

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 10th DAY OF MAY, 2010 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 Marrs	
	John A. Muffo	
	F. Craig Meadows	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	Ron Bonnema	-County Engineer
	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 – CLOSED MEETING

On a motion by William H. Brown, seconded by James D. Politis and carried unanimously, the following addendum was added to Closed Meeting:

- (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. State Corporation Commission (SCC) - Filing of Verizon

The vote on the foregoing motion was as follows:

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

INTO CLOSED MEETING

On a motion by William H. Brown, seconded by James D. Politis 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 (5) Discussion Concerning a Prospective Business or Industry or the Expansion of an Existing Business or Industry Where No Previous Announcement Has Been Made of the Business or Industry's Interest in Locating or Expanding Its Facilities in the Community.
1. Project # 2009020
- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body
1. Courthouse Property
- (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. Community Action, Inc.
 2. Economic Development Authority
 3. Library Board
 4. Parks and Recreation Commission

- (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. State Corporation Commission (SCC) - Filing of Verizon

The vote on the foregoing motion was as follows:

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

Supervisor Creed arrived at 6:05 p.m.

OUT OF CLOSED MEETING

On a motion by William H. Brown, seconded by Gary D. Creed 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>
William H. Brown	None
James D. Politis	
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Gary D. Creed	
Annette S. Perkins	

CERTIFICATION OF CLOSED MEETING

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

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

NAYS

None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

INVOCATION

A moment of silence was lead by the Chair.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PUBLIC HEARINGS

General Obligation School Bonds – School Capital Projects

Intention of the Board Of Supervisors of the County of Montgomery, Virginia to Propose for Passage a Resolution Authorizing the Issuance of a Not To Exceed \$16,450,000 General Obligation School Bond, Series 2010 of the County of Montgomery, Virginia to be Sold to the Virginia Public School Authority for School Capital Projects (Prices Fork Elementary School and School Energy Performance Contract).

The County Attorney summarized the request from the Montgomery County School Board to issue bonds for the new Prices Fork Elementary School and the School Energy Performance Contract. State Code requires that a public hearing be held prior to the issuance of the bonds. A resolution to approve the issuance of bonds is listed on the Board's agenda under Old Business for the Board's consideration. These bonds will be issued as Qualified School Construction Bonds (QSCB) which is part of the federal stimulus program.

The County Attorney explained that an estimated amount of \$16,450,000 was advertised for the public hearing; however, the resolution listed for consideration is \$14,200,000 (Prices Fork Elementary School - \$8,250,000, Energy Performance Contract - \$5,775,000).

Supervisor Creed pointed out that, during a joint meeting with the School Board, the Board of Supervisors were told the Schools may need only \$5.5 million for the Energy Performance Contract.

The Assistant County Administrator replied that the estimated figures for the issuance is \$8.25 million for the PFES and \$5.775 million for the Energy Performance Contract. These amounts also include the cost of issuance.

The Assistant County Administrator reported that in the Board's long range plan was to issue a \$7.5 million literary loan for the new Prices Fork Elementary School; however, federal stimulus money was provided to the State of Virginia for interest rates as low as 0%. Therefore, since the Qualified School Construction Bonds include the Prices Fork Elementary School project, a literary loan will not be needed.

The Chair opened the public hearing for citizen's comments:

There being no speakers the public hearing was closed.

Joint Public Hearing with the Virginia Department of Transportation Six -Year Plan on the Secondary System of State Highways

The purpose of this public hearing is to receive public comment on the proposed Secondary Six-Year Plan for Fiscal Years 2010/11 through 2015/16 in Montgomery County, and on the Secondary System Construction Budget for Fiscal Year 2010/11. 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.

Chair Perkins stated that the Board of Supervisors and the Virginia Department of Transportation (VDOT) annually hold a joint meeting to receive comments on the Secondary Six-Year Road Improvement Plan. VDOT submits a draft to the Board of Supervisors for consideration and the Board can amend it as they so choose.

The Chair announced that requests for Rural Additions would also be taken during this joint public hearing.

David Clarke, VDOT Residency Administrator, provided remarks on the Secondary Six-Year Road Improvement Plan for Montgomery County. Mr. Clarke stated that this plan is for secondary roads only not primary such as Route 114, Route 8, US 460 and Interstate 81. These roads are included in the State's Primary and Interstate Six-Year Road Plan.

Mr. Clarke provided the following draft Secondary Six-Year Road Improvement Plan for the Board's consideration:

MONTGOMERY COUNTY
DRAFT Secondary Six Year Plan
(2010/11 through 2015/16)

<u>Priority</u>	<u>Route #</u>	<u>Road Name</u>	<u>From: To:</u>	<u>Description</u>
0	VAR	VAR	----	Countywide
1	639	Mt. Pleasant Road	From 0.05 mi. W. Rte. 722 to 1.24 mi. E. Rte. 722	Reconstruct
2	606	Sidney Church Road	From Rte. 669 to Rte. 673	Reconstruct
3	600	Piney Woods Road	From Rte. 787 to Rte. 672	Reconstruct
4	639	Mt. Pleasant Road	Bridge over Elliott Creek	Reconstruct

Mr. Clarke reported that in past years the state was providing as much as \$1.2 million for the County's secondary roads. Due to the severe state budget cuts to transportation, Montgomery County can expect to receive \$109,000 per year for the next six years. Up to 5% of this amount (\$5,450) can be used for Rural Additions.

He stated that VDOT removed Yellow Sulphur Road (SR 643) and Craig Creek Road (SR 621) last year as there was no funding allocated to them. VDOT will not be able to place them back on the plan unless the Board of Supervisors decides to remove another project off the list.

Larry Hall expressed concerns as to the condition with Testerman Drive (SR 792) and McPeak Drive (private road). Mr. Hall reported that Testerman Drive is partially paved which turns into a gravel road and McPeak Drive forks off Testerman Drive. He stated the road is used largely by dump trucks coming up Testerman Drive to dump fill material at a dump site at the end of McPeak Drive. Mr. Hall stated that residences share the cost of the grading done by the owner of the dump site; however, it is the heavy usage of dump trucks on the road that causes the need for repair. Mr. Hall asked the Board to consider improving these two roads.

Supervisor Politis asked that a letter the County Administrator received from Sandy and Rick LaPlante regarding McPeak Drive be entered into the record:

“Sandy and Rick LaPlante
1691 McPeak Drive
Christiansburg, VA 24073
May 7, 2010

F. Craig Meadows
County Administrator
755 Roanoke Street, Ste 2F
Christiansburg, VA 24073

On May 7, sent by
Email: kiserjw@montgomerycountyva.gov
FAX: 540-382-6943

Re: May 10, Board of Supervisors & DOT Meeting
McPeak Drive, Christiansburg, VA - Rural Addition Status

Dear Mr. Meadows:

Since we will not be in Virginia at the time of this meeting, the following is a request for McPeak Drive to be moved up on the Rural Addition Priority List from current #8 status. This is a statement of the conditions experienced on McPeak Drive and background to this request.

Because of the condition of McPeak Drive this past winter:

- Cars could not make it up the incline on McPeak Drive because it was too muddy and deep.
- Elderly residents had to park cars and walk to houses.
- Elderly church members were not able to make it up the hill for sliding and getting stuck.
- A new resident's moving van had to be pulled out by tow truck.

Because of the condition of McPeak Drive in past years:

- All residents and renters have had ongoing concerns that emergency vehicles could not reach them in need. Confirming those fears, an elderly renter having a heart attack could only be reached by a four wheeler when an ambulance could not navigate the road.

Background:

- McPeak Drive is a state road but not state maintained.

- Sam Osborne, now deceased, maintained this road for many years. When the population began increasing, Sam and other property owners requested that McPeak Drive be placed on the waiting list for road maintenance. We have been on the list for many years. We requested status in Dec 2009 and were informed that McPeak Drive was 8th on the list. Shortly thereafter we were told that a few other road maintenance requests which were before us on the list had been removed because property owners would not give property rights or some other issues that stopped progress.
- McPeak Drive is a fork road off of Testerman Road from Route 11 in Christiansburg. Testerman Road was taken into a Rural Addition several years ago as its population increased.

If this road is not taken into Rural Addition status and maintained, our concern continues for the elderly who live and travel on this road.

McPeak Drive and its condition impact the quality of services that can be received by property owners paying taxes for these services. Thank you for your attention and response to this request.

Sincerely,

Sandy LaPlante

cc: Martin M. McMahan, County Attorney
The Honorable Board of Supervisors
David Clarke, VDOT Residency Administrator”

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

The Board of Supervisors, at this time, provided Mr. Clarke with other road issues in the County as follows:

Clay Street – County Section: Supervisor Perkins received a request from a citizen asking if a “Curve Ahead” sign can be installed on Clay Street. There are signs installed warning motorists that the road narrows; however, there is a need for a warning sign alerting motorists of the curve.

460 By-pass in Blacksburg: Supervisor Perkins requested VDOT to install larger yield signs and place signs more strategically at the intersection along the 460 By-pass in Blacksburg after you go through the tunnel merging onto the by-pass heading towards Christiansburg (460 Business). Supervisor Perkins reported the yield signs are small and placed too far back off the road for motorists to see.

Tuckahoe Dr. Sign: Supervisor Politis stated that coming north on Rt. 8 it is difficult to see the school flashing lights due to the Tuckahoe Dr. sign placed right in front of the lights. He asked if the placement of the signs could be changed.

DELEGATIONS

Montgomery County Courthouse – Construction Update

Ron Riquelmy, Project Manager, updated the Board of Supervisors on the construction progress of the new courthouse. Mr. Riquelmy stated the contract was issued on August 20, 2009 with a completion date of October 13, 2011. The contractor was granted a time extension of eleven (11) days due to inclement weather changing the completion date to October 24, 2011.

Mr. Riquelmy reported they are at 28.49% completion with 13 days behind schedule, which is due to the inclement weather. An additional \$159,092 is added to the original contract amount due to several unforeseen conditions and minor design changes. Additional underslab drainage and waterproofing at the elevator pits were needed to the underground stream. Construction of the structural steel is expected to commence as early as June 7, 2010.

Mr. Riquelmy thanked the Board for their time and stated he was available to answer any questions or concerns the Board may have.

New River Community Action

Terry Smusz, NRCA Executive Director, presented New River Community Action's Annual Report and services provided to Montgomery County.

Ms. Smusz reported New River Community Action, with the assistance of 318 volunteers who worked 10,383 hours, provided the following service to 3,771 unduplicated individuals in Montgomery County in 2008-2009:

Emergency Food Pantry	662 households, 1,684 individuals
SHARE Food and Community Service Program	143 households, 375 individuals
Volunteer Income Tax Assistance	52 individuals
Head Start	99 enrolled children in 89 families Total 315 children, siblings, and parents
Emergency Assistance	1,158 households, 2,888 individuals
Homeless Intervention Program	31 households, 92 individuals
Housing Counseling	8 households, 22 individuals
Homeownership Education	15 households, 32 individuals
Children's Health Improvement Partnership	76 enrolled children in 43 families Total 158 children, siblings, and parents
Virginia CARES	85 individuals in 81 families

Another program offered is Responsible Riders which is a program to assist those families or individuals who are low income or bad credit with the ability to purchase a vehicle with low monthly payments. NRCA partnerships with Enterprise Care Rental and Freedom First Credit Union to offer a late model used vehicle at an affordable loan payment.

Mr. Smusz stated NRCA's challenges include the lack of emergency housing and assistance for the homeless intervention program. Currently there are 40 families on a waiting list. Montgomery

County is facing some huge challenges as people continue to lose their jobs and homes. There is not enough affordable housing in Montgomery.

Ms. Smusz expressed appreciation for the Board of Supervisors' continuous support and thanked them for their time.

Montgomery County Social Services – Homeless Report

Larry Lindsey, Social Services Director, made a presentation on the homeless situation in Montgomery County. Mr. Lindsey reported there are many definitions of homelessness. A homeless adult or child is someone who is living in one of the places or circumstances listed below:

- In emergency or transitional shelters
- In motels, hotels, or campgrounds
- Temporary doubled up with relatives or friends due to financial hardship
- Is fleeing a domestic violence housing situation and no subsequent appropriate residence has been identified and the person lacks the resources and support networks needed to obtain housing
- Is being evicted within a week from a private dwelling or is being discharged within a week from an institution and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing
- Housing has been condemned by housing officials and is no longer considered meant for human habitation
- Is a minor awaiting foster care placement
- Is an unaccompanied youth or minor, not in the physical custody of a parent or guardian, who is living in any of the circumstances listed above
- Unaccompanied youth, such as runaways and youth denied housing by their families

Examples of people in Montgomery County experiencing homelessness today:

- Loss of a partner
- Mental Health Issues
- Health Issues and care giving costs
- Children with special needs for special care
- Loss of Transportation
- Foreclosure
- Relocation Plan Disappointment
- Recent release from a facility
- Waiting for a disability determination
- Domestic Violence
- Unaccompanied Youth

Mr. Lindsey provided statistics from Montgomery County as follows:

- Since January 1, 2010, Montgomery County Department of Social Services' Adult Services Program has assisted 43 homeless individuals with various needs.
- During the school year 2008-2009, Montgomery County Public Schools served 160 school-aged children from Montgomery County who qualified as homeless according to the McKinney-Vento Homeless Education Act.
- The New River Valley Family Shelter had 233 requests for services in 2008 and 226 requests for services in 2009.

In Montgomery County there are limited agencies that offer shelter. The Women's Resource Center provides 27 beds and 8 transitional housing apartments for domestic violence victims. The New River Family Shelter provides 6 family units and the Community Housing Partners provides 4 transitional housing units. There are no local shelter spaces for single men, single women, and couples without children. Existing shelter spaces for families is limited. The HUD Housing waiting list for housing choice vouchers is currently closed with the national average wait period is 34 months.

Consequences to the community members affected by homelessness:

- Infants at risk
- Healthcare difficult to access
- Overcrowding
- Parents less able to cope
- Academic success at stake
- Homeless children have high rates of acute illness, go hungry at more than twice the rate of other children, have four times the rate of development delays, have twice the number of learning disabilities and have three times as many emotional and behavioral problems.

Mr. Lindsey thanked the Board for their time and interest.

PUBLIC ADDRESS SESSION

Charlie Trump, 2084 Huffville Road, Pilot, expressed concerns with what he believes is the illegal placement of a mobile home on Old Sourwood Road (SR 717). Currently the mobile home is vacant and, according to Mr. Trump, the owner abandoned the mobile home after not having the money to complete the sewer installation. He stated he called Montgomery County Inspections and was told that the mobile home was legal with proper permits. Mr. Trump stated the structure is a safety hazard and an eyesore.

There being no further speakers, the public address session was closed.

CONSENT AGENDA

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously, the Consent Agenda dated May 10, 2010 was approved.

The vote on the foregoing resolution was as follows:

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

Approval of Minutes

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously, the minutes dated January 11, 2010 were approved.

Appropriations and Transfers

**A-FY-10-102
CLERK OF CIRCUIT COURT
TECHNOLOGY TRUST AND
RECORD PRESERVATION GRANT FUNDS**

On a motion by Mary W. Biggs, seconded by James D. Politis 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, 2010, for the function and in the amount as follows:

251	Clerk of Circuit Court	\$15,515
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The sources of the funds for the foregoing appropriation are as follows:

<u>Revenue Account</u>		
02250-423100	Shared Expenses	\$ 4,574
22511-424401	Record Preservation Grant	<u>\$10,941</u>
	Total	\$15,515

Said resolution appropriates Technology Trust Fund monies for online support services for land records and grant funds to restore deed books.

A-FY-10-103
SHERIFF – RECOVERED COSTS

On a motion by Mary W. Biggs, seconded by James D. Politis 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, 2010, for the function and in the amount as follows:

320	Sheriff County	\$3,022
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
419108	Recovered Costs	\$3,022

Said resolution appropriates recovered costs for use by the Sheriff's department.

E-911 Street Naming

R-FY-10-164
REQUEST FOR A NEW STREET NAME
SWEETBRIER DRIVE

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

WHEREAS, There is a private street named Kings Court, which is located off Mud Pike Road (SR 666); and

WHEREAS, The County received a request from certain property owners on this private street for a portion of this street to be renamed from Kings Court to Sweetbrier Drive; and

WHEREAS, Sweetbrier Drive complies with the County Street Name Policy.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that after duly considering said request, the Board hereby approves a portion of Kings Court being changed to Sweetbrier Drive.

Appointments

**R-FY-10-165
SOLID WASTE AUTHORITY
(MONTGOMERY REGIONAL)
REAPPOINT SUPERVISOR GARY CREED**

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

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Board of Supervisors hereby reappoints **Gary D. Creed** to the **Montgomery Regional Solid Waste Authority** effective July 1, 2010 and expiring June 30, 2014.

BE IT FURTHER RESOLVED, The expiration of a Board of Supervisors term in office shall constitute a voluntary resignation from any board/commission/authority appointment as a representative of Montgomery County.

**R-FY-10-166
SOLID WASTE AUTHORITY
(MONTGOMERY REGIONAL)
REAPPOINTMENT OF AL BOWMAN
AT-LARGE REPRESENTATIVE**

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

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Board of Supervisors hereby approves the reappointment of **Al Bowman** to the **Montgomery Regional Solid Waste Authority** as the at-large representative effective July 1, 2010 and expiring June 30, 2014.

RECESS

The Board of Supervisors took a 15 minute recess at 9:00 p.m. and reconvened at 9:15 p.m.

OLD BUSINESS

**R-FY-10-167
RESOLUTION AUTHORIZING THE ISSUANCE OF A NOT TO EXCEED
\$14,200,000 GENERAL OBLIGATION SCHOOL BOND, SERIES 2010,
OF THE COUNTY OF MONTGOMERY, VIRGINIA, TO BE SOLD TO
THE VIRGINIA PUBLIC SCHOOL AUTHORITY
AND PROVIDING FOR THE FORM AND DETAILS THEREOF**

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

WHEREAS, The Board of Supervisors (**the “Board”**) of the County of Montgomery, Virginia (**the “County”**), has determined that it is necessary and expedient to borrow an amount not to exceed \$14,200,000 and to issue its general obligation school bond (**as more specifically defined below, the “Local School Bond”**) for the purpose of financing energy efficiency improvements and renovations and the first priority waiting list project described as Prices Fork Elementary School (**together, the “Projects”**), each of which constitutes a capital project for school purposes; and

WHEREAS, The County held a public hearing, duly noticed, on May 10, 2010, on the issuance of the Local School Bond in accordance with the requirements of Section 15.2-2606, Code of Virginia 1950, as amended (**the “Virginia Code”**); and

WHEREAS, The School Board of the County has, by resolution, requested the Board to authorize the issuance of the Local School Bond and consented to the issuance of the Local School Bond; and

WHEREAS, The Virginia Public School Authority (**“VPSA”**) has offered to purchase the Local School Bond along with the local school bonds of certain other localities with a portion of the proceeds of certain bonds to be issued by VPSA in the spring of 2010 (**the “VPSA Bonds”**); and

WHEREAS, VPSA intends to issue the VPSA Bonds as “qualified school construction bonds” (**referred to below as “QSCBs”**) within the meaning of Section 54F of the Internal Revenue Code of 1986, as amended (**the “Tax Code”**), which section was added to the Tax Code by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 123 Stat. 355), enacted on February 17, 2009; and

WHEREAS, VPSA intends to elect to treat the VPSA Bonds as “specified tax credit bonds” under Section 6431 of the Tax Code, as amended by the Hiring Incentives to Restore Employment Act (Pub. L. No. 111-147, 123 Stat. 301), enacted on March 18, 2010, which status enables an issuer of a QSCB to receive a direct payment of a refundable credit in lieu of providing a tax credit to the purchaser or holder of the QSCB; and

WHEREAS, The refundable credit payable with respect to each interest payment date will be equal to the lesser of (i) the amount of interest payable under the QSCB on such date or (ii) the amount of interest which would have been payable on under the QSCB on such date if such interest were determined at the applicable credit rate determined under Section 54A(b)(3) of the Tax Code (that is, the rate used in computing the amount of tax credit that could be claimed by the QSCB holder absent the “specified tax credit bond” refundable credit election); and

WHEREAS, Subject to the terms and conditions set forth or referred to below, VPSA will transfer to the County the allocable portion of the refundable credit received by VPSA with respect to the VPSA Bonds; and

WHEREAS, The allocation of QSCB volume cap pursuant to which VPSA will issue the VPSA Bonds was made by Executive Order 110 (2010) issued by the Governor of the Commonwealth of Virginia on January 13, 2010 (**the “Executive Order”**), to finance the Projects along with a number of other projects on the first priority waiting list or selected through a competitive evaluation process administered by the Virginia Department of Education and the Virginia Department of Mines, Minerals and Energy announced by letter of the Governor of the Commonwealth of Virginia dated October 14, 2009; and

WHEREAS, The Bond Sale Agreement (as defined below) shall indicate that \$13,135,000 is the amount of proceeds requested (**the “Proceeds Requested”**) by the County from the VPSA in connection with the sale of the Local School Bond; and

WHEREAS, VPSA’s objective is to pay the County a purchase price for the Local School Bond which, in VPSA’s judgment, reflects the Local School Bond’s market value (**the “VPSA Purchase Price Objective”**), taking consideration of such factors as the purchase price to be received by VPSA the VPSA Bonds, the underwriters’ discount and the other issuance costs of the VPSA Bonds and other market conditions relating to the sale of the VPSA Bonds; and

WHEREAS, Such factors may result in the Local School Bond having a purchase price other than par and consequently (i) the County may have to issue the Local School Bond in a principal amount that is greater than or less than the Proceeds Requested in order to receive an amount of proceeds that is substantially equal to the Proceeds Requested, or (ii) if the maximum authorized principal amount of the Local School Bond set forth in Section 1 of this Resolution does not exceed the Proceeds Requested by at least the amount of any discount, the purchase price to be paid to the County, given the VPSA Purchase Price Objective and market conditions, will be less than the Proceeds Requested.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA:

1. **Authorization of Local School Bond and Use of Proceeds.** The Board hereby determines that it is advisable to contract a debt and issue and sell its general obligation school bond in a principal amount not to exceed \$14,200,000 (**the “Local School Bond”**) for the purpose of financing the Projects and the issuance costs of the Local School Bond. The Board hereby authorizes the issuance and sale of the Local School Bond in the form and upon the terms established pursuant to this Resolution and the Bond Sale Agreement.

2. **Sale of the Local School Bond.** It is determined to be in the best interest of the County to accept the offer of VPSA to purchase from the County, and to sell to VPSA, the Local School Bond at a price, determined by VPSA to be fair and accepted by the Chairman of the Board and the County Administrator, or either of them. Given the VPSA Purchase Price Objective and market conditions, it may become necessary to sell the Local School Bond in a principal amount greater than the Proceeds Requested. If the limitation on the maximum principal amount on the Local School Bond set forth in Section 1 of this Resolution restricts VPSA’s ability to generate the Proceeds Requested, the Local School Bond may be sold for a purchase price of not lower than 90% of the Proceeds Requested. The Chairman of the Board,

the County Administrator, or either of them and such other officer or officers of the County as either may designate are hereby authorized and directed to enter into a Bond Sale Agreement with VPSA providing for the sale of the Local School Bond to VPSA. The agreement shall be in substantially the form submitted to the Board at this meeting, which form is hereby approved (the “**Bond Sale Agreement**”).

3. **Details of the Local School Bond.** The Local School Bond shall be dated the date of its issuance and delivery; shall be designated “General Obligation School Bond, Series 2010;” shall bear interest from the date of delivery thereof payable quarterly or semi-annually on dates specified by VPSA (each, an “**Interest Payment Date**”) at the rates established in accordance with Section 4 of this Resolution; and shall mature annually in the years (each a “**Principal Payment Date**”) and in the amounts (the “**Principal Installments**”) determined by the County Administrator, subject to the provisions of Section 4 of this Resolution.

4. **Interest Rates and Principal Installments.** The County Administrator is hereby authorized and directed to accept the interest rates on the Bonds established by VPSA, provided that each interest rate may be up to five one-hundredths of one percent (0.05%) over the interest rate to be paid by VPSA for the corresponding principal payment date of the VPSA Bonds, a portion of the proceeds of which will be used to purchase the Bonds, to the extent required by VPSA (the “**Annual Administrative Fee**”), and provided further that the true interest cost of the Bonds does not exceed seven and a half percent (7.50%) per annum. The Interest Payment Dates and the Principal Installments may be specified by VPSA. The County Administrator is hereby authorized and directed to accept the final Interest Payment Dates and the Principal Installments at the request of VPSA based on the final term to maturity of the VPSA Bonds, requirements imposed on VPSA by the nationally-recognized rating agencies and the final principal amount of the Local School Bond; provided, however, that the principal amount of the Local School Bond shall not exceed the amount authorized by this Resolution and the final maturity of the Local School Bond shall be no later than the earlier of December 31, 2029 and the latest maturity date permitted under Section 54A of the Tax Code. The execution and delivery of the Local School Bond as described in Section 9 hereof shall conclusively evidence the final Principal Installments as having been accepted by the County Administrator as authorized by this Resolution.

5. **Acknowledgement of Disclaimer.** The County acknowledges that the interest rate on the Local School Bond will be set at the level necessary to pay the interest on the allocable portion of the VPSA Bonds plus the Annual Administrative Fee, if any, and that the County will be obligated to pay interest on the Local School Bond at the stated taxable rate thereon regardless of the elimination or reduction of the refundable credit to be received by VPSA due to (i) any amendments by Congress to Sections 54A, 54F or 6431 or any other applicable sections of the Tax Code, (ii) any guidance or changes to guidance provided by the U.S. Department of Treasury or the Internal Revenue Service, or (iii) any action or omission by VPSA, the County or any other locality selling local school bonds to VPSA in connection with the VPSA Bonds that causes the VPSA Bonds to lose their status as QSCBs and/or specified tax credit bonds in whole or in part. It is also acknowledged that the County has the right to affect an extraordinary optional redemption of the Local School Bond in whole or in part upon the occurrence of any of these events as provided in the form of Local School Bond.

6. **Certain Investment Earnings.** The Board hereby acknowledges that VPSA will (i) issue the VPSA Bonds with multiple maturities or with a single “bullet” maturity, in either case, with a final maturity date on or shortly before the latest maturity date permitted for the VPSA Bonds under Section 54A of the Tax Code and (ii) invest the Principal Installments for the benefit of the County until they are applied to pay the principal of the VPSA Bonds and (iii) either remit the investment earnings periodically to the County or credit the investment earnings against the County’s obligation to make Principal Installments, at the option of VPSA. The Board further acknowledges that VPSA may cause a portion of such earnings to be deposited into a reserve fund or account to be applied by VPSA for use to pay the costs, fees and expenses described in Section 14 below. Any balance in such reserve fund or account attributable to investment earnings on the County’s Principal Installments as reasonably determined by VPSA will be remitted or credited to the County on the final maturity date of the VPSA Bonds.

7. **Form of the Local School Bond.** The Local School Bond shall be initially in the form of a single, temporary typewritten bond substantially in the form attached hereto as Exhibit A.

8. **Payment; Paying Agent and Bond Registrar.** The following provisions shall apply to the Local School Bond:

(a) For as long as VPSA is the registered owner of the Local School Bond, all payments of principal of and interest, if any, and premium, if any, on the Local School Bond shall be made in immediately available funds to, or at the direction of, VPSA at, or before 11:00 a.m. on the applicable Principal Payment Date or date fixed for prepayment or redemption, or if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. on the business day next succeeding such Principal Payment Date or date fixed for payment, prepayment or redemption.

(b) The Bond Registrar and Paying Agent for the Local School Bond shall be the banking institution selected by VPSA for such purposes.

9. **Prepayment or Redemption.** The Principal Installments of the Local School Bond may be subject to optional prepayment or redemption prior to their stated maturities as determined by VPSA. The Principal Installments of the Local School Bond will be subject to extraordinary mandatory redemption (i) if certain proceeds of the Local School Bond have not been spent within three years after the date of its issuance and delivery (which three year period may be extended by the U.S. Secretary of the Treasury or his delegate), (ii) due to a loss of “qualified tax credit bond” and “qualified school construction bond” status of the VPSA Bonds corresponding to the Local School Bond under Sections 54A and 54F of the Tax Code, and (iii) if due to (a) any amendments by Congress to Sections 54A, 54F or 6431 or any other applicable sections of the Tax Code or (b) any guidance or changes to guidance provided by the U.S. Department of Treasury or the Internal Revenue Service, there is a reduction or elimination of the direct payment of the refundable credit to be received by VPSA with respect to the VPSA Bonds. The Principal Installments of the Local School Board shall be redeemed at the redemption prices and upon the other terms set forth in the Local School Bond.

10. **Execution of the Local School Bond.** The Chairman or Vice Chairman and the Clerk or any Deputy Clerk of the Board are authorized and directed to execute and deliver the Local School Bond and to affix the seal of the County thereto.

11. **Pledge of Full Faith and Credit.** For the prompt payment of the principal of and interest, if any, and premium, if any, on the Local School Bond as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged, and in each year while any of the Local School Bond shall be outstanding there shall be levied and collected in accordance with law an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and interest, if any, and premium, if any, on the Local School Bond as such principal and interest, if any, and premium, if any, shall become due, which tax shall be without limitation as to rate or amount and in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

12. **Use of Proceeds Certificate and Tax Compliance Agreement.** The Chairman of the Board, the County Administrator and such other officer or officers of the County as either may designate are hereby authorized and directed to execute and deliver on behalf of the County a Use of Proceeds Certificate and Tax Compliance Agreement (**the “Tax Compliance Agreement”**) setting forth the expected use and investment of the proceeds of the Local School Bond and containing such covenants as may be necessary in order to show the compliance of the VPSA Bonds with the provisions of the Tax Code and applicable regulations relating to the qualification of the VPSA Bonds as “qualified tax credit bonds,” “qualified school construction bonds” and “specified tax credit bonds” under Sections 54A, 54F and 6431 of the Tax Code. The Board covenants on behalf of the County that (i) the proceeds from the issuance and sale of the Local School Bond will be invested and expended as set forth in the Tax Compliance Agreement and that the County shall comply with the other covenants and representations contained therein and (ii) the County shall comply with the provisions of the Tax Code so that the VPSA Bonds will not lose their status as “qualified tax credit bonds,” “qualified school construction bonds” and “specified tax credit bonds” under Sections 54A, 54F and 6431 of the Tax Code.

13. **State Non-Arbitrage Program; Proceeds Agreement.** The Board hereby determines that it is in the best interests of the County to authorize and direct the County Treasurer or Director of Finance to participate in the State Non-Arbitrage Program in connection with the Local School Bond. The Chairman of the Board, the County Administrator and such officer or officers of the County as either may designate are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Local School Bond by and among the County, the other participants in the sale of the VPSA Bonds, VPSA, the investment manager and the depository, substantially in the form submitted to the Board at this meeting, which form is hereby approved.

14. **Continuing Disclosure Agreement.** The Chairman of the Board, the County Administrator and such other officer or officers of the County as either may designate are hereby authorized and directed to execute a Continuing Disclosure Agreement setting forth the reports and notices to be filed by the County and containing such covenants as may be necessary in order to show compliance with the provisions of the Securities and Exchange Commission Rule

15c2-12, under the Securities Exchange Act of 1934, as amended, and directed to make all filings required by Section 3 of the Bond Sale Agreement should the County be determined by the VPSA to be a MOP (as defined in the Continuing Disclosure Agreement).

15. **Fees, Costs and Expenses.** The County agrees to pay the following fees, costs and expenses incurred by VPSA in connection with its purchase and carrying of the Local School Bond within thirty days after receipt by the County Administrator of a written bill therefor:

(A) The County's allocable share of the fees, costs and expenses of the trustee, paying agent and bond registrar under the indenture pursuant to which VPSA will issue the VPSA Bonds and the County's allocable share of any fees, costs and expenses payable to third parties in connection with such indenture or VPSA's School Tax Credit Bond Program, as determined by VPSA; and

(B) To the extent permitted by law, the reasonable fees, costs and expenses, including reasonable attorneys' fees, if any, incurred by VPSA in connection with any false representation or certification or covenant default by the County or any County or School Board official, employee, agent or contractor under the Local School Bond, the Continuing Disclosure Agreement, the Tax Compliance Agreement, the Proceeds Agreement and/or any document, certificate or instrument associated therewith (**collectively, the "County Documents"**), or in connection with any extraordinary mandatory redemption of the Local School Bond as described in Section 8 above and the corresponding VPSA Bonds, any amendment to or discretionary action that VPSA makes or undertakes at the request of the County under any of the County Documents or any other document related to the VPSA Bonds.

16. **Filing of Resolution.** The appropriate officers or agents of the County are hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the County.

17. **Election to Proceed under Public Finance Act.** In accordance with Section 15.2-2601 of the Virginia Code, the Board elects to issue the Local School Bond pursuant to the provisions of the Public Finance Act of 1991, Chapter 26 of Title 15.2 of the Virginia Code.

18. **Further Actions.** The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Local School Bond and any such action previously taken is hereby ratified and confirmed.

19. **Effective Date.** This Resolution shall take effect immediately.

EXHIBIT A

[FORM OF TEMPORARY BOND]

NO. TR-1

\$ _____

**UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
COUNTY OF MONTGOMERY
General Obligation School Bond
Series 2010**

The **COUNTY OF MONTGOMERY, VIRGINIA** (the “County”), for value received, hereby acknowledges itself indebted and promises to pay to the **VIRGINIA PUBLIC SCHOOL AUTHORITY** (“VPSA”) the principal amount of _____ DOLLARS (\$ _____), in annual installments in the amounts set forth on Schedule I hereto commencing on September 1, 20__ and continuing each September 1 thereafter to and including September 1, 20__ (each a “Principal Payment Date”), together with interest from the date of this Bond on the unpaid installments, payable [quarterly/semi-annually] on _____ and _____ of each year, commencing June 1, 2010 (each an “Interest Payment Date,” and together with any Principal Payment Date, a “Payment Date”), at the rates per annum set forth on Schedule I, subject to redemption as hereinafter provided. The principal of and interest, if any, and premium, if any, on this Bond are payable in lawful money of the United States of America.

For as long as VPSA is the registered owner of this Bond, _____, as bond registrar (the “Bond Registrar”), shall make all payments of the principal of and interest, if any, and premium, if any, on this Bond, without the presentation or surrender hereof, to or at the direction of VPSA, in immediately available funds at or before 11:00 a.m. on the applicable Payment Date or date fixed for redemption. If a Payment Date or date fixed for redemption is not a business day for banks in the Commonwealth of Virginia or for the Commonwealth of Virginia, then the payment of the principal of and interest, if any, and premium, if any, on this Bond shall be made in immediately available funds at or before 11:00 a.m. on the business day next succeeding the scheduled Payment Date or date fixed for payment or redemption. Upon receipt by the registered owner of this Bond of said payments, written acknowledgment of the receipt thereof shall be given promptly to the Bond Registrar, and the County shall be fully discharged of its obligation on this Bond to the extent of the payment so made. Upon final payment, this Bond shall be surrendered to the Bond Registrar for cancellation.

The full faith and credit of the County are irrevocably pledged for the payment of the principal of and interest, if any, and the premium, if any, on this Bond. The resolution adopted by the Board of Supervisors of the County on _____, 2010 (the “Local Resolution”), authorizing the issuance of this Bond provides, and Section 15.2-2624, Code of Virginia 1950, as amended (the “Virginia Code”), requires, that there shall be levied and collected an annual tax upon all taxable property in the County subject to local taxation sufficient to provide for the payment of the principal of and interest, if any, and premium, if any, on this Bond as the same shall become due which tax shall be without limitation as to rate or amount and shall be in

addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

This Bond is duly authorized and issued in compliance with and pursuant to the Constitution and laws of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, of the Virginia Code, and the Local Resolution and a resolution duly adopted by the School Board of the County to provide funds for capital projects for school purposes.

This Bond is registered in VPSA's name on the books of the County kept by the Bond Registrar, and the transfer of this Bond may be effected by the registered owner of this Bond only upon due execution of an assignment by such registered owner. Upon receipt of such assignment and the surrender of this Bond, the Bond Registrar shall exchange this Bond for a substitute Bond, and register such substitute Bond on such registration books in the name of the assignee or assignees named in such assignment.

[The principal installments of this Bond are not subject to optional prepayment or redemption prior to their stated maturities.]

Upon not less than 15 days' written notice from VPSA to the Bond Registrar, this Bond is subject to mandatory redemption in whole or in part in an amount to be specified by VPSA on a date to be fixed by VPSA in the event that, due to a failure by the County to cause 100% of the Available Project Proceeds to be expended by the end of the Expenditure Period for Qualified Purposes, VPSA must redeem a portion of its School Tax Credit Bonds (Direct Payment Qualified School Construction Bonds), Series 2010-1 (the "VPSA Bonds"), pursuant to Section 54A(d)(2)(B)(i) of the Internal Revenue Code of 1986, as amended (the "Tax Code"), and Section 3.1(b) of the Second Supplemental Trust Indenture dated as of June 1, 2010 (the "Second Supplemental Indenture"), between VPSA and U.S. Bank National Association, as trustee. The redemption price shall be equal to 100% of the principal amount of this Bond to be redeemed plus a premium equal to any outstanding fees, costs and expenses for which the County is or will become obligated to pay under Section 14 of the Local Resolution as determined by VPSA.

Upon not less than 15 days' written notice from VPSA to the Bond Registrar, this Bond is also subject to mandatory redemption in whole or in part in an amount to be specified by VPSA on a date to be fixed by VPSA if, due to a default by the County under the Use of Proceeds Certificate and Tax Compliance Agreement dated the dated date hereof (the "Tax Compliance Agreement"), between VPSA and the County, there occurs a Determination of Loss of QSCB Status (as defined in the Second Supplemental Indenture) with respect to all or any portion of the VPSA Bonds. The redemption price shall be equal to 100% of the principal amount to be redeemed plus a premium equal to the sum of (i) the redemption premium and other amounts VPSA will be obligated to pay in connection with the extraordinary mandatory redemption of the VPSA Bonds under Section 3.1(c) of the Second Supplemental Indenture and (ii) any outstanding fees, costs and expenses for which the County is or will become obligated to pay under Section 14 of the Local Resolution, all as determined by VPSA.

Upon not less than 15 days' written notice from VPSA to the Bond Registrar, this Bond is also subject to mandatory redemption in whole or in part, as determined by the County, on a

date to be fixed by VPSA if, due to (i) any amendments by Congress to Section 54A, 54F or 6431 or any other applicable sections of the Tax Code or (ii) any guidance or changes to guidance provided by the U.S. Department of Treasury or the Internal Revenue Service, there is a reduction or elimination of the refundable credit to be received by VPSA with respect to the VPSA Bonds. The redemption price shall be equal to (a) the redemption price VPSA will be obligated to pay in connection with the extraordinary mandatory redemption of the allocable portion of the VPSA Bonds under Section 3.1(d) of the Second Supplemental Indenture and (b) any outstanding fees, costs and expenses for which the County is or will become obligated to pay under Section 14 of the Local Resolution, all as determined by VPSA.

Unless otherwise defined, each of the capitalized terms used in the foregoing two paragraphs has the meaning given it in the Tax Compliance Agreement.

All acts, conditions and things required by the Constitution and laws 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 due time, form and manner as so required, and this Bond, together with all other indebtedness of the County, is within every debt and other limit prescribed by the Constitution and laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Montgomery has caused this Bond to be issued in the name of the County of Montgomery, Virginia, to be signed by its Chairman or Vice-Chairman, its seal to be affixed hereto and attested by the signature of its Clerk or any of its Deputy Clerks, and this Bond to be dated _____, 2010.

The vote on the foregoing resolution was as follows:

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

The Chair noted for the record that Board members expressed concerns with the issuance of bonds when there is an unknown of what funding may be needed in the future in respect of the Blacksburg High School.

ORD-FY-10-25
AN ORDINANCE AMENDING THE CONCEPT PLAN AND PROFFER STATEMENT PREVIOUSLY APPROVED (ORD-FY-10-13) FOR 6.0184 ACRES ZONED GENERAL BUSINESS (GB) BY CHANGING THE ROAD ACCESS FOR THE PROPOSED DEVELOPMENT AND BY ADDING 6.047 ADDITIONAL ACRES AND AMENDING THE ZONING CLASSIFICATION OF APPROXIMATELY 3.547 ACRES FROM AGRICULTURAL (A-1) TO GENERAL BUSINESS (GB) AND APPROXIMATELY 2.5 ACRES (THE 6.047 ADDITIONAL ACRES) FROM RESIDENTIAL (R-3) TO GENERAL BUSINESS (GB) IN THE RINER MAGISTERIAL DISTRICT LOCATED ON THE SOUTHEAST CORNER OF MEADOW CREEK ROAD AND TYLER ROAD IDENTIFIED AS TAX PARCEL NO(S) 104-4-47, 104-A-27A, 104-4-40, 104-4-41, 104-4-42, AND A PORTION OF 104-A-88, PARCEL NO(S) 002244, 008938, 021673, 021674, 021675, AND 021672 RWW36, LLC, JUDSON H. YOUNG LIFE ESTATE AND EDWIN MARK & KATHLEEN STEWART

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

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning, concept plan amendments, and proffer amendments are in compliance with the Comprehensive Plan and the Rt. 177 Corridor Agreement and meets the requirement for public necessity, convenience, general welfare and good zoning practice and therefore approves the request(s) to amend a concept plan and proffer statement previously approved on September 14, 2009 (ORD-FY-10-13) for 6.0184 acres zoned General Business (GB) and to rezone approximately 3.547 acres from Agricultural (A-1) to General Business (GB), and approximately 2.5 acres from Residential (R-3) to General Business (G-B) to allow commercial and business uses. This approval is made subject to the following proffered conditions:

- 1) Property shall be developed in substantial conformance with the conceptual plan by Balzer and Associates, Inc. titled Woody-Tyler Road Masterplan, Sheets Z3 & Z4 Job #B0900068.00 dated March 1, 2010 revised April 21, 2010.
- 2) The site shall be served by Montgomery County PSA sanitary sewer and water. The rezoning of the property does not allocate or reserve water and sewer capacity for the proposed development. Site plan approval for the development shall be conditioned upon adequate water and sewer capacity being available. Site development shall include the replacement of the existing fire hydrant on Barn Road so that the existing structures on Barn Road are no more than 500 feet from a fire hydrant. The applicant may be responsible for bearing the cost of any necessary utility infrastructure improvements needed by the PSA both on site and off site to accommodate the requested capacity based on the proposed use for the Property.

- 3) A detailed site plan/subdivision plan in conformance with zoning ordinance requirements shall be submitted and approved by the zoning administrator and all other necessary local and state agencies prior to issuance of building permits for this development.
- 4) Stormwater management shall be designed in accordance with all State and Local stormwater management standards.
- 5) All entrances onto Tyler Road at the roundabout, entrances onto Meadow Creek Road, and the right in/right out as shown on the Master Plan dated March 1, 2010 revised April 21, 2010 and submitted to VDOT as part of the Traffic Impact Analysis shall be designed to Virginia Department of Transportation standards and meet the Montgomery County 177 Corridor Plan.
- 6) The right in/right out entrance shall be approved and constructed prior to the issuance of a certificate of occupancy for building #4 or #6 as shown on the approved Master Plan.
- 7) The following uses will be prohibited in the General Business District: apartment as accessory use, building material sales, cemetery, church, civic club, crematorium, custom meat cutting- processing and sales, funeral home, homeless shelter, pet-household, public utility lines-other distribution or collection facility, school, and garden center.
- 8) After 241 vehicle trips in the PM peak hours are generated by this project, no additional development shall occur until roundabout has been constructed and open to traffic.
- 9) Realigned Meadow Creek Road (SR 658) shall be constructed, accepted by VDOT and open to traffic before a Certificate of Occupancy can be issued for any building on the property subject to these proffered conditions
- 10) The owner shall make improvements to Barn Road as shown on the Master Plan before such time that the Barn Road connection with Meadow Creek Road is terminated. The Barn Road connection with Meadow Creek shall be terminated before the new portion of Meadow Creek is open for public use. The owner shall have the option to use the VDOT revenue sharing program to fund the Barn Road improvements conditioned upon the existing allocation of funds for the project by VDOT remain active.
- 11) The owner shall coordinate fire hydrant location and access with the PSA, Montgomery County Emergency Services and the Riner Volunteer Fire Department. Adequate fire hydrant coverage must be provided to all existing structures on Barn Road and Lamb Circle during and after road construction and right of way vacation.

- 12) The owner shall coordinate and cooperate with AEP during the development of construction plans consistent with the April 12, 2010 letter from AEP to Balzer & Associates, Inc. in order to provide for the overall safety of future users of the site and to ensure that AEP construction guidelines are effectively met.
- 13) The following architectural standards of the development will be incorporated into the development to provide compatibility with commercial uses on the 177 Corridor:
 - a. No heating, air conditioning or mechanical equipment shall be placed on the roof of any building unless screened from ground level. Flat roofs shall have a parapet wall tall enough in height to screen any roof mounted mechanical equipment.
 - b. The exposed portions of all exterior wall surfaces of each building on the Property (excluding rooftop screening materials for mechanical equipment) shall be designed and constructed of similar materials. This proffer shall not preclude the use of a design that alternates a combination of permitted materials for architectural effect. Building materials shall consist of brick, stone, split face block, EIFS such as Dryvit or cementitious siding.
 - c. Roofing materials for pitched roofs shall be metal, natural or composite shingle. Buildings with flat roofs shall have a decorative cornice at the top of all walls.
 - d. When a building is adjacent to a public right of way, architectural detail shall be incorporated to create architectural character on the building faces that are visible from that public right of way. Detail includes highlighting foundations, lintels, sills and cornices with contrasting materials and breaking up the mass of the building with bands at floor levels or projections at entries.
 - e. Windows and doors shall have a regular pattern of solids and voids that are consistent throughout individual buildings when visible from a public right of way.
 - f. Building elevations shall be included with all site plan submittals.
 - g. Prefabricated metal buildings with vertical metal siding shall be prohibited.

The subject parcels are located at the southwest corner of the intersection of Meadow Creek Road (SR 658) and Barn Road (SR 627) and are identified as Tax Parcel No(s). 104-4-47 104-A-27A,

104-4-40, 104-4-41, 104-4-42, and a portion of 104-A-88, (Account No(s) 002244, 008938, 021673, 021674, 021675, 021672) in the Riner Magisterial District (District D).

All of the parcels currently lie in an area designated as Urban Expansion in the Comprehensive Plan and Planned Commercial in the Route 177 Corridor Plan.

This action was commenced upon the application of RWW36, LLC; Judson H. Young Life Estate (C/O Wagner H. Young) and Edwin Mark & Kathleen Stewart (Agent: Balzer and Associates, Inc.).

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

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

R-FY-10-168
SPECIAL USE PERMIT
KELLY L. BURDETTE AND JOHN A. BARR JR.
FOR THE PURPOSE OF ALLOWING A COMMERCIAL KENNEL
IN AN AGRICULTURE (A-1) ZONING DISTRICT
IN THE MOUNT TABOR MAGISTERIAL DISTRICT (DISTRICT A)
PARCEL ID: 002518; TAX MAP NO. 015-A-1

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

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the request by Kelly L. Burdette and John A. Barr Jr. for a special use permit to allow a commercial kennel and two (2) accessory structures in excess of 1,200 sq. ft. in area and 18 ft. in height is consistent with the County's Comprehensive Plan and is hereby approved with the following conditions:

1. Kennel operations shall be limited to the breeding, raising, and selling of dogs and/or puppies owned by the property owner.
2. A yearly kennel license for no more than 50 dogs shall be obtained as required by Montgomery County Code.

3. The proposed accessory structures as shown on “Sketch Showing Proposed House & Kennel” prepared by Berkman Land Surveying, dated February 24, 2010 (Job No. 09093) shall be limited in size as follows:
 - a. Building 1 shall not exceed 3,600 square feet in area and 27 ft. in overall height.
 - b. Building 2 shall not exceed 1,680 square ft. in area and 20 ft. in overall height.
4. Accessory structures shall be used for personal and kennel use only. Retail sales and/or other commercial activities shall not be permitted.
5. The accessory structures shall not be used as a dwelling, accessory or otherwise without obtaining the proper permits and approvals from the Zoning Administrator, Health Department, and Building Official.

The property is located on the north side of Craig Creek Road (SR 621), approximately 0.80 miles east of the intersection with Pandapas Pond Rd. (US 460), and is identified as Tax Parcel No. 015-A-1 (Acct # 002518) in the Mount Tabor Magisterial District (District A). The property currently lies in an area designated as Resource Stewardship in the 2025 Comprehensive Plan.

The vote on the foregoing resolution was as follows:

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

R-FY-10-169
REMOVE FROM THE TABLE
LONG TERM CARE INSURANCE PROGRAM
FOR COUNTY EMPLOYEES

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby removes from the table a resolution to consider establishing a long term care insurance program for County employees through the Virginia Retirement System and Genworth Insurance.

The vote on the foregoing resolution was as follows:

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

R-FY-10-170
ESTABLISH A LONG TERM CARE INSURANCE PROGRAM
FOR COUNTY EMPLOYEES THROUGH THE
VIRGINIA RETIREMENT SYSTEM AND GENWORTH INSURANCE

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

WHEREAS, The Virginia Retirement System has provided the opportunity for County Governments to participate in a Long Term Care Insurance Program; and

WHEREAS, This program will allow employees and retirees ages 18-80 to purchase Long Term Care Insurance through a vendor (Genworth Insurance) sponsored by the Virginia Retirement System, at no cost to the County.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia, hereby elects to participate in the Long Term Care Insurance option as a voluntary benefit for active full-time County employees and retirees who are at least 18 years of age or under the age of 80 through the Virginia Retirement System.

BE IT FURTHER RESOLVED, The Board of Supervisors authorizes the County Administrator to approve an Agreement with the Virginia Retirement System to offer such Long Term Care Insurance to active full-time County employees and retirees as a voluntary benefit, with the cost of such insurance to be borne in total by the employee or retiree.

The vote on the foregoing resolution was as follows:

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

NEW BUSINESS

**R-FY-10-171
PROCLAMATION
NATIONAL POLICE OFFICER MEMORIAL WEEK MAY 9-MAY 15, 2010 AND
ANNUAL POLICE MEMORIAL CEREMONY ON MAY 17, 2010**

On a motion by William H. Brown, seconded by Doug Marrs and carried unanimously,

WHEREAS, The Congress and the President of the United States have designated May 15 as Peace Officers' Memorial Day and the week in which May 15 falls as National Police Week, to pay tribute to the law enforcement officers who have made the ultimate sacrifice for our country and to voice appreciation for all those who currently serve to protect the rights and freedoms of our citizens; and

WHEREAS, During 2009, 124 Law Enforcement Officers were lost in the line of duty; and

WHEREAS, The law enforcement officers of the Montgomery County Sheriff's Office play an essential role in protecting the rights and freedoms of the citizens of Montgomery County; and

WHEREAS, The Montgomery County Sheriff's Office wishes to honor those officers who lost their lives during 2009 and remember those from Montgomery County who have also paid the ultimate sacrifice: Officer Terry Griffith, Officer Scott Hylton, Security Guard Derrick McFarland, and Corporal Eric Sutphin.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia, that the Board of Supervisors calls upon all citizens of Montgomery County and all patriotic, civic and educational organizations to observe the week of **May 9-15, 2010** as **National Police Week** with appropriate ceremonies and observances in which all citizens may join in commemorating law enforcement officers, past and present, who have bravely dedicated their lives to serving and protecting the citizens in their communities.

BE IT FURTHER RESOLVED, The Board of Supervisors calls upon all citizens of Montgomery County to observe **Police Officers' Memorial Day** in honor of those law enforcement officers who have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

The vote on the foregoing resolution was as follows:

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

COUNTY ADMINISTRATOR'S REPORT

The County Administrator reported on the following:

911 Authority Executive Meeting was held today. They received a wealth of information from the Consultant and they are moving forward with the project. An informational report will be provided to the Board of Supervisors in the near future.

County/Town Liaison Meeting is scheduled for Wednesday, May 12, 2010. Tourism is on the agenda for discussion.

Old Blacksburg Middle School a tour of the facility was given to provide an overall sense of the condition of the building. The County Administrator reported the building is beyond repair and believes there are numerous challenges ahead.

Recognition of Roanoke Times Reporter Sharla Bardin - The County Administrator expressed appreciation to Ms. Bardin for her time as the reporter for county government. Ms. Bardin's last meeting is tonight as she submitted her resignation with the Roanoke Times and will be continuing her education to become a teacher.

The Board of Supervisors expressed their appreciation to Ms. Bardin also and wished her good luck in the future.

BOARD MEMBERS' REPORT

Supervisor Biggs attended the School Board meeting where an update on the Blacksburg High School was given.

Virginia Association of Counties –Board of Directors meeting was held in Smithfield, Virginia. Supervisor Biggs noted her amazement at the level of tourism in Smithfield.

Supervisor Creed - Shawsville Volunteer Rescue Squad Supervisor Creed received a call from Jeff Wilcke expressing his appreciation to the Shawsville Volunteer Rescue Squad for their quick response time. Mr. Wilcke was involved in a motorcycle accident in Catawba and received serious injuries to his leg. Mr. Wilcke believes the quick response time probably saved his leg.

Supervisor Marrs – Western Virginia Regional Jail Authority is in the process of hiring a new Superintendent. There are several more meetings scheduled and hopefully an announcement will be made soon.

ADJOURNMENT

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously, the Board adjourned to Monday, May 24, 2010 at 6:00 p.m.

The meeting adjourned at 9:50 p.m.

APPROVED: _____ ATTEST: _____
Annette S. Perkins F. Craig Meadows
Chair, Board of Supervisors County Administrator