

AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 7TH DAY OF NOVEMBER, 2011 AT 8:30 P.M. IN THE COUNTY ADMINISTRATION CONFERENCE ROOM, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	James D. Politis	-Chair
	William H. Brown	-Vice Chair
	Mary W. Biggs	-Supervisors
	Gary D. Creed	
	Doug Marrs	
	John A. Muffo	
	Annette S. Perkins	
	F. Craig Meadows	-County Administrator
	Martin M. McMahon	-County Attorney

CALL TO ORDER

The Chair called the meeting to order.

INTO CLOSED MEETING

On a motion by William H. Brown, seconded by John A. Muffo and carried unanimously,

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

- Section 2.2-371 (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. New Blacksburg High School Property

The vote on the foregoing motion was as follows:

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

OUT OF CLOSED MEETING

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

CERTIFICATION OF CLOSED MEETING

On a motion by Annette S. Perkins, seconded by William H. Brown 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

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

NAYS

None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

NEW BUSINESS

R-FY-12-47

**A RESOLUTION AUTHORIZING THE CONVEYANCE OF LOT 1B IN THE FALLING
BRANCH CORPORATE PARK BY THE EDA TO BACKCOUNTRY.COM AND
CERTAIN RELATED MATTERS**

On a motion by William H. Brown seconded by Annette S. Perkins and carried unanimously,

WHEREAS, Pursuant to an Industrial Park Property Transfer Agreement dated September 16, 1996 by and between the Economic Development Authority of Montgomery County, Virginia (the "EDA") and the Board of Supervisors of the County of Montgomery, Virginia (the "Transfer Agreement"), the Board of Supervisors conveyed approximately 165.573 acres (the "Park Property") to the EDA by Deed recorded in Deed Book 937 at page 269 (the "Deed") in the Montgomery County Circuit Court Clerk's Office for the development of the Falling Branch Corporate Park (formerly referred to as the Falling Branch Industrial Park); and

WHEREAS, The Transfer Agreement and the Deed contained a reversion clause whereby if the Park Property was not developed and used as the Falling Branch Corporate Park the Park Property would revert to the Board of Supervisors (the "Reversionary Clause"); and

WHEREAS, Pursuant to the terms of the Transfer Agreement and the Deed, prior to the EDA conveying any interest in the Falling Branch Corporate Park, the Board of Supervisors is to approve the terms and conditions of the proposed conveyance; and

WHEREAS, The Deed also states that any conveyance of the Park Property is subject to all of the terms and conditions of the Transfer Agreement; and

WHEREAS, The EDA has negotiated and approved a Real Estate Sales Agreement dated October 18, 2011 (the "Sales Agreement") and a Post Closing Performance Agreement dated October 18, 2011 (the "Post Closing Agreement") with BackCountry.com to convey a portion of the Park Property identified more particularly as Lot 1B in the Falling Branch Corporate Park to BackCountry.com for the development of BackCountry.com's East Coast Fulfillment Center; and

WHEREAS, The Board of Supervisors has reviewed both the Sales Agreement and the Post Closing Agreement, and the Board of Supervisors approves of the conveyance by the EDA of Lot 1B to BackCountry.com pursuant to the terms and conditions contained therein; and

WHEREAS, The Board of Supervisors recognizes that the Falling Branch Corporate Park has been developed as a corporate industrial park by the EDA and used for that purpose and the Board of Supervisors is willing to release the Reversion Clause that is applicable to the Park Property contained in both the Transfer Agreement and the Deed; and

WHEREAS, The Board of Supervisors also recognizes that the terms and conditions of the Transfer Agreement have been satisfied with respect to Lot 1B in the Falling Branch Corporate Park, and the Board of Supervisors is willing to acknowledge that the Transfer Agreement is of no further force and effect with respect to Lot 1B; and

WHEREAS, The Board of Supervisors is willing to authorize the Chair, James Politis, to execute any and all documents necessary for the conveyance of Lot 1B by the EDA to BackCountry.com including executing the deed conveying Lot 1B, for the purpose of evidencing the County's approval of the conveyance, the release of the Reversion Clause, and confirmation that the Transfer Agreement is of no further force and effect with respect to Lot 1B.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby approves of the EDA conveying Lot 1B in the Falling Branch Corporate Park to BackCountry.com pursuant to the terms and conditions contained in the Sales Agreement and the Post Closing Agreement.

BE IT FURTHER RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby agrees to waive and release the Reversionary Clause that is applicable to the Park Property as provided in the Transfer Agreement and the Deed.

BE IT FURTHER RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby agrees that the Transfer Agreement is and shall be of no further force and effect with respect to Lot 1B.

BE IT FURTHER RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby authorizes the Chair, James Politis, to execute any and all documents necessary for the conveyance of Lot 1B by the EDA to BackCountry.com including executing the deed conveying Lot 1B, for the purpose of evidencing the County's approval of the conveyance, the release of the Reversionary Clause, confirmation that the Transfer Agreement is and shall be of no further force and effect with respect to Lot 1B, and otherwise carrying out the intent of the foregoing resolutions.

The vote on the forgoing resolution was as follows:

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

ADJOURNMENT

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried unanimously, the Board adjourned to Wednesday, November 16, 2011 at 6:00 p.m.

The vote on the forgoing motion was as follows:

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

The meeting adjourned at 9:00 p.m.

APPROVED _____ ATTEST: _____
James D. Politis F. Craig Meadows
Chair County Administrator