

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 23<sup>rd</sup> DAY OF FEBRUARY, 2009 AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Annette S. Perkins	-Chair
	James D. Politis	-Vice Chair
	Mary W. Biggs	-Supervisors
	William H. Brown	
	Gary D. Creed	
	Doug MARR	
	John A. Muffo	
	B. Clayton Goodman, III	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	Steve Sandy	-Planning Director
	Kevin Byrd	-Comprehensive Planner
	Angie Hill	-Financial & Management Service Director
	Karen Bernard	-Finance Manager
	Ruth L. Richey	-Public Information Officer
	Vickie L. Swinney	-Secretary, Board of Supervisors

**CALL TO ORDER**

The Chair called the meeting to order.

**ADD TO THE AGENDA – ADDENDUM TO CLOSED MEETING**

On a motion by William H. Brown, seconded by James D. Politis and carried unanimously, the addendum dated February 23, 2009 was added to the agenda under Closed Meeting as follows:

- Section 2.2-3711 (7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel
1. Joinder Study with the Blacksburg, Christiansburg, VPI Water Authority

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
Gary D. Creed	
James D. Politis	
Doug MARR	
Mary W. Biggs	
John A. Muffo	
Annette S. Perkins	

**INTO CLOSED MEETING**

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711 (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
  - 1. Industrial Development Authority
  - 2. Parks & Recreation Commission
  - 3. Planning Commission
  - 4. Planning District Commission
  - 5. Personnel
  
- (7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel
  - 1. Joinder Study with the Blacksburg, Christiansburg, VPI Water Authority

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Doug Marrs	
Mary W. Biggs	
James D. Politis	
Gary D. Creed	
William H. Brown	
Annette S. Perkins	

**OUT OF CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
Mary W. Biggs	
James D. Politis	
Gary D. Creed	
William H. Brown	
John A. Muffo	
Annette S. Perkins	

## **CERTIFICATION OF CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting 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 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia 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 conveying the closed meeting were heard, discussed or considered by the Board.

### **VOTE**

#### **AYES**

Mary W. Biggs  
James D. Politis  
Gary D. Creed  
William H. Brown  
John A. Muffo  
Doug Marrs  
Annette S. Perkins

#### **NAYS**

None

#### **ABSENT DURING VOTE**

None

#### **ABSENT DURING MEETING**

None

## **INVOCATION**

A Moment of Silence was lead by Chair Perkins.

## **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

## **Montgomery-Floyd Regional Library FY 2009-2010 Budget Presentation**

Bob Benoit, MFRL Chair and Paula Alston, Library Director, presented Montgomery–Floyd Regional Library’s FY 2009-2010 Budget.

Mr. Benoit stated that in a recession the need for library services are greater and they have seen an increase in services in Montgomery County from computer use to materials being checked out. The Library system depends on funding received from the State, Montgomery County and Floyd County. The State funding has been reduced by approximately \$10,000 and to help offset this reduction the Library Board approved an increase in library fines. Mr. Benoit thanked the Board of Supervisors for their past support for the Library. Mr. Benoit also commended Paula Alston the Library Director for her great leadership and noted she is a great asset to the County.

Paula Alston, Library Director, stated the nation is facing hard economic times and the library system has seen an increase in all their services. Computer usage is up by 40%, circulation of

books and materials has increased by 11%. Ms. Alston stated their number one priority is the books/materials budget and they are requesting an additional \$55,395 to help purchase more books. They are also requesting additional funding to upgrade two positions.

Supervisor Biggs commented that the Library Board and the Library Director worked extremely hard on the Library's budget and believes they did an excellent job.

### **Other Post Employment Benefits (OPEB)**

David Boomershine from Boomershine Consulting Group, LLC, presented an analysis of the County's post employment benefit liability as required by auditing standards. Mr. Boomershine explained that post employment benefits are health insurance benefits offered to retirees of a company in which the employer pays all or part of the premium or the employee pays all of the premium, which is the case in Montgomery County. Pursuant to Montgomery County's policy, retirees may elect to stay on the County's health insurance plan and pay 100% of the premium or pay-as-you-go basis. If retirees provided their own medical coverage the cost would result in a much higher rate, therefore, the employer is providing a subsidized benefit to retirees called implicit rate subsidy.

The accounting standard for posting OPEB to the County's financial books has changed. The County currently accounts for cost only after an employee retires and this delayed recognition shifts costs from one taxpaying generation to another. The new standard will require a different accounting method in reporting this benefit. Private sectors are already implementing the new accounting standard in Phase I of the plan while public sectors are in Phase II of the plan which is effective June 30, 2009. The new accounting standard increases liabilities shown on the County's financial statements.

### **PUBLIC HEARINGS**

#### **Special Use Permit – Two Way Radio, Inc.**

**A request by Two Way Radio, Inc (Agent: Clayton Hodges) for a Special Use Permit (SUP) on approximately 0.52 acres in a General Business (GB) zoning district to allow a contractor service establishment.** The property is located at 310 Ferguson Drive, and is identified as Tax Parcel No(s). 67-4-3 (Acct No. 002520), in the Prices Fork Magisterial District (District E). The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

Kevin Byrd, Comprehensive Planner, summarized the SUP request. The applicant is requesting a contractor service establishment to be located within an existing building previously utilized by Two Way Radio. He reviewed the location of the property and described the surrounding land uses as commercial. There will be no onsite work as the establishment will be used as an office and dispatch center. Given that the proposed usage of the site will be used in a similar manner as the previous business and is serviced by public water/sewer and is located in an Urban Expansion Area, the site does qualify for consideration of a Special Use Permit.

At their February 11, 2009 meeting, the Planning Commission recommended approval of the request.

Chris Pfhof, applicant, with Rome Mechanical commented that they are requesting the use of an existing building to operate an office and dispatch center for a plumbing contractor's business.

There being no speakers, the public hearing was closed.

#### **Special Use Permit – MSH of VA, LLC**

**A request by MSH of VA, LLC (Agent: Larry Smith) for a Special Use Permit (SUP) on approximately 1.924 acres in a Community Business (CB) zoning district to allow farm machinery sales and service and feed and seed store.** The property is located at 4338 Prices Fork Road, and is identified as Tax Parcel No(s). 51-A-101, 101A (Acct No. 013755), in the Prices Fork Magisterial District (District E). The property currently lies in an area designated as the Village of Prices Fork in the Comprehensive Plan.

Steve Sandy, Planning Director, summarized the request. The applicant is requesting a Special Use Permit in Community Business to allow farm machinery sales and service, as well as a feed and seed store. The building has been substantially remodeled and will fit in well with the surrounding parcels and their respective dwellings. The applicant is focusing on small-scale parts and repair service for lawn and garden equipment. The feed and seed store will be providing pre-packaged feed for farm animals and pets. There will be no milling at this site.

At their February 11, 2009 meeting, the Planning Commission recommended approval of this request.

Larry Smith, applicant, commented that there is a need in the Prices Fork area for a feed and seed store and repairs of small lawn and garden equipment. He has cleaned up the property and remodeled the building and requested the Board's approval on his request.

Supervisor Brown commented that the proposed site has been cleaned up and he is impressed with the site.

There being no speakers, the public hearing was closed.

#### Special Use Permit Amendment – Oak Forest MHC, LLC

**A request by Oak Forest MHC, LLC (Agent: Gay & Neel, Inc.) for an amendment of a Special Use Permit (SUP) approved on February 23, 2004 by the Board of Supervisors.** The property is currently known as Oak Forest Mobile Home Park located at 1156 Hightop Road, and is identified as Tax Parcel No(s). 66-A-98 (Acct No. 016259), in the Prices Fork Magisterial District (District E). The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

Steve Sandy, Planning Director, summarized the request. The original Special Use Permit approved an expansion of the Oak Forest Mobile Home Park to allow an additional 18 lots. The applicant is requesting an amendment to modify the Special Use Permit by eliminating condition 3, 5, 7, 8 and 10 as shown below:

- #3 The loop road shown on the plan between Hightop Road and Merrimac Road shall be constructed to VDOT standards and shall be dedicated as a public highway. This road shall be constructed prior the installation of any mobile homes on new spaces.

*According to VDOT all state maintained roads shall serve three (3) or more property owners. The mobile home park is considered owned by one property owner even though the roads will serve 224 lots. Therefore, it is physically impossible to construct a loop road to meet state standards. Staff recommended that the loop road be constructed to state standard but not to be taken over by VDOT. Also, the agent reported that due to the layout of the park a loop road cannot be constructed vertically from Merrimac Road to Hightop.*

- #5 Final development plans shall include fire hydrant locations. Hydrants shall be installed throughout the park so that no mobile home is more than 500 feet by road from a hydrant, subject to engineering constraints. Fire protection shall be installed prior the rental or installation of any mobile homes over 186 units. Hydrants shall be flow tested once per year and flushed twice per year under the supervision of the local fire department, Public Service Authority or a VA licensed professional engineer.

*The applicant has reported all hydrants have been installed and requested this condition be removed. The Planning Commission expressed concern that if this condition was removed then it would remove the requirement for testing the hydrants once a year and flushed twice per year. They recommended that the condition be revised.*

- #7 New private non-dedicated streets shall be developed in accordance with Section 10-36(7)(c) of the zoning ordinance and surfaced prior to the installation of any mobile homes served by these streets.

***The applicant has revised the plan for the park and will utilize existing streets therefore the elimination of this condition will not impact the development.***

- #8 This Special Use Permit shall become void two (2) years from the date of approval unless substantial construction has occurred in accordance with Section 10-54(j).

***The applicant has stated that this condition is not longer applicable since construction has begun.***

- #10 The existing detention pond within the park shall be restored to the original conditions as described in plans dated March 7, 1986 and accompanying Erosion & Sediment narratives. The Owner shall enter into a maintenance agreement covering all existing and new drainage facilities. The agreement shall be approved by the County Attorney and County Engineer. The agreement shall be executed and all the restoration work done and approved by the County Engineer on the existing detention pond prior to occupancy of any units in excess of the current approval and prior to any other land disturbing activities on the site. The maintenance agreement shall be incorporated and become a part of these conditions.

***The applicant has stated that all items relating to this condition have been met. The applicant has also met with representatives of the CHURCH to discuss plans for stormwater management to mitigate issues from stormwater runoff onto the Church's property.***

The request was initially reviewed on October 8, 2008 and again on November 19, 2008 by the Planning Commission and recommended denial of the amendment to the Special Use Permit. On November 24, 2008 the Board of Supervisors referred this item back to the Planning Commission for further review. After reviewing said request the Planning Commission at their January 14, 2009 meeting recommended approval of the request to amend the Special Use Permit dated February 23, 2004 to eliminate only condition numbers 3, 7 and 8 with the following conditions:

1. This Special Use Permit (SUP) authorizes the build-out (expansion) of Oak Forest Mobile Home Park to a maximum of 214 units (18 additional) and construction will be in substantial conformance with the Conceptual Plans Titled "Oak Forest Mobile Home Park Conceptual Plan" consisting of sheets 1 through 3 by Gay and Neel, Inc. dated 09/02/08, last revised 12/08/08(PLANS). Development shall comply with sheet 1 and with either sheet 2 or 3. Oak Forest MHC, LLC shall advise the zoning administrator prior to starting the improvements and obtaining building permits for any additional units whether construction will be in substantial compliance with sheets 1 and 2 or with sheets 1 and 3.
2. Final development plans complying with the above mentioned PLANS shall be approved by the zoning administrator prior to the issuance of building permits for the installation of mobile homes on new spaces.
3. A bus shelter shall be constructed and maintained by the developer as close as practicable to the intersection of the park access drive and High Top Road. The bus shelter shall be no less than ten (10) and no more than sixty (60) feet from the public R/W of Hightop Road. The bus shelter design shall be approved by the Montgomery County Public Schools. Off street parking shall be provided as shown on the PLANS. Additional

recreation amenities and asphalt trails linking the bus shelter to the proposed parking and the overflow parking shall be constructed in accordance with the PLANS prior to any building permits being issued for the placement of any additional mobile home units.

4. The bus shelter shall generally be of block and frame construction with a shed style roof and enclosed on a minimum of three sides with materials that allows a clear view inside the bus shelter from all sides of the bus shelter. The shelter shall provide a minimum of 80 square feet of enclosed space.
5. The amenities as shown on the PLANS shall be constructed and maintained by the developer and approved by the zoning administrator prior to any building permits being issued for the installation of any new units approved under the SUP. These amenities include the proposed recreation amenities, trails, bus shelter, cross-walks, and off-street parking as shown on the PLANS.
6. Final development plans shall include fire hydrant locations. Hydrants shall be installed throughout the park so that no mobile home is more than 500 feet by road, from a hydrant, subject to engineering constraints. Fire protection shall be installed prior to the rental of any mobile homes over 186 units. Fire hydrants shall be tested and maintained by the Montgomery County PSA in accordance with Section 11(d) of the water and sewer regulations adopted August 4, 2008 as amended. All necessary fees for maintaining the hydrants shall be paid by property owner to Montgomery County PSA.
7. Oak Forest MHC, LLC shall pay any additional costs to increase the size of the current drainage pipe located under Merrimac Road (State Rte. 657) upon replacement by the Virginia Department of Transportation. The sizing of the pipe is to be determined by the Virginia Department of Transportation to adequately address drainage in the area. Oak Forest, MHC, LLC shall provide any necessary drainage easements on property they own on either side of Merrimac Rd. as determined by VDOT to ensure proper drainage.
8. The existing detention pond within the park shall be restored to the original design conditions as described in plans dated March 7, 1986 and accompanying Erosion & Sediment Control Narratives. Storm water detention pond shall be maintained in accordance with the executed agreement, dated February 1, 2006 (Inst. No. 06001930).

The Planning Director also reported that their office has received several calls of concern with this request and with the operation of the mobile home park. Some of the concerns expressed were the need to trim trees, maintenance of the roads within the Park, need for speed bumps, and concern with more units in the Park.

John Neel, Agent with Gay and Neel Engineering, addressed the Board on several issues related to the elimination of the loop trail, stormwater management, and the school bus shelter. Mr. Neel reported that due to the restraints by VDOT it is impossible to construct a loop road and have it taken over by the state. According to VDOT a secondary road must serve three or more property owners and they consider the Mobile Home Park to be owned by one owner. Also, the state requires a 2% grade for 50 ft and a maximum of 16% grade overall. As the grade transitions it is physically impossible to get the road in place without eliminating existing and proposed units and the office building.

Mr. Neel addressed the need for a school bus shelter. They have requested with the School's Transportation Department over the years to allow a bus within the Mobile Home Park. The School Transportation Department denied each request stating they could not enter in the Park due to the roads being private. The applicant is proposing a bus shelter at the entrance of the Park and adding additional parking along the road for parents waiting with their children.

Supervisor Creed asked what type of shelter is being proposed. Mr. Neel replied the shelter will be three sided, two sides and one in the back with the front open. Supervisor Creed suggested that the sides not be totally solid, include windows made with plexiglass or some sort of material to be able to see into the shelter. He believes this will prevent bullying that may occur at the bus shelter.

Supervisor Biggs asked if any of the complaints from the residents of the Park were forwarded to the Park's owner to address. Mr. Sandy noted he would make sure the owner got a copy of all the complaints received.

Kenneth Shrewsberry, resident of the Park, stated he was in support of the request; however, he did have a few concerns. He expressed concern with the overgrown trees that are in need of trimming and fears that they may topple over in a ice or snow storm. Also, the overcrowding at the school bus stop in the mornings and evenings with cars dropping off or picking up children. The children block the roads in the morning while waiting for the school bus and in the evening.

There being no further speakers, the public hearing was closed.

#### Joint Economic Development and Growth Sharing Agreement

**Joint Economic Development and Growth Sharing Agreement with the Town of Christiansburg, providing for the sharing of revenues from the meals and transient lodging taxes collected by the Town of Christiansburg within the revenue sharing areas more fully described as the 47.966 acres located in the Mid-County area of Montgomery County** more precisely shown on the Plat of Survey of Revised Corporate Line for the Town of Christiansburg located in the Shawsville Magisterial District, Montgomery County, Virginia, incorporated in said Growth Sharing Agreement.

The County Attorney reported that the Commission of Local Government recommended approval of the Joint Economic Development and Growth Sharing Agreement with the Town of Christiansburg. The County and Town will share tax revenues from the meals and transient lodging taxes collected in this area for a term of 20 years. The County will receive 35 percent of the shared taxes and the Town will receive 65 percent. Both the County and the Town will need to approve the Agreement. A resolution will be on the next agenda for the Board's consideration.

There being no speakers, the public hearing was closed.

#### PUBLIC ADDRESS

There were no speakers, the public address session was closed.

#### CONSENT AGENDA

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously, the Consent Agenda dated February 23, 3009 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
Gary D. Creed	
William H. Brown	
John A. Muffo	
Doug Marrs	
Mary W. Biggs	
Annette S. Perkins	

**A-FY-09-72**  
**CIRCUIT COURT**  
**JURY REIMBURSEMENT**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2009, for the function and in the amount as follows:

210	Circuit Court - Juries	\$4,549
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
419122	Jury Reimbursements	\$4,549

Said resolution appropriates the state's portion of jury payments for criminal cases.

**A-FY-09-73**  
**CLERK OF CIRCUIT COURT**  
**TECHNOLOGY TRUST FUND**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2009, for the function and in the amount as follows:

250	Clerk of Circuit Court	\$1,079
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
02250-423100	Shared Expenses	\$1,079

Said resolution appropriates Technology Trust Fund monies to cover the cost of ADP equipment in the Clerk of Circuit Court's office.

**A-FY-09-74**  
**CIRCUIT COURT**  
**TRANSFER FROM GENERAL CONTINGENCIES**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

<b>FROM:</b>		
950	General Contingencies	(\$500)
<b>TO:</b>		
210	Circuit Court	\$500

Said resolution transfers appropriated funds from General Contingencies to the Circuit Court to cover the cost of office equipment.

**A-FY-09-75  
WEB DESIGN  
TRANSFER FROM GENERAL FUND  
TO CAPITAL IMPROVEMENT PROGRAM**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a General Fund transfer of appropriation is hereby authorized, as follows:

**FROM:**

110	Public Information	(\$8,000)
400	General Services	(\$3,635)
810	Economic Development	<u>(\$5,000)</u>
	Total	\$16,635

**TO:**

451209	Transfer to Capital Projects	\$16,635
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BE IT FURTHER RESOLVED, That the County Capital Projects Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2009 for the function and in the amount as follows:

140	E-gov	\$16,635
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

451100	Transfer from General Fund	\$16,635
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BE IT FURTHER RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a County Capital Projects Fund transfer of appropriation is hereby authorized, as follows:

**FROM:**

800	GIS	(\$2,500)
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**TO:**

140	E-gov	\$2,500
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Said resolution appropriates existing General Fund monies to be transferred to the County Capital Projects Fund to update the County's web design.

**R-FY-09-98  
COMMUNITY CORRECTIONS AND  
PRE-TRIAL SERVICES (NRV)  
APPOINTMENT**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Buddy J. Smith**, Lieutenant, Montgomery County Jail, to the **New River Community Corrections and Pretrial Services** effective February 24, 2009 and expiring February 23, 2011.

**R-FY-09-99**  
**COMMUNITY POLICY AND**  
**MANAGEMENT TEAM (CPMT)**  
**APPOINTMENT**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Roxana Hartmann** as **Parent Representative** to the **Community Policy and Management Team (CPMT)** effective February 24, 2009 and expiring February 23, 2011.

**R-FY-09-100**  
**BOARD OF ZONING APPEALS (BZA)**  
**APPOINTMENT**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby recommends to the Circuit Court the reappointment of **Charles P. Shorter** to the **Board of Zoning Appeals** effective February 24, 2009 and expiring February 23, 2014.

**OLD BUSINESS**

**R-FY-09-101**  
**RESOLUTION OF THE BOARD OF SUPERVISORS OF**  
**THE COUNTY OF MONTGOMERY, VIRGINIA,**  
**AFFIRMING A BOUNDARY LINE ADJUSTMENT AGREEMENT**  
**BETWEEN THE COUNTY OF MONTGOMERY, VIRGINIA AND**  
**THE TOWN OF CHRISTIANSBURG, VIRGINIA, AND**  
**AUTHORIZING THE FILING OF A JOINT PETITION PURSUANT TO**  
**SECTION 15.2-3106, ET SEQ., OF THE CODE OF VIRGINIA, 1950, AS AMENDED**  
**TO APPROVE THE AGREEMENT**

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

WHEREAS, The County of Montgomery, Virginia and the Town of Christiansburg, Virginia have entered into negotiations regarding a voluntary change of the boundary line between them for the purpose of incorporating within the Town approximately 170.318 acres of the land located on the Town's southwest boarder adjacent to Buffalo Drive and Mud Pike Road commonly known as the Christiansburg Middle School Property, the Harkrader Sports Complex and the former Harkrader Property; and

WHEREAS, The incorporation of the 170.318 acres into the Town will not adversely affect the ability of the County to meet the needs of its residents, both within and without the Town corporate limits; and

WHEREAS, The proposed changes of the boundary line between the County and the Town will further the interest of the Commonwealth of Virginia in promoting the orderly growth and the continued viability of its local governments.

NOW THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that:

1. The Board of Supervisors of the County of Montgomery, Virginia, hereby approves the Boundary Line Adjustment Agreement between the County of Montgomery and the Town of Christiansburg, (the "Agreement"), a copy of which is attached hereto and hereby authorizes and directs its Chair Annette S. Perkins to execute the Agreement on behalf of the County.

2. The County Administrator and County Attorney are hereby directed to petition the Circuit Court of Montgomery County, Virginia, to affirm and validate the Agreement and to establish the new boundary line between the County and Town pursuant to Section 15.2-3106 et seq., of the Code of Virginia, 1950, as amended.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
William H. Brown	
John A. Muffo	
Doug Marrs	
Mary W. Biggs	
James D. Politis	
Annette S. Perkins	

### **NEW BUSINESS**

**R-FY-09-102  
RESOLUTION APPROVING A  
MEMORANDUM OF UNDERSTANDING  
FOR THE CREATION OF A WORKING GROUP FOR THE  
NEW RIVER VALLEY 911 EMERGENCY COMMUNICATION CENTER  
AND A TRANSFER FROM GENERAL CONTINGENCIES**

On a motion by William H. Brown, seconded by James D. Politis and carried unanimously,

WHEREAS, The County of Montgomery, the Towns of Blacksburg and Christiansburg, and Virginia Polytechnic Institute and State University (“Virginia Tech”) have joined together for the purpose of establishing a Working Group to study whether it is technically, practically, and economically feasible to establish a regional 911 emergency center and radio system serving the jurisdictions of the signatory entities; and

WHEREAS, The law enforcement agencies for the respective signatory entities have received a Virginia Information Technologies Agency (VITA) feasibility study grant in the amount of \$85,000; and

WHEREAS, The VITA grant will fund a feasibility study to determine if it is technically feasible to create a 911 emergency communication center and radio system for use by all the entities represented in the Working Group and the City of Radford and Radford University ( the “Feasibility Study”), and such Feasibility Study report should be completed by summer 2009; and

WHEREAS, The entities of the Working Group desire to move forward on a parallel tract while the Feasibility Study is conducted and employ a Consultant to start the ground work necessary and develop a Study (“the Study”) to determine what is necessary to create and establish a 911 Emergency Communication Center Authority or similar legal entity (“the 911 Authority”); and

WHEREAS, It is anticipated by the Working Group that the cost of hiring the Consultant to start the groundwork necessary to create and establish the 911 Authority or similar legal entity is going to cost the Working Group approximately One Hundred Thousand Dollars (\$100,000) total; and

WHEREAS, The purpose of the Memorandum of Understanding is to establish an understanding between the members of the Working Group that addresses the employment of the Consultant, the scope of work and Study to be performed by the Consultant, and cost sharing between the members of the Working Group.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia hereby authorizes the County Administrator to sign the Memorandum of Understanding for the Creation of a Working Group for the New River Valley 911 Emergency Communication Center.

FURTHER BE IT RESOLVED, That a General Fund transfer of appropriation is hereby authorized, as follows:

FROM:		
950	General Contingences	(\$25,000)
TO:		
910	Outside Agencies	\$25,000
	New River Valley 911 Emergency	
	Communications Center	

Said resolution authorizes signing the Memorandum of Understanding and transfers funds from General Contingencies to cover the cost of the County's share of hiring a consultant to study the creation of a 911 Emergency Communication Center.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
John A. Muffo	
Doug Marrs	
Mary W. Biggs	
James D. Politis	
Gary D. Creed	
Annette S. Perkins	

**R-FY-09-103**  
**RESOLUTION APPROVING THE PROPERTY LINE ADJUSTMENT FOR**  
**THE ELLISTON/SHAWSVILLE ELEMENTARY SCHOOL PROPERTY SITE**  
**OWNED BY THE BOARD OF SUPERVISORS AND**  
**THE ADJOINING PROPERTY OWNED BY FOTHERINGAY, LLC**

On a motion by Gary D. Creed, seconded by Doug Marrs and carried unanimously,

WHEREAS, The Board of Supervisors purchased twenty acres from Fotheringay, LLC for the purpose of constructing a new elementary school in the Elliston/Shawsville area of Montgomery County; and

WHEREAS, Due to some minor changes in the design of the access road and the need to obtain 0.23 acres to locate a sewer pump station, the Board of Supervisors and Fotheringay, LLC have agreed to a Property Line Adjustment between the Parties whereby each party conveys 0.14 acres to the other party and Fotheringay, LLC agrees to convey an additional 0.230 acre parcel to locate a sewer pump station; and

WHEREAS, The Property is to be conveyed by a Deed between the Parties and by Plat entitled "A Plat of Boundary Line Adjustment Minor Subdivision Right of Way Dedication and Right of Way Vacation of Tax Parcels 72 (1) 56 and 72 (1) 56A for the Montgomery County Board of Supervisors ("Property Line Adjustment Plat"); and

WHEREAS, The Board of Supervisors hereby approves of the Deed and Property Line Adjustment Plat conveying 0.14 acres to Fotheringay, LLC and accepting from Fotheringay, LLC, 0.14 acres in return and the 0.230 acre pump station lot.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery that the Board hereby approves of the Deed and the Property Line Adjustment Plat with Fotheringay, LLC conveying 0.14 acres to Fotheringay, LLC and accepting from Fotheringay, LLC 0.14 acres in return and the 0.230 acre pump station lot, and authorizes its Chair Annette Perkins to sign the Deed and Property Line Adjustment Plat on behalf of the Board of Supervisors.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Doug MARR	
Mary W. Biggs	
James D. Politis	
William H. Brown	
Gary D. Creed	
Annette s. Perkins	

**R-FY-09-104  
FINAL PLAT  
KENSINGTON SUBDIVISION PHASE II**

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, Kensington Subdivision Phase 2 consisting of twenty-four (24) new lots in the unincorporated area of Montgomery County has been found to meet the requirements of the Montgomery County Code Chapter 8, Article IV (Subdivision Ordinance); and

WHEREAS, The Montgomery County Code, Section 8-156 provides that a subdivider shall make adequate provision for storm and floodwater runoff and that if a subdivision involves new streets, the Virginia Department of Transportation shall determine that adequate provision for runoff will be taken; and

WHEREAS, The Virginia Department of Transportation requires that Montgomery County assume maintenance responsibility and liability that might arise from detention facilities in subdivisions; and

WHEREAS, The Montgomery County Code, Section 8-157 provides for approval by the County of stormwater detention facilities conditioned upon agreement being entered into by the County and a homeowners association whereby the association assumes all liability for the maintenance and operation of the stormwater detention facilities; and

WHEREAS, The developer of Kensington Subdivision Phase 2 has agreed that said responsibility shall be assumed by the homeowners association.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia does hereby approve the Final Plat of Kensington Subdivision Phase 2 (Balzer and Associates, Inc. Job No. B0600045.00 dated 09/11/08), Riner Magisterial District.

FURTHER, The Chairman is hereby authorized to sign said plat for recordation.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Doug MARR	None
Mary W. Biggs	
William H. Brown	
Gary D. Creed	
John A. Muffo	
James D. Politis	
Annette S. Perkins	

## **INTO WORK SESSION**

On a motion by Doug Marrs, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Planning Commission and Board of Zoning Appeals Annual Report
2. FY 2009-2010 Budget Update

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
William H. Brown	
Gary D. Creed	
John A. Muffo	
James D. Politis	
Doug Marrs	
Annette S. Perkins	

### **Planning Commission and Board of Zoning Appeals Annual Report**

Steve Sandy, Planning Director, provided an introductory stating that per State Code the Board of Zoning Appeals (BZA) and the Planning Commission are required to file an annual report to the Board of Supervisors. He introduced Richard (Rick) DiSalvo, BZA Chairman, who presented the BZA's annual report.

Rick DiSalvo reported that the BZA heard two appeals in 2008, one request for a variance setback and one Special Use Permit request for an accessory building. Both the variance and Special Use Permit were approved. The BZA upheld the Zoning Administrator's decision on one appeal and they overturned the Zoning Administrator's decision in the case regarding the storage of agricultural goods. Mr. DiSalvo thanked the Board and expressed his appreciation for allowing him to serve the citizens of the County.

Robert (Bob) Miller, Planning Commission Chair, presented the Planning Commission's annual report. Mr. Miller reported that all members of the Planning Commission are certified through the Commonwealth of Virginia and continue to attend training opportunities offered through various organizations across Virginia. He took this opportunity to welcome the new staff members, Kevin Byrd – Comprehensive Planner and Jamie MacLean – Development Planner, to the Montgomery County Planning Department.

The Planning Commission reviewed and made recommendations on a total of five (5) rezoning requests and sixteen (16) special use permit requests in 2008. In addition, the Planning staff has been working on the following projects:

- FEMA Mapping Project – Working to update the existing flood maps that were created in 1970.
- Land Development Office (LDO) – LDO was implemented in the Building & Inspections and Planning Department in 2007. Over the past year, staff has updated and made enhancements to the software system. Phase 1 is completed and staff has begun to develop specs for Phase 2, which includes major enhancement for field work.
- Geographic Information System – The County and the Sheriff's Office partnered with Roanoke County to obtain a regional Pictometry Grant through the State of Virginia.
- Census 2010 – Plans are underway to prepare for the 2010 Census. Work began in 2008 and nearly 3000 addresses were added and 1000 addresses were corrected upon the Local Update of Census. Work will continue in 2009 on the boundary and annexation surveys.

Mr. Miller thanked the Board of Supervisors for their time.

The Planning Director at this time provided a summary on the Planning Commission and Planning & GIS Services Department 2009 Work Program.

### **FY 2009-2010 Budget Update**

Carol Edmonds, Assistant County Administrator, provided information on the State's revenue shortfall and federal stimulus package. The annual State revenues declined 5.5% with all major revenue categories below the estimates. The State's revenue shortfall is predicted to be \$403.2 million in FY 09 and \$418.3 million in FY 2010. The revenue shortfall has grown by more than \$800 million, which is in addition to previously announced biennial shortfall of \$2.9 billion. The State is waiting to see how much funding it will receive from the American Recovery and Reinvestment Act of 2009 (stimulus) to help offset the State shortfall. Virginia may receive up to \$4.5 billion in stimulus funding over two years not including tax relief or payments such as unemployment benefits. Other areas that will receive funding include the State Fiscal Stabilization Fund, Medicaid increase in federal match, K-12 funding, energy related programs and transportation and other infrastructure improvements.

It is estimated that Virginia will receive \$1.2 billion over two years from the State Fiscal Stabilization Fund. This fund is intended to help local and state governments avoid additional budget cuts. This fund includes two areas: Education Fund – provides \$492 million annually for two years for K-12 and higher education; and Flex Fund-provides \$109.5 million annually for two years to restore any government service, including schools and modernizing, renovating and repairing facilities. At this time Montgomery County does not know how much funding the County will receive for education or for other services.

The Senate Finance Committee added amendments to the Governor's budget to restore reductions for schools, restore school construction funds, and restore funds to the Sheriff's Office, Commonwealth's Attorney and Clerks of Circuit Court Offices, which will help offset planned reductions in the County budget.

Ms. Edmonds stated that staff will present the FY 09/10 Budget to the Board of Supervisors on March 9, 2009. All additional revenue from the General Assembly may not be confirmed in time to incorporate it into the proposed budget. If the Board agrees to advertise the proposed budget then staff will proceed with the public hearing on March 26, 2009. If the Board does not intend to raise the real estate tax rate then no public hearing on the tax rate is required. If the real estate tax rate remains at 71 cents, then work can proceed on processing the tax tickets before the final budget is approved. When confirmation is received on funds restored by the General Assembly, monies will be incorporated into the budget before the final budget is approved. A resolution to advertise the proposed budget will be added to the Board's March 9, 2009 agenda; however, they will need to know how to proceed on whether to advertise a real estate tax increase or not. As stated previously, if the real estate tax rate is not increased, a public hearing is not required.

At this time Chair Perkins polled Board members on whether they wanted to increase the tax rate for FY 2009-2010 or leave it at the current rate and asked if the Board had any questions.

Supervisors Biggs asked how the County's bond ratings would be affected if there is no increase in the real estate tax rate? She commented that when the County issued bonds for school construction and for the courthouse and public safety building, one of the factors was that the real estate tax rate would have to be increased over a period of time. The bond rating companies took this into the factor when they raised the County's bond rating.

Ms. Edmonds replied that bond rating companies looks at the localities debt ratio versus revenue. This year the County can absorb the new debt without a tax increase; however, there will be a need to raise the real estate tax rate in the future to meet new debt due to the construction of new facilities in the County.

The County Administrator also reported that the County is not going to see a 5% growth in revenue as in years past. This may delay some projects and a need to delay the second round of borrowing scheduled in 2012.

The Board at this time discussed the County's needs and the economic hardship across the County and State. They all believed that increasing real estate taxes this year would cause more hardship on the citizens of the County and directed the County Administrator to proceed with developing the budget without an increase in the real estate tax rate.

### **OUT OF WORK SESSION**

On a motion by Gary D. Creed, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return back to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
Gary D. Creed	
John A. Muffo	
James D. Politis	
Doug Marris	
Mary W. Biggs	
Annette S. Perkins	

### **COUNTY ADMINISTRATOR'S REPORT**

**New River Valley Community Services (NRVCS)** - The County Administrator received a letter from NRVCS seeking the County's assistance by applying, on NRVCS' behalf, for a federal grant through the Bureau of Justice Assistance in the amount of \$50,000. The purpose of the grant is to support justice and mental health collaborations and bring together stakeholders from the 14 law enforcement agencies in the New River Valley, NRVCS, Mental Health Association, and mental health consumers and advocates. This group would explore and develop community resources and provide immediate intervention to individuals involved in the Emergency Custody Order process, which will shorten the time public safety officers are involved in the process. Sheriff Whitt has endorsed NRVCS' application for this grant. If the Board has no objection a resolution will be added to the March 9, 2009 agenda for consideration. By consensus the Board agreed to add this request to their March 9, 2009 agenda.

### **BOARD MEMBERS' REPORT**

**Supervisor Brown** requested a status report on the request by a citizen to reduce the cost of vehicle license fee for antique vehicles. The County Administrator replied that staff is exploring what options are available and a report will be provided to the Board.

Supervisor Brown asked if there was a way to determine how many antique vehicles there are in the County. The County Administrator replied at this time there is no way to determine this.

**Montgomery Farms –New Entrance** Supervisor Brown received an inquiry as to whether a new entrance to Montgomery Farms Subdivision will be constructed when the new Prices Fork Elementary School is built. The County Administrator replied that a new entrance is not feasible due to the number of easements that would have to be granted from property owners.

**Supervisor Marris** reported he traveled to Richmond last week to lobby again for the Western Virginia Regional Jail Authority to get funding restored in the State budget for the regional jail. Supervisor Marris also reported that the state budget cuts to the Sheriff's department may be reduced from the proposed 10%.

**Virginia Association of Counties (VACo)** Supervisor Marris reported he has been invited to serve on the VACo Transportation Steering Committee for calendar year 2009.

**Supervisor Biggs** reported she attended the Planning Commission meeting on February 11, 2009 and the Library Board meeting on February 18, 2009. The Library Board is in the process of developing goals.

**VACo Steering Committees** – Supervisor Biggs announced she was invited to serve on the following VACo Steering Committees: Education Steering Committee, VACo/VML Study Task Force Committee, and the Nominations Committee for calendar year 2009.

**Supervisor Muffo** expressed his appreciation to Supervisors Marrs, Biggs and Perkins for traveling to Richmond to lobby on behalf of Montgomery County.

Supervisor Muffo also reported he is working with Social Services to compile a list of various agencies throughout the New River Valley that provide human services, such as food, shelter and counseling services, in order to eliminate duplication.

**Supervisor Creed** reported that the shoulders of the road along Rt. 11/US460 in the Shawsville/Elliston area are in dire need of repair. There are numerous holes along the shoulders that are creating dangerous driving conditions.

Federal Stimulus Money – Supervisor Creed requested if Montgomery County does get any of the federal stimulus money for projects he would like to see some of this money go toward the Meadowbrook Library. There is a high demand for services at this library and is always busy with patrons.

**Supervisor Perkins** reported she was invited to serve on the Virginia Association of Counties' (VACo) Education Steering Committee as Chair, Conference Planning Committee, and Resolutions Committee for calendar year 2009.

**Economic Development Commission** – Supervisor Perkins attended the EDC meeting where Matt V???, Regional Manager of Echo Star, was the guest speaker. The Christiansburg site is the number 1 call center in the nation with approximately 850 employees. Over the years the working conditions have improved along with increased pay.

Supervisor Perkins reminded the Board of several upcoming meetings:

- March 6, 2009 – Dedication of the Western Virginia Regional Jail
- March 9, 2009 – Reception honoring Clay Goodman, County Administrator. Mr. Goodman's last day with the County is March 13, 2009 as he has accepted the County Administrator's position in Roanoke County.

**Condolences – Derek Myers Family** – Supervisor Perkins announced that Derek Myers, member of the Blacksburg Town Council, passed away this morning. She expressed her condolences to Mr. Myers' family and to the Blacksburg Town Council.

The Board requested a letter of condolences be sent to the Blacksburg Town Council.

**New River Valley Planning District Commission (NRVPDC) Appointment**: Supervisor Perkins noted that the NRVPDC revolving appointment is vacant and it is Montgomery County's turn to appoint someone as Montgomery County's representative.

**R-FY-09-105  
NEW RIVER VALLEY  
PLANNING DISTRICT COMMISSION  
APPOINTMENT**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **James D. Politis** to serve on the **New River Valley Planning District Commission** effective February 24, 2009 and expiring June 30, 2010.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
William H. Brown	
James D. Politis	
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Annette s. Perkins	

**ADJOURNMENT**

On a motion by Gary D. Creed seconded by William H. Brown and carried unanimously, the Board adjourned to Monday, March 9, 2009 at 6:00 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
John A. Muffo	
James D. Politis	
Doug Marrs	
Mary W. Biggs	
William H. Brown	
Annette S. Perkins	

The meeting adjourned at 11:05 p.m.

APPROVED: \_\_\_\_\_ ATTEST: \_\_\_\_\_  
Annette S. Perkins B. Clayton Goodman, III  
Chair, Board of Supervisors County Administrator