/1994, WCSA has provided public drinking water to this community; serving about 60 residents from a single well. The water source since that time has had two basic problems; quantity and quality. The quantity issues are associated with the single source well, while the quality issues are related to iron and manganese being contained in the well. Mr. Cornett further explained the water is properly treated; however when the water is heated to do things such as laundry or making hot beverages, it comes out of solution and is discolored. This is esthetically not pleasing to the residents of Mendota, or the WCSA. For these reasons, the WCSA would like to improve the water quality in Mendota.

Mr. Cornett explained WCSA submitted a CDBG application last year for the same project and was unsuccessful in being funded and meeting CDBG program requirement; primarily because of the lateness in submitting the application. He advised the application will be submitted earlier this year and anticipates it being approved. Mr. Cornett stated a preliminary engineering report for the project has been submitted to the Virginia Department of Health, and CDBG officials indicate an approved preliminary engineering report greatly increases the chances of an application being approved.

Mr. Lane addressed the Board and distributed portions of the preliminary engineering report and construction estimates for the Board's review. He explained the Scott County Public Service Authority (SCPSA) has an eight inch (8") water main located at the Washington County line. Mr. Lane further explained the Mendota Water System improvements are proposed to be completed in two phases. Phase I will include connection to the SCPSA system, which involves installing 2,500 linear feet of eight inch (8") line to connect with the existing system. Also, the water tank in Scott County where the water will come from sits at an elevation so that a pump station will not be needed in Phase I. The estimated costs for the project are \$390,000, which will be the amount of the CDBG application.

Discussions ensued among the Board and Mr. Lane.

Ms. Mumpower opened the public hearing and invited comments in regards to the proposed ordinance.

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

At this time Mr. Reeter provided basic information and objectives of the CDBG program. He explained all CDBG funds are federal money passed from Housing and Urban Development to the Virginia Department of Housing and Community Development. Most recent uses of CDBG funds in Washington County include the Rush Creek Housing Rehabilitation Project, and construction of Heartwood Artisan Center (an economic development, job creation project).

No action was required or taken by the Board of Supervisors.

**6. General Business:**

**a. Actionable Items:**

**1. Consideration of County Planning Commission Recommendations for Appointments to Mount Rogers Planning District Commission and Purchase of Development Rights (PDR) Committee**

*On motion of Mr. Reynolds, second by Ms. Price, the Board acted to reappoint County Planning Commissioner Bill Canter to the Mount Rogers Planning District Commission.*

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

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

*On motion of Mr. Reynolds, second by Ms. Price, the Board acted to appoint County Planning Commissioner Phillip McCroskey to the County Purchase of Development Rights Committee for a two-year term ending December 31, 2012.*

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

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

**b. Information Items:**

There was no information items presented.

**7. Board Member Reports**

Mr. Taylor reported on a budget related item pertaining to funding the County provides to the School's Student Achievement Fund. He explained a portion of the money in this fund has not been spent for several years now. The County contributes \$25,000 per year. Mr. Taylor explained that at the appropriate time during a budget work session, he will make a request that the unspent money from this fund be used for construction of walking pads at Meadowview Elementary School and Glade Spring Middle School similar to the trail around the Coomes Center in Abingdon. The estimated cost for construction of both trails is about \$40,000.

Mr. McCall reported on a meeting of the Southwest Virginia Agricultural Association that he recently attended. A few of the issues discussed at this meeting were contracts for tobacco, coyotes in the County and what can be done about them, the deer population in the County, and the Elk being stocked in Kentucky. Mr. McCall stated it would be good if deer season could be extended to thin out the population.

Ms. Mumpower reported that members of the County Economic Development Committee (Dulcie Mumpower, Joseph Straten, Russell Owens, Henry Snodgrass and Christy Parker) recently visited with some of the County's existing industry. The visits went very well.

## **8. Board Information and Reminders**

Mr. Reeter reviewed the following Board Reminders:

- Public Hearing on Requested & Recommended County Operating Budget for Fiscal Year 2011-2012 – Thursday, March 10, 6:00 p.m., Board of Supervisors Meeting Room (followed by Second Budget Adjustments Worksession Meeting beginning at 6:30 p.m.)
- Tactical Demonstration by Washington County Sheriff's Office – 5:00 p.m., March 22, Washington County Public Safety Building (light supper provided)

Mr. Reeter reviewed the following Board Information:

- Announcement by Emory & Henry College Concerning Partnership with Smyth County Community Foundation for Doctor of Physical Therapy Program to be Located at the Smyth County Community Hospital.

## **9. Closed Meeting:**

- a. Request for Closed Meeting (2) pursuant to Virginia Code Section 2.2-3711(A)(5) for discussion concerning prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community; specifically an existing industry within the Bristol/Washington County Industrial Park**

*On motion of Mr. Reynolds, second by Mr. Taylor, the Board acted to convene pursuant to Virginia Code Section 2.2-3711(A)(5) for discussion concerning prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community; specifically an existing industry within the Bristol/Washington County Industrial Park. It was further resolved to include County Administrator Mark Reeter, County Attorney Lucy Phillips, Assistant County Administrator Christy Parker and Commissioner of Revenue David Henry in the Closed Meeting.*

Ms. Phillips noted that Commissioner of Revenue David Henry was not present at the time the Closed Meeting convened because the Board got to the point of the Closed Meeting before the time that Mr. Henry was asked to be at the meeting.

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

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

**b. Reconvene in Open Meeting and Certification of Closed Meeting**

*After returning to the meeting, the Chairperson noted that upon motion of Mr. McCall, second by Mr. Straten and favorable vote, the Board of Supervisors reconvened in open meeting. The Chairperson called for any participant in the closed meeting(s) who believed that there was a departure from the requirements of the Virginia Freedom of Information Act during the closed meeting(s), to state the substance of the departure that they believed took place. No members of the Board responded to the Chairperson's call for statements.*

*On motion of Mr. Owens, second by Mr. Straten, the members of the Board certified the closed meeting(s) in accordance with the requirements of the Virginia Freedom of Information Act. By vote in favor of this motion, each member certified that the closed meeting was conducted in conformity with Virginia law, and that only public business matters lawfully exempted from open meeting requirements and identified in the motion by which the closed meeting was convened was heard, discussed, or considered in the closed meeting.*

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

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

**9. Adjourn or Recess**

*On motion of Ms. Price, second by Mr. Reynolds, it was resolved to recess to 6:00 p.m. on March 10, 2011 to conduct a public hearing on the Recommended and Requested County Operating Budget for Fiscal Year 2011-2012 to be followed by a budget adjustment worksession.*

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

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

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*Mr. Reynolds*      *Aye*  
*Mr. Straten*      *Aye*  
*Mr. Taylor*      *Aye*

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**Prepared by:**

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Naoma A. Norris, Recording Clerk

**Approved by the Washington County Board of Supervisors:**

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Dulcie M. Mumpower, Chairman