

VIRGINIA:

At a regular meeting of the Washington County Board of Supervisors held Tuesday, November 22, 2011, at 6:30 p.m., at the County Administration Building in Abingdon, Virginia the following were present:

PRESENT:

Odell Owens, Vice Chair
Phillip B. McCall
Nicole M. Price
Thomas G. Taylor

Nadine S. Culberson, Deputy County Administrator
Lucy E. Phillips, County Attorney
Mark W. Seamon, Director of Budget and Finance
Naoma A. Norris, CAP, Executive Assistant/Recording Clerk

ABSENT:

Dulcie M. Mumpower, Chair
Kenneth O. Reynolds
Joseph C. Straten

Mark K. Reeter, County Administrator

1. Call to Order

The meeting was called to order by Mr. Odell Owens, Vice Chair of the Board, who welcomed everyone in attendance.

2. Invocation and Pledge of Allegiance

Supervisor Tom Taylor gave the Invocation and led the Pledge of Allegiance.

At this time, Vice Chair Odell Owens talked about the procedures for making an interim appointment to fill the vacancy that will be created on the Board of Supervisors January 1, 2012 when Nicole Price becomes Commonwealth's Attorney. Mr. Owens explained the plan is to invite the people interested in the interim appointment to the organizational meeting on January 10, 2012 to speak to the Board about why they would like to be appointed. After the presentations, the Board if they so choose can make the interim appointment, or convene in closed meeting to discuss the candidates. Mr. Owens stated no decisions are made in closed meeting; the Board will convene back into open meeting and vote on the appointee. Mr. Owens explained selection of an interim appointee could be delayed until a later meeting, as the County has 45 days after the vacancy comes about to make the interim appointment. However, because the FY 2012-2013 budget preparation begins in late January, it would be best to have a representative from the Jefferson District in place. The interim appointee will have all the rights and privileges as if they were elected.

3. Public Comment

The following individuals addressed the Board:

- Jim Alligood

4. Approval of Agenda

Ms. Price asked that the minutes of the rescheduled regular meeting of November 9, 2011 be corrected on Page 17856 as follows:

Replace Resolution 2011-45 regarding the addition of 0.13 miles of Musick Drive to Secondary System of State Highways - Chateau Lesueur Subdivision with Resolution 2011-46 commemorating and supporting the Bicentennial of the American War of 1812 in Virginia.

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

The vote on this motion was as follows: (4-0)

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

5. Consent Agenda:

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

a. Approval of Minutes:

1. **November 9, 2011 Joint Recessed Meeting**
2. **November 9, 2011 Rescheduled Regular Meeting – corrected as follows:**

The minutes of the rescheduled regular meeting of November 9, 2011 were corrected on Page 17856 as follows:

Replace Resolution 2011-45 regarding the addition of 0.13 miles of Musick Drive to Secondary System of State Highways - Chateau Lesueur Subdivision with Resolution 2011-46 commemorating and supporting the Bicentennial of the American War of 1812 in Virginia.

b. Approval of Routine Financial Matters:

1. **Request for Revenue Refunds-Washington County Sheriff's Office-Animal Sterilization Fees**

2. **Supplemental Appropriation – Washington County Sheriff’s Office for ABC Rural/Local Law Grant Received**
3. **Supplemental Appropriation – Intensive Drug Treatment Program**
4. **Supplemental Appropriation – Washington County Sheriff’s Office Sale of Horse Trailer**
5. **Request to Cancel Washington County General Fund Accounts Payable Check**
6. **Payment of Bills – From October 11, 2011 thru November 10, 2011**
7. **Budget Status Report – October 31, 2011**
- c. **Award of Bids and Approval of Contracts:**

There were no bids or contracts presented to the Board.

- d. **Authorization of Routine Business Matters:**
 1. **Approval of Personnel Committee Recommendation regarding Application Specialist Position within County Department of Information Systems**
 2. **Authorization for Sale of Surplus Motor Vehicle, Washington County Department of General Services**

The vote on this motion was as follows: (4-0)

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

6. Public Hearings:

- a. **Public Hearing and Consideration of Adoption of an Ordinance to Amend Chapter 66, Article V, Division 12, Section 66-473 of the Code of the County of Washington, Virginia to Permit Tattoo Parlors and Body Piercing Establishments as Uses Subject to Special Exception with the Business, General B-2 Zoning District**

County Attorney Lucy Phillips provided prefatory remarks about the proposed ordinance. Adoption of the proposed ordinance would amend the County Code to allow operation of tattoo parlors and body piercing establishments in the County’s Business-General (B-2) Zoning District, subject to Special Exception Permit. The proposed ordinance was reviewed by the County Land Use Steering Committee and County Planning Commission. The Planning Commission recommends adoption of the ordinance.

Mr. Owens opened the public hearing and invited comments both in support of and in opposition to the proposed ordinance.

Mr. Carlton Davidson addressed the Board and explained he supports the proposed ordinance, which would allow him to re-establish his business in Glade Spring that was destroyed by the tornado. Mr. Davidson stated that he currently operates a business in Smyth County.

At this time, Board members asked Mr. Davidson questions about his business.

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

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

AN ORDINANCE

TO AMEND CHAPTER 66, ARTICLE V, DIVISION 12, SECTION 66-473 OF THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA TO PERMIT TATTOO PARLORS AND BODY PIERCING ESTABLISHMENTS AS USES SUBJECT TO SPECIAL EXCEPTION WITHIN THE BUSINESS, GENERAL B-2 ZONING DISTRICT

WHEREAS, Section 15.2-2280 of the 1950 Code of Virginia, as amended, enabled local governments to regulate the use of land, buildings, structures and other premises within its jurisdiction by designation of zoning districts and identification of specifically permitted uses within such districts;

WHEREAS, the Board of Supervisors of the County of Washington, Virginia, established such a system for regulation of land use, which is codified in Chapter 66 of the Code of the County of Washington, Virginia, and which requires updating and revision from time to time; and

WHEREAS, in response to request from a land owner and business proponent, the Board has considered the propriety of allowing operation of tattoo parlors and body piercing establishments in the areas of the County zoned for Business-General (B-2) usage and has found that such use would not detract from the public health, welfare, or safety and, therefore, could be allowed.

NOW, THEREFORE, on the basis of the foregoing and after notice and public hearing, as required by law, be it ordained by the Board of Supervisors of Washington County, Virginia, 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 of the Washington County Code.*
- 3. That Section 66-473 of Chapter 66 is hereby amended to add the following use to the list of uses allowed by special exception:*

Code of the County of Washington, Virginia (2002, as amended)
Chapter 66. – Zoning
Article V. – Districts
Division 12. – Business, General District B-2

Sec. 66-473. - Special exception uses.

In the B-2 district, the following uses or structures may be permitted only if approved for the issuance of a special exception as provided in this chapter: ...

...(18) Tattoo parlors and body piercing establishments.

~~(18)~~ (19) Telecommunications-related industries.

~~(19)~~ (20) Tobacco warehouses, storage warehouses and bulk petroleum plants.

~~(20)~~ (21) Tractor-truck and trailer sales, rental, repair and services.

~~(21)~~ (22) Truck stops and truck terminals.

~~(22)~~ (23) Veterinary hospital or clinic.

~~(23)~~ (24) Water and wastewater treatment plants.

~~(24)~~ (25) Wholesale, distribution and processing operations.

~~(25)~~ (26) Substance abuse treatment facilities subject to regulation and licensure pursuant to § 37.1-179.1 of the 1950 Code of Virginia, as amended, subject to the following restrictions as well as conditions or restrictions imposed by the legislative body as part of the special exception permit. No such facility shall be located within one-half mile of any public or private K-12 school, public or private licensed day care center, church, synagogue or other place of worship, residentially zoned district (R-1 and R-2), nor within 1,000 feet of a residential dwelling.

The vote on this motion was as follows: (4-0)

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

7. General Business:

a. Actionable Items:

1. Consideration of Draft Ordinance to Repeal Article II of Chapter 30 of the Code of the County of Washington and Replace with Revised Ordinance to Regulate Noise

Ms. Phillips provided a first reading of the proposed draft ordinance to regulate noise.

Ms. Phillips explained the Board of Supervisors appointed members to a committee to develop an ordinance to regulate noise that would comply with recent judicial opinions that invalidated the County's current noise ordinance. The Committee met six times over a six month period and in the course of those meetings, studied noise regulation models from other localities and states; field-tested the use of a sound level meter; thoroughly discussed the issues and ramifications associated with noise regulations; and ultimately agreed to recommend to the Board the proposed ordinance. With limited exception, the draft ordinance relies on the objective standard of sound level meter readings to judge the difference between permissible sound and prohibited noise. The ordinance also identifies a limited number of specific sound sources for which objective standards other than sound level meter readings would apply. These exceptions are offered for circumstances with which the County has a history of complaints and that lend themselves to objective thresholds other than use of a sound level meter. The sound level meter reading would be the preferred method to identify violation, but the committee recognized that a sound level meter may not always be available when a situation arises. Finally, the ordinance lists specific activities, such as agricultural operations, that would be exempt.

Ms. Phillips requested authorization to go forward with scheduling a public hearing for the December 13, 2011 Board meeting.

Discussions ensued among the Board and Ms. Phillips.

Ms. Price (member of the Noise Ordinance Committee) stated she is pleased to be at the point in this process that the Board is asked to schedule a public hearing on the proposed draft noise ordinance. Due to recent action by the Supreme Court, the County's current noise ordinance is not enforceable. She further stated if the proposed draft ordinance needs revisions, it can be done so with public input.

Mr. Taylor inquired if display of fireworks was included in the proposed draft noise ordinance as an exemption.

Ms. Phillips stated the appropriate language relating to permitted fireworks activity would be included in the proposed draft noise ordinance. She noted the sound level meter system is designed to capture noise of on-going, persistent problems.

Mr. McCall inquired if the proposed draft noise ordinance addresses barking dogs.

Ms. Phillips explained that the proposed draft ordinance does not address barking dogs; however, barking dogs would be subject to sound level meter readings. The Committee built in safeguards to prevent abuse of ordinance.

On motion of Ms. Price, second by Mr. McCall, the Board acted to authorize the County Attorney to schedule a public hearing on the ordinance to regulate noise to be held at the regular meeting of the Board scheduled for December 13, 2011.

The vote on this motion was as follows: (4-0)

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

2. Consideration of Draft Ordinance to Amend Chapter 58, Section 58-85 of the Code of the County of Washington, Virginia, to Update Financial Eligibility Criteria for the Partial Exemption from Taxation of Qualifying Elderly and Handicapped Persons

Ms. Phillips provided a first reading of the draft ordinance that provides a tax discount for persons who qualify based on age or disability and a schedule of maximum income and net worth values. The discount applies to the tax on their real property and, where applicable, manufactured homes. She explained this is a routine matter that comes before the Board on a regular basis. County Commissioner of Revenue David Henry requests the adjustment to the income limits and net worth limits to reflect an increase of 3.6% over the 2011 income limits.

On motion of Ms. Price, second by Mr. Taylor, the Board acted to authorize the County Attorney to schedule a public hearing on the ordinance to be held at the regular meeting of the Board scheduled for December 13, 2011.

The vote on this motion was as follows: (4-0)

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

3. Consideration of Reception for Outgoing and Incoming Board of Supervisors Members

Deputy County Administrator Nadine Culberson presented a request from County Administrator Mark Reeter to schedule a reception for outgoing and incoming Board of Supervisors members. The Board is asked to schedule a date, select a venue and approve a supplemental appropriation. Correspondence was provided to the Board outlining costs estimates obtained from a couple venues and caterers.

Discussions ensued among the Board. Subsequently, the following action was taken:

On motion of Mr. McCall, second by Mr. Taylor, the Board acted to schedule a reception for outgoing and incoming Board of Supervisors Members on Wednesday, December 14, 2011 from 6:00 p.m. – 8:00 p.m. at the Southwest Virginia Higher Education Center, and to select Nancy's Fancy's Custom Cakes and Catering to provide the catering services.

The vote on this motion was as follows: (3-1)

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Nay</i>
<i>Mr. Taylor</i>	<i>Aye</i>

b. Information Items:

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

Ms. Phillips, in the absence of Mr. Reeter, provided the Board with a review of the second draft of Board of Supervisors By-laws, General Policies and Operating Procedures for Calendar Year 2012. Proposed amendments are as follows:

Proposed By-laws Amendments:

- Proposed revisions to Articles 6.1 & 6.3 pertaining to meetings of the Board
- Proposed new Article 7.7 pertaining to Invocations at Board meetings
- Proposed revisions to Articles 8.3 & 8.4 pertaining to conduct of Board meetings
- Proposed revisions to Articles 10.5 regarding appointments of the Board
- Proposed revisions to Articles 11.5 & 11.7 pertaining to Board Committees and Advisory Boards
- Proposed revisions to Article 12.4 pertaining to the Office of the County Administrator

Proposed General Policies Amendments:

- A proposed new Section 6.7 pertaining to budget authority for the Director of Emergency Management
- Proposed revisions and additions to Section 6.11 pertaining to the County's fiscal policies in compliance with the requirements of Governmental Accounting Standards Board (GASB) Bulletin No. 54.

Proposed Operating Procedures Amendments:

- The proposed operating procedures for Calendar year 2012 have now been updated to reflect the schedule holidays and budget meetings for the coming year.

The following amendments were proposed by members of the Board:

Mr. Taylor proposed an amendment to the By-laws to include language regarding first and second readings of proposed ordinances to amend the County Code.

Ms. Price asked for amendments to the By-Laws to include a public comment period at every regular Board meeting; and post on the County website the agenda and supporting materials for all meetings of the Board (regular, recessed and special called meetings). She explained these are ways to promote transparency and open government.

On motion of Ms. Price, second by Mr. Taylor, the Board of Supervisors acted to request the following items be included in the Board of Supervisors By-Laws for Calendar Year 2012:

- 1. Public comment period at every regular meeting of the Board;*
- 2. Post on the County website the agenda and supporting materials for all meetings of the Board: regular, recessed, and special called meetings; and*
- 3. Procedure for Board review of ordinances to amend the County Code:*
 - a. First Reading of a draft ordinance for initial review and, if agreeable to the Board, authorization for the County Attorney to proceed with scheduling a public hearing on a proposal to adopt the ordinance; or, at Board discretion, direction to the County Attorney to revise the draft form of ordinance, to request further review by committee, or to take other additional action and bring the ordinance back to the Board for another draft review, which would be noted as "Second Reading," "Third Reading," or subsequent appropriate notation.*
 - b. Review of proposal to adopt an ordinance to amend County Code: after completion of the draft ordinance review process and publication of advance notice as required by state law, the Board will hold a public hearing on the proposal and consider whether to adopt the proposed ordinance.*

2. Scheduling of November 28 Recessed Meeting

Ms. Phillips explained the Board is asked to schedule a recessed meeting for Monday, November 28, 2011 at 6:30 p.m. in Conference Room 1 of the County Administration Building for the following reasons:

1. Consideration of award of bids for the renovations to the Washington County Government Center, and;
2. Closed meeting with the County Attorney and outside legal counsel on the matter of the BC Liquidations, LLC lawsuit.

Ms. Phillips noted the issue relating to BC Liquidations is a time sensitive matter.

Ms. Price inquired about the reasons for including the award of bids for renovations to the Government Center Building on the agenda for the recessed meeting, and why the matter could not be considered at the December regular meeting or after the first of the year when the new Board is seated.

Ms. Phillips explained the award of bids is also time sensitive. The Board voted in favor to move forward with the project and has a December 31 deadline.

Ms. Price explained because of the Thanksgiving Holiday, there will be no agenda or supporting materials available until November 28, the day of the meeting. She stated if the intention of the Board is to make County government more transparent to the citizens, this is not the way to do so. Ms. Price requested that the award of bids be considered at a regular meeting.

Ms. Price asked if when the vote is taken by the Board to recess until November 28, would that also be approving both items to be placed on the agenda for that meeting.

Mr. Owens explained the agenda for the November 28 recessed meeting will not be acted upon until the day of the meeting. However, the Board will consider award of bids for renovations to the County Government Center during the recessed meeting on November 28.

8. Board Member Reports

There were no Board member reports.

9. Board Information and Reminders

Ms. Culberson reviewed the following Board Information:

- Thanksgiving Day Holiday – 12:00 noon Wednesday, November 23 – Thursday, November 24 & Friday, November 25 (County Offices Closed)
- Ribbon Cutting for New Alpha Natural Resources Corporate Headquarters Building – Monday, November 28 – 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

Ms. Phillips provided the following report:

Board members were provided with a letter sent to speakers for the natural gas extraction public information meeting. The correspondence provided to the Board gives an outline and copy of information that was provided to the speakers. It is anticipated that a proposal will be brought before the Board on December 13 to select a date for the public information meeting.

9. Adjourn or Recess

On motion of Mr. Taylor, second by Mr. McCall, it was resolved to recess to November 28 the meeting.

The vote on this motion was as follows: (3-1)

<i>Mr. McCall</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Ms. Price</i>	<i>Nay</i>
<i>Mr. Taylor</i>	<i>Aye</i>

11-22-11

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Prepared by:

Naoma A. Norris, Recording Clerk

Approved by the Washington County Board of Supervisors:

Odell Owens, Chairman