V I R G I N I A:

At a rescheduled regular meeting of the Washington County Board of Supervisors held Wednesday, November 9, 2011, at 8:14 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 apologized for the delay in starting the regular meeting of the Board, and explained the 5:00 p.m. joint Board of Supervisors and Washington County Industrial Development Authority took longer than anticipated.

2. Invocation and Pledge of Allegiance

Vice Chair Odell Owens gave the Invocation and led the Pledge of Allegiance.

3. Approval of Agenda

Mr. Reeter explained the agenda is amended to add three action items to General Business relating to a request to waive solid waste tipping fees for the April storm damage repair, and consideration of two Resolutions relating to Chateau Lesueur Subdivision and the Virginia Bicentennial of the War of 1812. In addition, an informational item has been added for the County Attorney to review legal requirements for appointing an acting member of the Board of Supervisors due to the pending vacancy of Board Member Nicole Price upon her winning the election of Commonwealth Attorney.

Additionally, Mr. Reeter explained the Board needs to recess this meeting to 5:00 p.m. on Tuesday November 22 to conduct a closed meeting for consultation with the County Attorney regarding pending litigation.

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

<u>New Item 5.a.1.</u>
Consideration of Waiver of Solid Waste Tipping Fees for April Storm Damage Repairs

<u>New Item 5.a.2.</u>
Consideration of Resolution Accepting Public Dedication of a Portion of Chateau Way and Extension of Musick Drive into State System of Secondary Highways, Chateau Lesueur Subdivision.

<u>New Item 5.a.3.</u>
Consideration of Resolution in Commemoration of the Virginia Bicentennial of the War of 1812

<u>New Item 5.b.2.</u>
Review of Legal Requirements for Appointment of Acting Member of Board of Supervisors upon Vacancy

<u>Revised Item 8</u>
Recess to 5:00 p.m. Tuesday, November 22, 2011 for Closed Meeting in accordance with Virginia Code Section 2.2-3711(A)(7) for consultation with the County Attorney regarding pending lawsuit, BC Liquidation, Inc. V. County of Washington, Virginia, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the governing body

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

Mr. McCall	***Aye***
Ms. Mumpower	***Aye***
Mr. Owens	***Aye***
Ms. Price	***Aye***
Mr. Reynolds	***Aye***
Mr. Straten	***Aye***
Mr. Taylor	***Aye***

4. Consent Agenda:

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

a. <u>Approval of Minutes</u>:

1. October 25, 2011 Special Called Meeting

2. October 25, 2011 Regular Meeting

b. Approval of Routine Financial Matters:

No financial matters were presented.

c. Award of Bids and Approval of Contracts:

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

d. Authorization of Routine Business Matters:

There were no routine business matters before the Board.

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

Mr. McCall	***Aye***
Ms. Mumpower	***Aye***
Mr. Owens	***Aye***
Ms. Price	***Aye***
Mr. Reynolds	***Aye***
Mr. Straten	***Aye***
Mr. Taylor	***Aye***

5. General Business:

a. Actionable Items:

1. Consideration of Waiver of Solid Waste Tipping Fees for April Storm Damage Repairs

Mr. Reeter explained the Washington County Long-Term Recovery Group (LTRG) is requesting the County to reinstate the waiver of solid waste disposal tipping fees for a number of families still in the process of home repairs and reconstruction activities resulting from the April storm event this year. The LTRG is providing open-top containers for these families to use for the disposal of demolition materials and is asking the County to waive the fees for disposal of such materials through the County's Solid Waste Transfer Station. It is recommended if the Board acts to waive the tipping fees that the waiver end no later than March 2, 2012.

On motion of Mr. McCall, second by Mr. Owens, the Board acted to authorize waiver of tipping fees.

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

Mr. McCall	***Aye***
Ms. Mumpower	***Aye***
Mr. Owens	***Aye***
Ms. Price	***Aye***
Mr. Reynolds	***Aye***
Mr. Straten	***Aye***
Mr. Taylor	***Aye***

2. Consideration of Resolution Accepting Public Dedication of a Portion of Chateau Way and Extension of Musick Drive into State System of Secondary Highways, Chateau Lesueur Subdivision

Ms. Phillips explained the owners of property adjoining a portion of Musick Drive within the Chateau Lesueur Subdivision, which was not previously placed in the state system of secondary highways, have self-funded road improvements sufficient to allow this portion of Musick Drive to be accepted by the Virginia Department of Transportation (VDOT). However, a side road, Chateau Way, which was previously "withheld from public dedication" pursuant to the County's former subdivision ordinance is required to be publicly dedicated in order to provide a turnaround at the end of Musick Drive extension to meet VDOT secondary street standards. The Board is requested to accept public dedication of this portion of Chateau Way because the VDOT acceptance resolution states the County's guarantee that the right-of-way is properly dedicated and free of encumbrances. Musick Drive and the turnaround on a portion of Chateau Way have been constructed to standard and serves more than three dwellings. Chateau Way needs to be dedicated to fulfill all of VDOT's requirements for acceptance into the state system. Ms. Phillips provided a review of a color coded plat of Chateau Lesueur depicting the portion of the subdivision that has already been accepted in the State Secondary Highway System, the portion that has not been accepted, and the section of Chateau Way that was deliberately withheld from public dedication under the County's former subdivision ordinance. The Board is asked to accept public dedication of Chateau Way and acceptance of same and Musick Drive extension into the State Secondary Highway System.

Discussions ensued among the Board.

On motion of Mr. Owens, second by Ms. Price, the Washington County Board of Supervisors acted to accept public dedication of a portion of Chateau Way for the purpose to allow a turnaround for Musick Drive (Route 850 extension).

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

Mr. McCall	***Aye***
Ms. Mumpower	***Aye***
Mr. Owens	***Aye***
Ms. Price	***Aye***
Mr. Reynolds	***Aye***
Mr. Straten	***Aye***
Mr. Taylor	***Aye***

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

RESOLUTION 2011-45
ADDITION OF 0.13 MILES OF MUSICK DRIVE
TO SECONDARY SYSTEM OF STATE HIGHWAYS
CHATEAU LESUEUR SUBDIVISION

WHEREAS, the street(s) described on the attached Additions Form AM4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of Washington County, and

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

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on 9 December 2003 for comprehensive storm water detention which applies to this request for addition,

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of Washington County, Virginia that the Board requests the Virginia Department of Transportation to add the street(s) described on the attached Additions Form AM4.3 to the secondary system of highways, pursuant to §33.1-229, Code of Virginia, and the Virginia Department of Transportation Subdivision Street Requirements, and

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

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the Resident Administrator for the Virginia Department of Transportation.
The vote on this motion was as follows: (7-0)

Mr. McCall	***Aye***
Ms. Mumpower	***Aye***
Mr. Owens	***Aye***
Ms. Price	***Aye***
Mr. Reynolds	***Aye***
Mr. Straten	***Aye***
Mr. Taylor	***Aye***

3. Consideration of Resolution in Commemoration of the Virginia Bicentennial of the War of 1812

On motion of Mr. Straten, second by Ms. Price, the Board acted to adopt the following Resolution:

RESOLUTION 2011-46
TO COMMEMORATE AND SUPPORT THE
BICENTENNIAL OF THE AMERICAN WAR OF 1812 IN VIRGINIA

WHEREAS, the American War of 1812 was fought between the United States and Britain from June 18, 1812, through February 18, 1815, in Virginia and Maryland, along the Canadian border, along the western frontier, along the Gulf Coast, and through naval engagements in the Great Lakes and the Atlantic and Pacific Oceans; and

WHEREAS, the strategic location of the Chesapeake Bay near the nation's capital made it a prime target for the British, and the coast of Virginia figured prominently in the Atlantic theatre of operations; and

WHEREAS, there were some 73 armed encounters with the British that took place in Virginia during the war, and Virginians actively fought in Maryland, Virginia, and Ohio in naval engagements; and

WHEREAS, an estimated 70,000 Virginians served during the American War of 1812; and

WHEREAS, the American War of 1812 helped forgo a national identity among the American states and laid the groundwork for a national system of homeland defense and a professional military within the United States; and

WHEREAS, the bicentennial of the American War of 1812 helped forgo national identity among the American states and laid the groundwork for a national system of homeland defense and a professional military within the United States; and

WHEREAS, the 2009 Virginia General Assembly established the Virginia Bicentennial of the American War of 1812 Commission to lead the Commonwealth's commemoration of the bicentennial of America's Forgotten War the Second War of Independence and localities throughout the State have been requested to commemorate the bicentennial locally with appropriate activities and to participate in the several signature events and other numerous programs and activities have been planned for the Commonwealth;

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of Washington County, Virginia that the Board hereby commemorates the bicentennial of the American War of 1812 in Virginia, and will endeavor to support the commemoration through locally developed activities and participation in statewide bicentennial events and programs;

BE IT FURTHER RESOLVED that the Board hereby notifies the Virginia Bicentennial of the American War of 1812 Commission of its agreement to execute local activities and to participate in statewide events and programs to commemorate the bicentennial of the American War of 1812 in Virginia.

b. <u>Information Items</u>:

1. Review of First Draft of Proposed Board By-laws, General Policies and Operating Procedures for Calendar Year 2012.

Mr. David Rose of Davenport & Company made a presentation on the proposed revisions to the County's fiscal policies to comply with requirements of the Governmental Accounting Standards Board (GASB) Bulletin No. 54.

Discussions ensued among the Board and Mr. Rose.

Mr. Reeter explained the proposed Board By-Laws, General Policies and Operating Procedures for Calendar Year 2012 will be reviewed at the November 22 and December 13 Board meetings.

2. Review of Legal Requirements for Appointment of Acting Member of Board of Supervisors upon Vacancy

Ms. Phillips reviewed legal requirements for appointment of an acting member of the Board of Supervisors to fill the soon to be vacant seat on the Board presently held by Nicole Price, who was elected

as Commonwealth's Attorney. Ms. Price has two years remaining in her term of office on the Board; therefore, when she takes her position of Commonwealth's Attorney on January 1, 2012, that will create the vacancy on the Board.

Ms. Phillips explained there are two procedures to be followed in order to fill the vacancy. First, when Ms. Price submits a letter of resignation with an effective date, the Board can petition the Washington County Circuit Court to schedule a special election for the Jefferson District Board of Supervisors seat to fill the unexpired term of Ms. Price. If a letter of resignation is not received, the Board can make the petition when the vacancy occurs on January 1, 2012. The Court will schedule a special election as soon as possible; no sooner than 55 days before the next scheduled election or no later than the next General Election. Second, the Board can make an interim appointment to fulfill the duties of the vacant Board position until the special election is held. Within 45 days of the position becoming vacant, the Board of Supervisors has the opportunity by majority vote to make an interim appointment. Ms. Phillips explained under the Virginia Freedom of Information Act, the Board may convene in closed meeting to hold discussions about making an interim appointment. If the Board is unable to reach a majority decision regarding an interim appointment, the Circuit Court judge will make the interim appointment. The interim appointee will have to qualify (take the oath of office and submit Conflict of Interest statements).

Discussions ensued among the Board and Ms. Phillips.

6. Board Member Reports

Mr. Taylor reported that a poll worker during the November 8, 2011 General Election noticed names of people on the poll book that have been living out of the community for longer than ten years, and questioned why the names remain on the poll books. This poll worker asked the question because the names were not noticed on the books in the previous election.

Mr. Taylor requested the County Attorney contact the Voter Registrar to see if poll books from the last election were used during the recent election, or if due to this year's redistricting, the names were removed from the last poll books and added back for the November 8, 2011 General Election.

Ms. Phillips explained she does not believe there is a connection between people on the poll books and redistricting because information used in the redistricting process was taken from the 2011 Census information.

7. Board Information and Reminders

Mr. Reeter reviewed the following Board Information:

- Veteran's Day Holiday – Friday, November 11- County Offices Closed
- 2011 Southwest Virginia Legislative Breakfast & Forum – Monday, November 21, 8:30 a.m. (Breakfast), 9:30 a.m. (Forum) – Appalachian School of Pharmacy, Oakwood, Virginia
- Ribbon Cutting for New Alpha Natural Resources Corporate Headquarters Building – Monday, November 28 at 1:30 p.m. (Reception & Tour), 3:00 p.m. (Ribbon Cutting) – One Alpha Place, Sugar Hollow Business Complex, Bristol, Virginia

- Virginia Association of Counties (VACo) County Supervisors Forum – Friday, January 6 – Sunday, January 8 – Richmond Marriott Hotel

Ms. Phillips reviewed the following information:

Ms. Phillips explained she requested Mr. Reeter ask the Board to recess tonight's meeting to 5:00 p.m. on Tuesday, November 22, 2011 for a Closed Meeting because she thought the retained legal counsel would not be available during the regular meeting. As it turns out, the retained legal counsel will be available; therefore, the Board could conduct the Closed Meeting during the regular meeting on November 22, 2011.

It was consensus of the Board to schedule the closed meeting at the beginning of the regular Board meeting on November 22, 2011.

8. <u>Adjourn or Recess</u>

On motion of Mr. Taylor, second by Mr. Straten, it was resolved to adjourn the meeting.

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

Mr. McCall	***Aye***
Ms. Mumpower	***Aye***
Mr. Owens	***Aye***
Ms. Price	***Aye***
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