

The Smyth County Board of Supervisors held its regular meeting at 12:00 noon, Tuesday, January 13, 2009. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
M. Todd Dishner	Wade H. Blevins, Jr.
Brenda J. Waddell	Marvin R. Perry

**MEMBERS ABSENT:**

Michael D. Roberts

**STAFF PRESENT:**

Ed Whitmore, County Administrator  
Michael Carter, Assistant County Administrator  
John H. Tate, Jr., County Attorney

**OTHERS PRESENT:**

Amber Johnson, Administrative Assistant  
Charlie Atkins, CFO  
Scott Simpson, Engineer  
Sally Morgan, Economic Planner  
Kenny Lewis, Chief Deputy  
Dan Kegley, Smyth County News & Messenger

**CALL TO ORDER, INVOCATION & 2009 CALENDAR YEAR ORGANIZATION**

Seeing that a quorum was present, the meeting was called to order at 12:00 noon.

With the appointment of officers for calendar year 2009 at hand, Supervisor Perry made a motion, and seconded by Supervisor Clark, that Mr. Whitmore serve as temporary Chair for these actions. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

Mr. Whitmore first made the Board aware of the recent passing of Mr. Larry Davis. Mr. Davis was an outstanding contributor to the industrial community of Smyth County for approximately 25 years. He wished to extend thoughts to the family of Mr. Davis.

Pastor Jonathan Jonas of the First United Methodist Church in Marion gave the invocation. Sally Morgan led the pledge of allegiance.

Mr. Whitmore opened the floor for nominations of Chairman for the 2009 calendar year. Supervisor Perry was recognized nominating Mr. Clark, remarking on his positive history as the Board Chair and Mr. Clark's affirmative leadership required in the coming year. No other nominations were made. Supervisor Dishner motioned to close nominations and name Supervisor Clark as Chairman, Supervisor Neitch seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

Mr. Whitmore thanked Supervisor Neitch who served as Chair for 2008. He thanked her on behalf of the staff for her dedication and hard work. Mr. Whitmore then handed the gavel to Supervisor Clark, Chair.

Chair Clark accepted nominations for Vice Chairman. Supervisor Blevins nominated Mrs. Darlene Neitch as Vice Chair, Supervisor Dishner seconded the nomination. With no other nominations, the vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

Chair Clark accepted nominations for Clerk. Supervisor Perry nominated Mr. Edwin B.J. Whitmore, III, Supervisor Dishner seconded the nomination. With the tie vote noted below, the vote failed to pass. The question is passed by until the next meeting to be put to a vote again.

AYES: C.C. "Charlie" Clark, Jr.  
M. Todd Dishner  
Marvin R. Perry

NAYS: Wade H. Blevins, Jr.  
Darlene R. Neitch  
Brenda J. Waddell

ABSENT: Michael D. Roberts

Chair Clark accepted nominations for Deputy Clerk. Supervisor Dishner nominated Mr. Michael Carter, Supervisor Blevins seconded the nomination. With no other nominations, the vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

Supervisor Dishner motioned to adopt the Rules of Procedures as presented. Supervisor Neitch seconded the motion to approve. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

Supervisor Perry motioned to adopt the meeting schedule as in previous years, regular meetings on the second Tuesday of each month at 12:00 noon, to be held in this same location. Continued and special meetings will be set as needed. Supervisor Dishner motioned to approve the meeting schedule. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

Supervisor Waddell motioned to adopt the 2009 holiday schedule as approved and amended by the Governor through out the year. This does not include those holidays mandated by Virginia Code Section 2.2-3300. Supervisor Neitch seconded the motion to approve. The vote is as follows:

AYES: C.C. "Charlie" Clark, Jr. Darlene R. Neitch  
M. Todd Dishner Wade H. Blevins, Jr.  
Brenda J. Waddell

NAYS: Marvin R. Perry

ABSENT: Michael D. Roberts

### **ADOPTION OF AGENDA**

Supervisor Blevins motioned to adopt the agenda as to form along with the additional agenda. Supervisor Dishner seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

### **MINUTES OF PREVIOUS MEETINGS**

The Board was presented with the Tuesday, December 9, 2008 minutes for adoption. Supervisor Dishner made a motion, seconded by Supervisor Blevins, to approve the December 9, 2008 minutes as presented. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

### **PAYMENT OF COUNTY INVOICES**

Supervisor Blevins motioned to approve the following listed appropriations.

General County	\$1,880,000
Allison Gap Sewer	\$7,295.94
North Holston Water	\$68,888.43
Animal Control	\$84
Social Services (Jan. 14-31, 2009)	\$300,000
(Feb. 1-10, 2009)	\$80,000
Schools Operating Fund	\$4,000,000
Debt & Capital Outlay	\$75,000

Supervisor Neitch seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

Supervisor Neitch motioned to approve the accounts payable listing in the amount of \$1,299,528.05 (which includes a total of \$20,763.01 to Wiley Wilson and Mosley Architects for the Courthouse renovation). Supervisor Dishner seconded the motion to approve. The vote is as follows:

AYES: C.C. "Charlie" Clark, Jr. Darlene R. Neitch  
M. Todd Dishner Wade H. Blevins, Jr.  
Brenda J. Waddell

NAYS: Marvin R. Perry

ABSENT: Michael D. Roberts

### **CITIZEN'S TIME**

There were no citizens present to address the Board.

### **NEW BUSINESS**

1. Supervisor Perry motioned to ratify the nomination of Mayor Jeff Campbell made by the Town of Saltville (on August 12, 2008), to continue to serve as their representative on the Mount Rogers Planning District Commission. Supervisor Blevins seconded the motion. This term is in succession with Mayor Campbell's term as Mayor. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

2. Pursuant to section 32.1-288 of the Code of Virginia, Supervisor Perry made a motion to appropriate \$500 (from line 001-011010-8888) payable to the City of Charlottesville in regards to the death of a Smyth County citizen, Wesley Joseph Harris. Supervisor Neitch seconded the motion. These funds are made available and will be paid once it is ordered by the courts to make payment. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

3. Scott Simpson, the County Engineer, presented the following documents for approval. Following the approval of these documents, the Engineer answered brief questions regarding various projects in the county.

a. Resolution of Governing Body for Greenwood-Pioneer project - Supervisor Dishner motioned to approve the resolution below.

#### **RESOLUTION OF GOVERNING BODY OF COUNTY OF SMYTH**

*The governing body of the County of Smyth, consisting of 7 members, in a regular meeting held on the 13<sup>th</sup> day of January, 2009, at which a quorum was present, RESOLVED as follows:*

*BE IT HEREBY RESOLVED that, in order to facilitate obtaining financial assistance from the United States of America, United States Department of Agriculture, Rural Development (the Government) for the Pioneer-Greenwood*

*Water Project, the governing body does hereby adopt and abide by the covenants contained in the agreements, documents, and forms required by the Government to be executed.*

*BE IT FURTHER RESOLVED that the Chairman of the Board or the County Administrator be authorized to execute on behalf of the County of Smyth, the above-referenced agreements and to execute such other documents including, but not limited to, debt instruments and security instruments as may be required in obtaining the said financial assistance.*

*This Resolution, along with a copy of the required documents, is hereby entered into the permanent minutes of the meeting of this Board.*

COUNTY OF SMYTH

Attest:

\_\_\_\_\_  
Edwin B.J. Whitmore, III, Clerk

\_\_\_\_\_  
Chairman, Board of Supervisors

C E R T I F I C A T I O N

*I hereby certify that the above resolution was duly adopted by the County of Smyth, at a duly assembled meeting on the 13<sup>th</sup> day of January, 2009.*

\_\_\_\_\_  
Edwin B.J. Whitmore, III, Clerk

Supervisor Blevins seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

- b. Loan Resolution for Greenwood-Pioneer project - Supervisor Perry motioned to approve the resolution below.

Supervisor Dishner seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

- c. Second Amended Resolution Authorizing the Issuance and Sale of the Water Facility Bond, Series 2009A - Supervisor Perry motioned to approve the resolution below.

Supervisor Blevins seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

**SECOND AMENDED  
RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF THE  
WATER FACILITY BOND, SERIES 2009A,  
OF SMYTH COUNTY, VIRGINIA  
IN AN AMOUNT NOT TO EXCEED \$500,000 AND PROVIDING  
FOR THE FORM, DETAILS AND PAYMENT THEREOF**

**WHEREAS**, pursuant to Title 15.2, Chapter 26 of the Code of Virginia of 1950, as amended (the "Act"), Smyth County, Virginia (the "Issuer") is empowered to acquire, construct, operate and maintain water systems and to issue its bonds to pay all or a part of the cost of acquiring and constructing any such systems or to carry out its other purposes; and

**WHEREAS**, pursuant to the Act, the Issuer is empowered to pledge for the payment of principal of and interest on such bonds certain of its revenues; and

**WHEREAS**, the Issuer desires to issue the Bond (as hereinafter defined) for the purpose of permanently financing the acquisition and construction of the Issuer's South Fork water facility (the "Project"); and

**WHEREAS**, the United States of America has offered to purchase the Bond at the price and on the terms hereinafter provided;

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

1. It is hereby determined to be necessary and expedient for the Issuer to borrow an amount not to exceed \$500,000 to provide permanent financing for the acquisition and construction of the Project.
2. Pursuant to the Act, there is hereby authorized to be issued and sold a Water Facility Bond, Series 2009A, of the Issuer in a principal amount not to exceed \$500,000 (the "Bond").
3. After mature consideration of the method of sale of the Bond and current conditions of the municipal bond market, it is hereby determined that it is in the best interest of the Issuer and the Commonwealth of Virginia to accept the offer of the United States of America (hereinafter referred to as "USA") to purchase the Bond, which shall mature and bear interest as set forth below, and such offer is hereby accepted.
4. The Bond shall be a single fully registered Bond without coupons, shall be numbered R-1, shall be dated as of the date of its delivery to USA upon payment therefor, or upon payment of the first advance thereunder, as the case may be (the "Closing Date"), shall bear interest at a rate, not exceeding four and one-half percent (4.5%) per year, determined by the officer of the Board of Supervisors of the Issuer who executes the Bond on behalf of the Issuer, and shall provide for payment of equal monthly installments of principal and interest combined sufficient to fully amortize the principal of the Bond through the payment of 456 such installments, payable monthly on the same day of the

month as the Closing Date (such day of the month being referred to herein as the "Payment Day"), beginning on the twenty-fifth Payment Day following the Closing Date and continuing on each of the next 455 Payment Days thereafter, until paid. On the first and second anniversaries of the Closing Date, the Authority shall pay all interest then accrued on the Bond. If not sooner paid, the final installment, together with all other amounts payable hereunder and under the Bond, shall be due and payable on the Payment Day in the 480th month after the Closing Date. In the event the Closing Date occurs on the 29th, 30th or 31st of a month, the Payment Day shall be the 28th day of each month. The payment of every installment shall be applied first to interest accrued to the applicable Payment Date and then to principal. Installments and the aforesaid annual interest payments shall be payable in lawful money of the United States of America by check or draft mailed to the registered owner of the Bond at its address as it appears on the registration books, except that the final installment shall be payable upon presentation and surrender of the Bond at the office of the County Administrator of the Issuer, who is hereby appointed Registrar.

At the request of USA, the Bond may be delivered as a fully registered Bond in the alternative form substantially as set forth in paragraph 7 providing for principal advances to be made from time to time by USA in an aggregate amount not to exceed \$500,000. An authorized officer of USA shall enter the amount and the date of each such principal advance in the certificate on the Bond when the proceeds of such advances are delivered to the Issuer. Each such principal advance shall bear interest from the date of such advance so entered on the Bond.

The Bond shall be registered in the name of the United States of America.

5. Installments of principal due on the Bond may be prepaid at the option of the Issuer at any time as a whole or in part from time to time, without premium, from the Revenues, as hereinafter defined, any balance remaining from the proceeds of the Bond following completion of the Project, any proceeds derived by the Issuer from the sale or other disposition of a portion of the Project, including the proceeds of insurance or condemnation awards, or any other source. Prepayment of installments of principal shall not affect the obligation of the Issuer to pay the remaining installments payable as provided in the preceding paragraph, so long as any principal amount of the Bond remains outstanding. The Issuer shall cause notice of such prepayment to be sent by registered or certified mail to the registered owner of the Bond at its address appearing on the registration books of the Registrar not less than thirty days prior to such prepayment date. If, pursuant to any other resolution or agreement of the Issuer, USA has the right to declare the outstanding principal amount of the Bond and any accrued interest thereon to be immediately due and payable, then, upon any such declaration, the Issuer shall promptly prepay the entire outstanding principal amount of the Bond, together with all interest accrued thereon. No notice shall be required to be given to the owner of the Bond in the case of a prepayment pursuant to the preceding sentence.

6. The Bond shall be signed by the Chairperson or Vice Chairperson of the Board of Supervisors of the Issuer (the "Board"), and the Issuer's seal shall be affixed thereto and attested by the Clerk of the Board.

7. The Bond shall be in substantially the following form, with appropriate completions:

No. R-1

**\$500,000**

**UNITED STATES OF AMERICA  
COMMONWEALTH OF VIRGINIA  
SMYTH COUNTY, VIRGINIA  
Water Facility Bond, Series 2009A**

Smyth County, Virginia (the "Issuer"), for value received, hereby acknowledges itself indebted and promises to pay to the United States of America, or registered assigns, the principal sum [equal to the aggregate amount of principal advances shown on the back hereof, but not to exceed the sum]\* of

**FIVE HUNDRED THOUSAND  
DOLLARS (\$500,000)**

and to pay to the registered owner hereof interest on the unpaid principal from the date [of each principal advance shown on the back]\* hereof until payment of the entire principal sum at the rate of \_\_\_\_\_percent (\_\_\_%) per year. On the first and second anniversaries of the date of this Bond (the "Closing Date"), the Issuer shall pay all interest then accrued on this Bond. On the same day of each month as the Closing Date (or if the Closing Date occurs on the 29th, 30th or 31st day of a month, on the 28th day of each month), beginning on such day of the month in the 25th month following the Closing Date, installments of principal and interest combined of \$\_\_\_\_\_ each are payable, each payment to be applied first to the interest accrued to such payment date and then to principal. The final installment, if not sooner paid, shall be due and payable on the 456th such payment date. Installments shall be payable in lawful money of the United States of America by check or draft mailed to the registered owner at its address as it appears on the registration books kept for that purpose at the office of the County Administrator of the Issuer, who has been appointed Registrar. The final installment of principal and interest shall be payable upon presentation and surrender hereof at the office of the Registrar.

This Bond has been authorized by a Resolution (the "Resolution") duly adopted by the Board of Supervisors of the Issuer on January 13, 2009, and is issued pursuant to the Constitution and statutes of the Commonwealth of Virginia, including Title 15.2, Chapter 26, Code of Virginia of 1950, as amended (the "Act") to provide funds, together with other available funds, to pay the cost of acquiring and constructing the Project (as defined in the Resolution). This Bond has been issued pursuant to the Act and a resolution adopted under the Act.

The full faith and credit of the Issuer are pledged to the payment of this Bond and the interest hereon. In addition, the revenues and receipts derived by the Issuer from its water system (the "Revenues") have been pledged by the Issuer to secure payment of the principal of and interest on this Bond; provided that the Issuer shall have the right to use collected Revenues for the operating and maintenance expenses of such system. The priority of such pledge shall be as set forth in the Resolution (as the same may be altered pursuant to the Resolution).

This Bond is registered as to both principal and interest. Transfer of this Bond may be registered upon the registration books of the Registrar. Prior to due presentment for registration of transfer, the Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

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\* Alternative language to be used if USA requests provisions for principal advances.



Installments of principal due on this Bond may be prepaid at the option of the Issuer in whole or in part at any time, without premium. Prepayments of installments of principal shall not affect the obligation of the Issuer to pay the remaining installments payable as provided above, so long as any principal amount of the Bond remains outstanding. The Issuer shall cause notice of such prepayment to be sent by registered or certified mail to the registered owner hereof at its address appearing on the registration books of the Registrar not less than thirty days prior to any prepayment date.

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed.

**IN WITNESS WHEREOF**, the Issuer has caused this Bond to be signed by the Chairperson or Vice Chairperson of its Board of Supervisors (the "Board"), its seal to be affixed hereto and attested by the Clerk of the Board and this Bond to be dated \_\_\_\_\_, 2009.

SMYTH COUNTY, VIRGINIA

By \_\_\_\_\_  
 Chairperson, Board of Supervisors

(SEAL)

ATTEST:

\_\_\_\_\_  
 Clerk, Board of Supervisors

### TRANSFER OF BOND

The transfer of this Bond may be registered by the registered owner or his duly authorized attorney upon presentation hereof to the Registrar, who shall make note of such transfer in books kept by the Registrar for that purpose and in the registration blank below.

Date of Registration	Name        of Registered Owner	Signature of Registrar
_____	_____	_____
_____	_____	_____
_____	_____	_____

### CERTIFICATE OF PRINCIPAL ADVANCES\*

The amount and date of principal advances not to exceed the face amount hereof shall be entered hereon by an authorized officer of the United States of America when the proceeds of each principal advance are delivered to the Authority.

<u>Amount</u>	<u>Date</u>	<u>Authorized Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\* Certificate of Principal Advances to be used if USA request provision for principal advances.


8. Transfer of the Bond may be registered upon books maintained for that purpose at the office of the Registrar. Prior to due presentment for registration of transfer the Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

9. The full faith and credit of the Issuer are hereby pledged to the payment of the Bond and the interest thereon. In addition, to secure the payment of the principal of and interest on the Bond, the Issuer hereby pledges to USA all of the Issuer's right, title and interest to the revenues and receipts derived by the Issuer from the Issuer's water system (the "Revenues"). The foregoing pledge shall not preclude the Issuer from using collected Revenues, at any time, for the payment of the operating and maintenance expenses of such system (the "System"). This pledge shall be valid and binding from and after the execution and delivery of the Bond. The Revenues shall be immediately subject to the lien of this pledge without any physical delivery of them or further act. The lien of this pledge shall have priority over all other obligations and liabilities of the Issuer; provided that such lien shall be on a parity with the lien of any pledge of the Revenues which has heretofore been created to secure (a) any obligation of the Issuer to USA or (b) the Issuer's (i) Water Facility Bond, Series 2001C, in a principal amount not exceeding \$133,000, and (ii) General Obligation Water and Sewer Bond, Series 2004, in a principal amount not exceeding \$503,049 (collectively, the "Other Bonds"), both issued to the Virginia Resources Authority (the "Authority"), as the administrator of the Virginia Water Supply Revolving Fund. The lien of this pledge shall be valid and binding against all parties having claims of any kind against the Issuer regardless of whether such parties have notice of this pledge. The Issuer shall not, without the prior written consent of USA, pledge the Revenues to secure any obligation of the Issuer to any person other than USA or the Authority (with respect to the Other Bonds only) unless the lien of such other pledge is explicitly made subordinate to the lien of the pledge hereby created. The Issuer represents that it has not heretofore pledged any of the Revenues for the benefit of any person other than USA and the Authority (with respect to the Other Bonds only).

10. The Issuer shall establish and collect rates and charges with respect to the System sufficient, together with other funds available for such purposes, (a) to pay the principal of and interest on the Bond, and (b) to pay the cost of maintaining and operating the System. The Board shall levy and collect annually, at the same time and in the same manner as other taxes of the Issuer are assessed, levied and collected, a tax on all taxable property within the Issuer, over and above all other taxes, without limitation as to rate or amount, sufficient to pay when due the principal of and interest on the Bond to the extent other funds of the Issuer are not lawfully available and appropriated for such purpose.

11. The Chairperson, Vice Chairperson and Clerk of the Board are hereby authorized and directed to take all proper steps to have the Bond prepared and executed in accordance with its terms and to deliver the Bond to USA upon payment therefor. In the event the Bond is not issued and delivered during calendar year 2009, the Chairperson, Vice Chairperson and Clerk of the Board are hereby authorized and directed to change the series designation to such other year and letter as may be appropriate at the time of its issuance.

12. The officers of the Issuer are hereby authorized and directed to execute, deliver and file such certificates and instruments, and to take such further action, as they may consider necessary or desirable in connection with the issuance of the Bond and the undertaking of the Project. Such instruments may include a document altering the priority of the interests of USA and the Authority with respect to all or any part of the Revenues which is set forth in paragraph 9, and such priority shall be governed by such document (if any), if such document shall be executed or otherwise consented to in writing by USA and the Authority.

13. The Issuer shall not cause or permit to be filed with respect to the Bond the statement provided for in Section 149(e)(2) of the Internal Revenue Code of 1986, as amended.

14. All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed except such ordinances and resolutions as may have been adopted by the Issuer at the specific request of USA as a condition to its purchase of the Bond.

15. A certified copy of this Resolution shall be filed in the Circuit Court of Smyth County, Virginia pursuant to Section 15.2-2607 of the Act.

16. This Resolution supersedes in its entirety the resolution regarding the Bond which was adopted by the Board on March 11, 2003.

17. This Resolution shall take effect immediately by the following recorded vote:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>
C. C. Clark, Jr.	___	___	___
M. Todd Dishner	___	___	___
Brenda J. Waddell	___	___	___
Wade H. Blevins, Jr.	___	___	___
Michael D. Roberts	___	___	___
Marvin R. Perry	___	___	___
Darlene R. Neitch	___	___	___

Approved January 13, 2009.

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Chairperson, Board of Supervisors,  
Smyth County, Virginia

The undersigned Clerk of the Board of Supervisors of Smyth County, Virginia (the "Board") hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the Board held on the 13th day of January, 2009, and of the whole thereof so far as applicable to the matters referred to in such extract.

WITNESS my signature and the seal of the Board, this \_\_\_\_ day of \_\_\_\_\_, 2009.

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Clerk, Board of Supervisors,  
Smyth County, Virginia

(SEAL)

- d. Engineering Contracts for Groseclose Sewer - Supervisor Perry motioned to approve the Engineering contracts for the Groseclose Sewer project, as presented. Supervisor Waddell seconded the motion. These contracts are on file with the Engineer. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

- e. Engineering Amendment for Long Hollow Water - Supervisor Perry motioned to approve the Engineering Amendment for Long Hollow Water, as presented. Supervisor Blevins seconded the motion. These contracts are on file with the Engineer. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

4. Information Systems Director, Diane Spence approached the Board requesting consideration of the Byrne Memorial Justice Assistance Grant Program.

Supervisor Perry motioned to approve the above mentioned Grant. Supervisor Blevins seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

The Information Systems - Grant Money Line (#001-012200-5309) and the revenue line #3-001-018030-0051 will be amended in the amount of \$67,736 to allow for the Bryne Memorial Justice Assistance Grant program. This grant requires a 25% local match in the amount of \$16,934. Of the local match, Chilhowie and Saltville Police Departments will each reimburse the County \$4,294 and the Marion Police Department will reimburse \$4,052. This is the third year the County has participated in this grant program.

5. Supervisor Perry made the motion to amend the Police Expense Line #744-010000-5408 (Office Supplies) in the amount of \$6,324.95. The revenue line, Court Fines, #744-010000-0001 is also amended in the same amount. This motion appropriates \$5,000 from the above Office Supplies line. Supervisor Blevins seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

6. CFO, Charlie Atkins appeared before the Board requesting approval and appropriation of the following checks that were not received in time to include with the accounts payable. Each of these are in the current budget.

a. Town of Marion (for the treatment plant payment) - Supervisor Dishner made the motion and was seconded by Supervisor Blevins, to appropriate \$47,244.28 from the Town of Marion-Wastewater line (# 501-085040-0160) for payment on the wastewater treatment plant agreement. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

b. Virginia Resource Authority - Supervisor Dishner made the motion to appropriate \$8,321.97 from the Groseclose Project - VA Resource Authority line (# 501-085040-0154) for loan payment on the Groseclose Water Project. Supervisor Blevins seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

c. Smyth County Free Clinic - Supervisor Dishner made the motion to appropriate the second portion of the total amount budgeted to the Smyth County Free Clinic for the fiscal year 2008-2009. The remaining \$37,500 is appropriated from the Smyth County Free Clinic line (# 001-056000-6012). Supervisor Blevins seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

7. Approval of the 2010 Real Estate Reassessment process - Supervisor Perry motioned that the following notice is complete to be published in the news outlets by the Commissioner of Revenue.

*Starting the week of January 12 and continuing for the next 12 months, Smyth County will be conducting initial field studies for the 2010 Real Estate Reassessment. Workers will have ID badges with the Smyth County logo and will be driving vehicles marked as "reassessment Office".*

*This is a general reassessment conducted by the Smyth County Board of Supervisors on a six year cycle.*

Supervisor Neitch seconded the motion and the vote is as listed below. The Board also mentioned that discussions should begin to change the reassessment schedule.

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

**OTHER BUSINESS NOT LISTED ON THE AGENDA**

1. Supervisor Perry motioned to adopt a resolution in memory of Mr. Larry Davis, recognizing his service to Smyth County. Supervisor Neitch seconded the motion. Staff will prepare a resolution for adoption. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

2. Mr. Whitmore briefly covered the County's current financial standing. He mentioned state cuts in relation to the Regional Jail, Solid Waste Disposal cost increase, and possible more funds in Homeland Security. Also, funds from the federal government will be distributed throughout the state through block grants with out earmarks.

3. Supervisor Neitch motioned that the Ordinance Committee research the possibility of no longer selling car decals but adding that cost to taxes. The motion is for the committee to look at this for the end of 2009. Supervisor Waddell seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

4. Supervisor Neitch requested that the County Administrator explore the possibility of providing all uncollectable names and accounts from the Water and Sewer Department, to other water providers in the county.

5. Mr. Tate mentioned the following issues:

a. The Board has the option to adopt a resolution changing the reassessment schedule.

b. Distributing the applied Code of Virginia, he addressed the delinquent taxes that can be requested of the Treasurer for publication.

Supervisor Neitch motioned to request that the Treasurer provide the Board with the complete delinquent tax list of all tax payers, both real estate and personal property. This complete list is to be made available to the Board, by the regular meeting on Tuesday, March 10. Supervisor Waddell seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

c. Carter Owens suit - this is an active law suit in the Circuit Court.

**Virginia Department of Transportation**

Robert Hurt of the Virginia Department of Transportation briefly spoke before the Board mentioning that the construction to the bridge over the railroad on the west end of Chilhowie will end approximately, December 2009.

Mr. Buston updated on the current Six Year Plan status. There are no final numbers from the state at this point.

**Brian Cregger, Treasurer of the Smyth County Celebration Association**

Mr. Cregger addressed a request continued from the last meeting. The Celebration Association submitted a written request to the Budget Committee for the county to disburse the \$20,000 approved in the current budget to be used for the 2009 Song of the Mountains - Smyth County Celebration Bluegrass Festival.

With Mr. Cregger was Ruth Cox, Dewey Snavelly, Rob Connely supporters of the Association. He thanked the Board for the past years of support. He listed the performers scheduled for this year's event that require up front monies which is what this request will be used for. He mentioned that the goal of the Association is to provide a festival for the local citizens to be proud of and to draw new people to the area. Mr. Cregger addressed various questions from the Board.

Supervisor Dishner motioned to approve the request and appropriate \$20,000 from the Smyth County Celebration line (# 001-056000-6022), for the 2009 Song of the Mountains - Smyth County Celebration Bluegrass Festival. Supervisor Perry seconded the motion. The vote is as follows:

AYES: C.C. "Charlie" Clark, Jr. Marvin R. Perry  
M. Todd Dishner Wade H. Blevins, Jr.  
Brenda J. Waddell

NAYS: Darlene R. Neitch

ABSENT: Michael D. Roberts

**PUBLIC HEARING**

Mr. Carter read the legal advertisement as published in the Smyth County News and Messenger, January 3 and 10, 2009, two Saturday editions. Due to the fact that there were no citizens present, the rules for public hearings were foregone. Being that no one spoke, the hearing was opened and immediately closed. These changes to the Erosion and Sedimentation Control Ordinance were continued until the next meeting for approval.

*The Smyth County Board of Supervisors, in accordance with section 15.2-1427 (F) of the Code of Virginia, will hold a public hearing on Tuesday, January 13, 2009 at 2:30 p.m., or soon thereafter, as it may be convened, in the Board of Supervisors Meeting Room at the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia.*

*The purpose of the hearing is to receive comments on proposed changes to the Smyth County Code - Appendix A - Erosion and Sedimentation Control. These proposed changes are a reflection of amendments made to the Code of Virginia.*

*The full text of the proposed amendments is on file and can be viewed at the County Administrator's Office at 121 Bagley Circle, Marion, Virginia, during business hours, Monday - Friday. Any questions regarding the proposed changes can be directed to Clegg Williams, Zoning Administrator at 276-783-3298, Ext. 227, or zoning@smythcounty.org.*

Done by order of the Smyth County Board of Supervisors  
Edwin B.J. Whitmore, III, County Administrator

### **CLOSED SESSION**

At 2:17 p.m. a motion was made by Supervisor Perry to enter into Closed Session under Section 2.2-3711-A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Dishner and the motion passed unanimously.

Upon returning to open meeting at 2:28 p.m., a motion was made by Supervisor Neitch to adopt the following resolution certifying the business conducted in closed session as follows:

### **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Perry and the vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

### **BUSINESS REGARDING CLOSED SESSION**

Supervisor Perry motioned to offer an undisclosed amount in regards to the settlement discussed in closed session. Supervisor Neitch seconded the motion. The vote is as follows:

AYES: C.C. "Charlie" Clark, Jr. Marvin R. Perry  
M. Todd Dishner Darlene R. Neitch  
Brenda J. Waddell

NAYS: Wade H. Blevins, Jr.

ABSENT: Michael D. Roberts

Supervisor Perry motioned to carry on with legal action against the property owners at the Dix Well site. Supervisor Neitch seconded the motion. The vote is as follows:



AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

**OLD BUSINESS**

1. Collection of delinquent taxes **(8-10-04)**.
2. Marevine Slemph, request for water service on Fox Valley Road **(5-11-04)**.
3. Re-codifying of the Smyth County Code **(1-10-2006)**. - Mr. Tate mentioned that staff has met to review the draft changes.
4. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).
5. Disposal of former school building at 105 East Strother Street **(7-11-06)**.
6. Appointments: Board of Zoning Appeals **(2-12-08)**  
One Alternate - VACANT

Area Beautification Committee Judges **(12-9-08)**

(Chamber of Commerce, 1 year term each calendar year)

Rye Valley District - Phyllis Griffith

Royal Oak District - Gay Hart

Saltville District - Norma Marsh

Atkins District - Mavis Williams

Park District - Alice Freeman

North Fork District - Debbie Ogle

*Supervisor Neitch motioned to reappoint Phyllis Griffith (Rye Valley District) and Gay Hart (Royal Oak District) to the Chamber of Commerce Area Beautification Committee Judges, also, to appoint a new Atkins District Representative, Ms. Anne Whisman. A letter of thanks will be sent to Mavis Williams, the previous Atkins representative, for her service to the Chamber and the community. These are (1) year terms expiring December 31, 2009. Supervisor Blevins seconded the motion. The vote is as follows:*

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

*Supervisor Neitch motioned to appoint Mrs. Phyllis Griffith to the Mount Rogers Community Mental Health and Mental Retardation Services Board. This nomination fills the seat vacated by Mr. Buchanan. This is a three (3) year term expiring December 31, 2011. Supervisor Blevins seconded the motion. The vote is as follows:*

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

7. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer **(5-13-08)**.
8. Radio System Project **(6-26-08)**.

9. Staff is authorized to work with Mr. Tate on a property by the Allison Gap First Church of God. The Church is interested in purchasing this lot; the owners have failed to pay taxes on the property for quite sometime **(8-12-08)**. - Mr. Tate explained to the Board that he had previously done work on this issue and it is purely a private matter. He stated that it would be very expensive for him to pursue, time consuming, and is not practical. He suggested that it be removed from the agenda.

Supervisor Blevins motioned to remove item 9 from old business regarding property by the Allison Gap First Church of God. Supervisor Waddell seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

10. The remaining appropriation request from the School Board was continued for 120 days so that more information will be known on the status of the state budgets **(10-14-08)**.

- Reduce debt service by paying off two (2) high interest loans - \$171,340
- Establish a school renovation and construction fund - \$250,000
- Replace roof at Smyth Career and Technology center - \$200,000
- Continue replacement of student desks at all schools \$100,000

11. Request referred from the Budget Committee for a full Board discussion:

In reference to a written request from the Commonwealth Attorney, Treasurer, and the Sheriff. Mr. Roy Evans, Commonwealth Attorney appeared before the Budget Committee on November 7 to explain the request on behalf of his office. He requested that the Board consider a raise for the Constitutional Offices equal with the raises of the county employees that was approved for fiscal year 2009. He stated that the requested raise would be from December 1, 2008 through June 30, 2009. The state has deferred their 2% raise for December 2008 to July 2009 **(11-12-08)**.

12. Consider amendments to the Smyth County Code, regarding **Section 6, Article III** pertaining to *Musical or Entertainment Festivals*. The various proposed changes to this section of the Smyth County Code offers a more updated version for those events being held throughout the county at various times each year. Public hearing was held Tuesday, December 9 and was continued until January 13, 2009 to render a decision. -

Supervisor Perry motioned to adopt the amendments to the Smyth County Code, regarding **Section 6, Article III** pertaining to *Musical or Entertainment Festivals* and remove this item from old business. Due to the changes, staff will notify regular applicants this year. Supervisor Waddell seconded the motion. The vote is as follows:

AYES: 6

NAYS: None

ABSENT: Michael D. Roberts

### **ARTICLE III. ANNUAL MUSICAL OR ENTERTAINMENT FESTIVAL(S)**

#### **Sec. 6-76. Purpose.**

This article is enacted pursuant to Code of Virginia, §15.2-1200, as amended, and other applicable statutes, for the purpose of providing necessary regulations for the

conducting of annual musical or entertainment festivals as defined by Section 6.2, and is enacted in the interest of the public health, safety and welfare of the citizens and inhabitants of Smyth County (herein referred to as County).  
(Code 1978, § 3-11)

**Sec. 6-77. Definition.**

As used in this article, "annual musical or entertainment festival(s)", "musical of entertainment festival(s)", or "festival(s)" shall mean an individual or group conducting up to six (6) events annually, with each event not exceeding three (3) consecutive days, for the purpose of listening to or participating in entertainment which consists primarily of but is not limited to musical renditions conducted in open spaces, not within an enclosed structure, for which a fee or charge is imposed on attendees.  
(Code 1978, § 3-12)

**Cross reference**—Definitions generally, § 1-2.

**Sec. 6-78. Permits--Required; applications; issuance or denial.**

- (a) No person shall stage, promote, or conduct any musical or entertainment festival(s) in the unincorporated areas of the County unless they have first obtained from the Smyth County Board of Supervisors (herein referred to as Board) a special entertainment permit for such festival(s).
- (b) Application for an annual musical or entertainment festival(s) required by this section shall be in writing on forms provided and filed in duplicate with the County Administrator (herein referred to as Administrator), or his designee, by the last business day of the month of February or at least sixty (60) days prior to the first date of such festival(s). Such applications shall have attached thereto and made a part thereof the plans, statements, approvals and other documents required by this article.
- (c) The board shall act on applications for permit under this article within forty-five (45) days from the filing of such applications, and shall issue a permit if the requirements of this article are met. If granted, the permit shall be issued in writing on a form for such purpose and mailed by the Administrator, or his designee, to the applicant at the address indicated. If denied, the refusal shall be in writing and the reasons for such denial stated therein, and mailed by the Administrator, or his designee, to the applicant at the address indicated.  
(Code 1978, § 3-13)

**Sec. 6-79. Same—Conditions on issuance.**

The permit required by this article shall not be issued unless the following conditions are met and the following plans, statements and approvals submitted to the Board with the application:

- (1) Promoters and backers. A statement of the names and addresses of the promoters of the festival(s), and the financial backing of the festival(s).
- (2) Location and Site Plan. A statement of the location of the proposed festival(s), the name(s) and address(es) of the owner(s) of the property on which such festival(s) is to be held, and the nature and interest of the applicant therein. The Site Plan may be an applicant prepared sketch and shall include the following items:
  - a. Dimensions of site, including length, width, and total size.
  - b. Location of the lot or parcel by vicinity map. The Site Plan shall also contain a north arrow, original date, revision dates, and graphical scale.
  - c. Property lines of the proposed festival(s). If only a portion of the property is proposed for the festival(s), a "Limits of Festival(s)" shall also be shown.

- d. The name and address of the property owner of the site, if different than the applicant.
  - e. The tax parcel number(s) of the parcels proposed for the festival(s).
  - f. The names, route numbers, locations, and dimensions of existing public or private streets, alleys, and rights of way shall be shown. Any proposed rights of way for said festival(s) shall also be shown.
  - g. The location, type, and size of site access points such as driveways, curb openings, and crossovers. If existing cuts will serve the site they shall be shown. If new median cuts are proposed, their locations shall also be shown.
  - h. The location of buildings or structures existing or proposed for the site, including the distance between buildings or structures.
  - i. Location and design of all existing and proposed utilities, including water, sanitation, and electrical service.
  - j. The location of any proposed bugger yards, screening, and fencing.
  - k. A statement by the applicant that the site plan for said festival(s) will be built according to the plan.
  - l. Any additional information requested by the Administrator or the Board.
- (3) Plans. The following plans shall be submitted by the applicant to the agencies referenced below and said agencies approvals forwarded to the Administrator, or his designee, ten (10) days prior to the public hearing.
- a. Sanitation facilities, garbage, trash and, sewage disposal. A plan for adequate sanitation facilities and garbage, trash and sewage disposal for persons at the festival. This plan shall meet the requirements of all state and local statutes, ordinances, and regulations, and shall be approved by the Smyth County Health Department.
  - b. Food, water and lodging. A plan for providing food, water, and lodging for the persons at the festival. This plan shall meet the requirements of all state and local statutes, ordinances, and regulations, and shall be approved by the Smyth County Health Department.
  - c. Medical facilities. A plan for adequate medical facilities for persons at the festival, approved by the Smyth County Health Department.
  - d. Parking, crowd and traffic control. A plan for adequate parking facilities and traffic control in and around the festival area, approved by the Smyth County Sheriff's Office.
  - e. Fire protection. A plan for adequate fire protection. This plan shall meet the requirements of all state and local statutes, ordinances and regulations, and if applicable shall be approved by the Virginia Department of Forestry.
  - f. Tickets. The applicant is to provide a statement containing the total number of tickets to be offered for sale and the best reasonable estimate by the applicant of the number of persons expected to be in attendance.
- (4) Lighting. A statement specifying whether any outdoor lights or lighting is to be utilized, and if so, a plan showing the location of such lights and shielding devices or other equipment to prevent unreasonable glow beyond the property on which the festival is located.

- (5) *Loud music. A statement that no music shall be played, either by mechanical device or live performance, in such a manner that the sound emanating therefrom shall be unreasonably audible beyond the property on which the festival is located.*
- (6) *Administration and Public Notice: The Administrator, or his designee, is responsible for receiving each application for Annual Musical or Entertainment Festival(s), and processing those application(s) as provided for in other Articles of this Chapter, including meeting the public notice requirements contained in §15.2-2204 of the Code of Virginia.*
- (7) *Fee. A non-refundable fee in the amount of \$75.00 shall be paid with each application.*
- (8) *A Certificate of Liability Insurance shall be submitted signifying the Board as "Certificate Holder" in the amount of, not less than, One Million Dollars (\$1,000,000.00) and shall cover medical pay. The date(s) of the festival(s) shall be within the effective dates of the Certificate of Liability Insurance. A copy of said Certificate shall be furnished to the Board with all other documentation before approval will be obtained by the applicant.  
(Code 1978, § 3-14)*
- (9) *Failure to Comply. Failure of the applicant to comply with the requirements of this Section 6-79 shall result in the application being returned to the applicant without any action by the Administrator, or his designee, or the Board.*

**Sec. 6-80. Hours of performances.**

*Music shall not be rendered nor entertainment provided at any festival permitted under this article for more than 12 hours in any 24-hour period, such 24-hour periods to be measured from the beginning of the first performance at such festival. No music shall be rendered between the hours of 12:00 midnight and 8:00 a.m.  
(Code 1978, § 3-15)*

**Sec. 6-81. Inspections of premises.**

*No permit shall be issued under this article unless the applicant shall furnish to the board written permission for the board, its lawful agents, or duly constituted law enforcement officers to go upon the property at any reasonable time for the purpose of determining compliance with the provisions of this article.  
(Code 1978, § 3-16)*

**Sec. 6-82. Revocation of permits.**

*The board shall have the right to revoke any permit issued under this article upon noncompliance with any of its provisions and conditions.  
(Code 1978, § 3-17)*

**Sec. 6-83. Exemption of churches, schools, civic organizations from application fee and bond.**

*The application fee and bond provided for in this article shall not be payable by established Churches, chartered civic organizations or public schools; provided, that all other provisions of this article shall be fully enforceable.  
(Code 1978, § 3-18)*

**Sec. 6-84. Construction of article.**

*The provisions of this article shall be liberally construed in order to effectively carry out the purpose of this article in the interest of the public health, welfare and safety of the citizens and residents of the County.  
(Code 1978, § 3-19)*

**Sec. 6-85. Penalties; remedies.**

- (a) Any person who violates any provision of this article shall be guilty of a Class 3 Misdemeanor. Each such violation shall constitute a separate offense.
- (b) The board may bring suit in the Circuit Court or other court of competent jurisdiction to restrain, enjoin, or otherwise prevent the violation of this article.

(Code 1978, § 3-20)

**Sec. 6-86. Appeals.**

Any action taken by the Board on a decision regarding the granting or denial of an Annual Musical or Entertainment Festival(s) permit(s) may be appealed by filing within thirty (30) days of the decision with the Circuit Court of Smyth County.

**Sec. 6-87. Conditions.**

In authorizing a permit(s) for an Annual Musical or Entertainment Festival(s) provided for in this Article, the Board may impose specific conditions as necessary to assure compliance with the standards set forth in Article III. Such conditions may include, but are not limited to: dust control, prohibition and/or regulations of signs.

**Secs. 6-88—6-105. Reserved.**

**CLOSED SESSION**

\*Mr. Perry left at this time.

At 2:52 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711-A.5 (prospective business) of the Code of Virginia. This was seconded by Supervisor Waddell and the motion passed unanimously.

Upon returning to open meeting at 3:36 p.m., a motion was made by Supervisor Neitch to adopt the following resolution certifying the business conducted in closed session as follows:

**RESOLUTION  
CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Dishner and the vote is as follows:

AYES: 5

NAYS: None

ABSENT: Michael D. Roberts  
Marvin R. Perry

**INFORMATIONAL ITEMS**

The Evergreen Soil and Water Conservation District will hold their annual brunch at the Pioneer Restaurant on Tuesday, March 10 at 10:30 a.m.

**CONTINUE THE MEETING**

Supervisor Neitch motioned to continue the meeting until Thursday, January 22 at 7:00 p.m. for a joint public hearing with the Planning Commission, along with any other issues that may arise. Supervisor Waddell seconded the motion and the vote is as follows:

AYES: 5

NAYS: None

ABSENT: Michael D. Roberts  
Marvin R. Perry

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Charlie Clark, Jr., Chairman







The Smyth County Board of Supervisors held a continued meeting at 7:00 p.m., Thursday, January 22, 2009. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
M. Todd Dishner	Wade H. Blevins, Jr.
Brenda J. Waddell	Marvin R. Perry
Michael D. Roberts	

**STAFF PRESENT:**

Ed Whitmore, County Administrator  
Michael Carter, Assistant County Administrator  
John H. Tate, Jr., County Attorney

**OTHERS PRESENT:**

Amber Johnson, Administrative Assistant  
Charlie Atkins, CFO  
Scott Simpson, Engineer  
Sally Morgan, Economic Planner  
Clegg Williams, Zoning Administrator  
Becca Kirk, Administrative Assistant

**PLANNING COMMISSION MEMBERS PRESENT:**

Dennis Blevins	Don Medley
Norman Sparks	Graham Davidson
Amy Tuell	

**PLANNING COMMISSION MEMBERS ABSENT:**

Karl Kalber  
Wayne Venable

**CALL TO ORDER**

Both Chairmen Clark and Blevins called the public hearing to order. Mr. Whitmore, County Administrator, read the following legal advertisement as published in the Smyth County News and Messenger, on January 10<sup>th</sup> and 17<sup>th</sup> (Saturday editions).

Supervisor Perry motioned to forgo the reading of the rules of procedures for public hearings, since there were only three (3) citizens present. Supervisor Blevins seconded the motion and it passed unanimously.

**BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS AND  
SMYTH COUNTY PLANNING COMMISSION**

The Smyth County Board of Supervisors and the Smyth County Planning Commission will conduct a joint public hearing on Thursday, January 22, 2009, at 7:00 P.M. or as soon after 7:00 P.M. as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application(s) to the Zoning Ordinance of Smyth County, Virginia:

*An application from Robert Austin for a Special Use Permit to construct an Accessory Building above one hundred fifty (150) square feet in size, without a main building. The property is a vacant lot located in the Preston Hill community, west of 1695 Lee Highway in Marion. It is identified as Tax Map No. 55-5-2D and is zoned Agricultural/Rural.*

*An application from William Long for a Special Use Permit to operate a Service Business (Home Repairs) at 2480 Hwy. 107 in Saltville. The property is identified as Tax Map No. 41-A-80A and is zoned Agricultural/Rural.*

*At this public hearing, subject to the rules of procedure of the Board of Supervisors and Planning Commission of Smyth County, Virginia, any person may appear and state his/her views thereon.*

*Copies of these applications along with their maps/drawings are on file in the Office of the County Administrator of Smyth County. Copies are also maintained by the County Zoning Administrator at the address given above, and may be viewed during regular business hours Monday through Friday.*

*Done by order of the Board of Supervisors and the Planning Commission.*

*Edwin B.J. Whitmore III, County Administrator  
Karl A. Kalber, Chairman of the Planning Commission*

**SUMMARY OF BOTH APPLICATIONS SUBMITTED**

In summarizing both applications that were submitted, Mr. Williams stated that notice of this public hearing was mailed to all adjoining property owners.

Robert Austin - Special Use Permit: Mr. Williams summarized the first application submitted by Robert Austin for a special use permit to construct an Accessory Building above one hundred fifty (150) square feet in size, without a main building. Mr. Austin's property is approximately 1 acre in size and is located on Lee Highway in the Seven Mile Ford area, and is zoned Agricultural/Rural. He

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pointed out the following sections of the ordinance: Section 3-2.2 y) which allows the proposed use by issuance of a Special Use Permit, and Article VI which contains the provisions for Special Use Permits.

Mr. Robert Austin was present to address the concerns of the Board and the Planning Commission, that the property may turn into a junkyard and accumulate a lot of outside storage of materials. Mr. Austin stated that the building would be approximately 40' x 70' x 14' in size and he would be keeping all materials within the building. Concerns were voiced that the proposed building would become the site for Mr. Austin's construction business. Mr. Austin stated that the building is for storage of his personal items only.

William Long - Special Use Permit: Mr. Williams then explained the second application submitted by Mr. Williams Long. Mr. Long's application to establish a *Service Business* in a building owned by Maryann Ogle, for which her mother, Theresa Ogle, manages. The property is addressed as 2480 Hwy. 107 and the property is currently zoned Agricultural/Rural. Mr. Williams also pointed out the following sections of the ordinance: Section 3-2.2 v) which allows the proposed use by issuance of a Special Use Permit, Article VI which contains the provisions for Special Use Permits, and 10-65 which defines *Service Business*.

Mr. William Long was present to address the Board and the Planning Commission. He stated his intentions for the building, which would be only office space, and summarized his home repair business operation.

Ms. Theresa Ogle was also present and explained that the bottom of the building is used as an apartment for family while visiting in Smyth County and she explained the difficulties she has had with finding renters to rent the upstairs as retail and business space.

At approximately 7:30 p.m., Chairmen of both the Board and the Planning Commission closed the public hearing. The Planning Commission recessed as the Board completed their agenda.

## **OTHER BOARD ITEMS**

1. At the previous meeting on Tuesday, January 13, in regards to the appointment of Clerk to the Board, a motion made by Mr. Perry, properly seconded, and failed to carry due to a tie vote. Mr. Tate explained the Rules of Procedures, Section 4.8.1 - *If one or more Supervisors are absent, the question shall be passed by until the next meeting, regular or special, at which time it must be put to a vote again (even though all members may not be present).*

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Supervisor Perry reiterated his original motion to appoint Mr. Edwin B.J. Whitmore, III, as the Clerk to the Board for calendar year 2009. With the following votes, Mr. Whitmore, was duly appointed as the Clerk for the 2009 calendar year.

AYES: C.C. "Charlie" Clark, Jr.  
M. Todd Dishner  
Marvin R. Perry  
Michael D. Roberts

NAYS: Wade H. Blevins, Jr.  
Darlene R. Neitch  
Brenda J. Waddell

**2.** Mr. Simpson explained the three (3) construction contracts in relation to the Long Hollow water project. These have been reviewed and approved by Mr. Campbell and are unanimously recommended by the Water and Sewer Committee for authorization.

Along With the Water and Sewer Committee recommendation the above mentioned Long Hollow construction contracts (3) were unanimously approved by the Board.

**3.** Mr. Simpson also explained the award of five (5) Planning Grants from the Virginia Department of Health. These are for Burgess Hollow Road (\$10,000), Porter Valley Road (\$25,000), Kelly Hill Road (\$20,000), Mulberry/Kiawana Road (\$25,000) and an additional water source investigation (\$25,000). Contingent on the Water & Sewer Attorney review, the Water and Sewer Committee unanimously makes the recommendation to accept the five (5) VDH Planning Grants for the listed water projects.

With the Water and Sewer Committee recommendation the above mentioned Planning Grants from the Virginia Department of Health (5) were unanimously approved by the Board.

**4.** With the recommendation of the Water and Sewer Committee, the Board unanimously agreed that 21 accounts, under the following names, totaling \$2,514.27 is written off due to the fact that successful judgments could not be placed on these past customers. Should these persons be found, the monies can be collected.

Nicole L. Allison  
Kimberly Diane Bise  
James F. Cardwell  
Billy Joe Delp  
Michael Funk

Timothy Greg Anderson  
Debra Bowman  
Christopher Wayne Davidson  
Christopher Lee Fulton  
Anna Marie Heath

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Adam Stevenson Norman  
Maria Rios  
Travis Widener  
Kim Keesee  
Jamie Hernandez  
Sharon Stamper

Wendy Mary Louise Reynolds  
Nancy Christina Mae Stone  
Missy Woodard  
Pamela K. Ray  
Travis Hardin

5. Chairman Clark pointed out the newly appointed committees for calendar year 2009, as they attached to the agenda for reference. He noted that the next upcoming committee meeting was Ordinance Committee on Wednesday, January 28 at 2:00 p.m. (Mr. Roberts noted at he would not be able to attend the Ordinance Committee meeting).

**ADJOURN**

Upon motion of Mrs. Neitch, seconded by Mrs. Waddell, and unanimously carried, the meeting was adjourned at 7:38 p.m.

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Charlie Clark, Jr., Chairman

General County	\$1,233,000
North Holston Water	\$87,105.70
Animal Control	\$6,446.60
Social Services (Feb. 11-28, 2009)	\$300,000
(March 1-10, 2009)	\$80,000

Schools - Operating Fund	\$4,250,000
Debt & Capital Outlay	\$140,000

Supervisor Neitch seconded the motion. The vote is as follows:

AYES: 7  
NAYS: None

Supervisor Neitch motioned to approve the accounts payable listing in the amount of \$586,402.85. This total includes \$29,852.83 toward the Courthouse renovation project (\$27,595.33 to Wiley Wilson and \$2,257.50 to Mosley Architects). Supervisor Dishner seconded the motion for approval. The vote is as follows:

AYES: 7  
NAYS: None

### **CITIZEN'S TIME**

Audrey Hearrell was present to address the Board about the nuisance complaint she filed in regards to a property on Intrepid Lane owned by Joseph F. Ellis, Jr. The Chairman requested that she return at 2:30, as this issue is scheduled to be heard at that time.

John Long and Jim Owens of the VFW Post 4667, Marion, were preset. Mr. Long spoke in regards to the fund request submitted to the Budget Committee. He stated that the donation would be greatly appreciated and would be utilized in the community for the Memorial Day Parade celebration.

### **NEW BUSINESS**

#### **COMMITTEE RECOMMENDATIONS**

##### **1. Budget Committee**

**a.** *Sheriff Department request for two (2) new cars to be returned to the Police Activity budget-* Supervisor Blevins motioned to amend the 2008-2009 county budget (001-010000-1000) in the amount of \$52,000 and the Police Expense, #744-010000-9003 line for two (2) new cars that were not delivered in the previous years budget. Supervisor Waddell seconded the motion. This motion appropriates the funds when the cars are purchased. The vote is as follows:

AYES: 7  
NAYS: None

**b.** *Fund requests Requests from the VFW (for \$1,500) and from the Chilhowie High School Project Graduation (for \$1,000) -* Supervisor Perry motioned to appropriate \$1,500 (from line 001-011010-8888, Supplemental Appropriations) as a donation to VFW Post 4667 of Marion, to aid in the 2009 Memorial Day Celebration. Supervisor Waddell seconded the motion. The vote is as follows:

AYES: 7  
NAYS: 0

Supervisor Perry motioned to appropriate \$1,000 for a donation to Chilhowie High School for the 2009 Project Graduation activities. Upon receipt of their requests, the same amount will be donated to Northwood High School and



Marion Senior High School for 2009 After Prom activities. This appropriation will come from the Board's Supplemental Appropriations fund (#001-011010-8888). Supervisor Waddell seconded the motion. The vote is as listed below.

AYES: 7  
NAYS: 0

**2. Water & Sewer Committee** - At this committee's meeting on January 22, it referred the following question to the full Board for a resolution: The possibility of furnishing all uncollectable names and accounts to other water providers in the county. At the committee meeting, Water and Sewer Counsel mentioned a collector agreement or memorandum of understanding with providers could be a means to go about this process.

The Board discussed this issue with staff where Mr. Tate mentioned that social security numbers could not be released; only names. Mr. Carter also mentioned placing the list of names on the County website with a link only accessible for other water providers.

Supervisor Perry motioned that the Water and Sewer Counsel should proceed with the legal documents to begin this process with those who wish to participate. Supervisor Neitch seconded the motion. The vote is as follows:

AYES: 7  
NAYS: 0

**3. Solid Waste Committee** - This committee recommends scheduling a public hearing regarding the following tipping fee rate changes. Mr. Carter explained actions of the committee on January 30. They reviewed Solid Waste tipping fee information for 2009, as studied by Draper Aden and Associates. The current tipping fee is in need of adjustment due to the new contract rate for haul and disposal; as well as; to reduce the amount of Consumer Utility Taxes used to offset the Solid Waste budget. The current tipping fee scale is as follows:

\$45/0-49 tons  
\$43.50/50 -99 tons  
\$41.50/100-149 tons  
\$39.50/over 150 tons

With much consideration, the committee made the recommendation to schedule a public hearing on the following tipping fee rate changes:

- Remove the tipping fee rate tier
- \$52/ton flat rate for the private sector
- Tires amended to - less than 16" - \$2.50 each
  - 17" - 24" - \$7.50 each
  - 25" or greater - \$13.25 each
  - Cut or chipped tires - \$165/ton

Staff answered various questions concerning this topic. The Board discussed with staff as to whether a public hearing is necessary for these fee changes. After being postponed until later in the meeting to allow Mr. Tate to research the Code of Virginia on the topic, Supervisor Perry motioned to adopt the fee schedule as presented without a public hearing. He motioned these fees be effective March 1, 2009, and that the appropriate large customers are notified by letter and the smaller customers be notified by the local newspaper. Supervisor Dishner seconded the motion. The vote is as follows:

AYES: 7

NAYS: 0

Later in the meeting it was brought to the attention of the Board by Mr. Jeff Campbell, Water and Sewer Attorney (through a phone call) that pursuant to the provisions of §15.2-5136 of the Code of Virginia, a public hearing is necessary for the proposed changes to the tipping fees. With that being said, Supervisor Perry rescinded his previous statement and motioned that a public hearing be scheduled for the next regular meeting on Tuesday, March 10 at 3:00 p.m. for the above proposed tipping fees. Supervisor Roberts seconded the motion. The vote is as follows:

AYES: 7

NAYS: 0

#### **LEGAL COUNSEL REPORT**

1. Mr. Tate asked for an update on the listing and publication of delinquent taxes as requested of the Treasurer at the January 13 meeting. Mr. Whitmore stated that this request was forwarded in writing to the Treasurer asking that the list be made available to the Board by the March 10 meeting. Mr. Whitmore had not received a response from the Treasurer at the time of this meeting.

2. Mr. Tate explained nine (9) real estate tax refunds before the Board for consideration. These are from the Commissioner of Revenue's office, totaling \$2,418.65.

Supervisor Perry motioned to approve the following real estate tax refunds. Supervisor Blevins seconded the motion. These refunds are due to overpayments on land use in years 2006, 2007, and 2008 and includes interest for those that are eligible. The vote is as listed below.

Juanita Burkett	\$81.61
Chilhowie Land Company	\$667.61
John C. Dixon	\$235.25
Darity Ray Evans	\$184.29
Matthew W. Lowe	\$707.88
Charles Kenton Tilson	\$255.50
Richard B & Connie Tilson	\$204.54
Merrell R & Elizabeth Ward	\$53.62
Clarence N Widner Etal	\$28.35
<b>TOTAL</b>	<b>\$2,418.65</b>

AYES: 7

NAYS: 0

3. Mr. Tate informed the Board that he has formerly released three (3) tax assessments in relation to residences on Harris Lane of Marion. These were approved for execution by the Board at the December 2008 meeting. Each of have been paid in full the Treasurer.

4. Mr. Tate also informed the Board that he has filed the official court order for payment in the amount of \$500 regarding burial expenses for Wesley J. Harris, a Smyth County citizen. Mr. Harris passed away while in the care of the University of Virginia in Charlottesville, Virginia.

#### **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Steve Buston and Robert Hurt of the Abingdon office were present. Mr. Hurt returned maintenance concerns and addressed a Route 600 concern with Mr. Blevins. Mr. Buston briefly commented on the current routes listed on the storage list for Smyth County. He distributed a list of those routes.

Supervisor Roberts motioned to adopt the resolutions below in relation to adjustments to the Valley Road project. Supervisor Blevins seconded the motion. The vote is as follows:

AYES: 7  
NAYS: 0

Board of Supervisors of Smyth County, VA

The Board of Supervisors of Smyth County, in regular meeting on the 10th day of February 2009, adopted the following:

**RESOLUTION**

WHEREAS, the Virginia Department of Transportation has constructed Valley Road on a new alignment under Project. 0610-086-157, C502, and

WHEREAS, the project sketch and VDOT Form AM4.3, attached and incorporated herein as a part of this resolution, define adjustments required in the secondary system of state highways as a result of that construction, and

WHEREAS, the new road serves the same citizens as served by those portions of the old road identified in the project sketch to be abandoned, which portions no longer serve a public need,

NOW, THEREFORE, BE IT RESOLVED, this Board hereby abandons Section B-D, Section E-F, and Section G-H from the secondary system of state highways, pursuant to §33.1-155 of the Code of Virginia, and

BE IT FURTHER RESOLVED, this Board requests the Virginia Department of Transportation to add Section B-C, Section C-D, Section E-F, Section G-H, and Section C-C1 to the secondary system of state highways, pursuant to §33.1-229 of the Code of Virginia, for which sections this Board hereby guarantees the right of way to be clear and unrestricted, including any necessary easements for cuts, fills, and drainage, and

BE IT FINALLY RESOLVED, this Board orders that a certified copy of this resolution be forwarded to the Resident Administrator for the Virginia Department of Transportation.

**In the County of Smyth**

By resolution of the governing body adopted February 10, 2009

*The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.*

**Report of Changes in the Secondary System of State Highways**

**Project/Subdivision** 0610-086-157, C502

**Type Change to the Secondary System of State Highways:** Abandonment

The following facilities of the Secondary System of State Highways are hereby ordered abandoned, pursuant to the statutory authority cited:

Reason for Change: **VDOT Project**  
Pursuant to Code of Virginia Statute: **§33.1-155**

Street Name and/or Route Number

► **Section 5: B-D (old Rte. 610), State Route Number 600**

Old Route Number: 0

- From: 0.11 mi. W. Rte. 636  
To: 0.15 mi. E. Rte. 636, a distance of: 0.26 miles.

► **Section 8: E-F (old Rte. 610), State Route Number 610**

Old Route Number: 0

- From: 0.20 mi. E. Rte. 636  
To: 0.39 mi. E. Rte. 636, a distance of: 0.19 miles.

► **Section 11: G-H (old Rte. 610), State Route Number 610**

Old Route Number: 0

- From: 0.06 mi. W. Rte. 630  
To: Rte. 630, a distance of: 0.06 miles.

## **Report of Changes in the Secondary System of State Highways**

### **Type Change to the Secondary System of State Highways: Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions

cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as

required, is hereby guaranteed:

Reason for Change: **VDOT Project**

Pursuant to Code of Virginia Statute: **§33.1-229**

#### **Street Name and/or Route Number**

► **Section 3: B-C (Valley Rd.), State Route Number 610**

Old Route Number: 0

- From: 0.11 mi. W. Rte. 636  
To: Int. conn. Rte. 636, a distance of: 0.11 miles.  
Right of Way width (feet) = 80'+

► **Section 4: C-D (Valley Rd.), State Route Number 610**

Old Route Number: 0

- From: Conn. Rte. 636  
To: 0.14 mi. E conn. Rte. 636, a distance of: 0.14 miles.  
Right of Way width (feet) = 80'+

► **Section 7: E-F (Valley Rd.), State Route Number 610**

Old Route Number: 0

- From: 0.20 mi. E. Rte. 636  
To: 0.39 mi. E. Rte. 636, a distance of: 0.19 miles.  
Right of Way width (feet) = 80'+

► **Section 10: G-H (Valley Rd.), State Route Number 610**

Old Route Number: 0

- From: 0.06 mi. W. Rte. 630  
To: Rte. 630, a distance of: 0.06 miles.  
Right of Way width (feet) = 80'+

► **Section 14: C-C1 (Hunters Ln.), State Route Number 636**

Old Route Number: 0

- From: Rte. 610  
To: 0.02 mi. N. Rte. 610, a distance of: 0.02 miles.  
Right of Way width (feet) = 80'+

**Report of Changes in the Secondary System of State Highways**

**Type Change to the Secondary System of State Highways:    Data Correction**

This Board hereby requests the transfer of the following segment(s) of the Interstate or Primary System to this County's secondary system of state highways.

Reason for Change:                                **VDOT Project**  
Pursuant to Code of Virginia Statute:       **§33.1-69**

**Street Name and/or Route Number**

- ▶ **Section 1: A1-A (Valley Rd.), State Route Number 610**  
Old Route Number: 0
  - From: Route 777  
To: 0.04 mi. E. Route 777, a distance of: 0.04 miles.
  
- ▶ **Section 2: A-B (Valley Rd.), State Route Number 610**  
Old Route Number: 0
  - From: 0.04 mi. E. Route 777  
To: 0.11 mi. W. conn. Rte. 636, a distance of: 0.25 miles.
  
- ▶ **Section 6: D-E (Valley Rd.), State Route Number 610**  
Old Route Number: 0
  - From: 0.14 mi. E. Rte. 636  
To: 0.20 mi. E. Rte. 636, a distance of: 0.06 miles.
  
- ▶ **Section 9: F-G (Valley Rd.), State Route Number 610**  
Old Route Number: 0
  - From: 0.39 mi. E. Rte. 636  
To: 0.06 mi. W. Rte. 630, a distance of: 0.31 miles.
  
- ▶ **Section 12: H-J (Valley Rd.), State Route Number 610**  
Old Route Number: 0
  - From: Rte. 630  
To: 0.12 mi. E. Rte. 630, a distance of: 0.12 miles.
  
- ▶ **Section 13: J-J1 (Valley Rd.), State Route Number 610**  
Old Route Number: 0
  - From: 0.12 mi. E. Rte. 630  
To: Rte. 631, a distance of: 1.18 miles.
  
- ▶ **Section 15: C1-C2 (Hunters Ln.), State Route Number 636**  
Old Route Number: 0
  - From: 0.02 mi. N. Rte. 610  
To: Dead End, a distance of: 0.45 miles.

## **Report of Changes in the Secondary System of State Highways**

► **Section 16: H-H1(Long Hollow Rd.), State Route Number 630**

Old Route Number: 0

- From: Rte. 610  
To: Rte. 755, a distance of: 1.84 miles.

### **RON THOMASON - SMYTH COUNTY TOURISM ASSOCIATION UPDATE**

Mr. Ron Thomason, the Association's Volunteer Recruitment, Training, and Retention Program Coordinator gave the Board an update. He explained that he became interested in the Tourism Association after retiring and speaking with Mr. Whitmore. He distributed literature regarding the Tourism Center. He stated that the Association is working toward the Center open 7 days a week. He also remarked on the newest edition to the Association called the Tourism Ambassadors which is currently comprised of retired teachers and principals. He thanked the Board for their continued support and stated that it was funds well spent. Mr. Thomason thanked the Board and especially Mr. Perry, for welcoming him to this area in 1977 as a businessman.

### **ZONING DEPARTMENT**

The following motions are actions made on the two (2) recommendations referred by the Planning Commission regarding applications heard at a joint public hearing on Thursday, January 22:

1. Supervisor Blevins motioned to accept the recommendation from the Planning Commission as presented on the application from Robert Austin for a special use permit. Mr. Austin's property is approximately 1 acre in size and is located on Lee Highway in the Seven Mile Ford area, zoned Agricultural/Rural. The application is for the construction of an Accessory Building above one hundred fifty (150) square feet in size, without a main building with the following stipulations:

- Building is to be used for personal use only;
- Building cannot be used for business purposes; and,
- No outside storage on the property.

Supervisor Neitch seconded the motion. The vote is as follows:

AYES: Darlene R. Neitch  
Brenda J. Waddell  
M. Todd Dishner  
Wade H. Blevins, Jr.  
Michael D. Roberts

NAYS: C.C. "Charlie" Clark, Jr.  
Marvin R. Perry

Supervisor Roberts motioned to accept the recommendation from the Planning Commission as presented on the application from William Long for a special use permit regarding a building owned by Maryann Ogle, for which her mother, Theresa Ogle, manages. The property is at 2480 Highway 107 and zoned Agricultural/Rural. The application is to establish a *Service Business* with the following stipulation: no outside storage on the property. Supervisor Blevins seconded the motion. The vote is as follows:

AYES: C.C. "Charlie" Clark, Jr.  
M. Todd Dishner  
Wade H. Blevins, Jr.  
Michael D. Roberts

Darlene R. Neitch  
Brenda J. Waddell

NAYS: Marvin R. Perry

Nuisance complaint - Joseph F. Ellis Jr. - The following action is taken, regarding the nuisance complaint filed against a property owned by Joseph F. Ellis, Jr.:

The Board heard from Clegg Williams, Zoning Administrator, explaining the history of the nuisance complaint against a property owned by Joseph F. Ellis, Jr. Also present were Joseph Ellis, Jr., with his attorney Patton Graham. Both Mr. Williams and Mr. Graham requested 30 days before declaring this property a nuisance. Mr. Graham stated that this time would allow him to file the proper paper work with the Circuit Court to begin resolving a right of way issue with the Hearrell's (who filed the complaint).

Supervisor Perry motioned to allow the 28 day (until the next Board meeting, March 10) extension before declaring this property a nuisance. Supervisor Dishner seconded the motion. This will be discussed again at the next meeting. The vote is as follows:

AYES: C.C. "Charlie" Clark, Jr.  
M. Todd Dishner  
Marvin R. Perry  
Michael D. Roberts  
Brenda J. Waddell

NAYS: Wade H. Blevins, Jr.  
Darlene R. Neitch

#### **SCHOOL SUPERINTENDENT - DR. MICHAEL ROBINSON**

In reference to Old Business item number 9, October 14, 2008, this budget request was continued for 120 days. The following actions were taken in regards to this continued item.

School Superintendent, Dr. Michael Robinson, explained that due to recent budget cuts throughout the state, the complete list, as originally presented below, in October, 2008, is not requested:

- Replace roof at Smyth Career and Technology Center - \$200,000
- Continue replacement of student desks at all schools - \$100,000
- Reduce debt service by paying off two (2) high interest loans - \$171,340
- Establish a school renovation and construction fund - \$250,000

Dr. Robinson requested that the actual bid cost of the replacement roof at the Smyth Career and Technology Center in the amount of \$222,330 be granted.

Supervisor Neitch motioned to amend the fiscal year 2008-2009 county budget (001-010000-1000), in the amount of \$222,330 and appropriate this amount to the School Board budget (009-099990-5698-1) for the replacement roof at the Smyth Career and Technology Center. Supervisor Blevins seconded the motion. The vote is as follows:

AYES: 7  
NAYS: None

### OTHER BUSINESS NOT LISTED ON THE AGENDA

Mr. Roberts mentioned is recent trip to Richmond for Legislative Day and that Delegate Carrico is taking the possible increase of the Transient Occupancy Tax for Smyth County to the Senate on this date.

### OLD BUSINESS

1. Collection of delinquent taxes **(8-10-04)**.
2. Marevine Slemper, request for water service on Fox Valley Road **(5-11-04)**.
3. Re-codifying of the Smyth County Code **(1-10-2006)**.
4. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).
5. Disposal of former school building at 105 East Strother Street **(7-11-06)**.
6. Appointments: Board of Zoning Appeals **(2-12-08)**  
One Alternate - VACANT

Area Beautification Committee Judges (12-9-08)  
(Chamber of Commerce, 1 year term each calendar year)  
Saltville District - Norma Marsh  
Park District - Alice Freeman  
North Fork District - Debbie Ogle

*Supervisor Dishner motioned to reappointed Alice Freeman (Park District) to the Chamber of Commerce Area Beautification Committee Judges. Supervisor Blevins seconded the motion and it passed unanimously. As with the previous appointees, these terms are calendar year and this one (1) year term is set to expire December 31, 2009.*

7. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer **(5-13-08)**.
8. Radio System Project **(6-26-08)**.
9. The remaining appropriation request from the School Board was continued for 120 days so that more information will be known on the status of the state budgets **(10-14-08)**.
  - Reduce debt service by paying off two (2) high interest loans - \$171,340
  - Establish a school renovation and construction fund - \$250,000
  - Replace roof at Smyth Career and Technology center - \$200,000
  - Continue replacement of student desks at all schools \$100,000
10. Request referred from the Budget Committee for a full Board discussion:  
In reference to a written request from the Commonwealth Attorney, Treasurer, and the Sheriff. Mr. Roy Evans, Commonwealth Attorney appeared before the Budget Committee on November 7 to explain the request on behalf of his office. He requested that the Board consider a raise for the Constitutional Offices equal with the raises of the county employees that was approved for fiscal year 2009. He stated that the requested raise would be from December 1, 2008 through June 30, 2009. The state has deferred their 2% raise for December 2008 to July 2009 **(11-12-08)**.
11. Proposed changes to the Smyth County Code - Appendix A - Erosion and Sedimentation Control. These proposed changes are a reflection of amendments made to the Code of Virginia. Public hearing was held Tuesday, January 13 and was continued until February 10, 2009 to render a decision.



*Supervisor Perry motioned to approve changes to the Smyth County Code - Appendix A - Erosion and Sedimentation Control. These changes are the same as amendments made to the Code of Virginia. Included in these changes is a provision that a public hearing is no longer required when making changes to the E&S Ordinance, when they are like those changes made to the state code, ONLY. A public hearing was held on these proposed changes on Tuesday, January 13. Supervisor Neitch seconded the motion and the vote is as follows:*

AYES: 7  
NAYS: None

*Supervisors Neitch motioned and Supervisor Blevins seconded to remove item number 11 from old business. The Board unanimously agreed.*

12. Possibility of changing the tax reassessment schedule from every six (6) years to every four (4) years (**1-9-2009**).

### **CLOSED SESSION**

\*Supervisor Blevins left during closed session

At 3:43 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711- A.1 (Personnel Issues) and A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Dishner and the motion passed unanimously.

Upon returning to open meeting at 4:32 p.m., a motion was made by Supervisor Perry to adopt the following resolution certifying the business conducted in closed session as follows:

### **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Waddell and the vote is as follows:

AYES: 6  
NAYS: None  
ABSENT: Wade H. Blevins, Jr.

**BUSINESS REGARDING CLOSED SESSION**

Mr. Clark read a letter dated February 9, 2009 addressed to himself as the Chairman of the Board, stating the following:

*"I wish to inform the Board I will retire from the position of County Administrator on May 1, 2009.*

*-Sincerely,  
Edwin B.J. Whitmore, III"*

Supervisor Perry made a motion authorizing the Chairman to appoint a Search Committee. This committee will proceed with the process of hiring a replacement for the county administrator. Supervisor Waddell seconded the motion. The vote is as follows:

AYES: 6  
NAYS: None  
ABSENT: Wade H. Blevins, Jr.

Mr. Chairman appointed himself to the Search Committee to serve as Chair; he also appointed Supervisor Dishner and Supervisor Waddell to this committee.

**INFORMATION**

The Evergreen Soil and Water Conservation District will hold their annual brunch at the Pioneer Restaurant on Tuesday, March 10 at 10:30 a.m.

**ADJOURN**

Supervisor Neitch motioned to adjourn the meeting. Supervisor Waddell seconded the motion and the vote is as follows:

AYES: 6  
NAYS: None  
ABSENT: Wade H. Blevins, Jr.

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C. C. Clark, Jr., Chairman





*Note from the Clerk: These minutes are written as the agenda was presented. Some votes may appear out of order.*

The Smyth County Board of Supervisors held its regular meeting at 12:00 noon, Tuesday, March 10, 2009. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.    Darlene R. Neitch  
M. Todd Dishner            Wade H. Blevins, Jr.  
Brenda J. Waddell          Marvin R. Perry  
Michael D. Roberts

**STAFF PRESENT:**

Ed Whitmore, County Administrator  
Michael Carter, Assistant County Administrator  
John H. Tate, Jr., County Attorney

**OTHERS PRESENT:**

Amber Johnson, Administrative Assistant  
Charlie Atkins, CFO  
Sally Morgan, Economic Development Planner  
Kenny Lewis, Chief Deputy  
Dan Kegley, Smyth County News & Messenger

**CALL TO ORDER, INVOCATION & PLEDGE OF ALLEGIANCE**

With a quorum present, the meeting was called to order at 12:00 noon. Rev. Chris Mason gave the invocation and Amber Johnson led the pledge of allegiance.

**ADOPTION OF AGENDA**

Supervisor Neitch motioned to adopt the agenda as to form along with the additional agenda. Supervisor Blevins seconded the motion, vote is as follows:

AYES:            7  
NAYS:            None

**MINUTES OF PREVIOUS MEETINGS**

The Board was presented with Tuesday, February 10, 2009 minutes for adoption. Supervisor Blevins made the motion to approve these minutes as presented. Supervisor Dishner seconded the motion. The vote is as follows:

AYES:            7  
NAYS:            None

**PAYMENT OF COUNTY INVOICES**

Supervisor Blevins motioned to approve the following listed appropriations.

Appropriations

General County	\$1,000,000
North Holston Water	\$40,635.14
Long Hollow Water	\$84,109.69
Community Development Block Grant	\$131.23

Social Services (March 11-31, 2009)	\$300,000
(April 1-14, 2009)	\$80,000
Schools - Operating Fund	\$3,800,000
Debt & Capital Outlay	\$75,000

Supervisor Roberts seconded the motion. The vote is as follows:

AYES: 7  
NAYS: None

Supervisor Blevins motioned to approve the accounts payable listing in the amount of \$352,777.05. Supervisor Neitch seconded the motion for approval. The vote is as follows:

AYES: 7  
NAYS: None

### **CITIZEN'S TIME**

Dennis Gale Carter spoke in reference to the radio tower on Flat Top and the damage being done to the road during its construction. He asked if gravel could be put down on the road to hold it over until construction is complete. He also inquired if the road would be put back into the condition that it was before the construction. Mr. Wilbert Holmes also spoke on this issue. The staff informed these citizens of a meeting coming up with the contractors. They will pose these questions to the contractor. Mr. Shannon Williams, who is coordinating the project will relay comments from this meeting to Mr. Carter.

Chris Hash appeared before the Board inquiring of county land that could be used by a model airplane club. His request was referred to the Building and Ground Committee for research into what land the County has that could meet the needs of a club such as this.

### **NEW BUSINESS**

1. Adoption of a resolution honoring Mr. Larry Davis. - Supervisor Perry motioned to adopt the resolution below. Supervisor Dishner seconded the motion and it passed unanimously.

### **RESOLUTION**

In Appreciation of Larry Davis for His Service and Leadership to Smyth County

WHEREAS, Larry Davis served as President and CEO of Royal Mouldings in Marion for many years; and

WHEREAS, Larry Davis, in addition to his role with his company, contributed significantly to the community and economic development of Smyth County; and

WHEREAS, Larry was Chairman of the Smyth County Industrial Council for several years and his leadership resulted in successful fundraising for the Lincoln Theatre, the adoption of a county zoning ordinance, and critical awareness of and improvements to the workforce development needs of Smyth County; and

WHEREAS, Larry also served as a member of the Smyth County Industrial Development Authority; and was selected as Business Person of the Year in 2004 by the Chamber of Commerce of Smyth County, Inc.

WHEREAS, Larry provided strong, but quiet leadership (behind the scenes and without much recognition), hard-work and dedicated efforts that brought real results.

THEREFORE BE IT RESOLVED THAT the Smyth County Board of Supervisors recognizes the leadership and contributions made to Smyth County by Larry Davis, and

BE IT FURTHER RESOLVED THAT the Smyth County Board of Supervisors expresses its appreciation and gratitude to Larry Davis for his outstanding contributions to the community and economic development efforts of Smyth County, and due to his untimely death, extends those expressions to his two daughters.

**2.** Mountain States Health Alliance - Resolution of Support. - Stacey O'Quinn, Community and Government Relations Manager explained the resolution in regards to the advantages of cardiac catheterization services in the area.

Supervisor Roberts motioned to approve the resolution below. Supervisor Blevins seconded the motion and it passed unanimously.

### **RESOLUTION**

#### **A RESOLUTION IN SUPPORT OF AN APPLICATION BY JOHNSTON MEMORIAL HOSPITAL TO INTRODUCE CARDIAC CATHETERIZATION SERVICES**

Whereas, cardiac catheterization services are not currently available within the local community and residents must travel to obtain cardiac catheterization services, many leaving the state to access this level of care; and

Whereas, cardiac catheterization services at Johnston Memorial Hospital (JMH) would reduce the driving time and out of pocket traveling expenses now required of area residents to access cardiac catheterization services at a local Virginia facility; and

Whereas, the local community already has a higher rate of deaths due to heart disease compared to the state average and with a large aging population, future utilization of more complex cardiovascular will increase; and

Whereas, JMH, soon to be part of the Mountain States Health Alliance (MSHA) family, will work closely with Russell County Medical Center (RCMC) and Smyth County Community Hospital (SCCH) to coordinate care for their local residents, providing access to medical cardiology at RCMC and SCCH, including post-procedure follow-up care, and diagnostic cardiac catheterization services at JMH.

NOW THEREFORE BE IT RESOLVED, by the Smyth County Board of Supervisors in Regular Session assembled 10 March 2009, that the County officially supports the application for Johnston Memorial Hospital to seek permission to introduce cardiac catheterization services (COPN Request No: VA-7630).

### **COMMITTEE RECOMMENDATIONS**

#### **1. Budget Committee**

**a.** Governmental Accounting Standard Board (GASB) 45. - Mr. Atkins explained to the Board that the Governmental Accounting Standard Board (GASB) 45 is a part of the audit requirements and that an actuary is needed to

do the math for the study. This service provides statistics of insurance and future service cost for retirement. BB&T offers this service and is currently providing the service for all surrounding localities. The vote is as follows:

AYES: 7  
NAYS: 0

With the recommendation of the Budget Committee, the Board agreed to hire BB&T for the Governmental Accounting Standard Board (GASB) 45, not to exceed \$11,000. This is to be a joint undertaking with the School Board Office. The vote is as follows:

AYES: 7  
NAYS: 0

**b.** Appropriation for the Rich Valley Fair Association. - With the Budget Committee's recommendation, the Board appropriated funds for the Rich valley Fair Association. The county serves as the fiscal agent for a Tobacco Commission grant for the Association. When the requested funds have been received from the Commission, payment in the amount of \$62, 045.58 will be made to Highlands Industrial Millwright & Maintenance, Inc., the contractor of the project. The vote is as follows:

AYES: 7  
NAYES: 0

**c.** Current year budget adjustments within the Maintenance Department budget. - With the Budget Committee's recommendation, the Board agreed on four (4) changes within the Maintenance Department budget (FY 08-09) for reallocation to better cover expenses until the end of the physical year. These changes total \$49,800, no increases are included. The vote is as follows:

AYES: 7  
NAYS: 0

**2. Animal Control Committee** - With the recommendation from the Animal Control Committee, the Board The approved payment of the following claims totaling \$1499 (appropriated from the Animal Control, Claims & Bounties #003-91060-5802).

	<u>NAME</u>	<u>APPROVED</u>
1)	Dewayne Kimberline(7 goats)	\$360
2)	Angela Dickerson (1 pigmy goat)	\$40
3)	Chilhowie Land Co. (2 heifers)	\$720
4)	Tim Holley(2 goats)	\$125
5)	Rick Hamm(1 ewe, 1 lamb)	\$254
<b>TOTAL:</b>		<b>\$1499</b>

The vote is as follows: AYES: 7  
NAYS: 0

**3. Ordinance Committee** - With the recommendation of the Ordinance Committee, Supervisor Roberts motioned and Supervisor Dishner seconded for a public hearing to be held on April 14, at 3pm. This hearing is to take public comment on amending Section 8-127 under the present Code Section 10-65.1. This section may be changed to Smyth County Code Section 8-127 in the new version of the Smyth County Code. This proposed amendment is necessary



because of Section 3.2-6587 of the Code of Virginia, as amended, and the purpose of the proposed changes to the Smyth County Code are to conform the punishments for violations of the Animal laws of Smyth County to the provisions for punishment for these offenses set out in the Code of Virginia. If the amendment is adopted, it would conform to State Code. The vote is as follows:

AYES: 7  
NAYS: 0

#### **OTHER BUSINESS**

Supervisor Dishner motioned and Supervisor Perry seconded to fund \$1,000 from the Board's contingency line for Mr. Whitmore's retirement festivities. The vote is as follows:

AYES: 7  
NAYS: 0

#### **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Steve Buston of the Abingdon Residency reviewed a Blueprint Organization/Staffing Implementation handout and answered brief questions from the members. Robert Hurt, also of the Abingdon Residency distributed maintenance concerns to the appropriate district members.

#### **CHRIS GILLEY - MOUNT ROGERS PLANNING DISTRICT COMMISSION**

Ms. Gilley presented the following six (6) documents in relation to the Groseclose Sewer Project:

1. Local Business and Employment Plan
2. Resolution Adopting Residential and Anti-Displacement and Relocation Assistance Plan
3. Resolution - Fair Housing Certification in Compliance with Title VIII of the Civil Rights Act 1968
4. Non-Discrimination Policy
5. Resolution Adopting Section 504 Grievance Procedure
6. Self-Evaluation Site Accessibility Checklist

Mr. Roberts motioned to approve the County Administrator signing the above required documents in regards to the Groseclose Sewer Project. Supervisor Waddell seconded the motion. The motion is as follows:

AYES: 7  
NAYS: 0

#### **DAVID BARRETT, EXECUTIVE DIRECTOR MOUNT ROGERS PLANNING DISTRICT COMMISSION**

Mr. Barrett gave an update of the Commission's activities, distributing a pamphlet of their services and upcoming projects. The Commission is in the process of putting together the annual work program. Now is the time for submission if the Board has projects they would like for the Commission to study. He also informed the Board of the upcoming Commission Annual Dinner meeting to be held on April 2 at 6:00 pm, at the Holston Hills Country Club. This is the 40th anniversary celebration of the MRPDC. Mr. Barrett left the Smyth Washington Industrial Facilities Authority annual report with Mrs. Sally Morgan. Mr. Barrett answered various questions from the Board, most in relation to the present stimulus package funds being passed to localities.

#### **Public Hearing**

At the direction of the Ordinance Committee, the Board opened a public hearing at 2:45 p.m., as advertised in the Smyth County News and Messenger on Wednesday, February 25, 2009, for the consideration of an amendment to the Smyth County Code, §34-77. No citizens were present to speak on this matter therefore the reading of the publication and the rules for hearings were forgone.

Mr. Tate briefly stated that this amendment was approved in June 2007 on an emergency basis however, a public hearing did not follow to make the change from \$5 to \$10 permanent.

Supervisor Roberts motioned to approve the amendment to the Smyth County Code, §34-77, as advertised. Supervisor Neitch seconded the motion and the vote is listed below. This amendment is authorized under §53.1-120 of the Code of Virginia, as amended. The purpose is to increase the current fee imposed by §34-77, by an additional Five Dollars (\$5.00) to a total of Ten Dollars (\$10.00) on each conviction of a criminal and traffic case in the District and Circuit Court of Smyth County, Virginia, effective March 10, 2009.

The amended County Ordinance, §34-77, will require the Clerk of each District Court, and the Clerk of the Circuit Court to assess and collect an additional sum of Five Dollars (\$5.00) as a part of the costs in each criminal or traffic case in which the defendant is convicted of a violation of any statute or ordinance which will make the assessment of costs Ten Dollars (\$10.00).

The amendment to the ordinance will not affect the purpose of the use of the fees, except as outlined the ordinance. However, the ordinance will continue to require that any funds collected by the Clerk's of these Courts will be remitted by the respective Clerk to the Treasurer of Smyth County, and require the Treasurer to continue to segregate such funds. These funds may be appropriated by the governing body of Smyth County to the Sheriff of Smyth County for the sole purpose of funding Courthouse security personnel and for the approved purchase of approved equipment for such purposes by the Sheriff.

AYES: 7  
NAYS: 0

The amendment is as follows:

**Purpose of the Amendment:**

*This amendment will make a to change Chapter 34 of the Smyth County Code, **Finance and Taxation, Article III, Court Costs**, which ordinance is currently set out as §34-77 in the County Code of 1995, as amended. This amendment will increase the additional assessment of costs on criminal and traffic convictions in the Courts of Smyth County from the amount previously fixed by the Smyth County Code, effective on July 1, 2004 following a public hearing on April 13, 2004, of Five Dollars (\$5.00). The authority for this new fee is permitted under §53.1-120 of the Code of Virginia, as amended on July 1, 2007.*

*The purpose of the proposed amendment to §34-77 is to increase the fee assessed as costs on criminal and traffic convictions in the Courts of Smyth County from the fee of Five Dollars (\$5.00) on each such conviction to the sum of Ten Dollars (\$10.00) on each such conviction for the sole purposes permitted under §53.1-120 (D) of the Code of Virginia, as amended, by use of the separate account with the Treasurer of Smyth County. These funds will be disbursed by appropriations by the Board of Supervisors to the Sheriff's Office for the sole purpose of funding of Courthouse security, or if requested by the Sheriff, and approved by the Board, for equipment and other personal property used in connection with Courthouse security.*

The amended Ordinance is as follows:

#### **DIVISION 4. COST ASSESSMENT FOR COURT SECURITY**

§ 34-77 (1) The Clerk of each District Court of Smyth County, Virginia, and the Clerk of the Circuit Court of Smyth County, Virginia shall assess and collect an additional sum of Ten Dollars (\$10.00) as a part of the costs in each criminal or traffic case in which the defendant is convicted of a violation of any statute or ordinance.

(2) Any funds collected by the Clerk of each of the respective courts shall be remitted monthly to the Treasurer of Smyth County. The Treasurer shall maintain a separate internal record, and shall provide a means to segregate any funds received by the Treasurer as a result of this ordinance from other funds received by the Treasurer.

(3) All funds received by Smyth County Virginia as a result of this ordinance may be appropriated by the governing body to the Sheriff of Smyth County for the sole purpose of funding courthouse security personnel, or upon request of the Sheriff, and approval by the governing body, for the purchase of equipment and other personal property used in connection with courthouse security.

(4) This section shall be effective on the date of its adoption by the Board of Supervisors of Smyth County, Virginia following a public hearing, and without a delay to the next meeting of the Board of Supervisors.

Sections 34.78 to 34.120. Reserved

On a vote of the Board of Supervisors, with a quorum present, following a public hearing on March 10, 2009 at 2:45 PM, of 7 Aye, 0 Nay, 0 absent/abstained, the Smyth County Board of Supervisors adopted the proposed amendment to this ordinance to provide that the Smyth County Code shall impose an additional court cost of Five Dollars (\$5.00), making a total assessment of Ten Dollars (\$10.00), on a conviction in the General District Courts and the Circuit Court of Smyth County, Virginia, as outlined in this record of the action of the Board.

This amendment shall become effective on this date, March 10, 2009 at 5:00 PM.

#### **Public Hearing**

Pursuant to the provisions of §15.2-5136 of the Code of Virginia, at 3:00 p.m., the Smyth County Board of Supervisors proceeded with a public hearing to consider a proposed amendment to the tipping fee schedule for the operation of the Smyth County Transfer Station and the disposal of solid waste.

The publication below was run in the Smyth County News and Messenger on Saturday, February 21, 2009. Due to the fact that there were no citizens signed up to speak or present to speak, Supervisor Perry motioned to forgo the reading of the rules for public hearings and the reading of the publication. Supervisor Roberts seconded the motion and passed unanimously by all members present (Supervisor Blevins was not in the room at this time).

#### **PUBLIC HEARING NOTICE OF PROPOSED SOLID WASTE DISPOSAL FEES**

Pursuant to the provisions of §15.2-5136 of the Code of Virginia, the Smyth County Board of Supervisors herewith gives public notice of the following:

The Board of Supervisors has adopted a proposed scheduled of tipping fees for the operation of the Smyth County Transfer Station and the disposal of solid waste in the County for the period beginning April 1, 2009, and continuing until further action by the Board of Supervisors.

This proposed rate, which will be the subject of a public hearing conducted by the Board on Tuesday, March 10, 2009 at 3:00 p.m., or soon thereafter, at the office of the Board, 121 Bagley Circle, Marion, VA, is proposed to replace the current disposal fee schedule charged by the County until any further action by the Board. The proposed fees are as follows:

1. For any acceptable materials delivered to the Smyth County Transfer Station, located north of the Town of Chilhowie, VA, west of State Route 107, a flat rate charge of \$52 per ton.
2. For any tires accepted at the Smyth County Transfer Station at the address above, charges are as follows: less than 16 inches - \$2.50 each

17 inches - 24 inches - \$7.50 each  
25 inches or greater - \$13.25 each  
Cut or chipped tires - \$165 per ton

*These proposed rates will be considered at the public hearing aforesaid, and official rates will be adopted at that meeting, or prior to April 1, 2009, to become effective on that date.*

*Details of the proposed fee schedule are available from the office of the County Administrator, 121 Bagley Circle, Marion, VA, 276-783-3298.*

*Done by Order of the Board of Supervisors  
Edwin B.J. Whitmore, III, County Administrator*

No remarks were made in regards to these changes. Therefore the public hearing was closed.

Supervisor Neitch motioned to suspend Section 6.2-4 of the Board's Rules of Procedures. Section 6.2-4 states: Except in emergency circumstances, no action shall be taken by the Board following a public hearing, and the issue shall be continued until the next regular meeting. Supervisor Waddell seconded the motion and passed unanimously by all members present (Supervisor Blevins was not in the room at this time).

Supervisor Perry motioned to adopt the proposed tipping fees as presented below:

1. For any acceptable materials delivered to the Smyth County Transfer Station, located north of the Town of Chilhowie, VA, west of State Route 107, a flat rate charge of \$52 per ton.
2. For any tires accepted at the Smyth County Transfer Station at the address above, charges are as follows:
  - less than 16 inches - \$2.50 each
  - 17 inches - 24 inches - \$7.50 each
  - 25 inches or greater - \$13.25 each
  - Cut or chipped tires - \$165 per ton

Supervisor Waddell seconded the motion and as noted in the publication, this is effective April 1, 2009. The vote is as follows:

AYES: 7  
NAYS: 0

Note: Mr. Perry left the meeting at this time.

#### **REES SHEARER, RAIL SOLUTIONS**

Mr. Shearer gave a power point presentation in regards to the 21<sup>st</sup> Century "Steel Interstate" Project (Rail Improvements). He reviewed the I-81 corridor transportation problems along with the economic impacts the Rail Improvements could have. He presented a Resolution of Support which was discussed and considered by the Board. No action taken on the resolution.

#### **OLD BUSINESS** Items marked with \*\* have updates

1. Collection of delinquent taxes **(8-10-04)**.

*\*\*At the January 13 meeting, the Board requested the Treasurer to provide the complete delinquent tax list of all tax payers, both real estate and personal property. The Board requested that this list be made available the meeting on March 10.*

*Mr. Carter informed the Board that he received the delinquent tax list, March 10.*

2. Marevine Slempp, request for water service on Fox Valley Road **(5-11-04)**.

3. Re-codifying of the Smyth County Code (**1-10-2006**). - Mr. Carter informed the Board that the County's remarks and changes to the proof have been sent back to the firm and we are now awaiting the updated version.
4. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).
5. Disposal of former school building at 105 East Strother Street (**7-11-06**).
6. Appointments: Board of Zoning Appeals (**2-12-08**)  
One Alternate - VACANT

**Area Beautification Committee Judges (12-9-08)**

(Chamber of Commerce, 1 year term each calendar year)  
Saltville District - Norma Marsh  
North Fork District - Debbie Ogle

*Supervisor Roberts motioned to reappointed Norma March (Saltville District) to the Chamber of Commerce Area Beautification Committee Judges. Supervisor Blevins seconded the motion and it passed unanimously. As with the previous appointees, these terms are calendar year and this one (1) year term is set to expire December 31, 2009.*

7. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer (**5-13-08**).
8. Radio System Project (**6-26-08**).  
*\*\*Pending legal review, the 911 Coordinator requests action for the award of the Radio Contract.*

*Shannon Williams spoke before the Board explaining that the language in the radio contract is near acceptable. There are five (5) concerns remaining that he and Mr. Tate are working to finish up. The Board placed this item on the next agenda, continued meeting on Thursday, March 26 to allow time for these concerns to be addressed. If they are addressed to the satisfaction of Mr. Williams and Mr. Tate the Board will consider the approval of the contract with Morcom.*

9. Request referred from the Budget Committee for a full Board discussion:  
In reference to a written request from the Commonwealth Attorney, Treasurer, and the Sheriff. Mr. Roy Evans, Commonwealth Attorney appeared before the Budget Committee on November 7 to explain the request on behalf of his office. He requested that the Board consider a raise for the Constitutional Offices equal with the raises of the county employees that was approved for fiscal year 2009. He stated that the requested raise would be from December 1, 2008 through June 30, 2009. The state has deferred their 2% raise for December 2008 to July 2009 (**11-12-08**).
10. Possibility of changing the tax reassessment schedule from every six (6) years to every four (4) years, referred to Budget Committee (**1-13-09**).

*Supervisor Perry motioned to withdraw the County's election to carry out the tax assessment schedule every six (6) years. By provisions of the Virginia State Code, this will drop the assessment schedule to every four (4) years. Supervisor Dishner seconded the motion. The vote is as follows:*

AYES: 7  
NAYS: 0

*The Board hopes this change will aid in streamlining the assessment process, as we are aware other counties in the region are on the four (4) year schedule. David Barrett, Executive Director of Mount Rogers Planning District Commission, David Hickey, Blue Ridge Mass Appraisal Company LLC, and the Commissioner of Revenue will be notified of this change.*

*Supervisor Neitch motioned to remove this item from old business. Supervisor Blevins seconded.*

AYES: 7  
NAYS: 0

11. Possibility of no longer selling car decals but adding that cost to tax tickets. The Ordinance Committee was asked to look at this for the end of 2009 **(1-13-09)**. - Mr. Whitmore gave a brief update on his research of the decal sales. He asked that the Ordinance Committee continue to study the issue.

12. Referred to the Water and Sewer Counsel, proceed with legal documents to provide uncollectable names and accounts from the Water and Sewer Department to other water providers in the county **(2-10-09)**.

13. Nuisance complaint against a property owned by Joseph F. Ellis, Jr. Before declaring this property a nuisance, the Board voted to allow 28 days until the March 10 meeting. The extension is time for the proper paper work to be filed with the Circuit Court to begin resolving a right of way issue with the Hearrell's (who filed the complaint) **(2-10-09)**.

*\*\*Zoning Administrator will update the Board on the status of this case.*

*Clegg Williams informed the Board that Mr. Patton Graham, counsel to Mr. Joe Ellis, had filed suit against Mr. & Mrs. Hearrell. Considering the length of time their civil case may take, Mr. Williams suggested that the Board declare the property a public nuisance and order that any action by the county be suspended until the civil case is resolved. The alternative, he explained, would be to leave the matter on the Board's "Old Business" agenda until the conclusion of the civil case.*

*The Board agreed to schedule another hearing at the next regular meeting in April to consider whether or not to declare this property a nuisance.*

#### **CLOSED SESSION**

At 3:50 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711- A.1 (Personnel Issues) and A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Blevins and the motion passed unanimously.

Upon returning to open meeting at 4:41 p.m., a motion was made by Supervisor Dishner to adopt the following resolution certifying the business conducted in closed session as follows:

#### **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Blevins and the vote is as follows:

AYES: 6  
NAYS: None  
ABSENT: Marvin R. Perry

The following meetings were noted on the agenda for information:  
Industrial Development Authority - Wednesday, March 18 at 3:30 p.m.  
Ordinance Committee - Thursday, March 19 at 2:00 p.m.  
Thursday, April 16 at 2:00 p.m.  
Water and Sewer Committee - Thursday, March 26 at 4:30 p.m.  
Planning Commission - Thursday, March 26 at 6:00 p.m.  
Continued Board meeting - Thursday, March 26 at 7:00 p.m.

**CONTINUE**

At approximately 4:45 p.m., Supervisor Neitch motioned to continue the meeting until Thursday, March 26 at 7:00 p.m. for a joint public hearing with the Planning Commission and any other issues that may come up before that time. Supervisor Waddell seconded the motion and the vote is as follows:

AYES: 6  
NAYS: None  
ABSENT: Marvin R. Perry

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C.C. Clark, Jr., Chairman







The Smyth County Board of Supervisors held a continued meeting at 7:00 p.m., Thursday, March 26, 2009. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
M. Todd Dishner	Wade H. Blevins, Jr.
Brenda J. Waddell	Marvin R. Perry
Michael D. Roberts	

**STAFF PRESENT:**

Ed Whitmore, County Administrator  
Michael Carter, Assistant County Administrator

**OTHERS PRESENT:**

Amber Johnson, Administrative Assistant  
Charlie Atkins, CFO  
Scott Simpson, Engineer  
Clegg Williams, Zoning Administrator  
Becca Kirk, Administrative Assistant

**PLANNING COMMISSION MEMBERS PRESENT:**

Dennis Blevins	Don Medley
Norman Sparks	Graham Davidson
Amy Tuell	Wayne Venable

**PLANNING COMMISSION MEMBERS ABSENT:**

Karl Kalber

**CALL TO ORDER**

Both Chairmen Clark and Blevins called the public hearing to order. Mr. Whitmore, County Administrator, read the following legal advertisement as published in the Smyth County News and Messenger, on March 14 and March 21 (Saturday editions). Mr. Whitmore also read the rules of procedures for public hearings. There were approximately five (5) citizens present interested in these applications.

***BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS AND  
SMYTH COUNTY PLANNING COMMISSION***

*The Smyth County Board of Supervisors and the Smyth County Planning Commission will conduct a joint public hearing on Thursday, March 26, 2009, at 7:00 P.M. or as soon after 7:00 P.M. as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application(s) to the Zoning Ordinance of Smyth County, Virginia:*

*An application from Harold Crouse for a Special Use Permit to construct an Accessory Building on a tract of land without a principal building. The property is located beside 643 Windy Ridge Road in Chilhowie. It is identified as Tax Map No. 65-A-10A and is zoned Agricultural/Rural.*

*An application from Loraine Price for a Special Use Permit to construct and operate a Kennel on a tract of land located beside 2228 Saltville Hwy in Saltville. The property is zoned Agricultural/Rural and is further identified as Tax Map No. 29-A-100C.*

*At this public hearing, subject to the rules of procedure of the Board of Supervisors and Planning Commission of Smyth County, Virginia, any person may appear and state his/her views thereon.*

*Copies of these applications along with their maps/drawings are on file in the Office of the County Administrator of Smyth County. Copies are also maintained by the County Zoning Administrator at the address given above, and may be viewed during regular business hours Monday through Friday.*

*Done by order of the Board of Supervisors and the Planning Commission.*

*Edwin B.J. Whitmore III, County Administrator*

*Dennis R. Blevins, Chairman of the Planning Commission*

## **APPLICATIONS SUBMITTED**

Harold Crouse - Special Use Permit: Mr. Williams summarized the first application submitted by Harold Crouse for a special use permit to construct an Accessory Building above one hundred fifty (150) square feet in size, without a main building. Mr. Crouse's property is approximately 48 ft. x 188 ft. in size, located on Windy Ridge Lane in Chilhowie, has a tax map no. of 65-A-10A, and is zoned Agricultural/Rural. Mr. Williams stated that notice of this public hearing was mailed to all adjoining property owners. He also pointed out the following sections of the zoning ordinance: Section 3-2.2 y) which allows the proposed use by issuance of a Special Use Permit, and Article VI which contains the provisions for Special Use Permits.

Mr. Harold Crouse was in attendance to answer questions of the Planning Commission and Board of Supervisors. Mr. Crouse stated that the building would be for personal storage and have proper drainage. It was highlighted that Mr. Crouse had already started the construction of the building and has not yet obtained a building permit, which is required pursuant to the Uniform Statewide Building Code.

Loraine Price - Special Use Permit: Mr. Williams explained Ms. Price's application to establish a Kennel on a vacant lot she owns beside her residence at 2228 Saltville Highway, which is zoned Agricultural/Rural and has a tax map no. of 29-A-100C. Mr. Williams stated that notice of this public hearing was mailed to all adjoining property owners. Mr. Williams also pointed out the following sections of the zoning ordinance: Section 3-2.2 g) which allows the proposed use by issuance of a Special Use Permit, Article VI which contains the provisions for Special Use Permits, and 10-39 which defines Kennel. He received one letter opposing the application from Louise D. McElraft which he read into the record.

Ms. Loraine Price presented her proposal to the Planning Commission and Board of Supervisors in great detail. She addressed questions and concerns to both panels regarding noise; location; sewage disposal; type, size and number of animals; previous experience; heating and air conditioning; hours of operation; size of building; size of runs; detailed description of the runs; drainage ditch; and disposal of animal waste.

Ms. Kim Eller spoke in favor of Ms. Price's application. She stated that she still owns property across the road from Ms. Price, but does not currently live there. She stressed that many animals (coon dogs, chickens, pigs, etc.) are already living in the neighborhood and everyone should already be accustomed to the noise. She stated that she felt Ms. Price had a very good idea.

Mr. Michael Colston spoke in opposition to Ms. Price's application. He voiced his concern regarding noise, septic, drainage way problems, and property values decreasing.

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Ms. Loraine Price responded to Mr. Colston's concerns. She also entered into the record a letter she received from one of her neighbors, Edward and Micki Swartz, stating that they were in favor of the Kennel.

Chairman Clark and Chairman Blevins closed the joint public hearing at 7:43 p.m.

Chairman Blevins recessed the Planning Commission to reconvene in the fourth floor board room while the Board of Supervisors continued their meeting.

At approximately 7:45 p.m., the Chairman called the Board meeting back to order.

**OTHER BOARD ITEMS**

1. School Superintendent, Dr. Michael Robinson

a. Fiscal Year 2009-2010 Proposed Budget - Dr. Robinson distributed the schools proposed 2009-2010 fiscal year budget. He covered the highlights of the budget and answered general questions. The Board scheduled the public hearing on this proposed budget for the next meeting on Tuesday, April 14 at 3:30 p.m.

b. Proposed Facilities Study - Dr. Robinson also distributed a summary of the proposed facilities study. He briefly reviewed the information and the proposed phases of the study. He will continue to work with the County Administration on this study progress.

2. 911 Coordinator, Shannon Williams addressed an old business agenda item, the Radio System Project. Since the last Board meeting, the outstanding issues with the Morcom International, Inc., contract have been resolved. Mr. Williams read a letter from Mr. Tate stating that he believed the legal terms of this contract are acceptable to the County.

Supervisor Perry motioned to approve the contract with Morcom International, Inc. for the radio system contract. Supervisor Dishner seconded the motion. The vote is as follows:

7 AYES  
0 NAYS

Mr. Williams and Mr. Atkins also addressed payment to Morcom International, Inc. Supervisor Blevins motioned to modify payment procedures to satisfy Morcom and their bonding company's request and requirements. Supervisor Neitch seconded the motion. The vote is as follows:

7 AYES  
0 NAYS

For the record, Mr. Williams left notes of a meeting with the contractor at Flat Top. There were citizens at the last Board meeting interested in the out come of this meeting. Mr. Williams forwarded these notes to those interested parties.

3. Scott Simpson

a. Supervisor Perry motioned to schedule a public hearing on the notice of intent to apply for funding with USDA, Rural Development of a proposed Fox Valley Water Distribution System project. The hearing is set for Tuesday, April 14, 2009 at 3:45 p.m. Supervisor Dishner seconded the motion.

The vote is as follows:

7     AYES  
0     NAYS

b.     With the recommendation of the Water and Sewer Committee, the Board approved the following resolution. The vote is as follows:

7     AYES  
0     NAYS

**SMYTH COUNTY BOARD OF SUPERVISORS  
RESOLUTION**

**WHEREAS**, the Smyth County Board of Supervisors has applied for funding for various drinking water projects in the County;

**WHEREAS**, the Virginia Department of Health - Office of Drinking Water has funded several drinking water projects in the County.

**WHEREAS**, the Smyth County Board of Supervisors have reviewed project planning material and found that the pre-requirements have been met for submitting a funding application.

**THEREFORE, BE IT RESOLVED**, the Smyth County Board of Supervisors hereby vote to seek additional funding from the Office for the following projects;

Burgess Hollow Line Extension	\$ 75,000
Good Pasture Hollow Line Extension	\$ 75,000
Highway 16 Line Extension	\$ 45,000
Kelly Hill / Mulberry	\$ 1,000,000
Porter Valley	\$ 500,000
Lucky Lane	\$ 400,000
Fox Valley Road	\$ 500,000

**THEREFORE, BE IT FURTHER RESOLVED** that the Smyth County Engineer shall immediately begin to process funding applications for these projects and be authorized to sign any and all documents to accept such funding contingent upon review and concurrence by the County Attorney.

The Chairman briefly mentioned a meeting with the Town of Marion in relation to the courthouse renovation.

Mr. Roberts reminded the Board of the upcoming Mount Rogers Planning District Commission annual meeting to be held April 2 at 6:00 pm, at the Holston Hills Country Club. This is the 40th anniversary celebration of the MRPDC.

**ADJOURN**

Upon motion of Mrs. Neitch, seconded by Mrs. Waddell, and unanimously carried, the meeting was adjourned at 8:31 p.m.

---

C.C. Clark, Jr., Chairman



*Note from the Clerk: These minutes are written as the agenda was presented. Some votes may appear out of order.*

The Smyth County Board of Supervisors held its regular meeting at 12:00 noon, Tuesday, April 14, 2009. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
M. Todd Dishner	Wade H. Blevins, Jr.
Brenda J. Waddell	Marvin R. Perry
Michael D. Roberts	

**STAFF PRESENT:**

Michael Carter, Assistant County Administrator  
John H. Tate, Jr., County Attorney

**OTHERS PRESENT:**

Amber Johnson, Administrative Assistant  
Charlie Atkins, CFO  
Sally Morgan, Economic Development Planner  
Mike Hounshell, Deputy  
Scott Simpson, County Engineer  
Dan Kegley, Smyth County News & Messenger

## CALL TO ORDER, INVOCATION & PLEDGE OF ALLEGIANCE

With a quorum present, the meeting was called to order at 12:00 noon. Mr. Walter Robinson gave the invocation and Shannon Williams led the pledge of allegiance.

## ADOPTION OF AGENDA

Supervisor Neitch motioned to adopt the agenda as to form along with the additional agenda. Supervisor Blevins seconded the motion, vote is as follows:

AYES: 7  
NAYS: None

## MINUTES OF PREVIOUS MEETINGS

The Board was presented with Tuesday, March 10, and Thursday, March 26, 2009 minutes for adoption. Supervisor Blevins made the motion to approve these minutes as presented. Supervisor Neitch seconded the motion. The vote is as follows:

AYES: 7  
NAYS: None

## PAYMENT OF COUNTY INVOICES

Supervisor Perry motioned to approve the following listed appropriations.

## Appropriations

General County	\$2,035,000
Animal Control	\$6,047.39
North Holston Water	\$68,984.04
Long Hollow Water	\$246,180.68
Social Services (April 15-30, 2009)	\$310,000
(May 1-12, 2009)	\$85,000

Schools - Operating Fund \$4,000,000  
Supervisor Blevins seconded the motion. The vote is as follows:

AYES: 7  
NAYS: None

Supervisor Dishner motioned to approve the accounts payable listing in the amount of \$1,338,299.73 (includes \$36,196.23 in expenditures going to Wiley Wilson and Mosley Architects in relation to the courthouse renovation). Supervisor Neitch seconded the motion for approval. The vote is as follows:

AYES:	5	C.C. "Charlie" Clark, Jr. Darlene R. Neitch M. Todd Dishner	Brenda J. Waddell Michael D. Roberts
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NAYS:	2	Wade H. Blevins, Jr.	Marvin R. Perry
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### **CITIZEN'S TIME**

Ms. Loraine Price was signed to speak at citizen time but was asked to return seeing that her item of interest was scheduled for 2:30.

### **NEW BUSINESS**

1. Mr. Atkins briefed the Board (with a handout) on the County's current financial standings. To date, the county has received \$55,663,974.04 in revenue and \$49,114,428.45 in expenses, this fiscal year. Compared to March 2008 there is a revenue increase of \$3,223,480.24 and expense increase of \$1,069,792.48. This comes to a case positive balance (revenue over expenses) of \$6,549,545.59. Mr. Atkins will make this update to the Board each month, and he is available for the Board's input.

The Comparative Report of Local Revenues & Expenditures was delivered in the past week and was distributed to the Board members. Mr. Perry inquired as to why Smyth County's statistics was not included the Report. Mr. Atkins stated that it was due to the fact that the audit was not complete. Mr. Roberts also added that this is the second year that Smyth County has not been included in this Report, due to an incomplete audit at the time of its printing.

Mr. Perry asked that Mr. Atkins convey his dismay to the auditing firm, that the audits have not been completed in a timely manner in the past two years. He hopes to see the County's information in the next Comparative Report of Local Revenues & Expenditures.

2. To comply with the Virginia Department of Transportation (VDOT) regulations, Supervisor Perry motioned to recognize two (2) large signs belonging to the Art League of Marion, as "official signs" advertising the 36th Annual Hungry Mother Festival. This year's festival will be held July 17-19, 2009. Supervisor Blevins seconded the motion and it passed with the vote below:

AYES: 7  
NAYS: None

### **3. Sally Morgan**

a. With a motion by Supervisor Roberts, seconded by Mr. Blevins, the following resolution was duly adopted.

*To the Honorable:*

*Jim Webb, United States Senator from Virginia*



Mark Warner, United States Senator from Virginia  
Bob Goodlatte, Member of Congress, VA-6  
Rick Boucher, Member of Congress, VA-9  
Frank Wolf, Member of Congress, VA-10

### **A RESOLUTION**

*Petitioning Virginia's Federal representatives to sponsor legislation to fund a comprehensive feasibility study of the proposed "Steel Interstate" rail system pilot project between Knoxville, TN and Harrisburg, PA. as a part of a National Steel Interstate System that could bring fast rail freight and passenger service potential to the nation*

**WHEREAS** a "Steel Interstate" rail system offers the promise of reduced Interstate truck traffic, reduced dependence on imported fuel, greater modal redundancy, enhanced national security, and—when electrified—offers the U.S. the opportunity to employ domestic renewable energy sources and efficiency to drive transportation; and

**WHEREAS** Steel Interstate technology offers positive advantages for communities, the Commonwealth, other Interstate 81 states, and the United States relating to cost, safety, economic growth, tourism development, decreased fuel consumption and greenhouse gas emissions, improved air quality and public health, and varied freight and passenger service options; and

**WHEREAS**, Smyth County Board of Supervisors adopted a resolution in 2003 that requested that rail alternatives be an "integral and necessary component of the Interstate 81 improvement project."

**WHEREAS** Congress is considering investments in transportation, energy efficiency, fuel conservation, renewable energy, greenhouse gas abatement, and infrastructure as fiscal stimulus for the nation, and the envisioned Steel Interstate rail project offers opportunity in all these areas;

**NOW, THEREFORE, BE IT RESOLVED**, that we, the Board of Supervisors of the County of Smyth, urgently petition our congressional delegation to work in concert with representatives of other I-81 Corridor states to sponsor and secure passage of funding for a comprehensive feasibility study for the pilot segment (between Knoxville and Harrisburg) of a National Steel Interstate System.

**BE IT FURTHER RESOLVED** that the Board of Supervisors believes that the following areas should be included in the comprehensive study: 1) a market feasibility analysis to identify and survey potential users; 2) engineering and design to determine required infrastructure improvements, options, costs, and speed improvement potential; 3) determination of appropriate environmental permitting; 4) exploration of financing, repayment, ownership and partnership scenarios; and 5) review of appropriate state/federal/private or other cooperative agreements.

**AND BE IT FURTHER RESOLVED** that the Board of Supervisors believes strongly that the Norfolk-Southern Corporation, as the owner of the current rail right-of-way and provider of rail service in the I-81 corridor, should be a primary supporter of and participant in the undertaking of the feasibility study.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Seal affixed.

\_\_\_\_\_  
C.C. Clark, Jr. Chairman

The vote is as follows:

AYES:	6	C.C. "Charlie" Clark, Jr. Darlene R. Neitch M. Todd Dishner	Wade H. Blevins, Jr. Michael D. Roberts Marvin R. Perry
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NAYS:	1	Brenda J. Waddell
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**b.** Supervisor Perry motioned to approve the building permit fee rebate in the amount of \$1,664 to Boothe Investments (billed to 081030-8888-1). Supervisor Dishner seconded the motion. The motion is as follows:

AYES:	7
NAYS:	None

#### **4. Scott Simpson**

Supervisor Roberts motioned to accept the lowest bid submitted by Atlantic Utility Solutions, Inc., in the amount of \$28,778. This bid is for 114 water meters and 136 radio transmitters and utilizes remaining funds from the North Holston Water Project for more meters in that area. This will be funded from the Water Department-Replacement Meters & Old Lines (501-085010-5413). Supervisor Blevins seconded the motion. The motion is as follows:

AYES:	7
NAYS:	None

Mr. Roberts thanked the staff for their hard work and efforts on the North Holston project to see it completed.

Mr. Simpson also briefly updated on two projects that are being considered for stimulus funding. Phase II of the Hall Addition/Staley Creek sewer collection system is on the list for sewer funds. Mr. Chairman had a letter from congressman on his support of those funds. Also, the Fox Valley Road project is being considered for drinking water funds. Mr. Simpson anticipates knowing about these funds by the end of April.

#### **5. Michael Carter**

**a.** Supervisor Perry motioned to approve the lease agreement for the convenience station in the Camp Community. Supervisor Blevins seconded the motion and the vote is as follows:

AYES:	7
NAYS:	None

b. After review, Supervisor Perry motioned to accept the bid dated April 9, 2009 from Ken Construction for the replacement of the tipping floor at the transfer station in Chilhowie, VA. The bid presented was in the amount of \$14,555. Supervisor Blevins seconded the motion and it passed with the vote as follows:

AYES: 7  
NAYS: None

**OTHER NEW BUSINESS NOT ON THE AGENDA**

1. Arthur Barker, Grant Writer at the Sheriff's Department updated the Board on a Recovery Grant to be advertised. The grant guidelines require that the governing body be notified 30 days prior to submission. Mr. Barker will return at the meeting in May with any public comments on the grant and request permission for submission.

2. At the request of Mr. Tate, Supervisor Roberts motioned to allow Mr. Tate proceed in releasing a lien against a property owner in the Watson Gap Community. This owner has paid their 10 year lien in full in relation to the CDBG rehab program. Supervisor Blevins seconded the motion and the vote is as follows:

AYES: 7  
NAYS: None

3. Supervisor Neitch motioned to hold payment for Crosspoint Contractors until the personal property issue with the Commissioner of Revenue and the Treasurer is resolved. Supervisor Waddell seconded the motion and the vote is as follows:

AYES: 7  
NAYS: None

4. Supervisor Perry motioned that Mr. Michael Carter serve as the Interim Clerk of the Board until May 1 and is named Clerk of the Board there after. Supervisor Neitch seconded the motion and the vote is as follows:

AYES: 7  
NAYS: None

5. Mr. Carter distributed information on the April 20 meeting in Wytheville hosted by Congressman Boucher, in regards to stimulus funds. The Board discussed who will be attending.

6. Supervisor Roberts mentioned the passing of Mr. Leonard Farmer, Executive Director of the Criminal Justice Board. Mr. Roberts, Sheriff Bradley, and Roy Evans are all appointed representatives from this area.

7. Mr. Tate updated that all suits against the three Regional Jail members have been dismissed.

8. Mr. Tate also informed the Board that Bonds with Mountains States Health Alliance and the County's IDA were closed and signed on March 30.

**COMMITTEE RECOMMENDATIONS**

**1. Budget Committee**

Supervisor Perry motioned to proceed in publishing the delinquent tax list, expeditiously and within legal guidelines. This publication should include real estate taxes delinquent for the years of 1989-2006 and personal property taxes delinquent for the years of 2004-2007. Supervisor Dishner seconded the motion. The vote is as follows:

AYES: 6      C.C. "Charlie" Clark, Jr.      Darlene R. Neitch  
                 M. Todd Dishner                      Wade H. Blevins, Jr.  
                 Marvin R. Perry                         Brenda J. Waddell

NAYS: 1      Michael D. Roberts

## 2.      **Water and Sewer Committee**

With the recommendation of the Water and Sewer Committee, and a motion by Supervisor Neitch, seconded by Supervisor Blevins, the Board unanimously approved that the following accounts be written off due to the fact that successful judgments could not be placed on these past customers. Should these persons be found, the monies can be collected.

Maxine McMullen	\$139.82
Dusty Alan Lefler	\$34.28
Ginger Ruth Griffin	\$152.92 (returned check)
Kelly Lynn Goff	\$146.89
Kelly Ann Gilbert	\$98.49
Heather Yarber	\$29.69
<b>TOTAL</b>	<b>\$602.09</b>

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Steve Buston of the Abingdon Residency was in attendance to answer questions and explain the following resolutions.

Supervisor Perry motioned to adopted both of the following resolutions in regards to road closings. Dates may vary depending on when school is out for the summer. Supervisor Blevins seconded the motion and the vote is as follows:

AYES:            7  
NAYS:            None

### **RESOLUTION**

**WHEREAS**, the Virginia Department of Transportation has deemed it necessary to close a portion of Upper Poore Valley Road (Route 633) in Smyth County for the replacement of bridge structure 6374, and;

**NOW, THEREFORE, BE IT RESOLVED**, that the Smyth County Board of Supervisors hereby concurs with the Virginia Department of Transportation's decision to close a portion of Upper Poore Valley Road to through traffic from May 18, 2009 until reconstruction of structure 6374 is complete.

**BE IT FURTHER RESOLVED** that a certified copy of this resolution is forwarded to the Resident Engineer for the Virginia Department of Transportation.

### **RESOLUTION**

**WHEREAS**, the Virginia Department of Transportation has deemed it necessary to close a portion of Allison Gap Road (Route 634) in Smyth County for the replacement of bridge structure 6111, and;

**NOW, THEREFORE, BE IT RESOLVED**, that the Smyth County Board of Supervisors hereby concurs with the Virginia Department of Transportation's decision to

*close a portion of Allison Gap Road to through traffic from June 8, 2009 until reconstruction of structure 6111 is complete.*

**BE IT FURTHER RESOLVED** that a certified copy of this resolution is forwarded to the Resident Engineer for the Virginia Department of Transportation.

The Board scheduled the joint public hearing with VDOT regarding the Six Year Plan at 3:00 p.m. on May 12 at the next regular meeting.

#### **CON SMITH**

Mr. Con Smith, Smyth County's representative on the Smyth Washington Regional Industrial Facilities Authority highlighted their 2008 annual report. A summary of the report was included in the Board agenda.

#### **ZONING DEPARTMENT - CLEGG WILLIAMS**

##### **a. Planning Commission Recommendation**

Supervisor Blevins motioned to over turn the Planning Commission's recommendation and approve the application for a special use permit submitted by Loraine Price to establish a Kennel. Supervisor Dishner seconded the motion. This motion conditions that Ms. Price stay within the guidelines she reviewed on April March 26, a cinder block building for only 8 dog runs. Should she deviate from these, she will return to the Board for approval. The vote is as follows:

AYES:	5	C.C. "Charlie" Clark, Jr. M. Todd Dishner Marvin R. Perry	Darlene R. Neitch Wade H. Blevins, Jr.
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NAYS:	2	Brenda J. Waddell Michael D. Roberts
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Mr. Williams explained that the application submitted by Harold Crouse for a special use permit, heard on the above date, was overturned by the Planning Commission. However, since the hearing, Mr. Crouse withdrew his application.

##### **b. Nuisance complaint against a property owned by Joseph F. Ellis, Jr.**

At the March 10 meeting, Clegg Williams informed the Board that Mr. Patton Graham, counsel to Mr. Joe Ellis, had filed suit against Mr. & Mrs. Hearrel, regarding the right of way issue. Considering the length of time their civil case may take, Mr. Williams then suggested that the Board declare the property a public nuisance and order that any action by the county be suspended until the civil case is resolved. In March, the Board agreed to schedule another hearing at the next regular meeting in April to consider whether or not to declare this property a nuisance.

Mr. Patton Graham and Mrs. Susie Ellis were present for this hearing portion of the meeting. Mr. Williams explained that the Board had the option of declaring the property a public nuisance and order that no action is taken by the county until the civil case is resolved or to leave the matter on the Board's "Old Business" agenda until the conclusion of the civil case.

Following discussion, Supervisor Perry motioned leave the matter on the Old Business agenda until the conclusion of the civil case is resolved. At that time, the nuisance issue will be revisited. Supervisor Dishner seconded the motion. Mr. Graham will update the Board on the civil case as it progresses. The vote is as follows:

AYES:	7	NAYS:	None
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**c. Nuisance complaint against the Sanders Jackson property.**

Supervisor Neitch motioned to name Donald Lee Jackson (of Chilhowie) and William D. Jackson (of Bristol, VA), heirs to the Sanders Jackson property, as the responsible parties. Mr. Sanders Jackson is deceased. This property has previously been named a nuisance by the Board. Supervisor Waddell seconded the motion. The vote is as follows:

AYES:	6	C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
		M. Todd Dishner	Brenda J. Waddell
		Marvin R. Perry	Michael D. Roberts

NAYS: 1 Wade H. Blevins, Jr.

**PUBLIC HEARING**

At 3:00 p.m. the Board proceeded with a public hearing. Mr. Carter read the publication below as ran in the Smyth County News and Messenger, March 28 and April 4, 2009, both Saturday editions. Being that there were no citizens present, the rules for public hearing were not read.

**NOTICE OF PUBLIC HEARING**

The Board of Supervisors of Smyth County, Virginia will conduct a public hearing at the Office of the Board of Supervisors, **121 Bagley Circle, Suite 100, Marion, Virginia, on April 14, at 3:00 PM**, to consider an amendment to the Smyth County Code relating to the Animal laws of the County. These amendments will relate to enhanced punishment for violations of the animal laws of the Commonwealth and the County. These proposed amendments are under present Code section §10-65.1 which may be changed to Smyth County Code Section §8-127 in the new version of the Smyth County Code.

This proposed amendment is necessary because of §3.2-6587 of the Code of Virginia, as amended, and the purpose of the proposed changes to the Smyth County Code are to conform the punishments for violations of the Animal laws of Smyth County to the provisions for punishment for these offenses set out in the Code of Virginia.

This public hearing will propose to amend §10-65.1 of the Smyth County Code (new §8-127 of the revised Code) to rewrite the section to conform to the applicable parts of the Code of Virginia. The current provisions of §30-65.1 will be eliminated from the Smyth County Code, and will be replaced by sections described in the full text of the proposed amendments to the Smyth County Code. The amendments, among other changes, will provide:

"If the known owner of any dog or cat shall fail to pay any license tax required by this Chapter before February 1 for the year in which it is due, he or she shall be guilty of a Class 4 misdemeanor, and in addition, the Court may order confiscation and the proper disposition of the dog or cat." There are other significant changes proposed by the amendments, including other actions which may constitute a Class 4 misdemeanor, and two violations which would constitute a Class 1 misdemeanor, all as explained in the full text of the proposed amendments.

**At this public hearing, which will be held at the Office of the Board, 121 Bagley Circle, Suite 100, Marion, Virginia, on April 14, 2009 at 3:00 PM**, and subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state their views thereon.

A full copy of the text of the proposed amendments to the Animal laws, and specifically to §10-65.1 (proposed to be revised §8-127 of the Smyth County Code) is on file at the office of the County Administrator at the address given above, and may be viewed or a copy secured during regular business hours Monday through Friday.

The public is encouraged to secure copies of the full text of the proposed amendments, which relate to increased penalties for violations of the Animal laws of Smyth County.

By order of the Board of Supervisors on March 10, 2009.

Edwin B. J. Whitmore, III  
County Administrator

Mr. Bill Turman, Chief Animal Control Officer was present to address any questions. The hearing was closed at 3:04p.m. The adoption of this proposed amendment will be continued until the Board meeting on May 12.

Mr. Turman updated the Board on recent rabies cases in the county. There have been 4 confirmed cases to date, this year. He stated that his department has taken the necessary precautions to get the word out that this is a problems this year. The schools have been contacted. Supervisor Perry requested that the local Virginia Department of Health be contacted for a statement on the issue by the next regular meeting on May.

**PUBLIC HEARING**

At 3:30 p.m. the Board proceeded with a public hearing as in the publication below. Mr. Carter read the publication which was advertised in the Smyth County News and Messenger Saturday, April 4, 2009. With no citizens present, the rules for public hearings were not read.

**NOTICE OF PUBLIC HEARING ON THE SMYTH COUNTY SCHOOL BUDGET  
Tuesday, April 14, 2009 at 3:30 p.m.  
FOR FISCAL YEAR COMMENCING July 1, 2009 – June 30, 2010**

*This budget synopsis is prepared and published in accordance with Section 15.2-2506 and 22.1-93, of the Code of Virginia of 1950, as amended. The budget has been prepared and proposed on the basis of estimates made by the Smyth County School Board. The adoption of this proposed budget shall require a monthly appropriation by the Smyth County Board of Supervisors as required in Section 15.2-2506 for any contemplated expenditures.*

*The Smyth County Board of Supervisors will conduct a hearing for the purpose of receiving public comment on the proposed School Board budget for fiscal year beginning July 1, 2009. The public hearing will be held in the **Board of Supervisors meeting room, 121 Bagley Circle, Smyth County Office Building on Tuesday, April 14, 2009 at 3:30 p.m.***

*Subject to the rules and procedures of the Board of Supervisors, at the above-mentioned day, time, and place any citizen of Smyth County may appear and express their opinion (s).*

*A full copy of the proposed Smyth County School Board budgets is on file at the Office of the County Administrator, 121 Bagley Circle, Suite 100, Marion, Virginia, and may be viewed during regular business hours 8:00 a.m. – 5:00 p.m., Monday – Friday.*

By order of the Smyth County Board of Supervisors  
Edwin B.J. Whitmore, III, County Administrator

Smyth County School Board			
Operations Budget For the Year Ending June 30, 2010			
Revenue Summary for Operations Budget			
	2008-2009	2009-2010	Difference
State Revenue	\$ 31,544,177	\$ 31,303,890	\$ (240,287)
Local Revenue	\$ 8,832,233	\$ 7,839,529	\$ (992,704)
Federal Revenue	\$ 4,662,522	\$ 5,031,094	\$ 368,572
State Sales Tax	\$ 4,325,228	\$ 4,134,070	\$ (191,158)
Other Revenue	\$ 1,445,751	\$ 1,633,801	\$ 188,050
TOTAL OPERATIONS	\$ 50,809,911	\$ 49,942,384	\$ (867,527)
Expenditure Summary for Operations Budget			
	2008-2009	2009-2010	Difference
Instruction	\$ 37,488,347	\$ 36,888,581	\$ (599,766)
Administration	\$ 1,865,929	\$ 1,788,647	\$ (77,282)
Transportation	\$ 2,456,317	\$ 2,424,632	\$ (31,685)
Facilities	\$ 5,173,127	\$ 4,873,799	\$ (299,328)
Food Service	\$ 2,230,539	\$ 2,406,408	\$ 175,869
Technology	\$ 1,595,652	\$ 1,560,317	\$ (35,335)
TOTAL OPERATIONS	\$ 50,809,911	\$ 49,942,384	\$ (867,527)

Smyth County School Board			
Capital Outlay and Debt Service Budget For the Year Ending June 30, 2009			
Revenue Summary for Capital Outlay and Debt Service Budget			
	2008-2009	2009-2010	Difference

State Funds - Lottery	\$ 459,218	\$ 174,820	\$ (284,398)
State Funds - School Construction	\$ 179,174	\$ -	\$ (179,174)
Local Funds - Debt Service	\$ 625,672	\$ 1,137,440	\$ 511,768
Local Funds - Capital Outlay	\$ 407,468	\$ 185,138	\$ (222,330)
TOTAL CAPITAL OUTLAY	\$ 1,671,532	\$ 1,497,398	\$ (174,134)

<b>Expenditure Summary for Capital Outlay and Debt Service Budget</b>			
	<b>2008-2009</b>	<b>2009-2010</b>	<b>Difference</b>
Capital Outlay – Facilities	\$ 407,468	\$ 185,138	\$ (222,330)
Capital Outlay - Debt Service	\$ 1,264,064	\$ 1,312,260	\$ 48,196
Total Capital Outlay Budget	\$ 1,671,532	\$ 1,497,398	\$ (174,134)

Dr. Michael Robinson, School Superintendent and Dr. Jeff Cassell, Director of Operations and Finance were present to address brief questions from the Board. The hearing was closed at 3:35 p.m. Due to budget deadlines, this school budget will be voted on at the continued Board meeting on Thursday, April 23. Following a brief recess, Mr. Perry left the meeting at 3:35 p.m.

### **PUBLIC HEARING**

As stated in the publication below, the Board proceeded with a public hearing at 3:45p.m. Mr. Carter read the publication as ran in on Wednesday, April 1, in the Smyth County News and Messenger. There were no citizens present to speak therefor the rules for public hearings were not read. Mr. Scott Simpson was available for questions. The hearing was closed at 3:48p.m.

### **NOTICE OF INTENT TO APPLY FOR FUNDING AND NOTICE OF PUBLIC HEARING**

*The Smyth County Board of Supervisors hereby provides notice that it intends to file an application for funding with USDA, Rural Development for funding of a proposed Fox Valley Road Water Distribution System project, which consists of the installation of approximately 16,400 linear feet of new 6 inch water line to serve an estimated 30 residences.*

*A public hearing on the proposed project will be held on April 14, 2009 at 3:45 p.m. or as soon thereafter. Anyone requesting information on this project or to offer comments should attend this meeting, which will be held at the Board of Supervisors meeting room, 121 Bagley Circle, Marion, Virginia.*

### **PUBLIC HEARING**

At 4:00p.m., the Board proceeded with the public hearing as detailed below in the publication as read my Mr. Carter. This publication ran in the Smyth County News and Messenger on April 1 and 8, 2009, Wednesday editions. The rules were not read due to the fact that the only citizens present were Ann Pennington and Lucy Huffman, representatives of the Konnarock Community Center. Mr. Carter read for the record 2 letters that were mailed to the County Administrators office. These letters were both in support of the festival and the center, from Lloyd and Laura Walls and Charlotte B. Walls.

### **BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS**

*The Smyth County Board of Supervisors will conduct a hearing on Tuesday, April 14, 2009, at 4:00 P.M. or as soon there after, as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application for an Annual Musical or Entertainment Festival permit under the Code of Smyth County, Virginia:*

*The Konnarock-Green Cove Laurel Valley Community Association has submitted a festival application for an event to be held on Sunday, September 20, 2009. This event will be held at the Konnarock-Green Cove Community Center located at 6535 Whitetop Road, Troutdale, Virginia, 24378, and will be held between the hours of 11:00 a.m. and 5:00 p.m.*

*At this public hearing, subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state his/her views thereon.*

*A copy of this application along with their maps and plans are on file in the Office of the County Administrator of Smyth County at the address given above, and may be viewed during regular business hours Monday through Friday.*



*Done by order of the Board of Supervisors  
Edwin B.J. Whitmore III, County Administrator*

The staff answered brief questions on this festival application in regards to it being an annual festival permit. Ms. Pennington thanked the Board for their continued support to the citizens of the Konnarock community. The hearing was closed at 3:55p.m.

Due to application deadlines outlined in the festival ordinance adopted January 2009, Supervisor Neitch motioned to suspend Section 6.2-4 of the Board's Rules of Procedures-*Except in emergency circumstances, no action shall be taken by the Board following a public hearing, and the issue shall be continued until the next regular meeting.* Supervisor Roberts seconded the motion and it passed with the vote as follows:

AYES: 6  
ABSENT: 1 Marvin R. Perry

Supervisor Neitch motioned to approve the festival permit application submitted by the Konnarock-Green Cove Laurel Valley Community Association (for an event to be held Sunday, September 20, 2009). Supervisor Roberts seconded the motion and it passed with the vote below. The Board approved up to three (3) events for calendar year 2009, so that the application and public hearing process would not have to be repeated. The Board placed the condition on the application, that if any additional events are held and are different from what was submitted on this current application, that those changes be made known to the Board by way of the County Administrator.

AYES: 6  
ABSENT: 1 Marvin R. Perry

## **OLD BUSINESS**

1. Collection of delinquent taxes **(8-10-04)**.
2. Marevine Slempp, request for water service on Fox Valley Road **(5-11-04)**.
3. Re-codifying of the Smyth County Code **(1-10-2006)**. - *Mr. Carter stated that the new revised code is scheduled to ship the end of April (50 hard copies along with online access in Word format.*
4. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).
5. Disposal of former school building at 105 East Strother Street **(7-11-06)**.
6. Appointments: Board of Zoning Appeals **(2-12-08)**  
One Alternate - VACANT  
  
Area Beautification Committee Judges (12-9-08)  
(Chamber of Commerce, 1 year term each calendar year)  
North Fork District - Debbie Ogle
7. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer **(5-13-08)**.
8. Radio System Project **(6-26-08)**.
9. Request referred from the Budget Committee for a full Board discussion:

In reference to a written request from the Commonwealth Attorney, Treasurer, and the Sheriff. Mr. Roy Evans, Commonwealth Attorney appeared before the Budget Committee on November 7 to explain the request on behalf of his office. He requested that the Board consider a raise for the Constitutional Offices equal with the raises of the county employees that was approved for fiscal year 2009. He stated that the requested raise would be from December 1, 2008 through June 30, 2009. The state has deferred their 2% raise for December 2008 to July 2009 **(11-12-08)**.

10. Possibility of no longer selling car decals but adding that cost to tax tickets. The Ordinance Committee was asked to look at this for the end of 2009 **(1-13-09)**. - *Mr. Carter stated that he is scheduling a meeting with the Sheriff, Treasurer, Commissioner of Revenue, and Mr. Tate to discuss this issue.*

11. Referred to the Water and Sewer Counsel, proceed with legal documents to provide uncollectable names and accounts from the Water and Sewer Department to other water providers in the county **(2-10-09)**.

12. Request by Rees Shearer of Rail Solutions for support of a resolution on Federal Funding for 21<sup>st</sup> Century "Steel Interstate" Project (Rail Improvements) **(3-10-09)**. - *Supervisor Neitch motioned to remove item 12 from old business. Supervisor Blevins seconded the motion and it passed with all members present.*

The Chairman reviewed the following reminders:

Youth Government Day - Thursday, April 23, 9am to 1pm (which will coincide with Budget Committee at 10am)

Budget Committee is meeting regularly to cover the FY 2009-2010 budget.

IDA - Wednesday, April 15 at 3:30 p.m.

Water and Sewer Committee - Thursday, April 23 at 4:30 pm

Planning Commission - Thursday, April 23 at 6pm

Ordinance Committee - Tuesday, April 28 at 10am

### **CONTINUE THE MEETING**

Supervisor Neitch motioned to continue the meeting until Wednesday, April 15 at 1:00 p.m., for a meeting with architects in regards to the courthouse renovation. Supervisor Dishner seconded the motion and the meeting was closed at 3:57p.m.

AYES: 6

ABSENT: 1 Marvin R. Perry

Continued Meeting Reminder: Thursday, April 23, at 7:00 p.m. for a joint public hearing with the Planning Commission and any other issues that may come up before that time.

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C.C. Clark, Jr., Chairman







The Smyth County Board of Supervisors held a continued meeting at 1:00 p.m., Wednesday, April 15, 2009. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
M. Todd Dishner	Marvin R. Perry
Brenda J. Waddell	Michael D. Roberts (arrived late)

**MEMBERS ABSENT:**

Wade H. Blevins, Jr.

**STAFF PRESENT:**

Michael L. Carter, Assistant County Administrator  
John H. Tate, Jr., County Attorney

**OTHERS PRESENT:**

Amber Johnson, Administrative Assistant  
Scott Simpson, Engineer  
Robbie Whitely, Deputy  
Dan Kegley, Smyth County News and Messenger

**CALL TO ORDER**

The meeting was called to order at 1:00 p.m. by the Chairman.

**NEW BUSINESS**

Supervisor Dishner motioned to appropriate \$70,976.83 (for 3 Sheriff's Department vehicles), with the ability to write checks between Board meetings. This is appropriated from the police activity fund (744-010000-9003).

Supervisor Neitch seconded the motion and the vote is as follows:

AYES:	5
ABSENT:	Wade H. Blevins, Jr., Michael D. Roberts
NAYS:	None

**OLD BUSINESS - COURTHOUSE RENOVATION**

Jay Moore of Mosley Architects was in attendance and presented the most up to date and current plans of the courthouse renovation. He addressed questions and comments from the Board and Mr. Tate. Following Mr. Moore's brief presentation, the Board discussed which direction to go in regards to the courthouse issue.

Supervisor Dishner moved to proceed forward with the overall concept of the courthouse expansion, and construction of a new administrative building. The multiple pieces involved include: renovation of the existing courthouse and the addition of approximately 23,155 square feet on the North side of the building; construction of a new administrative building of approximately 33,000 square feet to house temporary court space, emergency communications center, and constitutional officers; demolition of the old jail; demolition of the old school building at 203 N Church Street; construction of two parking lots, one on the 203 N Church Street parcel, and one on County owned land between Strother and Court Streets and to begin negotiation with the Bank of Marion on the disposition of its small parking parcel on the NE corner of the courthouse site. This also includes authorization to begin the final design phases of the two architectural contracts with Moseley and Wiley/Wilson and the engineering associated with infrastructure, building demolitions, and establishing parking lots. He added, when financing is available. Supervisor Neitch seconded this motion.

Before voting, the Chairman gave each member an opportunity to comment. With the motion below, each member remarks are transcribed.

Supervisor Roberts - You all know where I've stood on this since day one. I remember the first vote we had on it was when we hired Mr. Mosley's firm. The first vote was whether to hire a local firm or an experienced firm. It tied 3-3, I voted against both, I was against the courthouse all together, I later changed. I gave what I thought we should have done in March 2006, when we met with a lot of people, courthouse officials. At that time the tragedy that had happened in Atlanta was driving a lot of things, about the security of the courthouse. As I said then, when it happened at our schools we didn't build and fortify schools and put bullet proof windows, we did other things, we added school resource officers, trained our teachers, trained our parents, did things like that. I think that was the thing to do at our courthouse as far as safety issue, was to do some training. At the time I said lets take our Homeland Security money get equipment, hire more part time bailiffs, train bailiffs, and inform our public. That's the way I would have liked to have started on the safety end of it. I remember the first meeting at the courthouse, Mr. Evans stating that he did not see people running into each other, when you talk about the crowd or the space issue. I still don't think it's over crowded. We talk about needing all this parking. I've never known a court case we had to put off, maybe it has and I just don't know it, where we had to postpone court because we couldn't find a parking place. People may have to walk some but that's better than the 2 or 3 times a year we would need it, we would have to spend millions of dollars. I have been opposed to this, this all out renovation since day one. I realize there is some work that needs to be done at the courthouse, maybe the new roof and electrical work. I just haven't changed my mind. This is just rambling on, you know where I've stood since day one, there's no need to rehash it. You can get the minutes from 2006, read those; I stay pretty much the same. You all have had a tough job, easy to vote no on everything, I want you to know that I realize it has been tough on you. I don't want you to think I'm skirting out on you.

Supervisor Perry - This is my eighth year and when I came here the Board was discussing this, I don't know how long it had been on their agenda, before I got here. At one time, I figured that I could and would vote for certain renovations at the courthouse. I must say that the renovations I envisioned were security aspect of the courthouse and not a complete new renovated, big addition to the courthouse. I've been down this road once before, I still don't think it is needed. I thought a limited amount of money; a good sum of money would be expended on securing the courthouse for the occupants, especially the judges. I guess they are the people that really are concerned, I don't blame them, I would be concerned too if I was a judge in the courthouse, security wise. I thought we could do it for a whole lot less money, time and trouble than what we are ending up having to do. I've said a number of times it's very easy for me to vote against this, because I know it's not popular with our tax paying citizens. Not very many, if any, will pat you on the back and say go ahead and put us in debt \$20 million, build us a new courthouse to satisfy a few people. It's very easy for me or anybody to say no. I've told this Board that I would not sit here and let this Board, by default, turn control of this over to the judges down at the courthouse. If one of the four that has supported this chose to say "no I'm not going to support it and kill it by my vote", then I would have to change my vote to support this because I don't want anybody in control of this except this Board. I want the public to know this, I do resent the fact that, I haven't done anything criminally wrong or civilly wrong, I resent the fact that somebody has the authority to tell me as an elected official, you've got to borrow money and tax the citizens of Smyth County to satisfy my needs or our needs, I resent that. I guess I'll go to my grave resenting that. I've been a representative of government for 45 years and I've never had to face anything like this and I'm too old to accept it now. I think the four of you who are supporting this are on right track, I commend you and urge you to continue on, do what you intend to do. I don't

disagree; Todd has made a comprehensive motion and touched on everything. That's all I have.

Supervisor Neitch - Well, I kind of, agree with Mr. Perry on most of everything he said. I have a certain amount of resentment too; I don't think I am the only one. I think basically the majority of Smyth County feels the same way. When this first started, we were told we could do the whole courthouse thing with everybody left in the courthouse for \$16 million. That was 6 or 8 years ago. Then, I thought that was just too much money, I thought we could do it better, we could do the security with a lot less money, I drug my feet, and didn't vote for it. I wish I had the chance to go back and do that over but that's water under the bridge. But now since things have happened like they have the only way we can keep control of the spending that is done, this is something that is going to have to be done and the only way to keep control of the spending and what is done here is to go along, give the judges a plan and hope they will agree to it. Stay with the program we've got going now. As far as financing goes, we'll cross that bridge when we come to it. If we can finance it, we will. If we can't, we'll go another avenue I guess. But I think in a few years ahead we will think that this is the best thing best thing that we could have done. Right now with the economy like it is it seems like a big mistake. This is tough decision for all of us and we are going to do what we think we have to do.

Supervisor Dishner - I just feel like we've done this for a long time, we've looked at every possible avenue that I think we can. Every time we turn around seems like someone was giving us another one. I think out of all we've looked at, over the amount of time that we have, that moving on with it is the best way to go with it. Keeping control of what we can. I supported it a long time ago, not because I'm in favor and want to do it. I don't think any of us up here wants to do this. It wasn't an idea born among the seven people that sit up here, but we've been dealt and now we are dealing with it and I think to deal with it head on and move on with it is the way to go. I just feel like this is the best way for us to do it.

Supervisor Waddell - Well to start off with I have to say I supported the remodeling of the courthouse. But now I can't say I see the justification of doing the big remodeling of it, maybe adjusting the surveillance or more sophisticated checking when people come in the courthouse. But to listen to the people of my district they just can't see spending this kind of money, especially at this time, with the economy like it is. I also resent the fact of someone in Richmond telling us what we have to do, and imposing this on us, and us then having to turn around and put the tax on the people, to do the renovation on the courthouse. Personally, I've never spent any time in jail but if it means to say to the judge that I'll stand up and go to jail, to say I don't want to do this, lets do something else, then that's what I'm going to say, because I just can't go for this. Let's rethink and do something else.

Supervisor Clark - I'm going to be like Mr. Roberts and rehash old things for a minute. And bring up the reason I'm voting the way I am. I think it was in May 2005, my first year as chairman, when the all judges came up here and made the statement way they needed the courthouse renovations. A big part of what they said was security meant space. They had to have walls between prisoners and the public, walls between public and judges, walls between judges and the accused. It was more than just walking through a magnetron, having bailiffs out front. It was also needs for room, as the Clerk said it went from 1 or 2 deed books a year to 6 or 8. Juvenile Domestic Court Relations used to be riding them around, cool them down in the cop car and take them back home. But certain words and things that society has put on the courts that it could be as many as 5 or 6 hearings for one case now. We are not dealing with the same times when this courthouse was done back in the 70's. Like Mr. Dishner said, I don't think any of us are for building the courthouse, this started before we got here. I have been from day one to control our own destiny. I was a big supporter of going



ahead and building a courthouse so we wouldn't be in the position where we are. I think it would be a travesty to turn this courthouse renovation over to the courts to do and to tax our citizens. That's what we were elected to do. We are here to represent the citizens, in the good and the bad and turning our representation over the courts and have them do it, I think, is an injustice to our citizens. I guess were going to have to pay more taxes, this is not cheap. But, as long as we are in control of it, I think in the long run our county citizens will be much better served. On moving forward with Mr. Dishner's motion, I think there are a lot of extenuating circumstances. We've got the economy the way it is, which is good in one sense as far as lower construction prices. It's also tighter credit. That's the catch twenty two we're going to have to work out. We've applied for stimulus money. Nothing says that we are going to get any and probably my hopes for that is less than it used to be. But, one thing about it, funds won't be available unless we have a set of plans ready to go. I think, to put it off will kill any opportunity to even think about getting stimulus money. Mr. Simpson told use yesterday that we had a water project that we will get stimulus money for because it is shovel ready to go. Voting for it and not knowing where the money comes from is unsettling to all of us. Sitting back and not knowing how it's going to come out or who's going to tell us what to do, is more unsettling for me. We have had some local people, Marion people wanting to use old store buildings in down town and made a good honest effort to do so. I think the more buildings we have the more maintenance we have. If we ever have to put security tighter than what it is now, I think it would be a nightmare for the county to try to secure three buildings much less maintain them. The better we can keep them together the more efficient I think our county government will run. That's why I'm voting in favor of Mr. Dishner's motion.

Mr. Dishner's motion failed to carry with the following votes:

AYES:           3       C.C. "Charlie" Clark, Jr.  
                              Darlene R. Neitch  
                              M. Todd Dishner

NAYS:           3       Brenda J. Waddell  
                              Michael D. Roberts  
                              Marvin R. Perry

ABSENT:        1       Wade H. Blevins, Jr.

Supervisor Perry motioned and it was seconded by Supervisor Neitch that remarks made be transcribed from the recoding, for the permanent record. The vote is as follows, being unanimous of those present:

AYES:	6	C.C. "Charlie" Clark, Jr.	Brenda J. Waddell
		Darlene R. Neitch	Michael D. Roberts
		M. Todd Dishner	Marvin R. Perry

ABSENT:        1       Wade H. Blevins, Jr.

Mr. Perry then requested a 5 minute recess, the meeting as recessed at 2:50 p.m. and then called back to order at 2:57 p.m.

Mr. Tate explained that with a tie vote, there are no plans to move forward and that a member that voted on the 'nay' can motion to reconsider the motion.

Mr. Perry reiterated his comments that it has been easy for him to vote against this issue. He feels there have been a few people that have done a great disservice to the citizens of Smyth County. He said he is not willing to stand by and let them continue in a position where they can have even more control over what happens in this situation.

Supervisor Perry motioned and Supervisor Neitch seconded to reconsider the previous action (in regards to the courthouse). The vote is as follows, being unanimous of those present:

AYES:	6	C.C. "Charlie" Clark, Jr. Darlene R. Neitch M. Todd Dishner	Brenda J. Waddell Michael D. Roberts Marvin R. Perry
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ABSENT:	1	Wade H. Blevins, Jr.
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Supervisor Dishner motioned to pass the previous motion as stated above in regards to the courthouse renovation. It was seconded by Supervisor Neitch.

Supervisor Perry - I vote 'yes' based upon my word that I would not stand by and let other people control this any more than they've control it up to this point. We are getting to the point now where we are talking about taxes and debt. I think this Board is the elected representatives of the people and not people at the courthouse or in Richmond. I'm voting in favor of the motion so we can go forward. Again, I urge all this be transcribed and put in writing.

It passed with the following votes:

AYES:	5	C.C. "Charlie" Clark, Jr. Darlene R. Neitch M. Todd Dishner	Marvin R. Perry Brenda J. Waddell
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NAYS:	1	Michael D. Roberts
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ABSENT:	1	Wade H. Blevins, Jr.
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Supervisor Clark - I know this is tough and hard on everybody. This will be the hardest vote we've ever taken. I don't have anything admiration for the two that changed. Hopefully, you will never regret that vote.

Supervisor Perry motioned and Supervisor Dishner seconded that Jay Moore, of Mosley Architects (who was in attendance) proceed by meeting with the Commonwealth's Architect, Mr. Bailey, to address the changes suggested by the letter of Mr. F. Stephens, representing the Commonwealth, within the present footprint of the building. The vote passed and is as follows:

AYES:	6	C.C. "Charlie" Clark, Jr. Darlene R. Neitch M. Todd Dishner	Brenda J. Waddell Michael D. Roberts Marvin R. Perry
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ABSENT:	1	Wade H. Blevins, Jr.
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Mr. Chairman reminded the Board of Youth Government Day on April 23 at 9:00 a.m. along with Budget Committee with the students.

At 3:05 p.m. Supervisor Perry motioned to continue until Thursday, April 23 at 7:00 p.m. for a joint public hearing with the Planning Commission and any other issues that may come up before that time. Supervisor Neitch seconded the motion. The motion to adjourn is as follows:

AYES:	6	C.C. "Charlie" Clark, Jr. Darlene R. Neitch M. Todd Dishner	Brenda J. Waddell Michael D. Roberts Marvin R. Perry
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ABSENT:	1	Wade H. Blevins, Jr.
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C. C. Clark, Jr., Chairman



The Smyth County Board of Supervisors held a continued meeting at 7:00 p.m., Thursday, April 23, 2009. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
M. Todd Dishner	Wade H. Blevins, Jr.
Brenda J. Waddell	Marvin R. Perry
Michael D. Roberts	

**STAFF PRESENT:**

Michael L. Carter, Assistant County Administrator  
John H. Tate, Jr., County Attorney

**OTHERS PRESENT:**

Amber Johnson, Administrative Assistant  
Charlie Atkins, CFO  
Clegg Williams, Zoning Administrator  
Becca Kirk, Administrative Assistant  
Sally Morgan, Economic Development  
Shannon Williams, E-911 Coordinator

**PLANNING COMMISSION MEMBERS PRESENT:**

Dennis Blevins	Karl Kalber
Norman Sparks	Graham Davidson
Amy Tuell	Wayne Venable

**PLANNING COMMISSION MEMBERS ABSENT:**

Don Medley

**CALL TO ORDER**

Both Chairmen Clark and Blevins called the public hearing to order. Mr. Carter, Assistant County Administrator, read the following legal advertisement as published in the Smyth County News and Messenger, on April 11 and 18 (Saturday editions). There were three (3) citizens present interested in this application.

Supervisor Perry made the motion to forgo the reading of the rules of procedures for public hearings. Supervisor Blevins seconded the motion and it passed unanimously.

**BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS AND  
SMYTH COUNTY PLANNING COMMISSION**

*The Smyth County Board of Supervisors and the Smyth County Planning Commission will conduct a joint public hearing on Thursday, April 23, 2009, at 7:00 P.M. or as soon after 7:00 P.M. as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application(s) to the Zoning Ordinance of Smyth County, Virginia:*

*An application from Roger Blevins for a Special Use Permit to establish and operate a Service Business. The property is located beside 390 Sugar Street in Marion. It is identified as being a portion of Tax Map No. 67-A-50B and is zoned Agricultural/Rural.*

*At this public hearing, subject to the rules of procedure of the Board of Supervisors and Planning Commission of Smyth County, Virginia, any person may appear and state his/her views thereon.*

*Copies of the application(s) along with their maps/drawings are on file in the Office of the County Administrator of Smyth County. Copies are also maintained by the County Zoning Administrator at the address given above, and may be viewed during regular business hours Monday through Friday.*

*Done by order of the Board of Supervisors and the Planning Commission.  
Edwin B.J. Whitmore III, County Administrator  
Dennis R. Blevins, Chairman of the Planning Commission*

## **APPLICATIONS SUBMITTED**

Roger Blevins - Special Use Permit: Mr. Williams summarized an application submitted by Roger Blevins for a special use permit to construct and establish a towing *Service Business*. He proposed to fence an area approximately 75' x 75' as a storage lot and construct a garage approximately 40' x 60' in size. Mr. Blevins' proposes to purchase approximately 3-3 ½ acres from his sister in law, Crystal Battaglia. The property is located beside 390 Sugar Street, Marion, (tax map no. of 67-A-50B) zoned Agricultural/Rural. Mr. Williams stated that notice of this public hearing was mailed to all adjoining property owners. He also pointed out the following sections of the ordinance: Section 3-2.2 y) which allows the proposed use by issuance of a Special Use Permit, and Article VI which contains the provisions for Special Use Permits. Mr. Williams mentioned the only comment he received in regards to this application, a telephone call from Phyllis Griffith, an adjoining property owner, voicing her concerns that the property will become a junkyard and an eyesore to the community. She felt that a privacy fence would be appropriate and that she would like to see the property kept neat.

Mr. Blevins was present to answer questions from the Planning Commission and Board of Supervisors. He stated that the majority of his business consisted of vehicles involved in insurance claims and they were usually picked up within one week. He only keeps vehicles for non-payment and disposes of them as soon as legally possible. He had obtained a commercial entrance permit from VDOT. He stated that he is not in the business of doing body work or auto repair and would not be selling car parts. He currently stores vehicles at his father's business, Blevins Motors, on Adwolfe Road.

Chairman Clark and Chairman Blevins closed the joint public hearing at 7:25 p.m. The Board called their meeting back to order at 7:41 p.m.

## **OTHER BOARD ITEMS**

1. Consideration of the School's proposed fiscal year 2009-2010 budget -  
With the public hearing held on Tuesday, April 14, 2009, the Board considered the school's proposed budget for fiscal year 2009-2010. Supervisor Blevins motioned to approve the school's budget as presented below. Supervisor Neitch seconded that motion.

<b>Smyth County School Board</b>			
<b>Operations Budget For the Year Ending June 30, 2010</b>			
<b>Revenue Summary for Operations Budget</b>			
	<b>2008-2009</b>	<b>2009-2010</b>	<b>Difference</b>
State Revenue	\$ 31,544,177	\$ 31,303,890	\$ (240,287)
Local Revenue	\$ 8,832,233	\$ 7,839,529	\$ (992,704)
Federal Revenue	\$ 4,662,522	\$ 5,031,094	\$ 368,572

State Sales Tax	\$	4,325,228	\$	4,134,070	\$	(191,158)
Other Revenue	\$	1,445,751	\$	1,633,801	\$	188,050
<b>TOTAL OPERATIONS</b>	\$	<b>50,809,911</b>	\$	<b>49,942,384</b>	\$	<b>(867,527)</b>

<b>Expenditure Summary for Operations Budget</b>						
		<b>2008-2009</b>		<b>2009-2010</b>		<b>Difference</b>
Instruction	\$	37,488,347	\$	36,888,581	\$	(599,766)
Administration	\$	1,865,929	\$	1,788,647	\$	(77,282)
Transportation	\$	2,456,317	\$	2,424,632	\$	(31,685)
Facilities	\$	5,173,127	\$	4,873,799	\$	(299,328)
Food Service	\$	2,230,539	\$	2,406,408	\$	175,869
Technology	\$	1,595,652	\$	1,560,317	\$	(35,335)
<b>TOTAL OPERATIONS</b>	\$	<b>50,809,911</b>	\$	<b>49,942,384</b>	\$	<b>(867,527)</b>

**Smyth County School Board**  
**Capital Outlay and Debt Service Budget For the Year Ending June 30, 2009**

<b>Revenue Summary for Capital Outlay and Debt Service Budget</b>				
		<b>2008-2009</b>	<b>2009-2010</b>	<b>Difference</b>
State Funds - Lottery	\$	459,218	\$ 174,820	\$ (284,398)
State Funds - School Construction	\$	179,174	\$ -	\$ (179,174)
Local Funds - Debt Service	\$	625,672	\$ 1,137,440	\$ 511,768
Local Funds - Capital Outlay	\$	407,468	\$ 185,138	\$ (222,330)
<b>TOTAL CAPITAL OUTLAY</b>	\$	<b>1,671,532</b>	<b>\$ 1,497,398</b>	<b>\$ (174,134)</b>

<b>Expenditure Summary for Capital Outlay and Debt Service Budget</b>				
		<b>2008-2009</b>	<b>2009-2010</b>	<b>Difference</b>
Capital Outlay – Facilities	\$	407,468	\$ 185,138	\$ (222,330)
Capital Outlay - Debt Service	\$	1,264,064	\$ 1,312,260	\$ 48,196
<b>Total Capital Outlay Budget</b>	\$	<b>1,671,532</b>	<b>\$ 1,497,398</b>	<b>\$ (174,134)</b>

**Note:** Supervisors' Dishner and Clark declared their family members that work for the School Board, which could cause them to vote impartially.

The vote is as follows:

AYES:           7       C.C. "Charlie" Clark, Jr.   Darlene R. Neitch  
                              M. Todd Dishner           Wade H. Blevins, Jr.  
                              Brenda J. Waddell         Marvin R. Perry  
                              Michael D. Roberts

NAYS:           None

2.     Any Other Business - Shannon Williams, E-911 Coordinator spoke before the Board requesting that the chairman be authorized to sign the contract with Morcom, Inc. for the radio system project. Following brief discussion, Supervisor Neitch made the motion to authorize Mr. Chairman's signature on the Morcom contract. Supervisor Blevins seconded the motion and it passed unanimously with the vote as follows:

AYES:           7       C.C. "Charlie" Clark, Jr.   Darlene R. Neitch  
                              M. Todd Dishner           Wade H. Blevins, Jr.  
                              Brenda J. Waddell         Marvin R. Perry  
                              Michael D. Roberts

NAYS:           None

Mr. Tate mentioned that the actions take at the April 15 continued Board meeting in regards to the courthouse renovation were legal by Roberts Rules of Order.

The Budget Committee will meet on Tuesday, April 28 at 1:00 p.m. Ordinance Committee will meeting Tuesday, April 28 at 10:00 a.m.

Discussion of the publication of the delinquent taxes was saved for the next regular meeting on May 12.

## **ADJOURN**

At 7:53 p.m. Supervisor Perry motioned to adjourn, Supervisor Blevins seconded, and it carried unanimously.

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C.C. Clark, Jr., Chairman

The Smyth County Board of Supervisors held its regular May meeting at 12:00 noon, **Tuesday, May 12, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.     Darlene R. Neitch  
Marvin R. Perry                 Wade H. Blevins, Jr.  
Brenda J. Waddell             M. Todd Dishner (arrived at 12:30 p.m.)  
Michael D. Roberts

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney

**OTHERS PRESENT:**

Amber Johnson, Administrative Assistant  
Charlie Atkins, CFO  
Sally Morgan, Economic Development Planner  
Mike Hounshell, Deputy  
Scott Simpson, County Engineer  
Dan Kegley, Smyth County News & Messenger

**CALL TO ORDER, INVOCATION & PLEDGE OF ALLEGIANCE**

With a quorum present, the meeting was called to order at 12:00 noon. Mr. Marvin Perry gave the invocation and Ms. Betty Blizzard led the pledge of allegiance.

**ADOPTION OF AGENDA**

Supervisor Blevins motioned to adopt the agenda as to form along with the additional agenda. Supervisor Neitch seconded the motion, vote is as follows:

AYES:             6  
ABSENT:         M. Todd Dishner  
NAYS:             None

**MINUTES OF PREVIOUS MEETINGS**

The Board was presented with Tuesday, April 14, Wednesday, April 15, and Thursday, April 23, 2009 minutes for adoption. With one minor change by Mr. Tate, Supervisor Blevins made the motion to approve these minutes as presented. Supervisor Neitch seconded the motion. The vote is as follows:



AYES: 6  
ABSENT: M. Todd Dishner  
NAYS: None

### **PAYMENT OF COUNTY INVOICES**

Supervisor Blevins motioned to approve the following listed appropriations.

#### Appropriations

General County	\$1,590,000
North Holston Water	\$30,039.80
Long Hollow Water	\$213,936.61
Social Services (May 13-31, 2009)	\$385,000
(June 1-9, 2009)	\$80,000
Schools - Operating Fund	\$4,200,000
Debt and Capital Outlay	\$250,000

Supervisor Neitch seconded the motion. The vote is as follows:

AYES: 6  
ABSENT: M. Todd Dishner  
NAYS: None

Supervisor Blevins motioned to approve the accounts payable listing in the amount of \$985,707.01 (Includes \$499.25 to Wiley Wilson for courthouse renovations. Also, \$191,858 to Morcom International, Inc. and \$36,500.25 to Advanced Wireless Solutions, Inc. for the radio system project). Supervisor Neitch seconded the motion for approval. The vote is as follows:

AYES: 6  
ABSENT: M. Todd Dishner  
NAYS: None

### **CITIZEN'S TIME**

There were approximately 30 citizens present. The following citizens spoke on these issues:

1. Max McClure - Mr. McClure is a resident of the Greenhill Subdivision and explained that the road is in need of repair. Since the sewer line was installed, the equipment damaged the road. He mentioned that Supervisor Blevins has looked at the road. The Chairman informed Mr. McClure that the VDOT representatives would be in the meeting at 3:00 p.m.

2. Jim Gates - Dr. Gates spoke on behalf of the Marion Town Council in regards to the *Recreation* budget request. He distributed a handout explaining the Town's increase request in regards to the recreation budget.
3. Earl McClure - Mr. McClure made brief remarks in regards to the Boards decisions as long as they are in accordance with the law. He suggested a public hearing at the Chilhowie High School on an Friday night or Saturday morning on the courthouse issues. Mr. McClure stated that the old school on Strother Street in Marion should be given away if someone would take it. He also stated that the judges should be elected as to being appointed.
4. Joe Ellis - Mr. Ellis stated that he is the spokesperson for the old school on Strother Street. He presented a PowerPoint presentation along with a video demonstrating the historical value of the building. Mr. Ellis spoke on the benefits of a music school in the building. He also mentioned the advantages of a joint venture with the Town of Marion.
5. Robbie Colley - Pointed out the advantages of education in the area. He stated that education was the key factor in this equation.

Mr. Chairman informed Mayor Helms, who was in the room, that the Board would soon respond to the Town's recent letter in regards to the old school.

Citizens time was closed at 12:45 p.m.

## **NEW BUSINESS**

1. As in April, Mr. Atkins briefed the Board (with a handout) on the County's current financial standings. Mr. Atkins will continue make this update to the Board each month, and he is available for the Board's input.
2. Charlie Harrington, Emergency Services Coordinator, explained a Virginia Office of Emergency Medical Services grant for all Emergency Medical Services. This 100% funded grant has an application deadline of June 1, 2009. This grant will provide computers to the Marion, Saltville, and Sugar Grove rescue squads. These computers will be owned by the county and leased to these agencies with the understanding that they will pay for any damages or repairs to the computers.

Supervisor Perry motioned to approve the above mentioned grant in the amount of \$43,800 for 12 computers. Supervisor Roberts seconded the motion and it passed with the vote below:

AYES: 7  
NAYS: None

As the Emergency Services Coordinator, Mr. Charlie Harrington gave an update on the recent storms that passed through the area. He informed the Board that this was the worst wind and rain since Hurricane Hugo and that the bulk of the damage was in the Town of Marion. He stated that this area was very fortunate with no injuries, most of the damage being debris and trees down.

**3.** Arthur Barker, Grant writer of the Sheriff's department presented the following grants:

**a.** Recovery Act Grant application - After Mr. Barker explained that all the necessary guidelines for the grant had been met, Supervisor Blevins motioned to approve the 100% funded grant application in the amount of \$26,889 to be utilized for firearms. Supervisor Perry seconded the motion and it passed with the vote as follows:

AYES: 7  
NAYS: None

**b.** Acceptance of a Byrne Justice Assistance grant, local match - Supervisor Blevins motioned to accept the Byrne Justice Assistance grant in the amount of \$1,300 including a \$130 match. This will be used for 3 magnum spike strips. Supervisor Perry seconded the motion and it passed with the motion below:

AYES: 7  
NAYS: None

**4.** Shannon Williams - Requested that the Board award the RFB for Computer Hardware and networking equipment to CDW Government Inc., the funding for the award is through the Virginia Wireless Service Board Grant. Supervisor Perry motioned to accept the bid submitted by CDW in the amount of \$111, 720.60, for fiscal year budget 2008-2009. Supervisor Blevins seconded the motion. It passed with the motion below:

AYES: 7  
NAYS: None

Mr. Williams gave an update of the radio system project stating that the final walk through of Flat Top will occur in the near future.

**5.** Supervisor Roberts motioned to approve the following allocation of the fiscal year 2009 Four-For-Life funds. The County has received the payment for

Emergency Medical Services in the total amount of \$28,741.50. These funds are for the collection period of March 1, 2008 through February 28, 2009.

Marion Life Saving Crew	\$7,185.37
Sugar Grove Life Saving Crew	\$7,185.38
Saltville Rescue Squad	\$7,185.38
Chilhowie FD/EMS	\$7,185.37

Supervisor Blevins seconded the motion and it passed unanimously with the vote below:

AYES: 7  
NAYS: None

**6.** Tax refund requests as submitted by the Commissioner of Revenue:

**a.** Supervisor Roberts motioned to approve the 2008 personal property tax refund request, by the Commissioner of Revenue, in the amount of \$925.72 to NMHG Financial Services, Inc. Supervisor Blevins seconded the motion and it passed unanimously.

AYES: 7  
NAYS: None

NMHG Financial Services Inc.  
Property Tax Compliance  
PO Box 1920  
Danbury CT 06813-1920

**b.** Supervisor Perry motioned to deny a 2008 personal property tax refund request, by the Commissioner of Revenue, in the amount of \$212.54 to Donald James Tilson. Supervisor Neitch seconded the motion and it passed unanimously.

AYES: 7  
NAYS: None

**c.** Supervisor Perry motioned to refund Harold M & Alice M Doane \$289.17 plus interest, in regards to a tax refund request submitted by the Commissioner of Revenue. Supervisor Roberts seconded the motion and it passed unanimously.

AYES: 7  
NAYS: None

Harold M & Alice M Doane  
251 Page Town Road  
Saltville VA 24370

7. Supervisor Roberts motioned to appropriate funds for the Rich Valley Fair Association in the amount of \$37,954.42. The county serves as the fiscal agent for a Tobacco Commission grant for the Association. The final drawdown has been received from the Commission which will be utilized to make final payment to the contractor of the building project, Highlands Industrial Millwright & Maintenance, Inc. Supervisor Blevins seconded the motion and it passed.

AYES: 7  
NAYS: None

8. Supervisor Perry motioned to adopt the following resolution recognizing Business Appreciation Week. Also, \$110 is approved out of the IDA budget to advertise this week in the Saltville Progress recognizing Business Appreciation Week. Supervisor Roberts seconded the motion and it passed unanimously.

### **BUSINESS APPRECIATION WEEK 2009**

**WHEREAS**, Governor Timothy M. Kaine has recognized May 10-16, 2009 as **BUSINESS APPRECIATION WEEK** in the **COMMONWEALTH OF VIRGINIA**, and called this observance to the attention of all citizens; and,

**WHEREAS**, Smyth County businesses play a vital role in strengthening our County by providing jobs, enhancing the tax base, and increasing income to the community; and

**WHEREAS**, the citizens of the Smyth County benefit from the positive business climate, economic growth, and job opportunities that are the contributions of local businesses; and

**WHEREAS**, Smyth County joins the Commonwealth in recognizing the accomplishments of our businesses, including our many small businesses that contribute greatly to the economic diversity of the County; and

**WHEREAS**, Business Appreciation Week increases public awareness of the valuable contributions that businesses make in our community.

**NOW, THEREFORE**, We, the Board of Supervisors of Smyth County do hereby recognize May 10-16, 2009 as **BUSINESS APPRECIATION WEEK** in Smyth County and call this observance to the attention of all our citizens.

AYES: 7  
NAYS: None

9. Supervisor Perry motioned to renew the HVAC maintenance agreements for the county facilities (county office building, health department building, jail, and courthouse) with TRANE for one (1) year with two (2) additional optional years. Supervisor Blevins seconded the motion and it passed unanimously.

AYES: 7  
NAYS: None

Mr. Simpson updated the Board on the air handling system at the Animal Control building; bid specifications have been advertised in the paper. The new sewer pump at the Animal Control building has been installed. He also mentioned federal stimulus funds in relation to county projects.

10. With the recommendation of the Budget Committee, the Board unanimously accepted a bid from Mid-State Equipment Co., Inc. in the amount of \$12,880 (3 cubic yards compactor, installation included) for the Fish Hatchery Convenience Station. This amount is appropriated from line 001-042030-3021 (Refuse Collection & Disposal, Solid Waste Escrow for Equipment).

AYES: 7  
NAYS: None

#### **OTHER NEW BUSINESS NOT ON THE AGENDA**

Mr. Carter gave an update from the Virginia Department of Health on the most recent rabies cases in the area. He also updated the Virginia Department of Transportation's upcoming operating budget and how it will affect this area.

#### **COMMITTEE RECOMMENDATIONS**

1. Budget Committee - With the recommendation of the Budget Committee the Board unanimously accepted the following vehicle bids and appropriated the funds for purchase.

1. Water and Sewer Department - 2009 GMC pickup, \$19,900 from Crabtree, Buick, Pontiac, Inc. This amount appropriated from line 501-085010-9003 (Water and Sewer, Motorized Equipment).
2. County Administration - 2009 Chevrolet Trailblazer, \$26,085.90 from Marion Automotive Group. This amount appropriated from 001-012010-9003 (County Administration, Motorized Equipment).

AYES: 7  
NAYS: None

2. Ordinance Committee - A recommendation in regards to scheduling a public hearing (along the guidelines of Virginia code Section 15.2-2204) to take public comment on changing Green Mountain Road name. With a motion by Supervisor Roberts and seconded by Supervisor Dishner a public hearing was scheduled for the July 14 Board meeting to take public comment. This will allow time for the E-911 Coordinator to mail notice to the affected parties.

AYES: 7

NAYS: None

**Stacey O'Quinn**, Community & Government Relations Manager at Mountain States Health Alliance presented and explained the following resolution for consideration:

**A RESOLUTION IN SUPPORT OF AN APPLICATION BY SMYTH COUNTY COMMUNITY HOSPITAL TO ESTABLISH AN 18-BED REHABILITATION SERVICE**

**Whereas**, inpatient rehabilitation services are not currently available within the local community and residents must travel significant distances to obtain inpatient care; and

**Whereas**, rehabilitation services at Smyth County Community Hospital ("SCCH") would reduce the driving time and out of pocket traveling expenses now required of area residents and their families to access rehabilitation services at a local Virginia facility; and

**Whereas**, the availability and accessibility of inpatient rehabilitation services at SCCH will offer a broader and more comprehensive continuum of care to residents of the local community; and

**Whereas**, the establishment of rehabilitation services at SCCH will improve the quality of care available to residents of the area; and

**Whereas**, SCCH, a member of the Mountain States Health Alliance (MSHA) family, will work closely with Johnston Memorial Hospital to coordinate care for their local residents, providing access to rehabilitation services.

**NOW THEREFORE BE IT RESOLVED**, by the Smyth County Board of Supervisors in Regular Session, that the County officially supports the application for Smyth County Community Hospital to seek permission to introduce rehabilitation services (COPN Request No. VA-7665).

**RESOLVED**, this 12th day of May 2009

By motion of Supervisor Perry, seconded by Supervisor Blevins the above resolution was unanimously carried.

AYES: 7  
NAYS: None

**Karen Hughes** of District Three, Smyth County Adult Multi-Disciplinary Team presented this resolution for consideration. Supervisor Perry motioned to approve the resolution below, as presented. It was seconded by Supervisor Blevins and passed unanimously.

**OLDER AMERICANS MONTH  
MAY 2009  
A PROCLAMATION**

WHEREAS, Smyth County is a community in which 9,209 citizens age 55 and over make their home; and

WHEREAS, older adults in Smyth County and throughout the nation are an increasing population with evolving needs; and

WHEREAS, older Americans are valuable members of our society who enhance our communities and personal lives; and

WHEREAS, the increasing number of baby boomers reaching traditional retirement age highlights the need for increased support of older adults; and

WHEREAS, our older citizens of today and tomorrow promise to be among the most active and involved adult populations in our nation's history; and

WHEREAS, it is the responsibility of this and all U.S. communities to work collaboratively to address older adults' unique health and long-term care challenges; and

WHEREAS, it is crucial that communities modernize systems of care to help empower older Americans and give them more control over their own lives; and

WHEREAS, communities can improve older citizens' overall quality of life by helping them:

Make behavioral changes in their lifestyles that can reduce the risk of disease, disability and injury.

Obtain the tools they need to make informed decisions about, and gain better access to, existing health and long-term care options in their communities.



Have more options to avoid placement in nursing homes and remain at home as long as possible.

NOW THEREFORE, the Smyth County Board of Supervisors, Virginia, do hereby proclaim May 2009 to be Older Americans Month. We urge everyone to take time this May to honor our older adults and the professionals, family members, and citizens who care for them. Our efforts can improve the lives of our older citizens and help pave the way for future generations.

AYES: 7  
NAYS: None

### **ZONING DEPARTMENT - CLEGG WILLIAMS**

#### **a. Planning Commission Recommendation**

Supervisor Dishner motioned to approve the recommendation from the Planning Commission in regards to the Roger Blevins application for special use permit. The Commission makes the recommend that the Board approve Mr. Blevins' application to construct and establish a Service Business with the following conditions (beside 390 Sugar Street, Marion):

- The garage building has to be placed in front of the storage lot to act as a buffer,
- The storage lot has to be concealed by an 8' privacy fence which effectively screens the storage yard, and
- All vehicles must be stored within the fenced storage lot.

Supervisor Blevins seconded the motion and it passed with the following vote:

AYES: 6	C.C. "Charlie" Clark, Jr.	Brenda J. Waddell
	M. Todd Dishner	Wade H. Blevins, Jr.
	Marvin R. Perry	Michael D. Roberts

Abstention: 1 Darlene R. Neitch

#### **b. Nuisance complaint against the 1034 Chestnut Ridge Road property.**

After much discussion with the property owner, tenant, and those who filed the complaint, Supervisor Blevins motioned to allow 30 days for Carolyn Wilson-Property Owner and Curtis Cullop-Tenant at 1034 Chestnut Ridge Road to bring the property into compliance with the County's Nuisance Ordinance. Supervisor Perry seconded the motion. The vote is as follows:

AYES: 7  
NAYS: None

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

At 3:00 p.m. the Board proceeded with a public hearing. Mr. Carter read the advertisement below, which was published in the Smyth County News and Messenger April 25, and May 2, 2009, and also posted at the Smyth County Courthouse. There were no citizens present for this hearing, therefore the rules for public hearings were not read.

### **Public Hearing Notice**

The Virginia Department of Transportation and the Board of Supervisors of Smyth County, in accordance with Section 33.1-70.01 of the Code of Virginia, will conduct a joint public hearing in the Board of Supervisors Meeting Room at 121 Bagley Circle, Suite 100, Marion, Virginia at 3:00 pm on Tuesday, May 12th, 2009. The purpose of this public hearing is to receive public comment on the proposed Secondary Six-Year Plan for Fiscal Years 2010 through 2015 in Smyth County and on the Secondary System Construction Budget for Fiscal Year 2010. Copies of the proposed Plan and Budget may be reviewed at the Abingdon Residency Office of the Virginia Department of Transportation, located at 700 East Main Street Abingdon Virginia, or at the Smyth County Office County offices located at 121 Bagley Circle Suite 100 Marion Virginia.

All projects in the Secondary Six-Year Plan that are eligible for federal funds will be included in the Statewide Transportation Improvement Program (STIP), which documents how Virginia will obligate federal transportation funds.

Persons requiring special assistance to attend and participate in this hearing should contact the Virginia Department of Transportation at 276-676-5503. Persons wishing to speak at this public hearing should contact the Smyth County Board of Supervisors at 276-783-3298.

Done by Order of the Smyth County Board of Supervisors

Present on behalf of VDOT were Steve Buston, Robert Hurt, and John Bolling. Mr. Buston gave a brief overview of the proposed plan stating that there was no additional funding. After discussion, the following resolution was duly adopted. Mr. Perry stating that he was voting in opposition because of state legislature. (The full Six-Year Plan will included in the official minutes)

*A regular meeting of the Smyth County Board of Supervisors was held in the County Board Room on Tuesday May 12<sup>th</sup>, 2009. Followed by a joint public hearing with the Department of Transportation at 3:00pm, on a motion by Supervisor Blevins, seconded by Supervisor Neitch and duly carried, the resolution below was adopted.*

#### **Present were:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch	
M. Todd Dishner	Brenda J. Waddell	(nay vote)
Wade H. Blevins, Jr.	Marvin R. Perry	(nay vote)
Michael D. Roberts		

**WHEREAS**, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan,

**WHEREAS**, this Board had previously agreed to assist in the preparation of this Plan, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Plan (2010 through 2015) as well as the Construction Priority List (2010) on Tuesday May 12<sup>th</sup>, 2009 after duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List,

**WHEREAS**, Steven B. Buston, Residency Administrator, Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan for Secondary Roads (2010 through 2015) and the Construction Priority List (2010) for Smyth County,

**NOW, THEREFORE, BE IT RESOLVED** that since said Plan appears to be in the best interests of the Secondary Road System in Smyth County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (2010 through 2015) and Construction Priority List (2010) are hereby approved as presented at the public hearing.

A COPY, TESTE:

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Michael L. Carter, Acting County Administrator

AYES:	5	C.C. "Charlie" Clark, Jr. M. Todd Dishner Darlene R. Neitch	Michael D. Roberts Wade H. Blevins, Jr.
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NAYS:	2	Marvin R. Perry Brenda J. Waddell
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#### **PUBLIC HEARING - DAVIS VALLEY WINERY FESTIVAL PERMIT**

At 3:38 p.m. the Board proceeded with a public hearing as noted in the publication below. Mr. Carter read the advertisement as run in the Smyth County News and Messenger on April 25 and May 2, 2009, the rules for public hearings were foregone. There were estimated to be 5 citizens present interested in this hearing.

#### **PUBLIC HEARING BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS**

The Smyth County Board of Supervisors will conduct a public hearing on Tuesday, May 12, 2009, at 3:30 P.M. or as soon thereafter, as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application for an Annual Musical or Entertainment Festival permit under the Code of Smyth County, Virginia:

*The Davis Valley Winery has submitted a festival application for a three (3) day event to be held June 25, 26, and 27, 2009. This event will be held at the Davis Valley Winery located at 1167 Davis Valley Road, Rural Retreat, Virginia, 24368. The applied festival hours are as follows:*

*Thursday, June 25 - 3:00 p.m. thru 10:00 p.m.*

*Friday, June 26 - 1:45 p.m. thru 10:30 p.m.*

*Saturday, June 27 - 1:00 p.m. thru 10:00 p.m.*

At this public hearing, subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state his/her views thereon.

A copy of this application along with their maps and plans are on file in the Office of the County Administrator of Smyth County at the address given above, and may be viewed during regular business hours Monday through Friday.

Done by order of the Board of Supervisors  
Michael L. Carter, Acting County Administrator

The Board heard from Mr. Billy Bear who had concerns regarding dust, lighting and the times of the festival.

Ruth Cox, owner of the winery was present and addressed these concerns stating that the lighting would be turned the opposite direction of Mr. Bear's property. The dust would also be addressed, as last year, with spreading water on the roads.

The hearing was closed at 3:45 p.m. The Board agreed to vote on this application at the next meeting due to the rules of procedures stating that issues heard at public hearings not be voted on until the next meeting.

Later in the meeting Board was made aware of the deadlines for approving festival applications. Therefore, Supervisor Neitch motioned to waive the rules for voting on issues following public hearings. Supervisor Blevins seconded the motion.

AYES: 7  
NAYS: None

Supervisor Neitch motioned to approve the festival permit application submitted by the Davis Valley Winery (for an event to be held June 25-27, 2009). With the condition that *dust control* is administered through out the festival and that state law is yielded if there is a conflict on the ordinance. Supervisor Perry seconded the motion and it passed unanimously.

AYES: 7  
NAYS: None

**Brandon McCann**, Executive Director of the Cascade Highlands tourism center gave a presentation of the center's program and how they involve Smyth County. Even though the center is out of North Carolina, it greatly involves interests of Smyth County.

## OLD BUSINESS

1. Collection of delinquent taxes **(8-10-04)**. *Mr. Carter updated that he has an updated delinquent tax list. Supervisor Perry motioned to continue this issue. Supervisor Neitch seconded the motion and it duly passed.*

AYES: 6

NAYS: 1 C.C. "Charlie" Clark, Jr.

2. Marevine Slemph, request for water service on Fox Valley Road **(5-11-04)**.

3. Re-codifying of the Smyth County Code **(1-10-2006)**. - *The Board agreed to advertise for a public hearing on adopting the new code that has been received and updated. The public hearing is scheduled for the June meeting at 3pm.*

4. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).

5. Disposal of former school building at 105 East Strother Street **(7-11-06)**.

6. Appointments: Board of Zoning Appeals **(2-12-08)**  
One Alternate - VACANT

Area Beautification Committee Judges **(12-9-08)**  
(Chamber of Commerce, 1 year term each calendar year)  
North Fork District - Debbie Ogle

7. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer **(5-13-08)**.

8. Radio System Project **(6-26-08)**.

9. Request referred from the Budget Committee for a full Board discussion:  
In reference to a written request from the Commonwealth Attorney, Treasurer, and the Sheriff. Mr. Roy Evans, Commonwealth Attorney appeared before the Budget Committee on November 7 to explain the request on behalf of his office. He requested that the Board consider a raise for the Constitutional Offices equal with the raises of the county employees that was approved for fiscal year 2009. He stated that the requested raise would be from December 1, 2008 through June 30, 2009. The state has deferred their 2% raise for December 2008 to July 2009 **(11-12-08)**.

10. Possibility of no longer selling car decals but adding that cost to tax tickets. The Ordinance Committee was asked to look at this for the end of 2009 **(1-13-09)**.

11. Referred to the Water and Sewer Counsel, proceed with legal documents to provide uncollectable names and accounts from the Water and Sewer Department to other water providers in the county **(2-10-09)**.

12. Nuisance complaint against a property owned by Joseph F. Ellis, Jr. - The Board voted to leave the matter on the Old Business agenda until the conclusion of a civil case is resolved. At that time, the nuisance issue will be revisited. Mr. Patton Graham (Mr. Ellis' Attorney) will update the Board on the civil case as it progresses **(4-14-09)**.

13. Consideration of an amendment to the Smyth County Code relating to the Animal laws of the County. These amendments relate to enhanced punishment for violations of the animal laws of the Commonwealth and the County. The public hearing on these proposed amendments was held at the April 14 Board meeting.

*By motion of Supervisor Roberts and seconded by Supervisor Neitch and unanimously carried, the following amendment to the Smyth County Code was adopted (this item is now removed from old business):*

**AMENDMENT**  
**MAY 12, 2009**

This amendment will make a change to Chapter 10 of the Smyth County Code, **Animals and Fowl, Article II, Dogs and Cats**, which ordinance is currently set out as §10-65.1 in the County Code of 1995, as amended. This amendment is being proposed to consider changes to the Smyth County Code under present Code section §10-65.1, which is predicted to be changed to Smyth County Code Section §8-127 in the new version of the Smyth County Code of 2007.

This amendment is required by §3.2-6587 of the Code of Virginia, as amended, are for the purpose of changes to the Smyth County Code to conform the punishment for violations of the Animal laws of Smyth County to the provisions for punishment of the same offenses under the Code of Virginia.

A public hearing was held April 14, 2009 at 3:00 p.m., on this proposal to amend §10-65.1 of the Smyth County Code (new §8-127 of the revised Code), and to rewrite the section to conform to the Code of Virginia. These changes provide several additional definitions of violations of the Smyth County Code, and to make plain the punishments for such actions, including:

A. If the known owner of any dog or cat shall fail to pay any license tax required by this Chapter before February 1 for the year in which it is due, he or she shall

be guilty of a Class 4 misdemeanor, and in addition, the Court may order confiscation and the proper disposition of the dog or cat.

B. It shall further be a violation of law, and Class 4 misdemeanor:

1. For any person to make a false statement in order to secure a dog or cat license to which the person is not entitled.

2. For any person to fail to obey an ordinance passed pursuant to §3.2-6522 or §3.2-6525.

3. For any owner to fail to dispose of the body of his or her companion animal in accordance with §3.2-6554.

4. For the owner of any dog or cat with a contagious or infectious disease to permit such dog or cat to stray from his or her premises if such disease is known to the owner.

5. For any person to conceal or harbor any dog or cat on which any required license tax has not been paid.

6. For any person, except the owner or custodian, to remove a legally acquired license tag from a dog or cat without the permission of the owner or custodian.

7. For any other violation of Chapter 65 of Title 3.2 of the Code of Virginia for which a specific penalty is not provided.

8. It shall be a Class 1 misdemeanor for any person to:

(a) Present a false claim or to receive any money on a false claim under the provisions of §3.2-6553: or,

(b) Impersonate a humane investigator.

9. These amendments will be completely revise §10-65.1, as set out above, and the amended section will be the same Smyth County Code Section contained in Chapter 10, Article II, §10-65.1, of the current Smyth County Code.

10. On a vote of the Board of Supervisors, with a quorum present, following a public hearing which was held on April 14, 2009 at 3:00 PM, the Board passed these amendments on May 12, 2009 by a vote of 7 Aye, 0 Nay, 0 absent/abstained, for the purpose of conforming the penalties of the Smyth County Code, and §10-65.1 to the penalties of the Code of Virginia for certain of the Animal laws of Smyth County as set out in these amendments.

11. This amendment shall become effective on May 12, 2009 at 5:00 PM.

AYES: 7  
NAYS: None

### **CLOSED SESSION**

Note: Mr. Perry left during closed session.

At 4:23 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711- A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Dishner and the motion passed unanimously.

Upon returning to open meeting at 5:08 p.m., a motion was made by Supervisor Dishner to adopt the following resolution certifying the business conducted in closed session as follows:

### **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Neitch and the vote is as follows:



AYES: 6  
NAYS: None  
ABSENT: Marvin R. Perry

**CONTINUE THE MEETING**

Supervisor Blevins motioned to continue the meeting until Thursday, May 28, at 7:00 p.m. for a joint public hearing with the Planning Commission and any other issues that may come up before that time. Supervisor Waddell seconded, it passed unanimously.







The Smyth County Board of Supervisors held a continued May meeting at 7:00 p.m., **Thursday, May 28, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
M. Todd Dishner	Wade H. Blevins, Jr.
Brenda J. Waddell	Marvin R. Perry
Michael D. Roberts	

**STAFF PRESENT:**

Michael L. Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney

**OTHERS PRESENT:**

Amber Johnson, Administrative Assistant  
Pam Testerman, Office Service Assistant  
Charlie Atkins, CFO  
Clegg Williams, Zoning Administrator  
Becca Kirk, Administrative Assistant

**PLANNING COMMISSION MEMBERS PRESENT:**

Dennis Blevins	Karl Kalber
Norman Sparks	Graham Davidson
Amy Tuell	Wayne Venable
Don Medley	

**CALL TO ORDER**

Both Chairmen Clark and Blevins called the public hearing to order. Mr. Carter, Assistant County Administrator, read the following legal advertisement as published in the Smyth County News and Messenger, on May 16 and 23 (Saturday editions). Mr. Carter also read the rules of procedures for public hearings. There were approximately (20) citizens present interested in this application.

## **SMYTH COUNTY PLANNING COMMISSION**

*The Smyth County Board of Supervisors and the Smyth County Planning Commission will conduct a joint public hearing on Thursday, May 28, 2009, at 7:00 P.M. or as soon after 7:00 P.M. as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application(s) to the Zoning Ordinance of Smyth County, Virginia:*

*An application from Ronnie Chambers for a Special Use Permit to establish a campground. The property is located on Crabapple Lane in the Konnarock Community. It is identified as Tax Map No. 86-A-38A and is zoned Agricultural/Rural.*

*At this public hearing, subject to the rules of procedure of the Board of Supervisors and Planning Commission of Smyth County, Virginia, any person may appear and state his/her views thereon.*

*Copies of the application(s) along with their maps/drawings are on file in the Office of the County Administrator of Smyth County. Copies are also maintained by the County Zoning Administrator at the address given above, and may be viewed during regular business hours Monday through Friday.*

*Done by order of the Board of Supervisors and the Planning Commission.  
Michael L. Carter, Acting County Administrator  
Dennis R. Blevins, Chairman of the Planning Commission*

## **APPLICATIONS SUBMITTED**

Ronnie T. Chambers - Special Use Permit: Mr. Williams summarized an application submitted by Ronnie Chambers. He explained that Mr. Chambers purchased approximately 36 acres in the Konnarock area of the county. The property is located on State Route 600, Whitetop Road and is identified by tax map # 86-A-38A. Mr. Chambers proposes to establish a "campground" on the property as defined by Section 10-12. Mr. Williams further explained that when he helped Mr. Chambers develop the site plan attached to his application, he only mentioned the structures he was proposing to construct for his planned use. In addition to the cabins and bathhouse, Mr. Chambers proposes to develop 10-12 sites for recreational vehicles with electric and water hook-ups. The proposed sites will be located around the barn seen in the attached site plan. Mr. Williams stated that notice of this public hearing was published in the Smyth County News on May 16 and 23 and a first class mailing was made to each of the adjoining property owners. Mr. Williams pointed out the following sections of the ordinance: Section 3-2.2 j) which allows Campgrounds in the A/R district by issuance of a SUP, §10-12 which defines Campgrounds and Article 6 which

contains the provisions for Special Use Permits. Mr. Williams read into public record six (6) letters he received from various citizens opposing the application or posing questions to be clarified. (Elizabeth Merz with the U. S. Forestry Service, Sandra Jett et al, Connie Daniels, Chuck Brown, Sandra Huffman Greer, Deborah Taylor.

Mr. Chambers was present and stated that he wanted a place for his friends and family to stay when they visit the area. He stated that he is interested in opening it for his church and youth to stay as well. He stated his intentions were not for the creation of a "horse camp" but should someone wish to bring their horses, he would allow it. He discussed that he would like to set up 10-12 recreational vehicle sites or camping trailer sites in addition to the bathhouse and three cabins. He discussed his plans for landscaping the property and the work he has done to the property since he purchased it, removal of junked manufactured homes, driveway upgrade, etc. He stated the campground would only be open for six to eight (6-8) months per year, not year around. He said he did not wish to disrespect the community.

It was discussed that since Mr. Chambers' application only stated "cabins, bath house" the recreational vehicle sites would not be considered as part of this hearing. He would have to file another Special Use Permit application for that use.

The following citizens spoke in opposition: Eva Hayes, Doug Crigger, Ann Pennington, Gene Hayes, and Shirley Huffman. Their reasons included the location of the cemetery, they felt the campground would be a disgrace to the deceased—several of whom are veterans, trash would pile up on the property, the smell from the horses would be bothersome, distance from Mr. Chambers' residence in Greensboro to the site, and who will be the property caretaker. Darlene Neitch presented a petition taken in opposition with approximately 130 signatures.

No one else spoke on this application.

Chairman Clark and Chairman Blevins closed the joint public hearing at 7:55 p.m. The Board convened to the Fourth Floor Social Service Board Room and called their meeting back to order at 7:59 p.m.

## **OTHER BOARD ITEMS**

1. Budget Committee's recommendation to appropriate \$1,850 for courtroom security systems which had failed was approved unanimously by the board. The vote was as follows:

AYES: 7  
NAYS: 0

2. Richard Lennon with the Auditing Firm; Brown, Edwards & Company L.L.P. presented the Board with the June 30, 2008 audit. Mr. Lennon reviewed the audit with the Board and took basic questions.

3. The Board discussed the Heath Care Service Agreement with the Smyth County Community Hospital. This program would reduce the cost of prescription drugs for the hospital to provide to out-patient or emergency room visitors. The contract must be with local government and will cost \$1 per year. Supervisor Perry made motion to approve this agreement and motion was seconded by Dishner. The vote was as follows:

AYES: 7  
NAYS: 0

## **CLOSED SESSION**

At 8:50 p.m. a motion was made by Supervisor Perry to enter into Closed Session under Section 2.2-3711 – A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Dishner and the motion passed unanimously.

Upon returning to open meeting at 9:17 p.m.; a motion was made by Supervisor Perry to adopt the following resolution certifying the business conducted in closed session as follows:

## **RESOLUTION**



## **CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Dishner and the vote is as follows:

AYES: 7  
NAYS: 0

## **ANY OTHER BUSINESS**

1. Mr. Simpson briefly discussed an agreement with APCO for an easement at Long Hollow pump station. Mr. Tate reviewed this agreement. Supervisor Neitch made a motion to approve this agreement and was seconded by Supervisors Waddell. The vote was as follows:

AYES: 7  
NAYS: 0

2. The Board discussed the Budget Committee recommendation to publish the list of delinquent taxes in news paper. Mr. Carter made the Board aware that he has an up-to-date listing. A vote was taken to proceed with legal aspect of collecting delinquent taxes. The vote was as follows:

AYES: 6  
NAYS: 1 (Roberts)

At 9:20 p.m. Supervisor Perry motioned to recess with chairman to call meeting if necessary, Supervisor Dishner seconded, and it carried unanimously.

The Smyth County Board of Supervisors held its regular June meeting at 12:00 noon, **Tuesday, June 9, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
Marvin R. Perry	Wade H. Blevins, Jr.
Brenda J. Waddell	Michael D. Roberts

**MEMBERS ABSENT:**

M. Todd Dishner

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney  
Pam Testerman, Office Service Assistant  
Charlie Atkins, CFO  
Sally Morgan, Economic Development Planner  
Scott Simpson, County Engineer  
Kenny Lewis, Deputy

**OTHERS PRESENT:**

Dan Kegley, Smyth County News & Messenger

**CALL TO ORDER, INVOCATION & PLEDGE OF ALLEGIANCE**

With a quorum present, the meeting was called to order at 12:00 noon. Mr. Marvin Perry gave the invocation and Mrs. Pam Testerman led the pledge of allegiance.

**ADOPTION OF AGENDA**

Supervisor Blevins motioned to adopt the agenda as to form, along with the additional agenda. Supervisor Neitch seconded the motion, vote is as follows:

AYES:	6
NAYS:	0
ABSENT:	M. Todd Dishner

### **MINUTES OF PREVIOUS MEETINGS**

The Board was presented with Tuesday, May 12, and Thursday, May 28, 2009 minutes for adoption. With a couple minor grammatical changes by Mr. Tate, Supervisor Blevins made the motion to approve these minutes as presented. Supervisor Neitch seconded the motion. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

### **PAYMENT OF COUNTY INVOICES**

Supervisor Blevins motioned to approve the following listed appropriations. Supervisor Waddell seconded the motion.

#### Appropriations

General County	\$ 1,160,000
Long Hollow Water	\$153,518.60
Social Services (June 10-30, 2009)	\$ 300,000

The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

By the request of the Board, Dr. Mike Robinson, School Superintendent, presented the Board with clarification on the appropriation out of the current School Board's budget.

Supervisor Perry motioned to approve the following listed appropriations.

Schools - Operating Fund	\$ 5,310,000
Debt and Capital Outlay	\$ 207,132

Supervisor Roberts seconded the motion. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

The balance of the School Board's original appropriation request will be considered at the June 18, 2009 continued meeting after more information is made available regarding the revenue figures and bank balances. The additional appropriation requested by Social Services for the first 14 days of July 2009, will be addressed after the budget is considered and adopted on June 25, 2009.

Supervisor Blevins motioned to approve the accounts payable listing in the amount of \$600,396.87 (Includes \$11,186.31 to Wiley Wilson and \$4,997.00 to Mosley Architects for courthouse renovations). Supervisor Waddell seconded the motion. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

Donald Hart, president of VACo briefly spoke on the relationship between VACo and Smyth County. Mr. Hart stated that Smyth County is and has been very important to VACo. Mr. Hart stated that past presidents of VACo were from Smyth County. Supervisor Roberts stated that he thought the first president was from Smyth County.

#### **CITIZEN'S TIME**

There were 5 citizens present. The following citizen spoke on the following issue:

**Bill Baldwin** - resident of the county for 17 years. Mr. Baldwin spoke on his concerns with animals running at large.

Citizens time was closed at 12:23 p.m.

## **NEW BUSINESS**

**1.** Mr. Atkins, Chief Financial Officer:

**a.** Briefed the Board (with a handout) on the County's current financial standings. Mr. Atkins will continue make this update to the Board each month, and he is available for the Board's input. Mr. Atkins made the Board aware of proposed meetings for budget concerns; on June 11, 2009, there will be a Budget Work Session; on June 18, 2009, a public hearing on the Proposed 2009-2010 Budget; and June 25, 2009, a continued board meeting to adopt the 2009-2010 Budget.

**b.** Made a request to the Board to approve paying invoices twice in the month of June, 2009. Supervisor Neitch made the motion to approve and was seconded by Supervisor Blevins. No vote was taken at this time.

**2.** Sally Morgan requested the Board to re-appoint Barbara DeBord, Tourism Director, to a 2-year term on the Ninth District Development Financing Board. Sally mentioned that this Board provides loan lending services to tourism businesses. There are eleven (11) tourism businesses in the Commonwealth of Virginia and two (2) of them are in Smyth County.

Supervisor Roberts motioned to approve the above mentioned appointment with Sally Morgan as an alternate. Supervisor Blevins seconded the motion and it passed with the vote below:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

**3.** John Tate, County Attorney presented the Board with the following:

**a.** APCo Agreements – Mr. Tate explained that the agreement was for electric generation services and street lighting. Mr. Tate stated that the Steering Committee had reviewed this agreement, and the agreement will include the anticipated rate increase as of July 1, 2009. The term of this contract is three (3)

years. Supervisor Perry motioned to approve the agreement. Supervisor Blevins seconded the motion and it passed with the following vote:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

**b.** Mr. Tate explained the advertisement he prepared for the public hearing for the revised Smyth County Code. Supervisor Perry made the motion to approve the advertisement and schedule the public hearing for July 14, 2009, Board meeting and Supervisor Blevins seconded the motion and it passed with the vote below:

AYES: 6  
NAYS: None  
ABSENT: M. Todd Dishner

**4.** Scott Simpson briefed the Board on the progress of Wiley/Wilson Architects and discussed the Final Design and Construction Support proposal for the Administrative Building.

Supervisor Perry moved to have Mr. Tate review the above mentioned proposal and continue until the meeting on June 11, 2009.

**5.** Mike Carter requested the Board to re-appoint Mr. John Robbie Doyle to the Wytheville Community College Board. Mr. Carter briefed the Board on the letter he received from Mr. Charlie White, President of Wytheville Community College.

Supervisor Neitch made the motion to approve the re-appointment based on the letter from Mr. White. Supervisors Blevins seconded and passed with the following vote:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

**6.** Mike Carter briefed the Board on the letter he received from John Clark, Town Manager of the Town of Marion. This letter is in regards to the Town of Marion's Council meeting on June 8, 2009, where they discussed the old school

board building and parking garage agreement with the County. An excerpt from this letter is below.

*The minutes from the meeting read as follows: "Mr. Hendrick moved that a \$250,000 grant, the assessed value of the schoolhouse, be used to purchase the structure from the County. If the two deck parking area bids are \$1.5 million dollars or higher, the Town would commit \$500,000 towards construction of the same. The Town's commitment would then be \$750,000. However, if the bids for the parking facility are \$1.5 million dollars or lower, the Town and County would share the cost 50%/50%. Mr. Weaver seconded the motion, Council approved the same unanimously. Dr. Gates, Mrs. Hale, Mrs. Jennings, Messrs Hendrick, Leaman, Weaver and Warren voted affirmatively."*

John Tate was instructed to get a maintenance agreement in place. Supervisor Perry made the motion to accept the conditions of the letter and place it in a formal agreement. The motion was seconded by Supervisor Neitch. Supervisor Roberts stated he was a Town of Marion employee and he could vote impartial on this issue. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

7. Sally Morgan, Community and Economic Development, presented the Board with an email from the Office of the Governor concerning stimulus money. Ms. Morgan also attached a list of project ideas that was entered on the Virginia stimulus website for Smyth County.

#### **COMMITTEE RECOMMENDATIONS**

1. Budget Committee - With the recommendation of the Budget Committee the Board voted on the following:

a. Auditing firm - Chairman Clark spoke on the current auditing firm and the Board voted to continue with Brown, Edwards & Co., LLC auditing firm for an additional year. This will be the last year of the 3 year option in their agreement. The vote was as follows:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner



**b.** County legal services - Mr. Carter briefed the Board on the original agreement on legal services with Mr. John Tate and Mr. Jeff Campbell. In the original agreement there is an option to continue services for an additional 2 years. This recommendation is for the first of the additional 2 years. The vote was as follows:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

**c.** Mr. Carter briefed the Board on the recommendation to award Woodward Electric the HVAC improvements to the Animal Shelter in the amount of \$44,075. The vote was as follows:

AYES: 4 C.C. "Charlie" Clark, Jr. Michael R. Roberts  
Darlene R. Neitch  
Brenda J. Waddell

NAYS: 2 Wade H. Blevins, Jr.  
Marvin R. Perry

ABSENT: M. Todd Dishner

**2.** Personnel Committee – With the recommendations of the Personnel Committee the Board unanimously accepted the following appointments:

Mr. Clegg Williams – Deputy Building Official  
Mr. Becca Kirk – temporary Deputy Ordinance Administrator

Mr. Carter briefed the Board on a Personnel matter that has developed and the need for these appointments.

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

**3.** Water and Sewer Committee – With the recommendations of the Water and Sewer Committee the Board voted unanimously on the following:

a. Scott Simpson briefed the Board on the updates to the Water and Sewer Policy. Mr. Simpson took brief questions and Supervisor Perry moved to adopt the revised water and sewer policy effective June 9, 2009. The vote was as follows:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

b. Supervisor Perry stated that with the recent rain fall, the lifting of the Conserve Water Notice was recommended. The fire department will be notified of this lifting and they may fill swimming pools.

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Mr. Robert Hurt briefly updated the Board on some maintenance concerns in the county. Mr. Steve Buston made the Board aware that VDOT had a different mowing schedule this year and stated to please have citizens or the supervisors may call with any mowing concerns.

## **ZONING DEPARTMENT - CLEGG WILLIAMS**

### **Planning Commission Recommendation**

Clegg Williams briefly went over the Planning Commission's public hearing and their decision concerning Ronnie Chambers' special use permit application. Mr. Williams took brief questions from the Board. There were approximately 26 citizens in the room to hear the Board's decision. Supervisor Perry moved to accept the Planning Commission's recommendation to deny the special use permit and was seconded by Supervisor Neitch. The vote was as follows:

AYES:	4	Marvin R. Perry Wade H. Blevins, Jr.	Darlene R. Neitch Brenda J. Waddell
NAYS:	2	C.C. "Charlie" Clark Michael D. Roberts	
ABSENT:		M. Todd Dishner	

Mike Carter made the Board aware that there is no need for a joint public hearing with the Planning Commission.

## OLD BUSINESS

1. Collection of delinquent taxes **(8-10-04)**. *Mr. Carter updated that he has an updated delinquent tax list. Supervisor Perry motioned to continue this issue. Supervisor Neitch seconded the motion and it duly passed.*

AYES: 6

NAYS: 1 C.C. "Charlie" Clark, Jr.

2. Marevine Slemph, request for water service on Fox Valley Road **(5-11-04)**.

3. Re-codifying of the Smyth County Code **(1-10-2006)**. - *The Board agreed to advertise for a public hearing on adopting the new code that has been received and updated. The public hearing is scheduled for the meeting on July 14, at 3pm.*

4. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).

5. Disposal of former school building at 105 East Strother Street **(7-11-06)**.

6. Appointments: Board of Zoning Appeals **(2-12-08)**  
One Alternate - VACANT

Area Beautification Committee Judges **(12-9-08)**  
(Chamber of Commerce, 1 year term each calendar year)  
North Fork District - Debbie Ogle

7. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer **(5-13-08)**.

8. Radio System Project **(6-26-08)**.

9. Request referred from the Budget Committee for a full Board discussion:  
In reference to a written request from the Commonwealth Attorney, Treasurer, and the Sheriff. Mr. Roy Evans, Commonwealth Attorney appeared before the Budget Committee on November 7 to explain the request on behalf of his office. He requested that the Board consider a raise for the Constitutional Offices equal with the raises of the county employees that was

approved for fiscal year 2009. He stated that the requested raise would be from December 1, 2008 through June 30, 2009. The state has deferred their 2% raise for December 2008 to July 2009 **(11-12-08)**.

10. Possibility of no longer selling car decals but adding that cost to tax tickets. The Ordinance Committee was asked to look at this for the end of 2009 **(1-13-09)**. *At the June 9, 2009 meeting, Mr. Tom Burkett, Treasurer, spoke to the Board on the elimination of the sell of car decals and incorporating a licensing fee to tax tickets. Mr. Burkett took brief questions. Mr. Jeff Richardson, Commissioner of Revenue, stated it would have minimal impact on his office to no longer sell car decals. Supervisor Perry made the motion to eliminate car decals. Supervisor Neitch seconded and the vote was as follows:*

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

11. Referred to the Water and Sewer Counsel, proceed with legal documents to provide uncollectable names and accounts from the Water and Sewer Department to other water providers in the county **(2-10-09)**.

12. Nuisance complaint against a property owned by Joseph F. Ellis, Jr. - The Board voted to leave the matter on the Old Business agenda until the conclusion of a civil case is resolved. At that time, the nuisance issue will be revisited. Mr. Patton Graham (Mr. Ellis' Attorney) will update the Board on the civil case as it progresses **(4-14-09)**.

## **CLOSED SESSION**

At 3:37 p.m. a motion was made by Supervisor Perry to enter into Closed Session under Section 2.2-3711 – A.5 (Industry Prospects) and Section 2.2-3711- A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Waddell and the motion passed unanimously.

Upon returning to open meeting at 4:00 p.m., a motion was made by Supervisor Perry to adopt the following resolution certifying the business conducted in closed session as follows:

## **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote

and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Roberts and the vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

### **CONTINUE THE MEETING**

Supervisor Perry motioned to continue the meeting until Thursday, June 11, 2009, at 5:00 p.m. for a budget work session and any other issues that may come up before that time. Supervisor Roberts seconded and it passed with the following vote:

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner











The Smyth County Board of Supervisors held a continue June meeting and Budget Work Session at 5:00 p.m., **Thursday, June 11, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.     Darlene R. Neitch  
Wade H. Blevins, Jr.         Michael D. Roberts  
M. Todd Dishner             Marvin R. Perry (arrived at 6:13 p.m.)  
Brenda J. Waddell

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
John Tate, County Attorney (arrived at 6:13 p.m.)  
Pam Testerman, Office Service Assistant  
Scott Simpson, County Engineer  
Charlie Atkins, CFO  
Lisa Richardson, Executive Secretary  
Shannon Williams, 911 Coordinator

**OTHERS PRESENT:**

Dan Kegley, Smyth County News & Messenger

**Budget Work Session**

At 5:05 p.m. the Chairman of the Board called the meeting to order.

There were an estimated 11 concerned citizens present for the budget work session. The following representatives spoke about the proposed budget appropriations and concerns with their organizations:

Pam Hall, Brain Injury Services of Southwest Virginia.

Letcher Wagnor Jr., Marion, VA, a brain injury patient spoke on behalf of  
Brain Injury Services.

Letcher Wagnor Sr., Marion, VA, spoke on behalf of the Brain Injury Services.

Harry Howell, Director, Project Crossroads.

Pat Hatfield, Director, Smyth Bland Regional Library.

Wayne Reynolds, Secretary, Smyth Wythe Airport Commission.

The following spoke with great concern on the EMS proportion of the proposed budget:

David Haynes, Chief, Chilhowie Fire Department.

Ronnie Waddle, Chief, Nebo Fire Department.

Charles Harrington, Captain, Marion Life Saving Crew.

Charlie Atkins made the Board aware of the two (2) following proposal changes to the budget:

1. The Health Department decreased their request by \$5,210.
2. Shannon Williams received two (2) E911 grants totaling \$58,000; which are 100% grants with no county match. Mr. Williams stated these grants were for maintenance support on software and dispatcher training.

Supervisor Roberts asked about employees. Mike Carter stated no salary increases, no additional jobs created, no eliminations, and only to fill vacant positions.

Supervisors Roberts and Supervisors Blevins stated their concerns with the cuts to the Fire and Rescue Departments. After further discussion, Supervisor Roberts made a motion to raise the 2010 Fire and Rescue Department appropriations to concur with the 2009 funding. Supervisor Blevins seconded the motion and passed with the following vote:

AYES: 6  
NAYS: 0  
ABSENT: Marvin R. Perry

Supervisor Roberts stated his concern with the Saltville Historical Society being absent from the budget. Supervisor Roberts made a motion to include the Saltville Historical Society in the budget at \$900 and to be distributed upon their written request. This motion was seconded by Supervisor Dishner. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Marvin R. Perry

Supervisors Blevins stated his concern with the Chilhowie Senior Citizens being absent from the budget and he will ask the group for a funding request letter. Supervisor Blevins made a motion to include the Chilhowie Senior Citizens in the budget at \$1,500. This motion was seconded by Supervisor Neitch. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Marvin R. Perry

David Rose, Financial Consultant with Davenport & Company LLC, presented the Board with an updated General Fund Overview and Enterprise Fund Status report. Mr. Rose had an in-depth discussion with the Board on the report.

### **Other Business**

John Tate and Scott Simpson discussed with the Board changes to the original Wiley/Wilson proposal on new Administration Building which was presented at the June 9, 2009, Board meeting. Supervisor Perry made motion to approve document and was seconded by Supervisor Dishner. The vote passed with the following vote:

AYES:	4	C.C. "Charlie" Clark M. Todd Dishner	Darlene R. Neitch Marvin R. Perry
NAYS:	3	Michael D. Roberts Wade H. Blevins, Jr.	Brenda J. Waddell

**CONTINUE THE MEETING**

Supervisor Neitch motioned to continue the meeting until Thursday, June 18, 2009, at 7:00 p.m. Supervisor Waddell seconded, it passed unanimously.









The Smyth County Board of Supervisors held a continue June meeting at 7:00 p.m., **Thursday, June 18, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
Marvin R. Perry	Wade H. Blevins, Jr.
Brenda J. Waddell	M. Todd Dishner
Michael D. Roberts	

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
Pam Testerman, Office Service Assistant  
Scott Simpson, County Engineer  
Charlie Atkins, CFO  
Sally Morgan, Economic Development Planner  
Kenny Lewis, Deputy

**OTHERS PRESENT:**

Jeff Campbell, County Water/Sewer Attorney (arrived at 7:20)  
Dan Kegley, Smyth County News & Messenger  
Dr. Mike Robinson  
Mr. Jeff Cassell

**PUBLIC HEARING ON PROPOSED TAX LEVY**

At 7:01 p.m. the Chairman of the Board called the public hearing to order. Mr. Carter read the advertisement below, which was published in the Smyth County News and Messenger on June 13, 2009. There were an estimated 20 citizens present for this hearing.

**NOTICE OF PUBLIC HEARING ON PROPOSED 2009-2010 TAX LEVIES**

The Board of Supervisors of Smyth County, Virginia will, on June 18, 2009 beginning at 7:00 p.m. at the Office of the Board of Supervisors, 121 Bagley Circle, Suite 100, Marion, Virginia, conduct a Public Hearing on the following issues:

Pursuant to §58.1-3007 of the Code of Virginia, The Board of Supervisors is considering the adoption of the 2009-2010 Smyth County budget, including the previously adopted budget for the Smyth County School Board, and the Board has simultaneously advertised the entire proposed budget for the fiscal year July 1, 2009 to June 30, 2010 for a public hearing which also begins at the same place at 7:30 on June 18, 2009.

The proposed 2009-2010 budget is based on a proposal for three (3) tax levy increases from the current tax levy for the year 2008-2009. One (1) 2008-2009 tax levy is proposed to be continued for the next fiscal year.

THE PROPOSED TAX LEVY INCREASES FOR 2009-2010 ARE:

- a) To increase the current 2008-2009 Real Estate tax levy from \$0.63 per \$100.00 of assessed valuation to a proposed 2009-2010 Real Estate tax levy of \$0.69 per \$100.00 of assessed valuation.
- b) To increase the current 2008-2009 Machinery & Tools tax levy from \$1.20 per \$100.00 of assessed valuation to a proposed 2009-2010 Machinery & Tools tax levy of \$1.55 per \$100.00 of assessed valuation.
- c) To increase the current 2008-2009 Category 23 items (trucks used in interstate commerce over 10,000 pounds) tax levy from \$1.20 per \$100.00 of assessed valuation to a proposed 2009-2010 Category 23 items tax levy of \$1.55 per \$100.00 of assessed valuation.

THIS TAX LEVY IS PROPOSED TO REMAIN THE SAME IN 2009-2010 AS SET IN 2008- 2009:

- a) A tax levy on tangible personal property and the tangible personal property of public service corporations, except rolling stock of corporations operating railroads, a unit levy of \$2.25 per \$100.00 of assessed valuation.

At this public hearing, the Board will hear the comments of the public on the subject of those proposed levy increases in the tax levy for items a), b) & c) above for 2009-2010. No action will be taken by the Board for at least seven (7) days after this public hearing.

Any person may, subject to reasonable rules of time fixed by the Board, address the Board of Supervisors on the subjects in this advertisement or on the proposed budget for 2009-2010 in the same public hearing already advertised for the full Smyth County Budget.

Done by Order of the Board of Supervisors on June 9, 2009.

Michael L. Carter, Acting County Administrator

The Board heard from the following citizens who opposed the tax increases:

Earl McClure, Rye Valley District, Chillhowie

Martha Larmer, Atkins District

Daniel Pickle, Atkins District

Brian Karriker, Marion

The following citizens own businesses in Smyth County and are opposed to the Machinery and Tool tax increase:

Karl Kalber, Marion, Marion Mold & Tool

Jim Holman, Marion, Smyth County Machine and Welding

The hearing was closed at 7:36 p.m.

Supervisor Perry stated that several citizens spoke on the collection of taxes. Supervisor Perry asked where the county stood on this issue. Mr. Carter stated the list will go in the Smyth County News and Messenger on Saturday, June 27 and the Board has authorized Mr. Tate to proceed with the collection of taxes.

### **PUBLIC HEARING ON PROPOSED 2009-2010 COUNTY BUDGET**

At 7:36 p.m. the Chairman of the Board called the public hearing to order. Mr. Carter read the advertisement below, which was published in the Smyth County News and Messenger on June 10, 2009. There were an estimated 20 citizens present for this hearing.

#### **NOTICE OF PUBLIC HEARING ON THE PROPOSED SMYTH COUNTY BUDGET FOR FISCAL YEAR JULY 1, 2009 – JUNE 30, 2010**

The budget synopsis is prepared and published for informative and fiscal planning purposes only. The inclusion in the budget for any item does not constitute an obligation or commitment on the part of the Board of Supervisors of this county to appropriate any funds for that purpose, except as it relates to the budget for the Smyth County School Board, which is governed by §22.1-93, et Seq.

This budget has been prepared on the basis of estimates and requests submitted to the Board of Supervisors by several office and department heads of the County. There is no allocation or designation of any funds for this County for any purpose until there has been an appropriation for that purpose by the Board of Supervisors.

A hearing will be conducted by the Board of Supervisors on the budget for the informative and planning purpose in the Board of Supervisors meeting room, 121 Bagley Circle, Smyth County Office Building on Thursday, June 18, 2009, at 7:30p.m., or soon thereafter, at which time any citizen of the County shall have the right to attend and subject to the Rules and Procedures of the Board of Supervisors state his or her views. The budget is for informative and planning purposes and will not be approved, adopted or ratified by the Board of Supervisors on Thursday, June 18, 2009.

A full copy of the proposed Smyth County budget is on file at the Office of the County Administrator, 121 Bagley Circle, Suite 100, Marion, Virginia, and may be viewed during regular business hours 8:00 a.m. – 5:00 p.m., Monday – Friday.

**SMYTH COUNTY BUDGET**

<u>Revenue</u>	<u>FY/2009 Budget</u>	<u>Proposed FY/2010</u>	<u>Inc./Dec.</u>
Revenue from Local Sources	\$7,583,319	\$2,209,163	-\$5,374,156
Real Property Taxes	7,404,000	8,055,000	651,000
Public Services	550,000	540,000	-10,000
Personal Property	2,495,500	2,814,500	319,000
Machinery & Tools	1,395,250	1,651,500	256,250
Merchants Capital	186,200	186,000	-200
Lodging Tax	0	1,500	1,500
Penalties & Interest	220,000	230,000	10,000
Franchise License Taxes	0	7,000	7,000
Motor Vehicle License	295,000	288,000	-7,000
Rolling Stock Tax	27,437	28,000	563
Utility Licenses Tax	97,500	92,000	-5,500
Consumer's Utility Tax	1,290,000	1,234,000	-56,000
Permits & Other Licenses	72,125	56,125	-16,000
Fines & Forfeitures	48,000	53,000	5,000
Interest on Investments	800,500	500,500	-300,000
Use of Property	210,318	131,318	-79,000
Court Cost	10,576	10,576	0
Charges for Commonwealth Attorney	1,950	1,500	-450
Charges Sanitation & Waste	644,000	644,000	0
Expenditure Refunds	842,268	708,932	-133,336
Miscellaneous/Borrowing	71,000	4,314,500	4,243,500
Public Safety Grant Money	2,275,000	900,000	-1,375,000
Revenue from the Commonwealth	312,016	276,002	-36,014
PPTRA	1,804,316	1,804,316	0
Comprehensive Service Act	872,098	781,468	-90,630
Commonwealth Attorney	489,890	512,654	22,764
Sheriff	1,852,544	1,793,055	-59,489
Commissioner of the Revenue	111,322	117,136	5,814
Treasurer	124,374	129,199	4,825
Registrar/Electoral Board	71,371	56,563	-14,808
Clerk's office	279,567	283,739	4,172
Local Sales Tax	1,850,000	1,700,000	-150,000
Categorical Aid - Other	342,000	340,500	-1,500
Payment in Lieu of Taxes	75,000	0	-75,000
Special Assessments	8,858	6,375	-2,483
Animal Licenses	9,500	10,400	900
IDA Funds	25,375	22,000	-3,375
State School Funds	41,977,678	42,027,859	50,181
School Debt & Capital Outlay	638,992	174,820	-464,172
Damage Stamp Revenue	5,000	0	-5,000
Board of Welfare -Social Serv	3,981,374	4,088,984	107,610

<b><u>Revenue</u></b>	<b><u>FY/2009 Budget</u></b>	<b><u>Proposed FY/2010</u></b>	<b><u>Inc./Dec.</u></b>
School Textbook Revenue	229,325	216,000	-13,325
On-Site Wastewater Revenue	1,001	765	-236
North Holston Project	473,000	0	-473,000
Pioneer Greenwood Project	445,500	445,500	0
Southfork Long Hollow Project	1,090,000	0	-1,090,000
Water-Sewer Revenue	1,512,000	1,505,000	-7,000
Connection Fees	22,000	17,000	-5,000
Application Fees	8,000	4,000	-4,000
Miscellaneous	1,500	5,500	4,000
Special Projects	0	130,000	130,000
Special Welfare	227,168	206,918	-20,250
Comm. Attorney Drug Asset Revenue	5,008	4,000	-1,008
Sheriff Drug Asset Revenue	2,006	4,000	1,994
Sheriff Dare Revenue	6,000	3,000	-3,000
Courthouse Security Revenue	60,005	70,010	10,005
Asset Forfeiture	10,000	24,500	14,500
Revenue from Radar Fund Fines	195,000	320,000	125,000
<b>Total</b>	<b>\$85,638,731</b>	<b>\$81,738,377</b>	<b>-\$3,900,354</b>

<b><u>Expenditures</u></b>	<b><u>FY/2009 Budget</u></b>	<b><u>Proposed FY/2010</u></b>	<b><u>Inc./Dec.</u></b>
Board of Supervisors	\$1,102,056	\$973,027	-\$129,029
County Administration	509,653	433,989	-75,664
Commissioner of the Revenue	258,378	290,176	31,798
Assessor	90,000	110,000	20,000
Treasurer	295,511	293,978	-1,533
Information Systems	337,027	326,515	-10,512
Registrar	152,394	160,017	7,623
Circuit Court	79,629	78,193	-1,436
General District Court	16,420	12,920	-3,500
Juvenile & Domestic Courts	202,400	244,800	42,400
Clerk of the Circuit Court	459,889	456,442	-3,447
Sheriff	2,872,483	2,752,664	-119,819
Law Library	11,000	11,000	0
Commonwealth Attorney	575,292	563,389	-11,903
Victim Witness Asst. Program	49,484	55,503	6,019
Central Dispatch	11,400	6,500	-4,900
Smyth County Basic 911	4,179,046	1,921,728	-2,257,318
Volunteer Fire Department	454,000	411,500	-42,500
Ambulance & Rescue Service	174,551	121,700	-52,851
Forrestry	4,515	8,126	3,611
Sheriff – Jail	1,222,885	1,135,687	-87,198
Building Inspection & Zoning	466,370	399,454	-66,916
Animal Control – Dog Warden	437,348	351,138	-86,210
Medical Examiner – Coroner	1,000	900	-100

<b>Expenditures</b>	<b>FY/2009 Budget</b>	<b>Proposed FY/2010</b>	<b>Inc./Dec.</b>
Emergency Services – Civil Defense	29,515	26,338	-3,177
Motor Vehicle License	12,600	11,700	-900
Refuse Collection & Disposal	1,418,848	1,462,873	44,025
Convenience Stations	370,330	352,609	-17,721
Rye Valley Water Co.	87,789	84,332	-3,457
Smyth County Tourism	85,020	86,002	982
Courthouse Maintenance	171,982	178,305	6,323
Health Department Bldg Main.	89,176	94,196	5,020
County Office Bldg Main.	283,534	283,823	289
Local Health Department	508,564	509,064	500
Mental Health	166,022	166,022	0
Welfare & Social Services	4,200	4,200	0
Other	441,304	360,384	-80,920
Community Colleges	51,413	47,814	-3,599
Capital Improvements	1,490,000	3,690,000	2,200,000
Recreation	42,650	43,400	750
Library Administration	1,067,036	992,036	-75,000
Planning Commission	16,316	15,173	-1,143
Community & Economic Development	280,998	259,257	-21,741
County Engineer	196,099	142,890	-53,209
Industrial Development Authority	664,600	504,418	-160,182
Soil & Water Conservation	30,700	28,250	-2,450
Cooperative Extension Program	94,109	94,278	169
Comprehensive Service Act	1,232,344	1,053,693	-178,651
Animal Control	10,000	45,948	35,948
IDA General Expenses	2,000	1,850	-150
County School Operations	52,532,043	51,439,782	-1,092,261
Damage Stamp	5,000	0	-5,000
Welfare & Social Service Cost	4,675,823	4,773,210	97,387
School Textbook Fund Expense	200,000	200,000	0
Special Dispatch Funds	25,836	25,836	0
North Holston Project	473,000	0	-473,000
Pioneer Greenwood Project	444,500	445,500	1,000
Southfork Long Hollow Project	1,090,000	0	-1,090,000
Water-Sewer Department	2,875,556	2,349,492	-526,064
County Funded Projects	10,000	130,000	120,000
Special Welfare Funds	225,000	206,918	-18,082
Comm. Wealth Attorney Drug Asset Exp	5,000	4,000	-1,000
Sheriff Drug Asset Expense	2,000	4,000	2,000
Sheriff Dare Program	4,000	7,000	3,000
Sheriff SS Incentive	672	0	-672
Courthouse Security	34,448	69,973	35,525
Asset Forfeiture	24,500	24,500	0
Radar Fund Expense	201,473	399,965	198,492
<b>Total</b>	<b>\$85,638,731</b>	<b>\$81,738,377</b>	<b>-\$3,900,354</b>

In preparation of the above budget the Smyth County Board of Supervisors will consider the following tax levies:

The Board proposes to adopt, pursuant to §58.1-3001 et seq. a real estate levy on all taxable real estate located in Smyth County, Virginia, including equalized real estate, where applicable, a unit levy of \$0.69 per \$100.00 of assessed valuation; Tax on tangible personal property and the tangible personal property of public service corporations, except rolling stock of corporations operating railroads, a unit levy of \$2.25 per \$100.00 of assessed valuation; Machinery & Tools \$1.55 per \$100.00 of assessed valuation; Tax on Category 23 items (trucks used in interstate commerce over 10,000 pounds) a unit levy of \$1.55 per \$100.00 of assessed valuation; Tax on merchants capital a unit levy of \$0.40 per \$100.00 of assessed valuation.

By order of the Smyth County Board of Supervisors  
Michael L. Carter, Acting County Administrator

The Board heard concerns with the proposed 2009-2010 budget from the following citizen:

Earl McClure, Rye Valley District, Chilhowie

The hearing was closed at 7:42 p.m.

### **Other Business**

1. The board discussed the additional appropriation requested by the School Board with Dr. Mike Robinson, School Superintendent. Dr. Robinson present the Board with a June Appropriation request letter. Dr. Robinson made the board aware that the School Board had received 2.1 million dollars and were expecting an additional 2 million by the end of June. Charlie Atkins stated he spoke with the Treasurer's Office and the County, at this time, has \$4 million in revenue posted for the month. He stated that more money had been received but not posted and he was not aware of this amount. Supervisor Perry asked Mr. Carter how he felt. Mr. Carter stated that close to \$6 million had been collected and he feels comfortable that there is enough to pay the School Board's bills.

Supervisor Blevins made to motion to approve the additional appropriation for the School Board in the amount of \$4,699,911.00. Supervisor Dishner seconded

and passed unanimously. Supervisors Clark and Dishner would like to disclose that their wives work for the School Board. The vote is as follows:

AYES: 7  
NAYS: 0

2. Dr. Mike Robinson briefed the Board on the School Board's revenue funding. The School Board receives revenue for the free food services the schools furnish. Dr. Robinson stated that they have had the largest amount of children on free food service this school year. Once the \$1.4 million of revenue has been received for this food service, they are required to issue payment to food service vendors.

3. At the regular Board meeting on June 9, 2009, Supervisor Neitch made the motion to approve paying invoices twice in June 2009 and was seconded by Supervisor Blevins, at that time no vote was taken. The vote was taken and is as follows:

AYES: 7  
NAYS: 0

4. Charlie Atkins requested the approval of the Board for the Hicok, Fern, Brown & Garcia agreement for accounting and consulting services. Supervisor Perry and Roberts made to motion to accept this agreement subject to the accounting firm revising their agreement to state a completion date. Supervisor Neitch seconded the motion and stated she did so subject to a completion date being added to the agreement. The Board approved Mr. Atkins to discuss with the firm the conditions of the completion date and to revise their agreement.

At 8:03 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711- A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Dishner and the motion passed unanimously.

Upon returning to open meeting at 8:56 p.m., a motion was made by Supervisor Perry to adopt the following resolution certifying the business conducted in closed session as follows:



**RESOLUTION  
CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Roberts and the vote is as follows:

AYES:           7  
NAYS:           0

**CONTINUE THE MEETING**

Supervisor Neitch motioned to continue the meeting until Thursday, June 25, 2009, at 7:00 p.m. Supervisor Waddell seconded, it passed unanimously.









The Smyth County Board of Supervisors held a continued June meeting at 7:00 p.m., **Thursday, June 25, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
Marvin R. Perry	Wade H. Blevins, Jr.
Brenda J. Waddell	M. Todd Dishner
Michael D. Roberts	

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
John Tate, County Attorney  
Pam Testerman, Office Service Assistant  
Scott Simpson, County Engineer  
Charlie Atkins, CFO  
Sally Morgan, Economic Development Planner

**OTHERS PRESENT:**

Jeff Campbell, Water/Sewer Attorney  
Dr. Mike Robinson  
Mr. Jeff Cassell

**CALL TO ORDER**

With a quorum present, the meeting was called to order at 7:01 p.m.

**SECOND PAYMENT OF COUNTY INVOICES**

Supervisor Roberts motioned to approve the following listed payables. Supervisor Dishner seconded the motion.

Appropriations

General County	\$242,124.48
Fund 3	\$ 6,047.40
North Holston Water	\$ 24,549.49

The vote is as follows:

AYES:	7
NAYS:	0

**COMMITTEE RECOMMENDATIONS**

Budget Committee - With the recommendation of the Budget Committee the Board approved the School Board's transfer of \$150,312.00 from fund #61000 to fund #65000 for the 2008-2009 budget. Supervisor Blevins made the motion to accept the Budget Committee's recommendation on the transfer and was seconded by Supervisor Neitch. The vote is as follows:

AYES: 7  
NAYS: 0

**New Business:**

1. Industrial Development Authority recommended a payment of \$8,215.92 to American Wood Fibers for Enterprise Zone building permit fee rebate. Supervisor Perry motioned to accept the Industrial Development Authority's recommendation for this payment and was seconded by Supervisor Blevins and the vote is as follows:

AYES: 7  
NAYS: 0

2. Charlie Atkins briefed the Board on the proposed PPTRA rate. Mr. Atkins stated that he and Mr. Richardson, Commissioner of Revenue, were in agreement that the rate should be set at 61 cents per \$1.00 on the personal property taxes on vehicles that are eligible. The 61 cents would equal the \$1,804,316 that would be received from the state to replace money not collected from citizens. Supervisor Blevins made the motion to approve the rate at 61cents per dollar and was seconded by Supervisor Waddell. The vote is as follows:

AYES: 7  
NAYS: 0

**Other Business:**

1. Charlie Atkins presented to the Board the revised Hicok, Fern, Brown & Garcia accounting and consulting services agreement. Charlie stated that he

spoke with the firm and they agreed to include a 60 day completion date. Supervisor Perry motioned to approve the agreement with the completion day included and was seconded by Supervisor Roberts. The vote is as follows:

AYES: 7  
NAYS: 0

2. Charlie Atkins presented the Board with the Budget Committee's recommendation to adopt the following 2009-2010 tax levy increases as advertised:

Real Estate - \$.69 per \$100.00 of assessed value  
Machinery & Tools - \$1.55 per \$100.00 of assessed value  
Category 23 (Trucks used in interstate commerce over 10,000lbs) - \$1.55 per \$100.00 of assessed value

The adoption passed with the following vote:

AYES:	4	C.C. "Charlie" Clark Marvin R. Perry	M. Todd Dishner Michael D. Roberts
NAYS:	3	Wade H. Blevins Darlene R. Neitch	Brenda J. Waddell

3. Charlie Atkins briefed the Board on a concern with their motion on June 9, 2009, to eliminate the sale of car decals. Mr. Atkins stated he wanted the Board to realize that with this elimination there would be a \$200,000 decrease in revenue. After a brief discussion, Supervisor Perry motioned to rescind his prior motion to eliminate the sale of car decals, and was seconded by Supervisor Neitch. This motion was rescinded due to the loss of revenue it would create. The vote was as follows:

AYES: 7  
NAYS: 0

Supervisor Neitch stated that the towns need to be notified on this motion. The towns were going to follow the county with their decision to eliminate the sale of car decals.



4. Charlie Atkins made the Board aware of one (1) change the Budget Committee recommended to the budget. The committee recommended to include the Marion Senior Citizen group to the budget with the same amount as Chilhowie and Sugar Grove group. The distribution of this contribution would depend upon the request from the Marion Senior Citizens.

With the Budget Committee's recommendation to adopt the 2009-2010 County Budget, the adoption passed unanimously.

AYES: 7  
NAYS: 0

5. The Board approved the Social Services appropriation in the amount of \$65,000 that was postponed from the regular June 9, 2009 meeting. This appropriation is for the first 14 days of July, 2009. Supervisor Perry made the motion to approve this appropriation and was seconded by Supervisor Blevins. The vote is as follows:

AYES: 7  
NAYS: 0

#### **CLOSED SESSION**

At 7:31 p.m. a motion was made by Supervisor Dishner to enter into Closed Session under Section 2.2-3711 - A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Neitch and the motion passed unanimously.

Upon returning to open meeting at 8:28 p.m., a motion was made by Supervisor Neitch to adopt the following resolution certifying the business conducted in closed session as follows:

#### **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Blevins and the vote is as follows:

AYES:           7  
NAYS:           0

**ADJOURN THE MEETING**

Chairman Clark adjourned the meeting.







*Note: These minutes are written as the agenda was presented. Some votes and/or discussions may appear out of order.*

The Smyth County Board of Supervisors held its regular July meeting at 12:00 noon, **Tuesday, July 14, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
Marvin R. Perry	Wade H. Blevins, Jr.
M. Todd Dishner	Michael D. Roberts
Brenda J. Waddell	

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney  
Pam Testerman, Office Service Assistant  
Scott Simpson, County Engineer  
Charlie Atkins, CFO  
Sally Morgan, Economic Development Planner  
Shannon Williams, 911 Coordinator (arrived at 1:51 p.m.)  
Kenny Lewis, Deputy (arrived at 12:33 p.m.)

**OTHERS PRESENT:**

Dan Kegley, Smyth County News & Messenger

**CALL TO ORDER, INVOCATION & PLEDGE OF ALLEGIANCE**

With a quorum present, the meeting was called to order at 12:00 noon. Mr. Walter Robinson gave the invocation and Mr. Manuel Street led the pledge of allegiance.

**ADOPTION OF AGENDA**

Supervisor Neitch motioned to adopt the agenda as to form, along with the additional agenda. Supervisor Blevins seconded the motion, vote is as follows:

AYES:	7
NAYS:	0

**MINUTES OF PREVIOUS MEETINGS**

The Board was presented with the minutes from the following meetings:

Tuesday, June 9, 2009  
Thursday, June 11, 2009  
Thursday, June 18, 2009  
Thursday, June 25, 2009

After a short discussion and with a couple of minor grammatical changes suggested by Mr. Tate, Supervisor Blevins made a motion to approve the minutes of the June 9, June 18, and June 25, 2009 as presented with the grammatical changes as suggested by Mr. Tate. The vote is as follows:

AYES: 7  
NAYS: 0

As to the June 11, 2009 minutes, Supervisor Roberts requested that the recording of the meeting be reviewed as to his reported second to a motion. With this request, Chairman Clark stated these minutes will be considered for adoption at the continued Thursday, July 23, 2009 meeting.

## **PAYMENT OF COUNTY INVOICES**

Supervisor Blevins motioned to approve the following listed appropriations.

### Appropriations

General County	\$ 1,980,000.00
Animal Damage Fund 3	\$ 156.91
Long Hollow Water	\$ 107,460.37
Social Services (July 15-31, 2009)	\$ 325,000.00
(August 1 – 11, 2009)	\$ 75,000.00
Schools - Operating Fund	\$ 2,000,000.00
Textbook Fund	\$ 20,000.00
Debt and Capital Outlay	\$ 900,000.00

Supervisor Roberts seconded the motion. The vote is as follows:

AYES: 7  
NAYS: 0

Supervisor Blevins motioned to approve the accounts payable listing in the amount of \$600,396.87. Supervisor Dishner seconded the motion and the vote is as follows:

AYES: 7  
NAYS: 0

Supervisor Perry requested that the availability of requested money be reviewed. Supervisor Perry asked Mr. Charlie Atkins on the financial status of the County. Mr. Atkins stated the books had not been closed for June 2009, and he would have to check with Debbie in the Treasurer's Office for a bank balance.

#### **CITIZEN'S TIME**

There were no citizens present.

#### **NEW BUSINESS**

Clarence Smith, IDA Board member for the Saltville District, term expired June 30, 2009. Supervisor Roberts stated he spoke with Mr. Smith and he has agreed to serve another term. Supervisor Roberts motioned to reappoint Clarence Smith to the IDA Board and was seconded by Supervisor Perry. The vote is as follows:

AYES: 7  
NAYS: 0

Mr. Atkins, Chief Financial Officer was unable to brief the Board on the financial status of the County. The books for June 2009 had not been closed, therefore; he had not received a report from the Treasurer's Office. Mr. Atkins stated that he was told; he would have the report by the end of the week.



Supervisor Perry stated the Board should not be placed in the position of not knowing the financial condition of the County. That one of the most important items facing this Board is finances.

With Supervisors Perry's request on availability of money (see above), Mr. Atkins briefed the Board on the bank balance information he received from Debbie in the Treasurer's Office. With this information, the motion on page 2 (Payment of County Invoices) was approved.

Shannon Williams presented the 2010 Fire Programs Fund Disbursement Agreements. After questions from Mr. John Tate, Supervisor Roberts motioned to accept the agreement and Supervisor Perry seconded. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Wade H. Blevins, Jr. (stepped out of the room)

Supervisor Neitch made a motion to adopt the following resolution for the Rye Valley Water Authority's Water Treatment Project. Supervisor Blevins seconded the motion and it passed unanimously:

#### **RESOLUTION**

**WHEREAS**, the Rye Valley Water Authority has been placed on an advisory "Boil Water Notice" due to concerns about potential contamination of its natural spring water source from Giardia lamblia and Cryptosporidium, disease-causing organisms, and

**WHEREAS**, the water authority serves approximately 500 homes and several businesses, in addition to the Sugar Grove Combined School (K-8), and

**WHEREAS**, the Sugar Grove community is in urgent need of drinking water for a temporary period until adequate treatment is established, and

**WHEREAS**, this situation is detrimental to the community and requires substantial cost on the part of homeowners and business owners to comply with the notice, and

**WHEREAS**, the Rye Valley Water Authority has applied for \$1.3 million in grant funds from the Virginia Department of Health for the improvements needed to adequately treat the water, thereby eliminating the contamination issue, and

**WHEREAS**, due to an earlier project with borrowed funding, the Authority is unable to absorb additional debt on the system without substantial increases in system fees.

**THEREFORE BE IT RESOLVED** that the Smyth County Board of Supervisors acknowledges this situation as an urgent need and requests help from Governor Tim Kaine for the approval of \$1.3 million in grant funds for the Rye Valley Water Authority Water Treatment Project.

AYES: 7  
NAYS: 0

Sally Morgan, Community and Economic Development:

**a.** Briefed the Board on a joint grant application, between the County and Town of Marion, to the Tobacco Commission for a portion of funding for the proposed parking structure project.

Supervisor Perry motioned to approve Mrs. Morgan permission to apply for the Tobacco Grant and was seconded by Supervisor Neitch. The vote is as follows:

AYES:	5	C.C. "Charlie Clark, Jr. Darlene R. Neitch Michael D. Roberts	M. Todd Dishner Marvin R. Perry
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NAYS:	2	Wade H. Blevins, Jr. Brenda J. Waddell
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**b.** Updated the Board on the Broadband Plan for the County and economic stimulus funding.

John Tate, County Attorney; stated there were changes to the original agreement between the Town of Marion and Smyth County for the acquisition of the Old School House and for the construction of the proposed parking garage, and would like to discuss these during closed session. After returning from close session, Supervisor Dishner motioned to approve the agreement with changes discussed and was seconded by Supervisor Neitch. Supervisor Roberts stated he was an employee of the Town of Marion and he could vote impartially. The vote is as follows:

AYES:	5	C.C. "Charlie" Clark, Jr. Darlene R. Neitch Michael R. Roberts	M. Todd Dishner Marvin R. Perry
NAYS:	2	Wade H. Blevins, Jr. Brenda J. Waddell	

Scott Simpson briefed the Board on the progress of the Pioneer, Greenwood, and Fox Valley Water Project bids. Mr. Simpson updated the Board on the following water projects:

North Holston is 100% complete.

Long Hollow is substantially complete, waiting for power.

Hall Addition, a few easements are still needed. Anticipate advertising on July 19 and 26 for bid requests.

Groseclose project was pulled, less than 25% applied for water service.

### **COMMITTEE RECOMMENDATIONS**

Water and Sewer Committee – With the recommendations of the Water and Sewer Committee the Board voted to advertise for a public hearing on the following proposed water and sewer rate increases:

## Public Hearing

### Proposed Increase in Water and Sewer Rates

Pursuant to Section 15.2-5136 (G) of the Code of Virginia, The Smyth County Board of Supervisors proposes to increase the rates charged for Water and Sewer services within the Smyth County systems as follows:

#### *Water Rates – Residential*

Current Rates		Proposed Rates – 7% Increase	
0 – 1,000 gallons	\$15.00 minimum bill	0 – 1,000 gallons	\$16.05 minimum bill
1,001 – 6,000 gallons	\$6.50 per 1,000 gallons	1,001 – 6,000 gallons	\$6.96 per 1,000 gallons
6,001 and over	\$8.00 per 1,000 gallons	6,001 and over	\$8.56 per 1,000 gallons

#### *Water Rates – Commercial*

Current Rates		Proposed Rates – 7% Increase	
0 – 4,000 gallons	\$35.00 minimum bill	0 – 4,000 gallons	\$37.45 minimum bill
Each additional 1,000 gallons	\$8.00 per 1,000 gallons	Each additional 1,000 gallons	\$8.56 per 1,000 gallons

#### *Water Rates –Industrial*

Current Rates		Proposed Rates – 7% Increase	
0 – 25,000 gallons	\$162.50 minimum bill	0 – 25,000 gallons	\$173.88 minimum bill
Each additional 1,000 gallons	\$8.00 per 1,000 gallons	Each additional 1,000 gallons	\$8.56 per 1,000 gallons

#### *Sewer Rates – Residential*

Current Rates		Proposed Rates – 7% Increase	
0 – 1,000 gallons	\$15.00 minimum bill	0 – 1,000 gallons	\$16.05 minimum bill
1,001 – 6,000 gallons	\$6.50 per 1,000 gallons	1,001 – 6,000 gallons	\$6.96 per 1,000 gallons
6,001 and over	\$8.00 per 1,000 gallons	6,001 and over	\$8.56 per 1,000 gallons
Residential Flat Rate	\$28.00 per month	Residential Flat Rate	\$29.96 per month

#### *Sewer Rates – Commercial*

Current Rates		Proposed Rates – 7% Increase	
0 – 4,000 gallons	\$35.00 minimum bill	0 – 4,000 gallons	\$37.45 minimum bill
Each additional 1,000 gallons	\$8.00 per 1,000 gallons	Each additional 1,000 gallons	\$8.56 per 1,000 gallons

#### *Sewer Rates -Industrial*

Current Rates		Proposed Rates – 7% Increase	
0 – 3,000 gallons	\$50.00 minimum bill	0 – 3,000 gallons	\$53.50 minimum bill
Each additional 1,000 gallons	\$8.00 per 1,000 gallons	Each additional 1,000 gallons	\$8.56 per 1,000 gallons

#### *Sewer Rates –Industrial Enterprise Zone*

Current Rates		Proposed Rates – 7% Increase	
0 – 3,000 gallons	\$50.00 minimum bill	0 – 3,000 gallons	\$53.50 minimum bill
Each additional 1,000 gallons	\$8.00 per 1,000 gallons	Each additional 1,000 gallons	\$8.56 per 1,000 gallons

The vote is as follows:

AYES:	5	C.C. “Charlie” Clark, Jr. Darlene R. Neitch Michael D. Roberts	M. Todd Dishner Marvin R. Perry
NAYS:	2	Wade H. Blevins, Jr. Brenda J. Waddell	

Dr. Mike Robinson, Smyth County School Superintendent, briefed the Board on the Capital Improvement Plan for Smyth County School System for the years of 2009 – 2014. Dr. Robinson requested a budget committee meeting be set to further discuss the cost of these projects. Supervisor Neitch requested a prioritized listing of the projects.

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Mr. Robert Hurt briefed the Board on some projects in the county. Mr. Hurt updated Board members on maintenance concerns.

Mr. Hurt was asked to stay for the Public Hearing on the Green Mountain Road name change.

## **PUBLIC HEARING ON GREEN MOUNTIAN ROAD NAME CHANGE**

At approximately 2:18 p.m. the Chairman of the Board called the public hearing to order. Mrs. Pam Testerman read the advertisement below, which was published in the Smyth County News and Messenger on June 27 and July 4. Supervisor Perry motioned to forgo reading the rules of procedure during public hearings. This motion was seconded by Supervisor Neitch and passed unanimously:

### **BEFORE THE SMYTH COUNTY BOARD of SUPERVISORS**

The Smyth County Board of Supervisors will conduct a public hearing on Tuesday, July 14, 2009, at 2:15 P.M. or as soon after 2:15 P.M., in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider changing the road name of Green Mountain Rd located in the Groseclose community just east of the Davis Valley Winery.

At this public hearing, subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state his/her views thereon.

Done by order of the Board of Supervisors

Michael L. Carter, Acting County Administrator  
Charlie Clark, Chairman of Board of Supervisors

Shannon Williams, 911 Coordinator, briefed the Board on the concern for the road name change. Mr. Williams stated that both counties have a "Green Mountain Road", and they are located within 1 and ½ miles of each other and not connect. This is causing confusion for which Law Enforcement or Fire and Rescue Department to dispatch. Wythe County did not want to discuss with Mr. Williams changing the road name in their county, as they were not having the dispatch problems that we are incurring.

There were 3 citizens present, the following spoke on their concerns with the 911 service they received and the inconvenience of changing the road name.

Tonya Hall, Green Mountain Road

Billy Bear, Green Mountain Road

The hearing was closed at 2:26 p.m.

Supervisor Perry motioned to have the road name changed and was seconded by Supervisor Neitch. The vote is as follows:

AYES: 7  
NAYS: 0

Supervisor Perry advised Mr. Williams and the citizens present to have a discussion on a new road name. After the discussion, Mr. Williams stated the citizens requested the road name be changed to *Holston Spring Road*. Supervisor Perry motioned to approve renaming road contingent upon Wythe County not having the same road name. This motion was seconded by Supervisor Blevins and passed with the following vote:

AYES: 7  
NAYS: 0

Shannon Williams updated the Board on Flat Top Road Repair. Mr. Williams stated that the repairs to the road are complete, the stone has been delivered, and he is awaiting confirmation from Department of Game and Inland Fisheries as to whether enough stone was delivered.

At the request of Supervisor Blevins, Tom Burkett, Smyth County Treasurer was present to clarify for the Board the issue on the loss of money the elimination of the county decals would cause. Mr. Burkett stated that the money would be collected, just not in the same fiscal year. Mr. Burkett took a few questions from the Board.

## **PUBLIC HEARING ON RE-CODIFICATION OF THE SMYTH COUNTY CODE**

At approximately 3:02 p.m. the Chairman of the Board called the public hearing to order. Mrs. Pam Testerman read the advertisement below, which was published in the Smyth County News and Messenger on June 27 and July 4. No citizens present.

Advertise for two (2) consecutive weeks

NOTICE OF PUBLIC HEARING FOR THE ADOPTION OF A COMPLETE  
RE-CODIFICATION OF THE PROVISIONS OF THE SMYTH COUNTY CODE,  
AND INCORPORATE INTO THE SMYTH COUNTY CODE  
CERTAIN PROVISIONS OF THE CODE OF VIRGINIA

Public Hearing on JULY 14, 2009 at 3:00 PM

The Board of Supervisors of Smyth County, Virginia will conduct a public hearing at the office of the Board of Supervisors, 121 Bagley Circle, Suite 100, on July 14, 2009, at 3:00 PM to consider the re adoption and re-codification of the Smyth County Code, and to re-number and re-arrange certain provisions of the revised Code.

At this hearing, certain other County Ordinances, Policies, Agreements and Contracts will be re-printed and re-adopted, as necessary to provide a central reference point for these laws, commitments, and agreements of Smyth County, Virginia, and to provide public notice they are re-adopted and re-incorporated into the supplements and appendices of the Smyth County Code.

In this adoption, the Board of Supervisors will rely on § 1-120 of the Code of Virginia, as amended, to incorporate provisions of the Code of Virginia into the Smyth County Code, and make these incorporated ordinances as a part of the Smyth County, Code, and to incorporate the ordinances referenced by §46.2-1313 of the Code of Virginia, which also allows the incorporation, by reference of the provisions of all the statutes in the Code of Virginia contained in Article 9 (§ 16.1-178 et seq) and Chapter 11 of Title 16.1 and Article 2 (§ 18.2-266 et seq) of Chapter 7 or Title 18.2 into the ordinances of Smyth County, Virginia, and to impose as a County penalty those penalties allowed by the Code of Virginia, and as set out in § 1-120 of the Code of Virginia to incorporate all other state laws which may be incorporated by reference into the Smyth County Code. This adoption shall also enact and incorporate any subsequent state changes to any of the provisions of the Code of Virginia for these incorporated statutes, unless subsequently revoked by an action of the Board of Supervisors.

These ordinances will be considered for adoption by the Board of Supervisors on July 14, 2009, to be effective July 31, 2009, and at this public hearing which will be held at the office of the Board, 121 Bagley Circle, Suite 100, Marion, Virginia, on July 14, 2009, and subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state their views thereon.

A full copy of the proposed amendments and the re-printed Smyth County Code are available at the office of the Board of Supervisors of Smyth County, Virginia, at 121 Bagley Circle, Suite 100, Marion, Virginia, and may be reviewed, or a copy



purchased, at the office of the County Administrator at the address given above during regular business hours Monday through Friday.

Done by order of the Board of Supervisors on June 9, 2009

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Michael L. Carter, Acting County Administrator

The hearing was closed at 3:06 p.m.

Supervisor Neitch motioned to adopt the following ordinance:

ORDINANCE NO. \_\_\_\_\_  
AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE  
COUNTY OF SMYTH, VIRGINIA; PROVIDING FOR THE REPEAL OF  
CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A  
PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE  
MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH  
CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF SMYTH COUNTY, VIRGINIA:

Section 1. The Code entitled "Code of the County of Smyth, Virginia,"  
(herein Code) published by Municipal Code Corporation, consisting of chapters 1  
through 53, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or  
before February 10, 2009 and not included in the Code or recognized and continued  
in force by reference therein, or which are incorporated by Section 6 hereof, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed  
to revive any ordinance or part thereof that has been repealed by a subsequent  
ordinance that is repealed by this ordinance.

Section 4. Wherever in this Code or in any ordinance or resolution of the  
County, or in any rule, regulation, notice, or order promulgated by any officer  
or agency of the county under authority duly vested in him or it, any act is prohibited  
or is declared to be unlawful or an offense or a misdemeanor, or the doing of any  
act is required, or the failure, neglect or refusal to do any act is declared to be unlawful  
or an offense or a misdemeanor, and no specific penalty is provided for the violation  
thereof, the violation of any such provision of this Code or of any such ordinance,  
resolution, rule, regulation, notice or order shall be deemed a Class 3 misdemeanor;  
provided, that the penalty for such violation shall not exceed the penalty prescribed  
by the Code of Virginia for like offenses.

Whenever in this Code or in any ordinance or resolution of the County, or in  
any rule, regulation, notice, or order promulgated by any officer or agency of the

county under authority duly vested in him or it, it is provided that a violation of any provision thereof shall constitute a Class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as follows:

- (1) Class 1 misdemeanor, by a fine of not more than \$2,500.00 or by confinement in jail for not more than 12 months, or by both such fine and confinement.
- (2) Class 2 misdemeanor, by a fine of not more than \$1,000.00 or by confinement in jail for not more than six months, or by both such fine and confinement.
- (3) Class 3 misdemeanor, by a fine of not more than \$500.00.
- (4) Class 4 misdemeanor, by a fine of not more than \$250.00.

Each day any violation of this Code or of any such ordinance, resolution, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense.

The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the county may pursue other remedies such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the County to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. As provided by §1-120 of the Code of Virginia, as amended, and permitted by §46.2-1313 of the Code of Virginia, all of the statutes of the Commonwealth of Virginia contained in Article 9 (§16.1-178, *et seq*) and Chapter 11 of Title 16.1 and Article 2 (§18.2-266, *et seq*) of Chapter 7 of Title 18.2 are hereby incorporated into the adoption of this revised Code of Smyth County, Virginia and to also incorporate the penalties which might be imposed for these offenses by a County consistent with the Code of Virginia for those offenses. This Section shall, as permitted by §1-120 of the Code of Virginia, also incorporate into the Smyth County Code all other state laws which might be incorporated by reference into County ordinances. In the event that there are subsequent changes to the incorporated state laws, then the changes shall apply to the Smyth County Code and are incorporated therein at such time as any changes are effective in the state laws which are incorporated herein.

Section 7. Ordinances adopted after February 10, 2009, that amend or refer to ordinances that have been codified in the Code, or state laws which are incorporated by Section 6, shall be construed as if they amend or refer to like provisions of the Code.

Section 8. This ordinance shall be effective on July 31, 2009 at 12:00 a.m.

Passed and adopted by the Board of Supervisors of Smyth, County on July 14, 2009 by a vote of Aye\_\_\_\_, Nay\_\_\_\_, Abstain\_\_\_\_, or Absent \_\_\_\_.

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Chair

APPROVAL AS TO FORM AND LEGALITY

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County Attorney

ATTEST:

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Clerk Board of Supervisors

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the Board of Supervisors, held on the 14th day of July, 2009.

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Clerk of the Board of Supervisors

This motion was seconded by Supervisor Roberts. The vote is as follows:

AYES: 7  
NAYS: 0

Kimberly Clark, Valley Health Care Center, presented to the Board the following resolution in support of the application of Abingdon Health Care Center LLC for a certificate of public need to develop a 180 bed nursing facility in Washington County, Virginia:

**RESOLUTION OF THE SMYTH COUNTY BOARD OF SUPERVISORS, VIRGINIA  
IN SUPPORT OF THE APPLICATION OF ABINGDON HEALTH CARE CENTER, LLC  
FOR A CERTIFICATE OF PUBLIC NEED TO DEVELOP A 180 BED  
NURSING FACILITY IN WASHINGTON COUNTY, VIRGINIA**

**WHEREAS**, the owners of Abingdon Health Care Center are the owners of Valley Health Care Center in Chilhowie, Virginia, a high quality health care facility providing nursing facility and assisted living facility services to the residents of Washington and Smyth Counties;

**WHEREAS**, the Virginia Commissioner of Health pursuant to specific legislation has issued a request for applications for a Certificate of Public Need to build in Washington County;

**WHEREAS**, Valley Health Care Center has demonstrated to the Board that the development of this new nursing home will significantly reduce Valley's use by Washington County residents who currently represent over one third of its residents and, therefore, Valley is proposing to transfer 60 of its 180 nursing facility beds to the Abingdon Health Care Center to enable it to create a 180 bed **nursing facility in Washington County;**

**WHEREAS**, Abingdon Health Care Center by developing a 180 bed nursing facility will thereby be able to provide not only traditional long term care and rehabilitation care to its residents, but also secure memory care and ventilator dependent resident services as well as a distinct assisted living facility connected to its nursing facility;

**WHEREAS**, Valley Health Care Center will utilize the vacated space in its nursing facility in order to provide more needed assisted living units to serve Smyth County residents and is also renovating its other nursing facility units; and

**WHEREAS**, the combined services to be offered by Abingdon Health Care Center and Valley Health Care Center will not only provide superior health care services in Washington and Smyth Counties, but will also assure the future economic viability of Valley Health Care Center.

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors does hereby endorse and recommend that the Commissioner of Health issue a 180 bed Certificate of Public Need to Abingdon Health Care Center, LLC.

Mrs. Clark stated that more than 1/3 of the residents of Valley Health Care Center were from Washington County and close surrounding areas. She stated 60 beds from Valley Health Care Center would go to the Abingdon Health Care Center facility. With this, there will be a loss of 22 positions at Valley Health Care Center, but with this new facility it would also create new positions.

After discussion with the Board, Supervisor Blevins motioned to accept the above resolution in support and was seconded by Supervisor Roberts. The vote is as follows:

AYES:	5	C.C. "Charlie" Clark, Jr. Wade H. Blevins, Jr. Michael D. Roberts	M. Todd Dishner Marvin R. Perry
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NAYS:	1	Brenda J. Waddell
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ABSTAIN:	1	Darlene R. Neitch
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## **OLD BUSINESS**

1. Collection of delinquent taxes **(8-10-04)**. *Mr. Carter updated that he has an updated delinquent tax list. Supervisor Perry motioned to continue this issue. Supervisor Neitch seconded the motion and it duly passed.*

AYES:	6	
NAYS:	1	C.C. "Charlie" Clark, Jr.

2. Marevine Slemph, request for water service on Fox Valley Road **(5-11-04)**.

3. Re-codifying of the Smyth County Code **(1-10-2006)**. - *The Board agreed to advertise for a public hearing on adopting the new code that has been received and updated. The public hearing is scheduled for the meeting on July 14, at 3pm.*

**At the July 14, 2009, meeting, Supervisor Blevins motioned to remove this item from Old Business and was seconded by Supervisor Neitch. The vote is as follows:**

<b>AYES:</b>	<b>7</b>	
<b>NAYS:</b>	<b>0</b>	

4. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).
5. Disposal of former school building at 105 East Strother Street (**7-11-06**).
6. Appointments: Board of Zoning Appeals (2-12-08)  
One Alternate - VACANT

Area Beautification Committee Judges (12-9-08)  
(Chamber of Commerce, 1 year term each calendar year)  
North Fork District - Debbie Ogle

7. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer (**5-13-08**).
8. Radio System Project (**6-26-08**).

9. Request referred from the Budget Committee for a full Board discussion:  
In reference to a written request from the Commonwealth Attorney, Treasurer, and the Sheriff. Mr. Roy Evans, Commonwealth Attorney appeared before the Budget Committee on November 7 to explain the request on behalf of his office. He requested that the Board consider a raise for the Constitutional Offices equal with the raises of the county employees that was approved for fiscal year 2009. He stated that the requested raise would be from December 1, 2008 through June 30, 2009. The state has deferred their 2% raise for December 2008 to July 2009 (**11-12-08**).

10. Possibility of no longer selling car decals but adding that cost to tax tickets. The Ordinance Committee was asked to look at this for the end of 2009 (**1-13-09**). *At the June 9, 2009 meeting, Mr. Tom Burkett, Treasurer, spoke to the Board on the elimination of the sell of car decals and incorporating a licensing fee to tax tickets. Mr. Burkett took brief questions. Mr. Jeff Richardson, Commissioner of Revenue, stated it would have minimal impact on his office to no longer sell car decals. Supervisor Perry made the motion to eliminate car decals. Supervisor Neitch seconded and the vote was as follows:*

AYES: 6  
NAYS: 0  
ABSENT: M. Todd Dishner

11. Referred to the Water and Sewer Counsel, proceed with legal documents to provide uncollectable names and accounts from the Water and Sewer Department to other water providers in the county (**2-10-09**).

12. Nuisance complaint against a property owned by Joseph F. Ellis, Jr. - The Board voted to leave the matter on the Old Business agenda until the conclusion of a civil case is resolved. At that time, the nuisance issue will be revisited. Mr. Patton Graham (Mr. Ellis' Attorney) will update the Board on the civil case as it progresses (**4-14-09**).

## **CLOSED SESSION**

At 4:16 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711 – A.5 (Industry Prospects) and Section 2.2-3711-A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Waddell and the motion passed unanimously.

Upon returning to open meeting, a motion was made by Supervisor Dishner to adopt the following resolution certifying the business conducted in closed session as follows:

### **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Neitch and the vote is as follows:

AYES: 7  
NAYS: 0

**CONTINUE THE MEETING**

Supervisor Neitch motioned to continue the meeting until Thursday, July 23, 2009, at 7:00 p.m. for a joint public hearing with the Planning Commission and any other issues that may come up before that time. Supervisor Perry seconded and it passed with the following vote:

AYES: 7  
NAYS: 0









The Smyth County Board of Supervisors held a continued meeting at 7:00 p.m., **Thursday, July 23, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
M. Todd Dishner	Wade H. Blevins, Jr.
Brenda J. Waddell	Marvin R. Perry
Michael D. Roberts	

**STAFF PRESENT:**

Michael L. Carter, Acting County Administrator  
Pam Testerman, Office Service Assistant  
Clegg Williams, Zoning Administrator  
Becca Kirk, Administrative Assistant

**OTHERS PRESENT:**

John H. Tate, Jr., County Attorney

**PLANNING COMMISSION MEMBERS PRESENT:**

Dennis Blevins	Karl Kalber
Norman Sparks	Graham Davidson
Amy Tuell	

**PLANNING COMMISSION MEMBERS ABSENT:**

Wayne Venable  
Don Medley

**CALL TO ORDER**

Both Chairmen Clark and Blevins called the public hearing to order. Mr. Carter, Acting County Administrator, read the following legal advertisement as published in the Smyth County News and Messenger, on July 11 and 18 (Saturday editions). Supervisor Perry made a motion to forgo reading the rules of procedure during public hearings, which passed unanimously. There were (7) citizens present interested in this application.

**BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS AND  
SMYTH COUNTY PLANNING COMMISSION**

The Smyth County Board of Supervisors and the Smyth County Planning Commission will conduct a joint public hearing on Thursday, July 23, 2009, at 7:00 P.M. or as soon after 7:00 P.M. as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application(s) to the Zoning Ordinance of Smyth County, Virginia:

An application from Louis Conklin for a Special Use Permit to establish a Campground as defined by Section 10-12 of the Smyth County Zoning Ordinance. The property is located on Town Springs Road in Chilhowie. It is identified as Tax Map No. 76-2-1-2 and is zoned Agricultural/Rural.

At this public hearing, subject to the rules of procedure of the Board of Supervisors and Planning Commission of Smyth County, Virginia, any person may appear and state his/her views thereon.

Copies of the application(s) along with their map(s)/drawing(s) are on file in the Office of the County Administrator of Smyth County. Copies are also maintained by the County Zoning Administrator at the address given above, and may be viewed during regular business hours Monday through Friday.

Done by order of the Board of Supervisors and the Planning Commission.  
Michael L. Carter, Acting County Administrator  
Dennis R. Blevins, Chairman of the Planning Commission

**BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS AND  
SMYTH COUNTY PLANNING COMMISSION**

**APPLICATIONS SUBMITTED**

Louis Conklin - Special Use Permit: Mr. Williams summarized an application submitted by Louis Conklin. He explained that Mr. Conklin owns approximately 50 acres on Town Springs Road in Chilhowie which is identified by Tax Map No. 76-2-1-2. Mr. Conklin proposes to establish a campground on the property as defined by Section 10-12. Mr. Williams explained that Mr. Conklin's proposal consists of three cabins. No RV or tent sites are proposed. Mr. Williams stated

that notice of this public hearing was published in the Smyth County News on July 11 and 18 and a first class mailing was made to each of the adjoining property owners. Mr. Williams pointed out the following sections of the ordinance: Section 3-2.2 j) which allows Campgrounds in the A/R district by issuance of a SUP, §10-12 which defines Campgrounds and Article 6 which contains the provisions for Special Use Permits. Mr. Williams stated that he had received a few general questions which were not requested to be conveyed at the hearing.

Louis Conklin was present and stated that he wanted a place for patrons of his tree farm to rent when they visited to hand pick their Christmas trees. He stated that he intends to operate the campground with a family oriented environment. He was questioned about his living arrangements which he explained that he lives in Abingdon part time as well as in Chilhowie at the tree farm part time. He stated that should he have renters staying in a cabin he would be staying at his home located on the property. Mr. Conklin said that it would not be feasible for him to construct these cabins and allow people to come in and destroy them.

Mrs. Conklin expressed her frustration with officials not taking advantage of the beautiful mountains and allowing tourism developments. She stated that they only wished to construct three cabins for families to rent, no tents will be allowed.

Joe Warren spoke in opposition for fear that the proposed septic systems would contaminate the spring located nearby, noise disturbance to the community, hunting on other adjoining property if the cabins were rented to hunters, underground caves, and devaluation of surrounding lands. Mr. Warren submitted a petition with approximately 60 citizens' signatures opposing the application.

Curtis Warren signed up to speak but felt he did not need to add anything to what had already been discussed.

Bill Boswell spoke on behalf of the Town of Chilhowie who owns the adjacent land as well as the nearby spring discussed. He stated that the Town is interested in preserving the spring and he had his concerns regarding the septic system resolved after discussing the matter with Mr. Williams prior to the hearing. When questioned, he stated that the Town is not currently using the spring nor is there public sewer provided to the area.

No one else spoke on this application.

Chairman Clark and Chairman Blevins closed the joint public hearing at 7:28 p.m. The Board convened to the Fourth Floor Social Service Board Room and called their meeting back to order at 7:35 p.m. (Supervisor Perry arrived at 7:39 p.m. during closed session.)

## **OTHER BOARD ITEMS**

The Board was presented with the June 11, 2009 minutes with a Supervisor change to seconding a motion and minor grammatical changes by John Tate. Supervisor Neitch motioned to approve the minutes and was seconded by Supervisor Blevins. The vote was as follows:

AYES: 6  
NAYS: 0  
ABSENT: Perry

## **CLOSED SESSION**

At 7:37 p.m. a motion was made by Supervisor Dishner to enter into Closed Session under Section 2.2-3711 – A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Waddle and the motion passed with the following vote:

AYES: 6  
NAYS: 0  
ABSENT: Perry

Upon returning to open meeting; a motion was made by Supervisor Dishner to adopt the following resolution certifying the business conducted in closed session as follows:

## **RESOLUTION**

## CERTIFICATION OF CLOSED SESSION

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Blevins and the vote is as follows:

AYES: 7  
NAYS: 0

## ANY OTHER BUSINESS

Supervisor Roberts motioned to approve the Rich Valley Fair Festival Permit that was discussed during closed session and was seconded by Supervisor Perry. The permit was *denied* with the following vote:

AYES:	2	Michael D. Roberts	Marvin R. Perry
NAYS:	5	Charlie C. Clark Wade H. Blevins, Jr. Brenda J. Waddell	M. Todd Dishner Darlene R. Neitch

Supervisor Roberts motioned to waive tipping fees for the Rich Valley Fair Association. Supervisor Perry seconded this motion and the vote is as follows:

AYES: 7  
NAYS: 0



At 8:05 p.m. Supervisor Blevins motioned to adjourn meeting and Supervisor Dishner seconded, and it carried unanimously.

The Smyth County Board of Supervisors held its regular August meeting at 12:00 noon, **Tuesday, August 11, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
Wade H. Blevins, Jr.	M. Todd Dishner (arrived at 12:06 p.m.)
Brenda J. Waddell	Marvin R. Perry (left at 2:43 p.m.)

**MEMBERS ABSENT:**

Michael D. Roberts

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney  
Pam Testerman, Office Service Assistant  
Scott Simpson, County Engineer  
Charlie Atkins, CFO  
Sally Morgan, Economic Development Planner  
Kenny Lewis, Deputy (arrived at 12:17 p.m.)

**OTHERS PRESENT:**

Dan Kegley, Smyth County News & Messenger (arrived at 12:14 p.m.)

**CALL TO ORDER, INVOCATION & PLEDGE OF ALLEGIANCE**

With a quorum present, the meeting was called to order at 12:00 noon. Mr. Mark Haga gave the invocation and Mrs. Norma Teaters led the pledge of allegiance.

**ADOPTION OF AGENDA**

Supervisor Blevins motioned to adopt the agenda as to form, along with the additional agenda. Supervisor Waddell seconded the motion, vote is as follows:

AYES:	5
NAYS:	0
ABSENT:	Dishner, Roberts

## MINUTES OF PREVIOUS MEETINGS

The Board was presented with the minutes from the following meetings:

Tuesday, July 14, 2009

Thursday, July 23, 2009

After a short discussion and with a couple of changes suggested by Mr. Tate, Supervisor Blevins made a motion to approve the minutes as presented with the changes as suggested by Mr. Tate. Supervisor Dishner seconded the motion and the vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Roberts

Mr. Atkins, Chief Financial Officer informed the Board the financial status of the County. Mr. Atkins stated he had met with Debbie in the Treasurer's Office and there were sufficient funds to cover the appropriations below. Mr. Atkins stated there are sufficient funds in the Police Activity Fund for a request later in the meeting.

## PAYMENT OF COUNTY INVOICES

Supervisor Blevins motioned to approve the following listed appropriations.

### Appropriations

General County	\$ 1,980,000.00
Animal Damage Fund 3	\$ 156.91
Long Hollow Water	\$ 107,460.37
Social Services (July 15-31, 2009)	\$ 325,000.00
(August 1 – 11, 2009)	\$ 75,000.00
Schools - Operating Fund	\$ 2,000,000.00
Textbook Fund	\$ 20,000.00
Debt and Capital Outlay	\$ 900,000.00

Supervisor Dishner seconded the motion. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Roberts

Supervisor Neitch motioned to approve the accounts payable listing in the amount of \$687,757.21, which includes \$124,047.23 to Wiley Wilson and \$210.00 to Mosley Architects for courthouse renovations. Supervisor Dishner seconded the motion and the vote is as follows:

AYES:	5	C. C. "Charlie" Clark Jr. Darlene R. Rowland Brenda J. Waddell	M. Todd Dishner Marvin R. Perry
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NAYS: 1 Wade H. Blevins, Jr.

ABSENT: Michael D. Roberts

## CITIZEN'S TIME

There were six citizens present, the following spoke:

**Mrs. Mable Umbarger**, Atkins, spoke concerning landlords receiving the water bill, and responsibility it places on the landlord. Mrs. Umbarger made a 20 cent error in writing her check last month. Her landlord had to come to the Water Department, and sign a paper so her water would not be turned off.

*Supervisor Perry stated he was not aware of this situation, but he would look into it. If something needs to be corrected, the Board has the authority to correct it.*

**Mrs. June Wheeler**, Atkins, Mrs. Umbarger's landlord, spoke concerning the 20 cents. Mrs. Wheeler felt the 20 cents should either have been written-off or added to next bill. Mrs. Wheeler stated that Mrs. Umbarger had never been late prior to this instance.

**Stacy O'Quinn**, Mt. State Health Alliance, invited the Board to a Ribbon Cutting for the new Smyth County Community Hospital's Helipad on August 21, 2009.

**Walter Robinson**, Extension Office, invited the Board to a retirement luncheon for Donna Hamm on Friday August 14, 2009.

## **NEW BUSINESS**

At the request of Lavonda Carson of the Virginia Department of Health, Supervisor Perry made a motion that the Board appropriate \$341.70 (from the Animal Control fund - office supplies, #003-091060-5401) to be used for the advertisements of the dog and cat vaccination clinics to be held by the Virginia Department of Health, through out the county. This motion was seconded by Supervisor Blevins, and unanimously carried by the Board. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Roberts

These advertisements will run in the Smyth County News and Saltville Progress.  
Smyth County News - \$118.35 for 2 weeks = **\$236.70**  
Saltville Progress - \$52.50 for 2 weeks = **\$105.00**

At the request of Kenny Lewis, Chief Deputy, Supervisor Blevins made a motion and was seconded by Supervisor Dishner, and unanimously carried, to appropriate \$18,000 from the Policy Activity Fund for the purchase of one vehicle. This is one of five vehicles to be purchased by the Sheriff's Department during the 2009-2010 fiscal year. This appropriation authorizes the Acting County Administrator to sign a check not to exceed \$18,000 once the vehicle arrives. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Roberts

With advice from John Tate, County Attorney; Supervisor Waddell made a motion and was seconded by Supervisor Dishner to approve the annual performance contract between Mt. Rogers Community Services Board and Department of Mental Health, Mental Retardation and Substance Abuse Services. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Roberts

Mr. Scott Simpson discussed with the Board the projected annual cost and annual income on Pioneer, Greenwood, and Fox Valley Waterline Project. Mr. Simpson stated he did not receive the bid information in time to present this information to the Water/Sewer Committee. This information will be presented to the Water/Sewer Committee on August 27, 2009.

#### **COMMITTEE RECOMMENDATIONS**

With the Water and Sewer Committee recommendation the Board approved the following water and sewer accounts write-offs:

Julie Ann Barr - \$101.68  
Lorie Lee Robinson -\$ 70.26

**Total                    \$171.94**

The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Roberts

Mrs. Sally Morgan introduced Mr. Dan Motley, Industrial Development Manager with Norfolk Southern Railway. Mr. Motley gave a powerpoint presentation on the Crescent Corridor Intermodal Freight Project. This project would help get trucks off the highway and onto railcars.

Mrs. Sally Morgan, Community and Economic Development, informed the Board they had a copy of the letter of support concerning the Crescent Corridor Project.

Supervisor Perry made a motion to adopt the letter of support and was seconded by Supervisor Neitch. The vote is as follows:

AYES:           5       Marvin R. Perry               Darlene R. Neitch  
                          C.C. "Charlie" Clark, Jr.   M. Todd Dishner  
                          Wade H. Blevins, Jr.

NAYS:           1       Brenda J. Waddell

ABSENT:               Michael D. Roberts

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Mr. Robert Hurt informed the Board on the New Access Management Rules effective October 1, 2009. Mr. Hurt stated prior approvals would be accepted. A form requesting exception from the new rules may be filled out. Mr. Hurt accepted maintenance concerns from some Board members.

Mr. Steve Buston stated that 19 out of 40 rest areas in Virginia were closed, and at this time there is no reopening date.

## **ZONING DEPARTMENT - CLEGG WILLIAMS**

### **Planning Commission Recommendation**

Clegg Williams briefly went over the Planning Commission's public hearing and their decision concerning Louis Conklin's special use permit application. Mr. Williams took brief questions from the Board. Mr. Conklin was present to hear the

Board's decision. Supervisor Blevins made a motion to accept the Planning Commission's recommendation to deny the special use permit application submitted and was seconded by Supervisor Neitch. The vote was as follows:

AYES:	4	Wade H. Blevins, Jr. Marvin R. Perry	Darlene R. Neitch Brenda J. Waddell
NAYS:	2	C.C. "Charlie" Clark M. Todd Dishner	
ABSENT:	1	Roberts	

Mr. Williams updated the Board on some Zoning issue court cases.

Mr. Williams informed the Board that Mr. Buddy Galliher would like a 30 day continuance on the Appeal Hearing. Mr. Galliher appealed a Subdivision Compliance decision by Mr. Williams on an existing soil drive. A 30 day continuance was granted, since Mr. Williams and Mr. Galliher are in agreement for this continuance.

## **PUBLIC HEARING ANNUAL MUSICAL FOR ENTERTAINMENT FESTIVAL PERMIT**

At 2:56 p.m. the Chairman of the Board called the public hearing to order. Mr. John Tate read the advertisement below, which was published in the Smyth County News and Messenger on July 18 and July 25.

### **PUBLIC HEARING BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS**

The Smyth County Board of Supervisors will conduct a public hearing on Tuesday, August 11, 2009, at 3:00 P.M. or as soon there after, as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application for an Annual Musical or Entertainment Festival permit under the Code of Smyth County, Virginia:



*The Adwolfe Volunteer Fire Department has submitted a festival application for a three (3) day event to be held September 11, 12, and 13, 2009. This event will be held at the Adwolfe Volunteer Fire Department located at 104 Thomas Bridge Road, Marion, Virginia, 24354. The applied festival hours are as follows:*

*Friday, September 11 - 5:00 p.m. thru 11:00 p.m.  
Saturday, September 12 - 12:00 noon thru 11:00 p.m.  
Sunday, September 13 - 12:00 noon thru 10:00 p.m.*

At this public hearing, subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state his/her views thereon.

A copy of this application along with their maps and plans are on file in the Office of the County Administrator of Smyth County at the address given above, and may be viewed during regular business hours Monday through Friday.

Done by order of the Board of Supervisors  
Michael L. Carter, Acting County Administrator

No citizens were present or contacted the office with any concerns.

Gary Dempsey with the Adwolfe Volunteer Fire Department was present for any questions.

The hearing closed at 3:01 p.m.

With permit requirements being met, Supervisor Neitch made a motion to approve the festival permit application submitted and was seconded by Supervisor Waddell. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Michael D. Roberts  
Marvin R. Perry

## **OLD BUSINESS**

1. Collection of delinquent taxes **(8-10-04)**. Mr. Carter updated that he has an updated delinquent tax list. Supervisor Perry motioned to continue this issue. Supervisor Neitch seconded the motion and it duly passed.

AYES: 6  
NAYS: 1 C.C. "Charlie" Clark, Jr.

2. Marevine Slemph, request for water service on Fox Valley Road **(5-11-04)**.
3. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).
4. Disposal of former school building at 105 East Strother Street **(7-11-06)**.
5. Appointments: Board of Zoning Appeals **(2-12-08)**  
One Alternate - VACANT

Area Beautification Committee Judges **(12-9-08)**  
(Chamber of Commerce, 1 year term each calendar year)  
North Fork District - Debbie Ogle

6. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer **(5-13-08)**.
7. Radio System Project **(6-26-08)**.
8. Request referred from the Budget Committee for a full Board discussion:  
In reference to a written request from the Commonwealth Attorney, Treasurer, and the Sheriff. Mr. Roy Evans, Commonwealth Attorney appeared before the Budget Committee on November 7 to explain the request on behalf of his office. He requested that the Board consider a raise for the Constitutional Offices equal with the raises of the county employees that was approved for fiscal year 2009. He stated that the requested raise would be from December 1, 2008 through June 30, 2009. The state has deferred their 2% raise for December 2008 to July 2009 **(11-12-08)**.

***At the August 11, 2009, meeting, Supervisor Blevins motioned to remove this item from Old Business and was seconded by Supervisor Neitch. The vote is as follows:***

**AYES:** 6  
**NAYS:** 0  
**ABSENT:** Roberts

9. Possibility of no longer selling car decals but adding that cost to tax tickets. The Ordinance Committee was asked to look at this for the end of 2009 **(1-13-09)**. ***At the June 9, 2009 meeting, Mr. Tom Burkett, Treasurer, spoke to the Board on the elimination of the sell of car decals and incorporating a licensing fee to tax tickets. Mr. Burkett took brief questions. Mr. Jeff Richardson, Commissioner of Revenue, stated it would have minimal impact on his office to no longer sell car decals. Supervisor Perry made the motion to eliminate car decals. Supervisor Neitch seconded and the vote was as follows:***

**AYES:** 6  
**NAYS:** 0  
**ABSENT:** M. Todd Dishner

***At the June 25, 2009, meeting; After a brief discussion, Supervisor Perry motioned to rescind his prior motion to eliminate the sale of car decals, and was seconded by Supervisor Neitch. This motion was rescinded due to the loss of revenue it would create. The vote was as follows:***

**AYES:           7**  
**NAYS:           0**

10. Referred to the Water and Sewer Counsel, proceed with legal documents to provide uncollectable names and accounts from the Water and Sewer Department to other water providers in the county **(2-10-09)**.

11. Nuisance complaint against a property owned by Joseph F. Ellis, Jr. - The Board voted to leave the matter on the Old Business agenda until the conclusion of a civil case is resolved. At that time, the nuisance issue will be revisited. Mr. Patton Graham (Mr. Ellis' Attorney) will update the Board on the civil case as it progresses **(4-14-09)**.

## **CLOSED SESSION**

At 2:16 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711 – A.5 (Industry Prospects) and Section 2.2-3711-A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Blevins and the motion passed with the following vote:

**AYES:           6**  
**NAYS:           0**  
**ABSENT:       Roberts**

Upon returning to open meeting, a motion was made by Supervisor Dishner to adopt the following resolution certifying the business conducted in closed session as follows:

## **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Blevins and the vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Roberts

## **ADJOURN**

At 3:02 p.m. Supervisor Neitch motioned to adjourn the meeting and was seconded by Supervisor Dishner. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Perry, Roberts







The Smyth County Board of Supervisors held a called special meeting at 4:00 p.m., **Thursday, August 27, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
Wade H. Blevins, Jr.	M. Todd Dishner
Marvin R. Perry	Michael D. Roberts

**MEMBERS ABSENT:**

Brenda J. Waddell

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney  
Pam Testerman, Office Service Assistant  
Scott Simpson, County Engineer  
Charlie Atkins, CFO  
Sandy Elswick, Registrar  
Kenny Lewis, Deputy

**OTHERS PRESENT:**

Smyth County News & Messenger  
3 Citizens

**CALL TO ORDER**

With a quorum present, the meeting was called to order at 4:02p.m.

This meeting was called to discuss the issues surrounding the death of Mr. Jimmy L. Warren, Clerk of Circuit Court. Upon Mr. Warren's death, the Board must file a petition to have a special election within fifteen (15) days. The fifteenth day will be August 28, 2009. Mr. John Tate prepared and presented the petition for a special election. This petition allows the court to set the date for the election.

Supervisor Roberts questioned a special appropriation needed to hold a special election. Mrs. Sandy Elswick stated a special election will cost \$6 to \$8 thousand. This appropriation will need to be concerned once a date had been set for the election.



After discussion, Supervisor Perry motioned to approve signing the petition for special election to the court. Supervisor Dishner seconded the motion and the vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Waddell

Mr. Mike Carter informed the Board, the Courthouse and Proposed Administrative Building was included on the agenda incase something came about that needed to be discussed. At this time there is nothing to be discussed.

## **ADJOURN**

At 4:13 p.m. Supervisor Perry motioned to adjourn the meeting and was seconded by Supervisor Roberts. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Waddell







The Smyth County Board of Supervisors held its regular September meeting at 12:00 noon, **Tuesday, September 8, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch
Wade H. Blevins, Jr.	M. Todd Dishner (arrived at 12:11 p.m. and left at 1:08p.m.)
Marvin R. Perry	Michael D. Roberts

**MEMBERS ABSENT:**

Brenda J. Waddell

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney  
Pam Testerman, Office Service Assistant  
Scott Simpson, County Engineer  
Charlie Atkins, CFO  
Sally Morgan, Economic Development Planner  
Bill Turman, Chief Animal Control Officer (left at 12:42p.m.)  
Shannon Williams (arrived at 12:46p.m.)  
Kenny Lewis, Chief Deputy (arrived at 12:11 p.m.)

**OTHERS PRESENT:**

Dan Kegley, Smyth County News & Messenger

**CALL TO ORDER, INVOCATION & PLEDGE OF ALLEGIANCE**

With a quorum present, the meeting was called to order at 12:00 noon. Mr. Marvin Perry gave the invocation and Mr. Scott Simpson led the pledge of allegiance.

**ADOPTION OF AGENDA**

Supervisor Blevins motioned to adopt the agenda as to form, along with the additional agenda. Supervisor Neitch seconded the motion, vote is as follows:

AYES:	5
NAYS:	0
ABSENT:	Dishner, Waddell

## **MINUTES OF PREVIOUS MEETINGS**

The Board was presented with the minutes from the following meetings:

Tuesday, August 11, 2009

Thursday, August 27, 2009

Supervisor Blevins made a motion to approve the minutes as presented. Supervisor Neitch seconded the motion and the vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

Mr. Atkins, Chief Financial Officer informed the Board the financial status of the County. Mr. Atkins stated he had met with Debbie in the Treasurer's Office. Mr. Atkins presented the Board with a handout that outlined the cash requirements for September and explained there were sufficient funds to cover invoices only at this time.

## **PAYMENT OF COUNTY INVOICES**

Supervisor Perry motioned to approve \$2,046,445.00 for invoices only and \$29,963.75 of Long Hollow Water appropriations. The following is an explanation of the appropriations approved:

Out of the \$2,000,000.00 appropriation for General County \$1,401,445.00, which includes accounts payable listing, was approved.

\$29,963.75 appropriation for Long Hollow Water was approved.

Out of the \$300,000.00 appropriation for Social Service (September 9-30, 2009) \$145,000.00 was approved.

Out of the \$70,000.00 appropriation for Social Service (October 1-13, 2009) no amount was approved at this time.

Out of the \$4,000,000.00 appropriation for School – Operating Fund \$500,000.00 was approved.

Supervisor Roberts seconded the motion. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

The remaining appropriations will be on the agenda for consideration at the continued Board meeting on September 24, 2009.

### **CITIZEN'S TIME**

There were thirteen citizens present, the following spoke:

**Mrs. Sue Schwartz**, 277 Fairfield Lane, Marion, spoke concerning a pit bull and Rottweiler problem in her neighborhood. Mrs. Schwartz gave the Board a folder of pictures and information about her concerns. Mrs. Schwartz would like the Board to consider adopting a law.

**Mr. James Brooks**, Fairfield Lane, Marion, spoke on the nuisance of these dogs. Mr. Brooks was attacked by one dog, but able to defend himself.

Supervisor Perry stated this was his neighborhood and could relate to their concerns. Supervisor Perry stated something had to be done in the county to protect the citizens.

Supervisor Perry motioned to send this concern to the Ordinance Committee and was seconded by Supervisor Blevins. The vote is as follows:

AYES: 6  
NAYS: 0  
ABSENT: Waddell

## **NEW BUSINESS**

Mr. Scott Simpson presented to the Board the following:

**a.** Smyth County Administration Building Entrance Road Design by Wiley/Wilson:

After discussion, Supervisor Dishner motioned to proceed with Wiley/Wilson's design and was seconded by Supervisor Neitch. The vote is as follows:

AYES:	4	C.C. "Charlie" Clark, Jr. Darlene R. Neitch	M. Todd Dishner Marvin R. Perry
NAYS:	2	Wade H. Blevins, Jr.	Michael D. Roberts
ABSENT:		Brenda J. Waddell	

**b.** Courthouse:

After a discussion concerning ballistic rated windows, no decision was made at this time.

Moseley Architect's 04/29/09 courthouse plans:

After discussion Supervisor Dishner motioned to approve the plans and was seconded by Supervisor Neitch. The vote is as follows:

AYES:	4	C.C. "Charlie" Clark, Jr. Darlene R. Neitch	M. Todd Dishner Marvin R. Perry
NAYS:	2	Wade H. Blevins, Jr.	Michael D. Roberts
ABSENT:		Brenda J. Waddell	



**c.** Thompson & Litton's parking structure design:

Mr. Tate advised to include "estimated to contain the number of parking spaces". Mr. Simpson stated the target was for 90 spaces and will have this included. After discussion, Supervisor Perry motioned to authorize the design excluding rendering fees. Supervisor Dishner seconded the motion and the vote is as follows:

AYES:	5	C.C. "Charlie" Clark, Jr.	M. Todd Dishner
		Darlene R. Neitch	Marvin R. Perry
		Michael D. Roberts	

NAYS: 1 Wade H. Blevins, Jr.

ABSENT: Brenda J. Waddell

Mrs. Sally Morgan presented to the Board the following:

**a.** Ordinance to create New River/Mt. Rogers Workforce Investment Consortium. Mrs. Morgan stated a public hearing must be set for this ordinance. After discussion, Supervisor Perry motioned to hold a public hearing on October 13, 2009, at 2:45 p.m. Supervisor Blevins seconded the motion and the vote is as follows:

AYES:	5
NAYS:	0
ABSENT:	Dishner, Waddell

**b.** Grant application to U.S. Department of Transportation for interchange improvement project for Exit 47. Mrs. Morgan stated this is an ARRA funding grant and the VA Department of Transportation is not applicable. Supervisor Perry motioned to approve application and was seconded by Supervisor Neitch. The vote is as follows:

AYES:	5
NAYS:	0
ABSENT:	Dishner, Waddell

- c. Grant application to Appalachian Regional Commission for "Green Manufacturing Initiative for Smyth County". This is a proposed Industry Assistance Program. Mrs. Morgan stated this grant is a 50% match grant. After discussion, the board recommends to send this to the IDA Board for their decision.
- d. Amendment to the Enterprise Zone Local Incentives was postponed to the October meeting.
- e. Mrs. Morgan gave the Board an update on the 2010 Census.

Mr. John Tate discussed with the Board about the disposition of the Old School Board building to the Town of Marion. Mr. Tate stated a public hearing needed to be set. Mr. Tate wrote an advertisement stating a public hearing is set on September 24, 2009 at 7:00 p.m. Mr. Tate stated to hold this item until end of meeting when setting a continue meeting.

Mr. Shannon Williams presented to the board a letter of support from the Regional EMS Council Designation. This council provides training material, support for EMS agencies, and actually assisted the County in apply for a grant this year. After discussion, Supervisor Blevins motioned to approve letter of support. Supervisor Roberts seconded the motion and the vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

### **COMMITTEE RECOMMENDATIONS**

#### **Surplus Property Committee**

With the Surplus Property Committee recommendation the Board approved the following items surplus:

Information Systems:	(1)	APC UPS 1500		
	(3)	Servers		
	(1)	Projector		
	(8)	Monitors		
	(15)	Personal Computers		
	(6)	Laptops		
	(6)	Printers		
	(1)	Scanner		
		Keyboards/mouse		
Co. Administrator's Office:		1995 Ford Crown Vic	117,185 miles	2FALP71W6SX180115
Water/Sewer Department:		2002 Chevy 4x4 P/U	*	1GCEK14W92Z145797
Sheriff's Department:		2001 Ford Crown Vic	178,126 miles	2FAFP71W41X138442
		2002 Ford Crown Vic	184,197 miles	2FAFP71W62X132689
		2002 Chevy Impala	*	2G1WF52E829201029
		2002 Chevy Impala	108,191 miles	2G1WF52E229153818
		2003 Chevy Impala	109,234 miles	2G1WF52E739433123

\*were unable to get the mileage on these vehicles; battery dead on P/U and no key for the 2002 Impala.(In the process of getting key from Sheriff's Office.)

The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

#### **Budget Committee**

With the Budget Committee recommendation, the Board approved to appropriate \$26,889.00 for the Edward Byrne Memorial Justice Assistance Grant to purchase firearms for the Sheriff's Department.

(Revenue – 001-023020-0010)  
(Expenditure - 001-021070-8888-80)

The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

With the Budget Committee recommendation, the Board approved to appropriate \$2,000.00 (Line item# 001-056000-5827) for Wellness Day for County employees. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

With the Budget Committee recommendation, the Board approved the following line item change for the School Board budget:

Debit	009-099990-5698-1	\$174,820.00
Credit	009-099990-5699	\$174,820.00

The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

With the Budget Committee recommendation, the Board approved agreement with VA Department of Education for office space rental for 2 years. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

With Budget Committee recommendation, the Board approved Smyth County being the Fiscal Agent for Wytheville Feeder Cattle Association grant. Mr. Charlie Atkins stated he would correct Grantee signature. Wytheville Feeder Cattle Association is the Grantee not Smyth County. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

With the Budget Committee recommendation, the Board approved a budget amendment in the amount of \$43,800.00 for the Toughbooks Grant to purchase computers for participating life savings crews.

(Revenue – 001-022010-0011)  
(Expenditure – 001-032030-5604-5)

The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

### **Water and Sewer Committee**

With Water and Sewer Committee recommendation the Board accepted lowest bid of \$29,500 from Cherokee Construction on Kent Street Sewer Project. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSNET: Dishner, Waddell

With Water and Sewer Committee recommendation, the Board accepted lowest bid of \$781,552 from DLB Inc. on Hall Addition Phase 2 Project. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

With Water and Sewer Committee recommendation to approve drawdown of the outstanding interest payments on the Allison Gap and Cedar/Hall Addition projects, and to request reimbursement of \$19,900.00 for truck purchased in May and internally allocate \$192,675.00 for Fox Valley/Pioneer project and \$83,200.00 for Hall Addition Phase #2, the Board will approve when this money is appropriated.

With Water and Sewer Committee recommendation, the Board accepted lowest bid of \$931,141 from Tipton Construction Company on Fox Valley/Pioneer/Greenwood Project. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

When needed, the Board will set a public hearing for Rural Development's secure 25% loan and 75% grant offer on this project.

With Water and Sewer Committee recommendation, the Board approved the following Virginia Department of Health-Office of Drinking Water Planning Grant Resolution.

**SMYTH COUNTY VDH PLANNING GRANT  
RESOLUTION**

**WHEREAS**, Smyth County has Master Waterline Specifications for the County Water System that were created over 10 years ago, and

**WHEREAS**, the Virginia Department of Health-Office of Drinking Water Planning Grant Funding Program fits the needs of this type of project, and

**WHEREAS**, the County wishes to update and make current these Specifications to reflect new technologies and products; as well as noting procedures and methods related to leak detection and repair,

**THEREFORE, BE IT RESOLVED**, that the Smyth County Board of Supervisors hereby agree to seek funding from the Office of Drinking Water for the following project:

Master Waterline specifications for the County Water System in an amount not to exceed \$30,000.

**THEREFORE, BE IT FURTHER RESOLVED** that the Smyth County Engineer shall immediately begin to process a funding application for this project and be authorized to sign any and all documents to accept such funding contingent upon review and concurrence by the County Attorney.

Supervisor Blevins stated citizens have requested a drop box for water and sewer payments. Supervisor Roberts questioned about placing drop boxes in the towns of the county. This will placed on the Water and Sewer Committee agenda on September 24, 2009.

**Personnel Committee**

The Board continued the Personnel Committee recommendations to the current Policy manual until the continued Board meeting on September 24, 2009. This would give Board members time to review the current Policy manual.

## **Economic Development Committee**

Mrs. Sally Morgan asked this to be postponed until October's meeting.

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Mr. Robert Hurt informed the Board of construction completion dates.

Mr. Hurt discussed with Chairman Clark concerning a sign at American Wood Fibers.

Chairman Clark inquired about Horseshoe Bend Road to Carlock Creek Road. Mr. Hurt stated this road is not on the six-year plan.

Mr. Larry Taylor was present to speak to VDOT. Mr. Taylor questioned the completion of Shadow Wood Road. Mr. Hurt stated the road would be paved and a speed limit sign put up.

## **OLD BUSINESS**

1. Collection of delinquent taxes **(8-10-04)**. *Mr. Carter updated that he has an updated delinquent tax list. Supervisor Perry motioned to continue this issue. Supervisor Neitch seconded the motion and it duly passed.*

**AYES:** 6  
**NAYS:** 1      **C.C. "Charlie" Clark, Jr.**

2. Marevine Slemph, request for water service on Fox Valley Road **(5-11-04)**. *At the September 8, 2009 meeting; Supervisor Neitch motioned to remove this item from list. Supervisor Blevins seconded the motioned and the vote is as follows:*

**AYES:** 5  
**NAYS:** 0  
**ABSENT:** Dishner, Waddell

3. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).



4. Disposal of former school building at 105 East Strother Street **(7-11-06)**. *At the September 8, 2009 meeting; Supervisor Neitch motioned to remove this item from the list. Supervisor Roberts seconded the motion and the vote is as follows:*

**AYES:** 4  
**NAYS:** 0  
**ABSENT:** Dishner, Waddell  
Blevins (stepped out of the room)

5. Appointments: Board of Zoning Appeals (2-12-08)  
One Alternate - VACANT

Area Beautification Committee Judges (12-9-08)  
(Chamber of Commerce, 1 year term each calendar year)  
North Fork District - Debbie Ogle

6. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer **(5-13-08)**.

7. Radio System Project **(6-26-08)**.

8. Possibility of no longer selling car decals but adding that cost to tax tickets. The Ordinance Committee was asked to look at this for the end of 2009 **(1-13-09)**. *At the June 9, 2009 meeting, Mr. Tom Burkett, Treasurer, spoke to the Board on the elimination of the sale of car decals and incorporating a licensing fee to tax tickets. Mr. Burkett took brief questions. Mr. Jeff Richardson, Commissioner of Revenue, stated it would have minimal impact on his office to no longer sell car decals. Supervisor Perry made the motion to eliminate car decals. Supervisor Neitch seconded and the vote was as follows:*

**AYES:** 6  
**NAYS:** 0  
**ABSENT:** M. Todd Dishner

*At the June 25, 2009, meeting; After a brief discussion, Supervisor Perry motioned to rescind his prior motion to eliminate the sale of car decals, and was seconded by Supervisor Neitch. This motion was rescinded due to the loss of revenue it would create. The vote was as follows:*

**AYES:** 7  
**NAYS:** 0

**At the September 8, 2009 meeting; Supervisor Perry motioned to remove this item from the list. Supervisor Blevins seconded the motion and the vote is as follow:**

**AYES: 5**  
**NAYS: 0**  
**ABSENT: Dishner, Waddell**

9. Referred to the Water and Sewer Counsel, proceed with legal documents to provide uncollectable names and accounts from the Water and Sewer Department to other water providers in the county **(2-10-09)**.

10. Nuisance complaint against a property owned by Joseph F. Ellis, Jr. - The Board voted to leave the matter on the Old Business agenda until the conclusion of a civil case is resolved. At that time, the nuisance issue will be revisited. Mr. Patton Graham (Mr. Ellis' Attorney) will update the Board on the civil case as it progresses **(4-14-09)**.

11. Appeal Hearing - Buddy Galliher appeals Clegg Williams' Subdivision Compliance decision on an existing soil drive. A continuance of 30 days was requested by Mr. Buddy Galliher and Mr. Clegg Williams. **(08-11-09) At the September 8, 2009 meeting; Mr. Clegg Williams stated Galliher's submitted a plat indicating they do own road frontage and will deed a strip of land down Mitchell Valley Road. Mr. Williams stated the appeal is unnecessary. Mr. Williams has asked for a formal letter of withdrawal. Mr. Williams stated he spoke with Diann Puckett, and Ms. Puckett stated she would send a letter of withdrawal on the Galliher's behalf. At this time, Mr. Williams has not received letter. Mr. Williams will contact Ms. Puckett about receiving this letter.**

Supervisor Roberts motioned to have a continued meeting on September 24, 2009, to continue item #11 on Old Business, to set a public hearing for the disposal of the Old School Board Building at 7:00 p.m. and to consider appropriations. Supervisor Blevins seconded the motion and the vote is as follows:

**AYES: 5**  
**NAYS: 0**  
**ABSENT: Dishner, Waddell**

VACO's 2009 Annual Conference - Chairman Clark asked if any Board member would like to attend this conference. Chairman Clark stated he would attend; no other member stated they would like to attend.

## **CLOSED SESSION**

At 3:11 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711 – A.1 (Personnel), 2.2-3711 - A.3 (Acquisition of Real Property), and Section 2.2-3711- A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Blevins and the motion passed with the following vote:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

Upon returning to open meeting, a motion was made by Supervisor Roberts to adopt the following resolution certifying the business conducted in closed session as follows:

### **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Blevins and the vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

After discussion in closed session, Supervisor Roberts motioned to accept and appropriate \$5,000.00 (line item #502-012010-0010) for James and Nancy Brown's deed for pump station. Supervisor Blevins seconded the motion and the vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell

## **CONTINUE**

At 3:52p.m. Supervisor Neitch motioned to continue the meeting until September 24, 2009 at 7:00 p.m. Supervisor Blevins seconded the motion and the vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Dishner, Waddell







The Smyth County Board of Supervisors held a continued September meeting at 7:00 p.m., **Thursday, September 24, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.    Darlene R. Neitch  
M. Todd Dishner                Marvin R. Perry  
Michael D. Roberts(**arrived at 7:05**)

**MEMBERS ABSENT:**

Wade H. Blevins, Jr.            Brenda J. Waddell

**STAFF PRESENT:**

Michael L. Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney  
Pam Testerman, Office Service Assistant  
Scott Simpson, Engineer  
Charlie Atkins, Chief Financial Officers

**CALL TO ORDER**

At 7:01 p.m. Chairmen Clark called the public hearing to order. Mr. Carter, Acting County Administrator, read the following legal advertisement as published in the Smyth County News and Messenger, on September 12 and September 19 (Saturday editions):



**NOTICE OF PUBLIC HEARING**

The Board of Supervisors of Smyth County, Virginia will conduct a public hearing at the office of the Board of Supervisors, 121 Bagley Circle, Suite 100, Marion, Virginia, on **September 24, 2009, at 7:00 PM** to consider the possible disposal of a former school building which is known as the 1908 School Building.

This property is located in the Town of Marion, at the intersection of North Church Street and East Strother Street. The property has a street address of 105 East Strother Street, Marion, Virginia, and is presently vacant. After being used as a school, this property was used by the Smyth County School Board, as a County Library, and then by the Smyth County Historical Society, as well as housing offices for probation and parole officials of the County.

Pursuant to §15.2-1800 (B) of the Code of Virginia, at this public hearing the Board of Supervisors will consider whether to sell this property to the Town of Marion for renovation by the Town for public or private uses as determined by the Town if the sale is approved and closed.

The Town has proposed to pay the County the sum of \$250,000.00 in cash for the entire property of the former 1908 School Building, and the real estate on which an annex once existed. The use of these funds by the County, if the sale is approved and concluded will be for part of the cost of a joint parking deck to be built between Strother Street and East Court Street by the County and the Town. At this public hearing, the Board will hear any other proposal for the disposal of this property and the improvements thereon.

**At this public hearing, which will be held at the office of the Board, 121 Bagley Circle, Suite 100, Marion, Virginia, on September 24, 2009 at 7:00 PM**, and subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state their views thereon.

Done by order of the Board of Supervisors on September 8, 2009.

---

Michael L. Carter Acting County Administrator

No citizens were present.

Chairman Clark closed the public hearing at 7:03 p.m.

Supervisor Dishner motioned to accept the sale of the building for \$250,000.00 to the Town of Marion and Chairman Clark was authorized to sign deed upon its completion by the County Attorney. Supervisor Neitch seconded the motion and the vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

Supervisor Roberts stated he was an employee of the Town of Marion and his vote may be in an impartial manner.

## **OTHER BUSINESS**

Mr. Charlie Atkins stated he spoke with Debbie Schwartz in the Treasurer's Office and the appropriate monies are available for the remaining appropriations from September 8, 2009 regular meeting:

General County	\$ 598,555.00
Social Services (September 9 – 30, 2009)	\$ 155,000.00
(October 1 -13, 2009)	\$ 70,000.00
Schools - Operating Fund	<u>\$ 3,500,000.00</u>
	<b>\$ 4,323,555.00</b>

Supervisor Dishner motioned to appropriate \$4,323,555.00 and was seconded by Supervisor Neitch. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

A letter was received from Diann D. Puckett, Law Offices of Burke, Graybeal and Hammer, requesting to formally withdraw the appeal against Clegg Williams, Zoning Administrator on behalf of Mr. and Mrs. Buddy Galliher.

Supervisor Perry motioned to accept the appeal withdrawal request and was seconded by Supervisor Dishner. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

### **COMMITTEE RECOMMENDATIONS:**

#### **Budget Committee:**

After discussion; with the Budget Committee recommendation, the Board accepted the bid from Craig's Firearm Supply Inc. of \$25,047.90 for new firearms for the Sheriff's Department, less \$15,486.00 for trade-in; for a difference of \$9,561.80. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

Supervisor Perry motioned to appropriate \$9,561.80 (Sheriff's line # 744-010000-5408) for the purchase of new firearms. Supervisor Dishner seconded the motion and the vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

After discussion; with the Budget Committee recommendation, the Board appropriated \$15,210.00 (Water/Sewer line # 501-085040-0174) for interest-only payment to Rural Development for East Hungry Mother Water project. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

After discussion; with the Budget Committee recommendation, the Board approved agreement with Brown, Edwards and Company to prepare the internal control financial reporting of the sheriff's office. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

### **Personnel Committee**

After discussion; with the Personnel Committee recommendation, the Board approved the following additions to the current Policy Manual:

#### **2.7 Nepotism Policy**

The employment of a Board member or anyone in the immediate family of a Board member or County Administrator is prohibited. One member of a family is strictly prohibited from being in a supervisory capacity over another member of the immediate family. The immediate family shall include the following relationships: husband, wife, father, mother, grandfather, grandmother, son, daughter, grandson, granddaughter, brother, sister, mother in law, father in law, brother in law, sister in law, son in law, and daughter in law.

Nothing herein shall be construed so as to affect the employment status of any present employee should a member of their immediate family be elected to the Board.

#### **2.8 Secondary employment**

No full time employee shall engage in any other employment or activity either on County premises or to an extent that affects, or is likely to affect, his/her usefulness as an employee of the County. An employee wishing to engage in employment, activity, business or profession secondary to his primary position with the County shall submit a written request to his department head for approval in advance of such employment. Failure to do so may be cause for disciplinary action up to and including termination. The department head shall file approved secondary employment requests with the County Administrator. Once approved, secondary employment approvals may be rescinded by the department head or County Administrator at any time.

The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

After discussion; with the Personnel Committee recommendation, the Board approved the following changes to the current Policy Manual:

**5.1 Annual Leave**

**Each full time employee upon their anniversary date is entitled to annual leave for each completed year of service as follows:**

<b>Years of Service</b>	<b>Yearly earned</b>
<b>Up to 5 years</b>	<b>96 hours earned (12 days)</b>
<b>6-15 years</b>	<b>120 hours earned (15 days)</b>
<b>16+ years</b>	<b>144 hours earned (18 days)</b>

**In addition to the above, upon approval of employees supervisor the employee may carry up to five (5) additional vacation days into the next year of employment as determined by the employees hire date.**

**5.2 Sick Leave**

**All employees will be granted one day of sick leave for each month of continuous service with a maximum accumulation of one hundred and twenty(120) days. Sick leave may be taken in Hourly increments.**

The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

**CLOSED SESSION**

At 7:33 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711 – A.1 (Personnel), A.3 (Acquisition of real property), A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Dishner and the motion passed with the following vote:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

Upon returning to open meeting; a motion was made by Supervisor Roberts to adopt the following resolution certifying the business conducted in closed session as follows:

**RESOLUTION  
CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Dishner and the vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

Supervisor Roberts motioned to accept the Water/Sewer Committee recommendation to acquire easement. The vote is as follows:

AYES: 5  
NAYS: 0  
ABSENT: Blevins, Waddell

An October 8, 2009 Courthouse Committee meeting was set for 8:30 a.m.

At 8:10 p.m. Supervisor Perry motioned to adjourn meeting.

The Smyth County Board of Supervisors held a special called meeting at 3:00 p.m., **Thursday, November 5, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Marvin R. Perry
Wade H. Blevins, Jr.	Michael D. Roberts
M. Todd Dishner	Brenda J. Waddell
Darlene R. Neitch	

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney  
Pam Testerman, Office Service Assistant  
Charlie Atkins, CFO (arrived at 3:05p.m.)

**OTHERS PRESENT:**

Dan Kegley, Smyth County News & Messenger

**CALL TO ORDER**

Chairman called the meeting to order at 3:01p.m.

This meeting was called to consider an extension to the due date of December 5<sup>th</sup> to December 19<sup>th</sup> for the 2009 Real Estate and Personal Property tax tickets. The Personal Property tax tickets were mailed out two weeks ago, as of the meeting, the Real Estate tax tickets had not been mailed.

Mr. John Tate stated Personal Property was added to the special called meeting notice to have less confusion for the citizens. Supervisor Perry stated he was concerned with citizens not having enough time to pay their Real Estate taxes.

The due date is set by the state code, and the only requirement is that tax tickets must be mailed out 14 or more days prior to due date.



Supervisor Dishner stated citizens have stated it's hard at Christmas time to pay. A public hearing was held a few years ago to consider paying taxes in July and December, but the citizens were not for it.

Supervisor Neitch stated if due date is changed, it is only for 2009.

Supervisor Roberts questioned the cash flow with extending the due date. Mr. Charlie Atkins stated it will affect the cash flow, but by the end of the month it should work its self out.

After discussion; Supervisor Perry motioned to advertise for a public hearing to extent the Real Estate and Personal Property tax ticket due date from December 5<sup>th</sup> to December 19<sup>th</sup>. Supervisor Neitch seconded the motion. The motion failed with the following vote:

AYES:	2	Perry, Neitch
NAYS:	5	Clark, Blevins, Dishner, Roberts, Waddell

## **CLOSED SESSION**

With a show of hands, the Board unanimously waived the notice of special called meeting to have closed session.

At 3:28 p.m. a motion was made by Supervisor Perry to enter into Closed Session under Section 2.2-3711 – A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Neitch and the motion passed with the following vote:

AYES:	7
NAYS:	0

Upon returning to open meeting, a motion was made by Supervisor Perry to adopt the following resolution certifying the business conducted in closed session as follows:

### **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Dishner and the vote is as follows:

AYES:         7  
NAYS:         0

## **ADJOURN**

At 3:47 p.m., Chairman adjourned meeting.







***Note: These minutes are written as the agenda was presented. Some votes and/or discussions may appear out of order.***

The Smyth County Board of Supervisors held its regular November meeting at 12:00 noon, **Thursday, November 12, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Wade H. Blevins, Jr.
M. Todd Dishner	Marvin R. Perry (arrived at 12:06)
Darlene R. Neitch	Michael D. Roberts
Brenda J. Waddell	

**STAFF PRESENT:**

Michael Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney  
Pam Testerman, Office Service Assistant  
Scott Simpson, County Engineer  
Charlie Atkins, CFO  
Sally Morgan, Economic Development Planner  
Jan Blevins, Deputy  
Kenny Lewis, Chief Deputy (arrived at 2:39)

**OTHERS PRESENT:**

Dan Kegley, Smyth County News & Messenger

**CALL TO ORDER, INVOCATION & PLEDGE OF ALLEGIANCE**

With a quorum present, the meeting was called to order at 12:00 noon. Mr. Brian Chandler gave the invocation and Mrs. Heather Gillespie led the pledge of allegiance.

**ADOPTION OF AGENDA**

Supervisor Blevins motioned to adopt the agenda as to form, along with the additional agenda. Supervisor Neitch seconded the motion, vote is as follows:

AYES:	5
NAYS:	0
ABSENT:	Dishner, Perry

## **MINUTES OF PREVIOUS MEETINGS**

The Board was presented with the minutes from the following meetings:

Tuesday, October 13, 2009  
Thursday, October 22, 2009  
Monday, November 2, 2009

Supervisor Neitch made a motion to approve the minutes as presented with noted changes. Supervisor Blevins seconded the motion and the vote is as follows:

AYES: 7  
NAYS: 0

Mr. Atkins, Chief Financial Officer informed the Board he was unable to speak with Debbie Schwartz, Treasurer's Office, before the meeting today. Mr. Atkins stated he did receive a report from the Treasurer's Office on November 6<sup>th</sup>, showing \$2.3 million in bank, plus CDs. Mr. Mike Carter stated Debbie Schwartz in the Treasurer's Office, called him right before the meeting and there was a bank balance of \$3.9 million.

## **PAYMENT OF COUNTY INVOICES**

Supervisor Blevins motioned to approve \$1,524,815.70 for appropriations. The following is an explanation of the appropriations approved:

Out of the \$1,360,000.00 requested for General County \$765,000.00 was appropriated.

\$510.70 for Animal Control Fund 3 was appropriated.

\$7,305.00 for Long Hollow was appropriated.

Out of the \$315,000.00 requested for Social Service(October 10 - 30, 2009) \$152,000.00 was appropriated.

Out of the \$70,000.00 requested for Social Service(December 1-8, 2009) no amount was approved at this time.

Out of the \$3,900,000.00 requested for School – Operating Fund \$500,000.00 was appropriated.

\$100,000.00 for School - Debt and Capital Outlay Fund was appropriated.

Supervisor Dishner seconded the motion. The vote is as follows:

AYES: 7  
NAYS: 0

The remaining requests will be on the agenda for consideration at the continued Board meeting on November 19, 2009.

Supervisor Blevins motioned to approve the accounts payable listing in the amount of \$711,986.67. Supervisor Dishner seconded the motion and the vote is as follows:

AYES: 7  
NAYS: 0

The Board considered the following additional Holiday time for Thanksgiving and Christmas as set by Governor Tim Kaine:

Thanksgiving - Closing at noon on Wednesday, November 25, 2009, and Christmas - closed Christmas Eve, Thursday, December 24, 2009.

Supervisor Roberts motioned to approve additional holiday time. Supervisor Blevins seconded the motion and motion passed with the following vote:

AYES: 7  
NAYS: 0



## **CITIZEN'S TIME**

There was one citizens present and spoke:

**Ed Murphy**, Chilhowie, VA, spoke concerning a traveling girl's softball team, "Smyth County Sliders". The team has an opportunity go to Nebraska to camp. Olympic pitcher, Cat Osterman will be present at the camp. A picture of the team will be placed in the United States Softball Hall of Fame for participating. Mr. Murphy requests a donation from the Board to help send the girls to camp.

Supervisor Waddell motions to refer to Budget Committee and Supervisor Blevins seconded the motion. The vote is as follows:

AYES: 7  
NAYS: 0

## **NEW BUSINESS**

Mr. Scott Simpson presented to the Board the following:

- a.** Approve and Execute Funding Agreement for Hall Addition Phase 2:

Mr. Simpson informed the Board the agreement was reviewed by Mr. Jeff Campbell and the loan is a 100% principal forgiveness loan.

After discussion and with the Water and Sewer Committee recommendation, the Board approved the funding agreement for Hall Addition Phase 2:

AYES: 7  
NAYS: 0

- b.** Accept bids on the purchase of 2 trucks for the Water/Sewer Department:

Mr. Simpson informed the Board that 2 bids were received for two 2010 Full size pickup trucks.

After discussion, Supervisor Perry motioned to accept bid from Marion Automotive for \$40,555.40 as stated on bid and was seconded by Supervisor Blevins. The motion passed with the following vote:

AYES: 7  
NAYS: 0

**c.** Accept bids on the purchase of 3 new sewer pumps for the Wastewater Treatment Plant:

Mr. Simpson informed the Board that Jeff Spickard, Lane Engineering, and Cecil Hicks, Donnie, and John Clark, Town of Marion reviewed the bids and approved the pumps.

After discussion, Supervisor Perry motioned to approve purchasing sewer pumps from Tencarva Machinery Co. Supervisor Dishner seconded the motion and the motioned passed with the following vote:

AYES: 7  
NAYS: 0

Chairman Clark gave an update on his VACo meeting attendance. It was mentioned to hopefully be back where we were economically by 2012 – 2013.

Mr. Mike Carter presented to the Board a letter from the Southwest Virginia Community Corrections. The letter is requesting the Board approve a list of members to serve on the Community Criminal Justice Board. Representatives from Smyth County are Sheriff, David Bradley and Commonwealth Attorney, Roy Evans. Supervisor Netich motioned to approve list of members and was seconded by Supervisor Blevins. The motion passed with the following vote:

AYES: 7  
NAYS: 0

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Mr. Robert Hurt updated the Board on construction projects.

Supervisor Roberts motioned to support the application for Saltville Battleground to be a Historical site. Supervisor Blevins seconded the motion and the motion passed with the following vote:

AYES: 7  
NAYS: 0

Supervisor Dishner stated he had a citizen question the upkeep on the grave yard behind Marion Baptist Church. The citizen stated there are two civil war soldiers buried there, and he thought the County had erected a dedication to someone. Supervisor Dishner stated it is on the Historical Society Registry for Cemeteries, and wanted to know who he would contact to see about the maintenance of the grave yard. Mr. Tate suggested contacting Nena Lemmon Sawyers.

## **Appeal Hearing – Jerry W. Frye**

Attorney, Chip Barker, spoke on behalf of Mr. Jerry Frye's appeal to the Planning Commission decision. Mr. Barker requested the Board grant Mr. Frye a variance to place a permanent residence in Big Horn Estates. Supervisor Neitch motioned to overturn Planning Commission decision and grant a variance. Supervisor Roberts seconded the motion and the motion passed with the following vote:

AYES: 5 Neitch, Roberts, Blevins, Dishner, Waddell  
NAYS: 2 Clark, Perry

**PUBLIC HEARING – PROPOSED ISSUANCE OF BONDS – FOX VALLEY ROAD WATER PROJECT**

At 3:00 p.m. the Chairman of the Board called the public hearing to order. Mr. Mike Carter read the advertisement below, which was published in the Smyth County News and Messenger on October 24 and October 31.

**NOTICE OF PUBLIC HEARING  
OF PROPOSED BOND ISSUE  
BY SMYTH COUNTY, VIRGINIA**

The Board of Supervisors of Smyth County, Virginia (the “Board of Supervisors”) will hold a public hearing on the proposed issuance of bonds by Smyth County (the “County”). The general purposes for which the bonds are to be issued are to finance improvements to the County’s water system and to pay the costs of issuing the bonds. The estimated maximum amount of the bonds to be issued is \$245,000. The public hearing which may be continued or adjourned, and at which persons may appear and present their views on the proposed issuance will be held at 3:00 p.m. on November 12, 2009, before the Board of Supervisors in the Board of Supervisors Meeting Room at 121 Bagley Circle, Suite 100, Marion, Virginia.

No citizens were present.

Chairman Clark closed the public hearing at 3:03 p.m.

Mr. Scott Simpson stated out of a \$1,128,000 million project; \$245,000 is borrowing, \$192,675 left over money from Allison Gap and Cedar/Hall Addition, and the remaining balance from Rural Development grants. There are currently 50 applications.

## **PUBLIC HEARING – PROPOSED SMYTH COUNTY BUDGET AMENDMENT**

At 3:30 p.m. the Chairman of the Board called the public hearing to order. Mr. Mike Carter read the advertisement below, which was published in the Smyth County News and Messenger on October 24 and October 31.

**Notice of Public Hearing  
On Amending the Smyth County Budget  
For the Fiscal Year  
July 1, 2009 through June 30, 2010  
On November 12, 2009 at 3:30 p.m.**

Pursuant to section 15.2-2507 of the Code of Virginia, the Smyth County Board of Supervisors will conduct a public hearing on November 12, 2009 at 3:30 P.M., in the Board of Supervisors meeting room at 121 Bagley Circle, Marion, Virginia.

At the above mentioned day, time and place any citizen may appear and express their opinion(s).

The purpose of the hearing will be to receive public comment on proposed amendments to the Smyth County budget for fiscal year 2009-2010. The amendments relate to Smyth County Communications and Water/Sewer Department. A full copy of the current budget is available at the Smyth County Board of Supervisors Office, 121 Bagley Circle, Suite 100, Marion, Virginia and may be viewed during regular business hours, Monday through Friday. A synopsis of the proposed budget amendments follows.

By order of the Smyth County Board of Supervisors  
Michael L. Carter, Acting County Administrator

### **Proposed Budget Amendments**

	2009-2010 Original	2009-2010 Proposed	Difference	
<b>FUND 001 GENERAL FUND</b>				
REVENUES:				
Borrowing Comm/Tower System	600,000	940,000	340,000	Inc.
Public Safety Interoperability	900,000	1,020,000	120,000	Inc.
EXPENDITURES:				
Basic 911 Specific use	\$ 1,500,000	\$1,960,000	\$460,000	Inc

Smyth County Board of Supervisors

Thursday, November 12, 2009

**FUND 309 ALLISON GAP PROJECT**

REVENUES:

Allison Gap Grant Revenue	-	480,000	480,000	Inc.
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EXPENDITURES:

Allison Gap Expenses	-	480,000	480,000	Inc.
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**FUND 303 CEDARS/HALL FUND**

REVENUES:

Cedars/Hall Revenue	-	1,256,000	1,256,000	Inc.
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EXPENDITURES:

Cedars/Hall project expenditures	-	1,256,000	1,256,000	Inc.
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**FUND 501 WATER DEPARTMENT**

REVENUES:

Greenwood/ Pioneer Co. Funded project	-	192,675	192,675	Inc.
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EXPENDITURES:

Funds Transferred in	-	192,675	192,675	Inc.
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Total Revenue	\$ 1,500,000	\$3,888,675	\$2,388,675
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Total Expense	\$ 1,500,000	\$3,888,675	\$2,388,675
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No citizens were present.

Chairman closed the public hearing at 3:33 p.m.

Supervisor Perry spoke on a letter he received from District Three Governmental Cooperative concerning the County not fully funding their request. Supervisor Perry stated if a supervisor is on a committee or board, they need to be aware of any budget cuts. Supervisor Perry recommends fully funding their request. Supervisor Perry requested Mr. Carter send a letter to District Three stating he will no longer represent the County on their board.

## PUBLIC HEARING – PROPOSED DOG ORDINANCE

At 4:00 p.m. the Chairman of the Board called the public hearing to order. Mr. Mike Carter read the advertisement below, which was published in the Smyth County News and Messenger on October 28 and November 4.

### NOTICE OF PUBLIC HEARING

The Board of Supervisors of Smyth County, Virginia will conduct a public hearing at the office of the Board of Supervisors, 121 Bagley Circle, Suite 100, **on November 12, 2009, at 4:00 PM**, to consider the adoption of amendments to the Smyth County Code, in Chapter 8, the part of the Code styled Animals, which deals local ordinances for the control of dogs running at large under Section 8-128 (a) and to consider the addition of a new section to this Chapter of the Smyth County Code as Section 8-142 of the Smyth county Code, and particularly the following:

Amend **Chapter 8, Animals. Article V, Dogs and Cats**, of the Smyth County Code, by amending the **Heading of Section 8-128** to eliminate certain language in the heading and in the third line of subsection (a). Subsection (a) of Section 8-128 now reads. "It shall be unlawful for any person in the county to permit a dog owned by him, or by his minor children, or a stray dog not actually owned by such person but permitted to stay principally on his premises, **which dog is vicious or destructive**, to run at large in the county or to be off the premises of such owner or permittee, unless under leash." **This amendment will also remove "Vicious or destructive" from the heading to Section 8-128, and capitalize the next word. "Dogs".**

The amendment proposed to this section of the County Code is to eliminate the words, **"which dog is vicious or destructive"**, and to retain the remainder of this section as it is now contained in the County Code with no other changes. This change is intended to take out the qualifier of a vicious or destructive dog.

The second proposed amendment to **Chapter 8, Animals, Article V. Dogs and Cats**, proposes the adoption of a new provision to the Smyth County Code. This new section is meant to help control dogs off of the property of the owner, custodian, or permittee, *subject to certain exceptions asset Our herein. This amendment will supplement Section 8-128 of file Smyth County Code as described above*, and proposes to add a new Section, Section 8-128-1, to contain the following provisions:

Section 8-128-1 (A) except *as provided in Section B*, "it shall be unlawful to create an Animal Nuisance in the County. An animal nuisance is created when any companion animal, dog, cat or other domestic animal unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. Such acts of animal nuisance include, but are not limited to the following:

- (1) Damages property other than that of the animal's owner;
- (2) Attacks or disturbs other animals, persons or vehicles by chasing, barking or biting;
- (3) Makes excessive noises including, but not limited to, barking, whining, howling, caterwauling, or crying;
- (4) Creates noxious or offensive odors;
- (5) Defecates upon any public place or upon premises not owned or controlled by the owner, unless promptly removed by the animal's owner or custodian; or,
- (6) Creates an unsanitary condition or insect breeding site due to an accumulation of excreta or filth.

*Section 128-1 (B) This section shall not apply to a companion animal engaged in lawful hunting in open season, including coon and bear hunting, or when being trained or exercised and generally accompanied by its owner or custodian, or (a) when participating in organized or specific obedience training, training classes, field trials or shows sponsored by recognized clubs or organizations in animal uses and events; (b) dogs that are participating in search and rescue operations carried out by any public or private safety agent.)' or group; dogs participating in pet therapy programs sponsored by any hospital, clinic hospice nursing home, elderly facility or similar institutional facility; (c) dogs that are being trained as service dogs by a qualified service dog trainer; or any trained seeing eye dog; and, (d) dogs which are being employed by law enforcement agencies in law enforcement operations.*

The amendment proposed to Section 8-128, and the proposal to add a new section, Section 8-128.1 to follow Section 8-128 in the printed Code of Smyth County, Virginia, will be the subject of the public hearing noticed herein.

**At this public hearing, which will be held at the office of the Board, 121 Bagley Circle, Suite 100, Marion, Virginia, on November 12, 2009 at 4:00 PM,** and subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state their views thereon.

The full copy of the text of the amendment and the new section of the ordinance being proposed to be added to the Smyth County Code are set out herein, and are on file at the office of the County Administrator at the address given above. These proposed amendments may be viewed, or a copy secured, at this office at 121 Bagley Circle, Suite 100, Marion, VA 24354, during regular business hours Monday through Friday.

Done by order of the Board of Supervisors on October 22, 2009  
Michael L. Carter, Acting County Administrator

There were 14 citizens present and the following spoke:



**Earl McClure**, Marion, He stated this ordinance will open Pandora's Box. He supports the ordinance in residential areas.

**Donna Cullop**, Thomas Heights, Marion, She feels the ordinance needs to be clearer.

**David Fields**, West Main St., He supports the ordinance.

**Ralph Hayden**, Sunset Hills Drive, Marion, He stated he has complained to his supervisor about the dogs in his neighborhood. Recently, a bus driver has complained about dogs around the bus while children are getting on and off. He supports the ordinance.

**Steve Smith**, Seven Mile Ford, supports ordinance.

**Greg Teaters**, Mr. Carter read an email that he received; Mr. Teaters stated there is a need for a law against people dumping and starving animals.

Chairman closed the public hearing at 4:18 p.m.

## **PUBLIC HEARING – PROPOSED SCHOOL BOARD BUDGET AMENDMENT**

At 4:30 p.m. the Chairman of the Board called the public hearing to order. Mr. Mike Carter read the advertisement below, which was published in the Smyth County News and Messenger on October 24 and October 31.

### **NOTICE OF PUBLIC HEARING ON AMENDING THE SMYTH COUNTY SCHOOL BUDGET FOR THE FISCAL YEAR July 1, 2009 through June 30, 2010 On November 12, 2009 at 4:30 p.m.**

Pursuant to section 15.2-2507 of the Code of Virginia, the Smyth County Board of Supervisors will conduct a public hearing on November 12, 2009 at 4:30 P.M., in the Board of Supervisors meeting room at 121 Bagley Circle, Smyth County Office Building.

At the above mentioned day, time and place any citizen may appear and express their opinion(s).

The purpose of the hearing will be to receive public comment on proposed amendments to the School Board budget and the Smyth County budget for fiscal year 2009-2010. The amendments relate to the Smyth County Schools capital outlay budget only and involve remaining funds from fiscal year 2008-2009. A full copy of the current budget is available at the Smyth County Board of Supervisors Office, 121 Bagley Circle, Suite 100 and may be viewed during regular business hours, Monday through Friday. A synopsis of the proposed budget amendments follows.

By order of the Smyth County Board of Supervisors  
Michael L. Carter, Acting County Administrator

<b>Smyth County School Board</b>			
<b>Operations Budget For the Year Ending June 30, 2010</b>			
<b>Revenue Summary for Operations Budget</b>			
	<b>2009-2010 ORIGINAL</b>	<b>2009-2010 PROPOSED</b>	<b>Difference</b>
State Revenue	\$ 31,303,890	\$ 31,303,890	\$ 0
Local Revenue	\$ 7,839,529	\$ 7,839,529	\$ 0
Federal Revenue	\$ 5,031,094	\$ 5,031,094	\$ 0
State Sales Tax	\$ 4,134,070	\$ 4,134,070	\$ 0
Other Revenue	\$ 1,633,801	\$ 1,633,801	\$ 0
<b>TOTAL OPERATIONS</b>	<b>\$ 49,942,384</b>	<b>\$ 49,942,384</b>	<b>\$ 0</b>
<b>Expenditure Summary for Operations Budget</b>			
	<b>2009-2010 ORIGINAL</b>	<b>2009-2010 PROPOSED</b>	<b>Difference</b>
Instruction	\$ 36,888,581	\$ 36,888,581	\$ 0
Administration	\$ 1,788,647	\$ 1,788,647	\$ 0
Transportation	\$ 2,424,632	\$ 2,424,632	\$ 0
Facilities	\$ 4,873,799	\$ 4,873,799	\$ 0
Food Service	\$ 2,406,408	\$ 2,406,408	\$ 0
Technology	\$ 1,560,317	\$ 1,560,317	\$ 0
<b>TOTAL OPERATIONS</b>	<b>\$ 49,942,384</b>	<b>\$ 49,942,384</b>	<b>\$ 0</b>
<b>Smyth County School Board</b>			
<b>Capital Outlay and Debt Service Budget For the Year Ending June 30, 2010</b>			
<b>Revenue Summary for Capital Outlay and Debt Service Budget</b>			
	<b>2009-2010 ORIGINAL</b>	<b>2009-2010 PROPOSED</b>	<b>Difference</b>
State Funds - Lottery	\$ 174,820	\$ 174,820	\$ 0
State Funds - School Construction	\$ -	\$ -	\$ 0
Local Funds - Debt Service	\$ 1,137,440	\$ 1,137,440	\$ 0
Local Funds - Capital Outlay	\$ 185,138	\$ 1,527,638	\$ 1,342,500
<b>TOTAL CAPITAL OUTLAY</b>	<b>\$ 1,497,398</b>	<b>\$ 2,839,898</b>	<b>\$ 1,342,500</b>

<b>Expenditure Summary for Capital Outlay and Debt Service Budget</b>			
	<b>2009-2010 ORIGINAL</b>	<b>2009-2010 PROPOSED</b>	<b>Difference</b>
Capital Outlay – Facilities	\$ 185,138	\$ 1,527,638	\$ 1,342,500
Capital Outlay - Debt Service	\$ 1,312,260	\$ 1,312,260	\$ 0
<b>TOTAL CAPITAL OUTLAY</b>	<b>\$ 1,497,398</b>	<b>\$ 2,839,898</b>	<b>\$ 1,342,500</b>

There were 13 citizens present and no one spoke.

Chairman closed the public hearing at 4:26 p.m.

### **PUBLIC HEARING – PROPOSED ISSUANCE OF GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS IN THE AMOUNT OF \$28,000,000**

Before the public hearing, Mr. Roland Kooch, Davenport & Company presented a Summary of Financing Documentation, \$5,000,000 General Obligation Notes, Series 2009, Courthouse Project report.

At 5:18 p.m. the Chairman of the Board called the public hearing to order. Mr. Mike Carter read the advertisement below, which was published in the Smyth County News and Messenger on October 24 and October 31.

### **NOTICE OF PUBLIC HEARING**

Notice is hereby given that on Thursday, the 12th day of November, 2009, the Board of Supervisors of Smyth County, Virginia, will hold a public hearing on the proposed issuance of general obligation public improvement bonds of Smyth County in one or more series and in the estimated aggregate maximum principal amount of \$28,000,000. The purpose of the proposed bonds is to finance, together with other available funds, a new courthouse facility, consisting of the permanent courts facility and an interim facility that will be converted to County use upon completion of the new courthouse, a parking garage for public use, and an emergency communications system.

The public hearing, which may be continued or adjourned, will be held at 5:00 p.m. or as soon thereafter as the matter may be heard on November 12, 2009, in the Board of Supervisors meeting room on the first floor of the Smyth County Office Building at 121 Bagley Circle, Marion, Virginia 24354. Interested persons may appear at such time and place and present their views.

Michael Carter  
Clerk, Board of Supervisors  
Smyth County, Virginia

There were 30 citizens present. The following citizens spoke opposing the issuance of the \$28,000,000 bond:

Earl McClure	Tom Hower
Tom Burkett	Susie Ellis
Joe Ellis	Wanda Sanderson
Roy Evans	Bill Huber
Mrs. James Patterson	Kyra Bishop
Richard Money	Steve Smith
Tom Bishop	

J.S. Staley – did not oppose – wanted the County to look at the repayment plan.

Chairman closed the public hearing at 5:58p.m.

## OLD BUSINESS

1. Collection of delinquent taxes **(8-10-04)**. *At the July 9, 2009 meeting, Mr. Carter stated he has an updated delinquent tax list. Supervisor Perry motioned to continue this issue. Supervisor Neitch seconded the motion and it duly passed.*

**AYES:** 6  
**NAYS:** 1 C.C. "Charlie" Clark, Jr.

*At the October 13, 2009 meeting, Supervisor Neitch inquired about the collection of taxes. It was advised to request a report from the Treasurer. The report should show 60 days after the publication of the delinquent tax list, between current year and last year, and see if there is any difference.*

2. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).
3. Appointments: Board of Zoning Appeals (2-12-08)  
One Alternate - VACANT  
  
Area Beautification Committee Judges (12-9-08)  
(Chamber of Commerce, 1 year term each calendar year)  
North Fork District - Debbie Ogle
4. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer (**5-13-08**).
5. Radio System Project (**6-26-08**).
6. Referred to the Water and Sewer Counsel, proceed with legal documents to provide uncollectable names and accounts from the Water and Sewer Department to other water providers in the county (**2-10-09**).
7. Nuisance complaint against a property owned by Joseph F. Ellis, Jr. - The Board voted to leave the matter on the Old Business agenda until the conclusion of a civil case is resolved. (Civil case filed March 6, 2009) At that time, the nuisance issue will be revisited. Mr. Patton Graham (Mr. Ellis' Attorney) will update the Board on the civil case as it progresses (**4-14-09**).

***At the November 12, 2009 meeting, Mr. Clegg Williams informed the Board no trial had been set.***

***Note: These minutes are written as the agenda was presented. Some votes and/or discussions may appear out of order.***

## **CLOSED SESSION**

At 12:54 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711 – A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Waddell and the motion passed with the following vote:

AYES: 7  
NAYS: 0

Upon returning to open meeting, a motion was made by Supervisor Dishner to adopt the following resolution certifying the business conducted in closed session as follows:

**RESOLUTION  
CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Waddell and the vote is as follows:

AYES: 7  
NAYS: 0

**CONTINUE**

At 5:59p.m. Supervisor Blevins motioned to continue the meeting until November 20, 2009, at 3:00 p.m.

AYES: 6  
NAYS: 0  
ABSENT: Perry









The Smyth County Board of Supervisors held a continued meeting at 7:00 p.m., **Thursday, November 19, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Wade H. Blevins, Jr.
M. Todd Dishner	Marvin R. Perry
Michael D. Roberts	Brenda J. Waddell

**MEMBERS ABSENT:**

Darlene R. Neitch

**STAFF PRESENT:**

Michael L. Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney  
Pam Testerman, Office Service Assistant  
Clegg Williams, Zoning Administrator  
Becca Kirk, Administrative Assistant  
Charlie Atkins, CFO

**OTHERS PRESENT:**

Lisa Vencille, Insurance Consultant  
Dan Kegley, Smyth County News & Messenger

**PLANNING COMMISSION MEMBERS PRESENT:**

Dennis Blevins	Karl Kalber
Graham Davidson	Amy Tuell

**PLANNING COMMISSION MEMBERS ABSENT:**

Don Medley	Norma Sparks
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**CALL TO ORDER**

Both Chairmen Clark and Blevins called the public hearing to order. Mr. Carter, Acting County Administrator, read the following legal advertisement as published in the Smyth County News and Messenger, on November 7 and 14 (Saturday editions) and read the rules of procedures for a public hearing.

**BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS AND  
SMYTH COUNTY PLANNING COMMISSION**

The Smyth County Board of Supervisors and the Smyth County Planning Commission will conduct a joint public hearing on Thursday, November 19, 2009, at 7:00 P.M. or as soon after 7:00 P.M. as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application(s) to the Zoning Ordinance of Smyth County, Virginia:

*An application from District Three Governmental Cooperative for a Special Use Permit to establish a Medical Care Facility as defined in Section 10-45.1. The property is addressed as 4451 Lee Highway in Marion, identified as Tax Map No. 47C-2-22 and is zoned Commercial.*

At this public hearing, subject to the rules of procedure of the Board of Supervisors and Planning Commission of Smyth County, Virginia, any person may appear and state his/her views thereon.

Copies of the application(s) along with their maps/drawings are on file in the Office of the County Administrator of Smyth County. Copies are also maintained by the County Zoning Administrator at the address given above, and may be viewed during regular business hours Monday through Friday.

Done by order of the Board of Supervisors and the Planning Commission.

Michael L. Carter, Acting County Administrator  
Dennis R. Blevins, Chairman of the Planning Commission

**Application Submitted:**

District Three Governmental Cooperative—Special Use Permit: Mr. Williams explained the Veteran's Affairs has recently negotiated to lease a portion of the District Three Governmental Cooperative building for an outpatient care facility. While the vast majority of their services will be covered under the zoning definition of Professional Office, they anticipate they will occasionally treat patients suffering from drug or alcohol abuse. Considering that aspect of their facility is addressed by our Medical Care Facility definition, they have applied for a Special Use Permit. The property is addressed as 4453 Lee Hwy, is zoned Commercial, and is furthered identified by tax map number 47C-2-22. He stated that notice of this public hearing was published in the Smyth County News on November 7 and 14 and a first class mailing was made to each of District III's adjoining property owners. No one contacted him regarding case. He pointed out the following sections of the ordinance: Section 3-4.2 m) which allows

Medical Facilities in the Commercial district by issuance of a special use permit, §10-45.1 which defines Medical Care Facility and Article 6 which contains the provisions for Special Use Permits.

Mac DeBusk was present representing District III and Dr. Daniel David was present representing the Veteran's Affairs. Dr. David explained the proposal to the room and addressed any questions. He stated there will be no control substance maintained in or dispensed from the clinic. The facility is to serve veterans in Smyth County and surrounding counties. He stated that facility would be similar to the former Saltville site.

There were an estimated 20 citizens presents. No citizens spoke.

Chairman Clark and Chairman Blevins closed the joint public hearing at 7:10 p.m.

The Planning Commission reconvened to the Social Service Board room on the 4<sup>th</sup> floor.

## **OTHER BOARD ITEMS**

At 7:12 p.m. Chairman Clark continued the Board of Supervisors meeting.

There were 18 citizens present for the meeting.

Supervisor Perry introduced his successor for the Royal Oak District, Ms. Regina Davidson, who was present for the meeting.

Mr. Charlie Atkins informed the Board of the financial status of the County. Mr. Atkins stated as of closing yesterday, there was a bank balance of \$6,039,000. The collection for real estate and personal property is very good.

Supervisor Blevins motioned to approve the following from the remaining appropriations from the November 12, 2009 meeting:

General County	\$ 795,000.00
Allison Gap	\$ 152,972.00
Cedar/Hall Addition	\$ 39,703.00
Social Services (November 13 – 30, 2009)	\$ 163,000.00
(December 1 – 8, 2009)	\$ 70,000.00
Schools - Operating Fund	<u>\$ 3,400,000.00</u>
	<b>\$ 4,620,675.00</b>

Supervisor Perry seconded the motion and the motioned passed with the following vote:

AYES: 6  
NAYS: 0  
ABSENT: Neitch

### **Committee Recommendations**

Insurance Committee:

a. Recommendation on Anthem Health Insurance KeyCare 30 Plan was continued to Friday, November 20, 2009 meeting. A request to change the mandatory mail order on prescriptions will be discussed with Anthem.

b. With the recommendation of the Committee, the Board renewed Lisa Vencille's consulting contract with the second year option for \$10,000. The vote is as followings:

AYES: 6  
NAYS: 0  
ABSENT: 1 Neitch

David Rose, Davenport & Company presented and discussed a presentation on the FY 2009 Year End and FY 2010 Budget Review, Projected Impact of the Courthouse and School Projects for Smyth County.

Chairman Clark felt it was imperative for all Supervisors be present for the decisions on the following and with Supervisor Neitch's absence, continued the following agenda items to Friday, November 20, 2009 at 3:00 p.m.:

1. Consider the proposed issuance of bonds and resolution for Fox Valley Road Water Project.
2. Consider proposed Smyth County budget amendments.
3. Animal Ordinance – consider amending heading of Section 8-128 and removing language, consider proposed Section 8-128-1 (A), and consider proposed Section 8-128-1 (B).
4. Consider proposed Smyth County School Board budget amendment.
5. Consider proposed issuance General Obligation Public Improvement Bond in the amount of \$28,000,000 and resolution for the issuance General Obligation Notes in the amount of \$5,000,000.

At 8:03 p.m. Supervisor Dishner motioned to continue meeting until 3:00 p.m. tomorrow, Friday, November 20, 2009, and Supervisor Waddell seconded, and it carried unanimously.

The Smyth County Board of Supervisors held a continued meeting at 3:00 p.m., **Friday, November 20, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

**MEMBERS PRESENT:**

C.C. "Charlie" Clark, Jr.	Wade H. Blevins, Jr.
M. Todd Dishner	Darlene R. Neitch
Marvin R. Perry	Mike D. Roberts
Brenda J. Waddell	

**STAFF PRESENT:**

Michael L. Carter, Acting County Administrator  
John H. Tate, Jr., County Attorney  
Pam Testerman, Office Service Assistant  
Charlie Atkins, Chief Financial Officers  
Sally Morgan, Economic Development  
Scott Simpson, Engineer (arrived at 3:15 p.m.)

**OTHERS PRESENT:**

Dan Kegley, Smyth County News and Messenger

**CALL TO ORDER**

At 3:06 p.m. Chairmen Clark called the public hearing to order. Mr. Carter, Acting County Administrator, read the following legal advertisement as published in the Smyth County News and Messenger, on November 7 and November 14 (Saturday editions) and the rules of procedure for public hearings:

**NOTICE OF PUBLIC HEARING**

The Board of Supervisors of Smyth County, Virginia will conduct a **Public Hearing** at the office of the Board of Supervisors, 121 Bagley Circle, Suite 100, Marion, Virginia, **on November 20, 2009, at 3:00 PM, or as soon thereafter on that date as it may commence**, to consider the issuance of a note or notes of the County, under §15.2-2629 of the Code of Virginia, in anticipation of County revenue in the maximum amount of Three Million Dollars (\$3,000,000.00) for use by the County in anticipation of revenues, and to fund the operations of the County.



As provided by §15.2-2629 of the Code of Virginia, this note or these notes, will be repaid within one (1) year of their issuance, and no further notes may be issued until this note or notes are paid in full.

This notice of hearing is given pursuant to §15.2-2636 of the Code of Virginia, as the County proposes to issue its note or notes, and this public hearing is to provide the public the right to comment on the proposed borrowing. At this public hearing, the chief financial officer of the County will make a brief presentation at the beginning of the public hearing.

**At this public hearing, which, as stated above, will be held at the office of the Board, 121 Bagley Circle, Suite 100, Marion, Virginia, on November 20, 2009 at 3:00 PM, or as soon thereafter as it may begin on that date,** and subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state their views thereon.

Done by order of the Board of Supervisors on November 2, 2009.

Mr. Charlie Atkins stated the Treasurer felt the County needed to have this mechanism in place incase needed. At this point it is not needed; the revenue is coming in fairly good. The County had \$6,039,000 before last night meeting's appropriations. By having in place, it will save time and another public hearing.

There were 15 citizens present. The following citizen spoke:

**Joe Ellis**, Marion, stated he spoke with Tom Burkett and out of the \$6,039,000; \$4.2 million was appropriated and will go down another million with obligations by next week. Mr. Ellis stated Tom Burkett said that the cash flow will go negative after May 2010.

Chairman Clark closed the public hearing at 3:12 p.m.

### **Committee Recommendations:**

Insurance Committee:

With the Insurance Committee recommendation, the Board approved the Anthem Health Insurance KeyCare 30 Plan. The vote is as follows:

AYES:           7  
NAYS:           0

Budget Committee:

With the Budget Committee recommendation, the Board denied the donation request from Smyth County Sliders girl softball team. With the financial situation of the County; the County is denying any request that was not included in the adopted 2009/2010 County Budget. The vote is as follows:

AYES:	5	Clark, Dishner, Neitch, Roberts, Waddell
NAYS:	2	Blevins, Perry

With the Budget Committee recommendation and Auditor's confirmation, the Board approved to write-off a \$4,006,053 deficit, which was created over the last 10 years, in the Water and Sewer Department. It was felt that the Water and Sewer Department would not be able to pay this back. The vote is as follows:

AYES:	7
NAYS:	0

Fox Valley Road Water Project:

Mr. Scott Simpson gave a brief update on the proposed issuance of bonds in the amount of \$245,000 and on authorizing the Resolution. After discussion, Supervisor Dishner motioned to approve the issuance of bonds in the amount of \$245,000 and the resolution. Supervisor Neitch seconded the motion and the motion passed with the following vote:

AYES:	7
NAYS:	0

Smyth County Budget Amendments:

Mr. Atkins went over the following Communication and the Water and Sewer proposed budget amendments:

Proposed Budget Amendments

	2009-2010 Original	2009-2010 Proposed	Difference
<b>FUND 001 GENERAL FUND</b>			
REVENUES:			
Borrowing Comm/Tower System	600,000	940,000	340,000 Inc.
Public Safety Interoperability	900,000	1,020,000	120,000 Inc.
EXPENDITURES:			
Basic 911 Specific use	\$ 1,500,000	\$1,960,000	\$460,000 Inc
 <b>FUND 309 ALLISON GAP PROJECT</b>			
REVENUES:			
Allison Gap Grant Revenue	-	480,000	480,000 Inc.
EXPENDITURES:			
Allison Gap Expenses	-	480,000	480,000 Inc.
 <b>FUND 303 CEDARS/HALL FUND</b>			
REVENUES:			
Cedars/Hall Revenue	-	1,256,000	1,256,000 Inc.
EXPENDITURES:			
Cedars/Hall project expenditures	-	1,256,000	1,256,000 Inc.
 <b>FUND 501 WATER DEPARTMENT</b>			
REVENUES:			
Greenwood/ Pioneer Co. Funded project	-	192,675	192,675 Inc.
EXPENDITURES:			
Funds Transferred in	-	192,675	192,675 Inc.
 Total Revenue	\$ 1,500,000	\$3,888,675	\$2,388,675
Total Expense	\$ 1,500,000	\$3,888,675	\$2,388,675

After discussion, Supervisor Neitch motioned to approve the proposed budget amendments. Supervisor Dishner seconded the motion and the motion passed with the following vote:

AYES: 7  
NAYS: 0

Animal Ordinance:

With the Ordinance Committee recommendation the Board rendered the following decisions:

a. The Board motioned to amend Heading of Section 8-128 to read "Dogs running at large; dogs and cats to be inoculated or vaccinated." and remove from (a), which dog is vicious or destructive, with the following vote:

AYES: 7  
NAYS: 0

b. The Board motioned to adopt the following proposed Section 8-128-1 (A):

Section 8-128-1 (A) except as provided in Section B, "it shall be unlawful to create an Animal Nuisance in the County. An animal nuisance is created when any companion animal, dog, cat or other domestic animal unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. Such acts of animal nuisance include, but are not limited to the following:

- (1) Damages property other than that of the animal's owner;
- (2) Attacks or disturbs other animals, persons or vehicles by chasing, barking or biting;
- (3) Makes excessive noises including, but not limited to, barking whining, howling, caterwauling, or crying;
- (4) Creates noxious or offensive odors;
- (5) Defecates upon any public place or upon premises not owned or controlled by the owner, unless promptly removed by the animal's owner or custodian; or,
- (6) Creates an unsanitary condition or insect breeding site due to an accumulation of excreta or filth.

The vote is as follows:

AYES: 7  
NAYS: 0

c. The Board motioned to adopt the following proposed Section 8-128-1 (B):

Section 8-128-1 (B) This section shall not apply to a companion animal engaged in lawful hunting in open season, including coon and bear hunting, or when being trained or exercised and generally accompanied by its owner or custodian, or (a) when participating in organized or specific obedience training, training classes, field trials or shows sponsored by recognized clubs or organizations in animal uses and events; (b) dogs that are participating in search and rescue operations carried out by any public or private safety agent or group; dogs participating in pet therapy programs sponsored by any hospital, clinic hospice nursing home, elderly facility or similar institutional facility; (c) dogs that are being trained as service dogs by a qualified service dog trainer; or any trained seeing eye dog; and, (d) dogs which are being employed by law enforcement agencies in law enforcement operations.

The vote is as follows:

AYES: 7  
NAYS: 0

Smyth County School Board Budget Amendments:

Dr. Jeff Cassell spoke briefly to the Board on the proposed budget amendment.

After discussion, Supervisor Neitch motioned to approve \$750,000.00 out of the \$1,342,500.00 proposed budget amendment. Supervisor Dishner seconded the motion and the motion passed with the following vote:

AYES: 7  
NAYS: 0

<b>Smyth County School Board</b>			
<b>Capital Outlay and Debt Service Budget For the Year Ending June 30, 2010</b>			
<b>Revenue Summary for Capital Outlay and Debt Service Budget</b>			
	<b>2009-2010 ORIGINAL</b>	<b>2009-2010 PROPOSED</b>	<b>Difference</b>
State Funds - Lottery	\$ 174,820	\$ 174,820	\$ 0
State Funds - School Construction	\$ -	\$ -	\$ 0
Local Funds - Debt Service	\$ 1,137,440	\$ 1,137,440	\$ 0
Local Funds - Capital Outlay	\$ 185,138	\$ 935,138	\$ 750,000
<b>TOTAL CAPITAL OUTLAY</b>	<b>\$ 1,497,398</b>	<b>\$ 2,247,398</b>	<b>\$ 750,000</b>
<b>Expenditure Summary for Capital Outlay and Debt Service Budget</b>			
	<b>2009-2010 ORIGINAL</b>	<b>2009-2010 PROPOSED</b>	<b>Difference</b>
Capital Outlay – Facilities	\$ 185,138	\$ 935,138	\$ 750,000
Capital Outlay - Debt Service	\$ 1,312,260	\$ 1,312,260	\$ 0
<b>TOTAL CAPITAL OUTLAY</b>	<b>\$ 1,497,398</b>	<b>\$ 2,247,398</b>	<b>\$ 750,000</b>

Issuance of General Obligation Public Improvement Bond in the amount of \$28,000,000:

The Board members spoke on their views of the courthouse project:

**Supervisor Neitch** – talk with the judges and put off for a year and see if the economy gets better.

**Supervisor Perry** – do not want judges to have the say so or the Supreme Court to decide.

**Supervisor Waddell** – need to put off a year and see if the economy is better; the citizens do not need this burden.

**Supervisor Roberts** – the courthouse does need work, but this was not a good plan years ago, not a good plan a year from now and not a good plan now.

**Supervisor Blevins** – citizens say they can not afford this.

**Supervisor Dishner** – if we wait, the project will only be more expensive; need to proceed with plan.

**Supervisor Clark** – no good choice here today; the courts do not need to decide, for the judge can set the tax rate and levy taxes for the courthouse.

Supervisor Dishner motioned to approve the \$28,000,000 bond authorization. Supervisor Dishner called for the question with no second. The motion failed with the following vote:

AYES:	3	Dishner, Clark, Perry
NAYS:	4	Blevins, Neitch, Waddell, Roberts

Supervisor Dishner motioned to approve the \$5,000,000 General Obligation Note authorization. Supervisor Dishner called for the question with no second. The motion failed with the following vote:

AYES:	3	Dishner, Clark, Perry
NAYS:	4	Blevins, Neitch, Waddell, Roberts

## **CLOSED SESSION**

At 4:21 p.m. a motion was made by Supervisor Dishner to enter into Closed Session under Section 2.2-3711 – A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Neitch and the motion passed with the following vote:

AYES:	7
NAYS:	0

Upon returning to open meeting; a motion was made by Supervisor Dishner to adopt the following resolution certifying the business conducted in closed session as follows:

### **RESOLUTION CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Neitch and the vote is as follows:

AYES: 4  
NAYS: 0  
ABSENT: Blevins, Perry, Roberts (Out of the room)

### **Other Business**

Mr. Scott Simpson discussed a Tobacco Commission Grant in the amount of \$25,000 for site development on the Parking Garage. The grant will pay for the preliminary cost on the site development.

After discussion, Supervisor Neitch motioned to accept the Tobacco Commission Grant in the amount of \$25,000 for cost related to Parking Garage. Supervisor Roberts seconded the motion and the motion passed with the following vote:

AYES: 6 Neitch, Roberts, Clark, Dishner, Waddell, Perry  
NAYS: 1 Blevins

### **Adjourn meeting**

Chairman Clark adjourned the meeting at 4:51 p.m.