

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 11th DAY OF SEPTEMBER 2006, AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Steve L. Spradlin	-Chair
	Mary W. Biggs	-Vice Chair
	Gary D. Creed	-Supervisors
	Doug Marris	
	John A. Muffo	
	James D. Politis	
	B. Clayton Goodman, III	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahan	-County Attorney
	Karen Edmonds	-Human Resource Director
	Daisy Herndon	-Benefits Coordinator
	Robert C. Parker	-Public Information Officer
	Vickie L. Swinney	-Secretary, Board of Supervisors
ABSENT:	Annette S. Perkins	-Supervisor

CALL TO ORDER

The Chair called the meeting to order.

INTO CLOSED MEETING

On a motion by Doug Marris, 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 2.2-3711 (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. County Attorney
 2. Agency on Aging
 3. Department of Social Services

(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 Negotiation Strategy of the Public Body

1. Public Utility Easement Request at the New Blacksburg Middle School

(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. Agency on Aging
2. Norfolk Southern Intermodal Site

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Annette S. Perkins
James D. Politis		
Doug Marrs		
Mary W. Biggs		
Gary D. Creed		
Steve L. Spradlin		

OUT OF CLOSED MEETING

On a motion by Doug Marrs, seconded by John A. Muffo 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>	<u>ABSENT DURING VOTE</u>	<u>ABSENT</u>
James D. Politis	None	Mary W. Biggs	Annette S. Perkins
Doug Marrs			
Gary D. Creed			
John A. Muffo			
Steve L. Spradlin			

Supervisor Mary Biggs left the meeting at 6:30 p.m. to attend the Virginia Department of Education public hearing on the Standards of Quality at the Blacksburg Middle School and returned to the meeting at 7:30 p.m.

CERTIFICATION OF CLOSED MEETING

On a motion by James D. Politis, seconded by John A. Muffo 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

Doug Marrs
Gary D. Creed
John A. Muffo
James D. Politis
Steve L. Spradlin

NAYS

None

ABSENT DURING VOTE

Mary W. Biggs
Annette S. Perkins

ABSENT DURING MEETING

Annette S. Perkins

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

TRIBUTE TO SEPTEMBER 11TH

Cody Rush, Senior Class President of Christiansburg High School, presented a film commemorating the terrorist attacks on the United States on September 11, 2001.

PUBLIC ADDRESS

Ed Gallimore addressed the Board with concerns he has with the County's Building and Inspections Department. Mr. Gallimore expressed frustration with the inspection procedures and how the rules change with each inspection. He reported that one home failed inspection fourteen times and with each re-inspection the rules changed. Mr. Gallimore strongly stated that in the home building business, time is a sensitive matter. Delays often mean an increase in cost and it's frustrating to incur these extra costs due to issues with the Inspections Department. Mr. Gallimore urged the Board to look into this on-going problem.

David Dudley expressed concerns with road maintenance on Kirk Hollow Road. Mr. Dudley stated that the brush needs cutting and there are drainage issues that cause flooding.

Michael Hemphill addressed the Board about the proposed Norfolk & Southern Intermodal facility in Elliston. He spoke on issues such as land use, environmental impact, transportation, economic development, and security. He urged the Board to go on record opposing this facility.

Joyce Graham spoke in opposition to the proposed intermodal facility in Elliston. Ms. Graham asked the Board to conduct a community meeting in order to hear the concerns and questions regarding the proposed facility. The residents of Elliston have been provided very little information and believe a community meeting would be helpful. Ms. Graham believes that this project will have a large impact on the community.

Roger Lewis addressed the Board concerning cash proffers and asked the Board to continue the cash proffer study. Mr. Lewis stated that the study to date has provided numerous pros and cons but believes additional work is needed.

Kevin Conner, agent for the George Lucas rezoning, urged the Board to make a favorable decision on his client's request for a rezoning.

The Chair reported a letter was received by the Board of Supervisors from the New River Valley Association of REALTORS, Inc., and asked that it be entered into the record:

“New River Valley Association of REALTORS, Inc.

125 Ponderosa Drive

Christiansburg, Va 24073

Telephone: (540) 381-9354

Fax: (540) 381-9358

E-mail: nrvar@REALTOR.com

September 11, 2006

Montgomery County Board of Supervisors
c/o Clay Goodman, County Administrator
755 Roanoke Street, Suite 2E
Christiansburg, VA 24073

Dear Board of Supervisors Members:

The New River Valley Association of REALTORS would like to thank the Montgomery County Board of Supervisors for including us in the discussion of cash proffers. The process has been informative and we have gained new insights into the budgetary constraints the County faces.

REALTORS share the Supervisors' concerns for adequate public facilities and the need for additional schools as our population within the County continues to grow. We view this growth as a positive sign that our County is a great place to work, live and raise a family. The economic development community continues to produce jobs that attract families to this area. And consistent with this growth comes the need for affordable housing. Every day in our profession we help families realize their dreams of home ownership and are committed to our mission of promoting affordable housing. We realize that building equity in one's home is the way most families build wealth.

Montgomery County certainly needs funds for new schools, but we feel that spreading the tax burden over the whole population is more palatable than subjecting new construction to excessively high proffered amounts. While the proffered amounts will be high for the average family, the total raised for the county is actually small in comparison to the need that has developed. Implicit in the argument for cash proffers is the idea that construction of new homes is the reason for the increase in population. However, we know that job creation is actually the engine that brings people to the area and drives growth.

We believe there is one area in the submitted report that should be given another point of view; the assumption made may not actually be true. *Actual revenue if proffers were in place* assumes that the 814 homes that were built and sold would have been sold at a price that was \$20,471 higher. This 10% to 15% increase in sales price would likely have prevented many homeowners from being able to afford these homes resulting in much lower actual revenues for the County.

The New River Valley Association of REALTORS is ready to assist the County in educating the public about the costs of adequate public facilities. However, we hope that instead of instituting a cash proffer policy, the County will instead institute a tax policy that is fair to all the citizens of the county. We are convinced that new schools, parks, roads and fire and rescue stations will benefit all citizens instead of only benefiting those moving into new homes.

Sincerely,
L. Garrett Weddle, President
New River Valley Association of REALTORS”

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

DELEGATION

Virginia Department of Transportation

David Clarke, VDOT’s Residency Administrator, updated the Board on road issues in Montgomery County. VDOT has been working on pot-hole repair and mowing through out the county.

Revenue Sharing Projects: Mr. Clarke reported that the remaining money from the FY 05-06 Revenue Sharing Projects totals approximately around \$150,000. The Board of Supervisors has asked that this money be used towards Craigs Creek Road for paving. If this is the desire of the Board then VDOT would require a resolution from the Board of Supervisors requesting VDOT of allocate the remainder of this money towards this project. Also, there is approximately \$142,000 remaining from FY 03-04 revenue sharing projects. Mr. Clarke recommended that this money be used for county-wide paving. He suggested the County’s Roads Committee and VDOT meet to discuss this matter.

CONSENT AGENDA

On a motion by Mary W. Biggs, seconded by Doug Marris and carried unanimously, the Consent Agenda dated September 11, 2006 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Annette S. Perkins
Mary W. Biggs		
Doug Marris		
James D. Politis		
John A. Muffo		
Steve L. Spradlin		

Approval of Minutes

On a motion by Mary W. Biggs, seconded by Doug Marris and carried unanimously, the minutes dated August 14, 2006 were approved.

A-FY-07-34
EMERGENCY SERVICES COORDINATOR
HOMELAND SECURITY GRANT

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

BE IT RESOLVED, By the Montgomery County Board of Supervisors that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2007, for the function and in the amount as follows:

111 Emergency Services Coordinator Grant	\$46,748
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
02111-424401	State Grants	\$46,748

Said resolution appropriates Homeland Security Grant funds to purchase tactical gear for the Christiansburg Police Department.

A-FY-07-35
SHERIFF
RECOVERED COSTS

On a motion by Mary W. Biggs, seconded by Doug Marrs 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, 2007, for the function and in the amount as follows:

310	Sheriff – Comp Board	\$ 638
320	Sheriff – County	\$2,722
321	Sheriff – Grants	<u>\$ 425</u>
	Total	\$3,785

The sources of the funds for the foregoing appropriation are as follows:

<u>Revenue Account</u>		
419108	Recovered Costs	\$3,360
424401	Project Lifesaver	<u>425</u>
	Total	\$3,785

Said resolution appropriates recovered costs and project lifesaver funds for use by the Sheriff's department.

**R-FY-07-36
PARKS AND RECREATION
RECOVERED COSTS**

On a motion by Mary W. Biggs, seconded by Doug Marrs 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, 2007, for the function and in the amount as follows:

700	Parks and Recreation	\$600
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
415207	Sale of Surplus	\$600

Said resolution appropriates funds received from the sale of surplus equipment from the Parks and Recreation Department.

**R-FY-07-37
PROCLAMATION
NATIONAL GERONTOLOGICAL NURSES WEEK
OCTOBER 1 – 8, 2006**

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

WHEREAS, Gerontological Nurses promote the specialty of gerontological nursing;
and

WHEREAS, Gerontological Nurses demonstrate innovative techniques and approaches in health care to better the needs of older adults; and

WHEREAS, Gerontological Nurses influence the health of older adults by enhancing the professionalism of gerontological nurses; and

WHEREAS, Gerontological Nurses are recognized for their dedication and hardwork in Montgomery County.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia does recognize October 1-8, 2006 as National Gerontological Nurses Week and calls this observance to the attention of all Montgomery County citizens.

INTO WORK SESSION

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

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

1. County Capital Projects
2. Health Stat
3. Cash Proffers

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Doug Marrs	None	Annette S. Perkins
Mary W. Biggs		
James D. Politis		
John A. Muffo		
Gary D. Creed		
Steve L. Spradlin		

County Capital Projects

The County Administrator presented information on the County's long term capital projects, noting that the County could remain in compliance with its fiscal and debt polices while generating approximately \$130 million for capital needs over the next five years, provided the Board is willing to increase the real estate tax rate by 14 cents cumulatively to cover debt service payments. County capital projects currently under consideration include completing renovations to the Courthouse and Building "C" of the Government Center, upgrades to the County Jail, Sheriff's Office, and land purchases. The Board directed staff to study the financial impacts of the County's participation in the Western Virginia Regional Jail.

Health Stat, Inc.

The Assistant County Administrator, Human Resources Director, Benefits Coordinator, and Budget Manager jointly presented information about a proposed on-site employee health clinic, as part of a health management program to reduce the increased costs of health insurance.

Cash Proffers

The Planning Director and the Cash Proffers Work Group, consisting of Brian Rice, Steve Semones, John Neel, David Moore, and Brandol Harvey, presented a report covering the pros and cons of cash proffers. The Planning Director explained that in response to the Board of Supervisors direction in December 2005, the County Administrator established a Cash Proffers Work Group to explore the potential of accepting cash proffers as one avenue to address capital

needs arising from the rezoning of properties. Members of the Cash Proffers Work Group met monthly over the past four months to discuss pros and cons of cash proffers.

Cash proffers are a cash contribution offered by a rezoning applicant that are used to address the impact of development on capital facilities. Cash proffers must be used for capital improvements in conjunction with the County's Capital Improvements Program. Cash proffers cannot be collected on land that has already been rezoned. Also, in order for the County to establish a cash proffers policy, both towns would need to participate.

The pros for cash proffers include the following:

- Additional Revenue Source
- Costs associated with growth funded by growth

The cons for cash proffers include the following:

- Imprecise targeting
- Housing costs
- Unlimited consequences
- Revenue may be limited
- Existing capital needs not addressed
- Administrative costs

The Working Group provided information on the potential and actual proffer collections with data from the last five years. It was determined it would take \$20, 471 per dwelling to provide for the estimated cost for just school capital facility needs. If a cash proffer system was in place, potential revenue of \$42 million (2,060 dwelling units) and actual revenue of \$16 million (814 dwelling units) could have been collected over the past five years, which includes both towns and county.

OUT OF WORK SESSION

On a motion by John A. Muffo seconded by Gary D. Creed and carried unanimously,

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

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	Annette S. Perkins
James D. Politis		
John A. Muffo		
Gary D. Creed		
Doug Marrs		
Steve L. Spradlin		

OLD BUSINESS

**R-FY-07-38
RESOLUTION GRANTING A SPECIAL USE PERMIT
TO LAWRENCE R. PRICE, JR.
FOR THE PURPOSE OF LOCATING
A 120 FOOT TELECOMMUNICATIONS TOWER
ON THE NORTH SIDE OF PANDAPAS POND ROAD
IN THE MOUNT TABOR MAGISTERIAL DISTRICT
ON PARCEL ID NUMBERS 015133 & 006778,
TAX MAP NUMBERS 14-A-2A & 14-A-4A**

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

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Lawrence R. Price, Jr. (Agent: Debbie Balsler, NTELOS) request for a special use permit to allow a one-hundred and twenty (120) foot tall telecommunications tower and associated ground equipment cabinets is hereby approved subject to the following conditions:

1. This tower shall not exceed a total overall height of one hundred and twenty (120) feet and shall not have lighting. Tower shall have a base diameter not to exceed thirty (30) inches and a top diameter of sixteen (16) inches.
2. Site development shall be in substantial compliance with the plans entitled, "NTELOS Concept Plan, RN 735 Forest Ridge (Price)" prepared by Terradon Engineering Corporation dated August 7, 2006.
3. Tower shall be of a "monopole stealth design" where all antennae shall be flush mounted (distance between face of pole and outer face of antennas not to exceed 12 inches) on the structure. Tower shall be painted brown (Twisted Branch or similar). All wiring and cables shall be located inside the pole structure.
4. Engineering plans signed and sealed by a licensed engineer in the State of Virginia shall be submitted and approved by the Building official prior to issuance of a building permit.
5. No platforms or dishes shall be permitted on the structure above the tree line.
6. Tower shall meet all regulations found in Section 10-48(6) of the county zoning ordinance.
7. All trees on the property (within 50 feet of the proposed lease area) shall be maintained and not removed except for damaged or diseased trees.
8. Supplemental power, if necessary, shall be provided by a propane-powered generator. No permanent gasoline or diesel fuel source shall be permitted.

9. Owner/agent shall provide emergency services antennae space on the proposed tower for the agreed upon rental rate of \$1 per year subject to the structural capacity of the tower and provided that the emergency services' antennae do not provide radio frequency interference to other antennae located upon the tower. Emergency services shall provide equipment. Tower owner/agent shall install the antennae at market rate.

The property is located on the north side of Pandapas Pond Road (Route 460) approximately 2000 feet east of the Giles County line and is identified as Tax Parcel Nos. 14-A-2A & 14-A-4A (Acct ID # 015133 & 006778) in the Mount Tabor Magisterial District (District A). The property currently lies in an area designated as Resource Stewardship in the Comprehensive Plan

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
James D. Politis	None	Annette S. Perkins
John A. Muffo		
Gary D. Creed		
Doug Marrs		
Mary W. Biggs		
Steve L. Spradlin		

ORD-FY-07-03
AN ORDINANCE AMENDING THE ZONING
CLASSIFICATION OF APPROXIMATELY 81.883 ACRES
FROM AGRICULTURE (A-1) TO RURAL RESIDENTIAL (RR)
LOCATED APPROXIMATELY 2500 FEET NORTHEAST
FROM THE INTERSECTION OF CHILDRESS ROAD AND DRY VALLEY ROAD,
IDENTIFIED AS TAX MAP PARCEL NO. 126-4-1 (ACCT # 130079)
IN THE RINER MAGISTERIAL DISTRICT
GEORGE LUCAS

On a motion by James D. Politis, seconded by Doug Marrs and carried unanimously,

BE IT ORDAINED By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning is in compliance with the Comprehensive Plan and meets the requirement for public necessity, convenience, general welfare and good zoning practice, and therefore the zoning classification of that certain tracts or parcels of land consisting of a 81.883 acre tract of land is hereby amended and rezoned from the zoning classification of Agriculture (A-1) to Rural Residential (RR) with the following proffered conditions:

1. Number of Units No more than 41 residential single-family dwelling units shall be constructed on the Property.

2. **Right-of-Way Continuation** A maximum of 35 lots may be subdivided from Tax Parcel 126-4-1 before providing a sufficient Right-of-Way to adjacent Tax Parcel 127-A-17. At such time that a Thirty-Sixth lot is created from Tax Parcel 126-4-1, sufficient area will be dedicated for a Right-of-Way to Tax Parcel 127-A-17. The area shall be sufficient in size in order to meet VDOT's Subdivision Street Requirements.
3. **Riparian Buffer** A riparian buffer/open space easement will be provided along perennial streams. This buffer will be provided to protect existing streams and shall be a minimum of 35-feet in width starting at each edge of the stream. Vehicular crossings and any proposed best management practices shall be allowed within said buffer/open space.
4. **Drainfields** On-site septic disposal systems shall be placed on the lot they are to serve, however, in the event of a future drainfield failure, a lot owner may use adjoining property to locate and construct a drainfield repair. In no case shall "mass drainfields" be allowed. Any proposed drainfield sites shall be located a minimum of 75-feet from perennial streams.
5. **Stormwater Management** Stormwater management and erosion and sediment control measures shall be submitted for review and approval to DEQ under the Virginia Water Protection Permitting guidelines. These guidelines require Best Management Practices to be utilized to reduce Stream Impacts from developed, disturbed, or altered sites.

The actions were commenced upon the application of George Lucas (Agent: Gay & Neel, Inc.).

The property is located approximately 2500 feet northeast from the intersection of Childress Road (Route # 693) and Dry Valley Road (Route # 787), and is identified as Tax Parcel No. 126-4-1, (Acct # 130079) in the Riner Magisterial District (District D). The property currently lies in an area designated as Rural in the Comprehensive Plan.

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Annette S. Perkins
Gary D. Creed		
Doug Marris		
Mary W. Biggs		
James D. Politis		
Steve L. Spradlin		

ORD-FY-07-04
AN ORDINANCE AMENDING CHAPTER 3, ARTICLE V
ENTITLED DANGEROUS OR VICIOUS DOGS,
SECTIONS 3-50 THROUGH 3-54
RESPECTIVELY OF THE CODE OF MONTGOMERY COUNTY, VIRGINIA,
IN ORDER TO INCORPORATE THE STATE ENABLING LAW CHANGES
REGULATING DANGEROUS OR VICIOUS DOGS

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

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 3, Article V, Sections 3-50 through 3-54 respectively of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

ARTICLE V. DANGEROUS OR VICIOUS DOGS

Sec. 3-50. Definitions.

For the purpose of this article the following words and phrases shall have the meanings respectively ascribed to them by this section.

Dangerous dog means a canine or canine crossbreed that has bitten, attacked or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat, however, when a dog attacks or bites ~~another dog~~ a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the ~~other~~ dog or cat as a result of the attack or bite ~~or~~ (ii) if both dogs animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the Court. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on ~~another a dog or cat~~ while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

Vicious dog means a canine or canine crossbreed that has:

- (1) Killed a person;
- (2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of a bodily function; or
- (3) Continued to exhibit the behavior that resulted in a previous finding by a court or on or before July 1, 2006 by an animal control officer as authorized by the provisions of section 3-51(b) that it is a dangerous dog, provided that its owner has been given notice of that finding.

Sec. 3-51. Finding of dangerous or vicious dog.

(a) Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within Montgomery County is a dangerous dog or vicious dog shall apply to a magistrate for the issuance of a summons requiring the owner or custodian, if known, to appear before the Montgomery County General District Court at a specified time. The summons shall advise the owner or custodian of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a summons, he or she shall contact the local animal control officer and inform him or her of the location of the dog and the relevant facts pertaining to his or her belief that the dog is dangerous or vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, the animal control officer may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered.

~~(b) Notwithstanding the provisions of section 3-51(a), the animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, the animal control officer may order the animal's owner to comply with the provisions of this article. If the animal's owner disagrees with the animal control officer's determination, the owner may appeal the determination to the Montgomery County General District Court for a trial on the merits.~~

~~(e)~~ (b) The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this article and to pay any impound fees to the County of Montgomery for confining the animal until the hearing. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of section 3.1-796.119 of the Code of Virginia, 1950, as amended.

Sec. 3-52. Dangerous dog certificate.

(a) The owner of any animal found to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the animal control officer for a fee of fifty dollars (\$50.00). The animal control officer shall provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this article shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.

(b) All certificates or renewals thereof required to be obtained under this article shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence that:

- (1) The animal has been neutered or spayed and has a current rabies vaccination;
- (2) The animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed;
- (3) The owner has liability coverage, to the value of at least one hundred thousand dollars (\$100,000) that covers animal bites. The owner may obtain and maintain a bond in surety in lieu of liability insurance to the value of at least \$100,000.;
- (4) The owner's residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and
- (5) The owner has permanently identified the animal by means of a tattoo on the inside thigh or by electronic implantation.

(c) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this article.

Sec. 3-53. Requirements for dangerous dogs.

(a) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature.

(b) When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(c) After an animal has been found to be a dangerous dog, the animal's owner shall immediately upon learning of same, ~~notify~~ cause the animal control officer to be notified if the animal:

- (1) Is loose or unconfined;
- (2) Bites a person or attacks another animal; or

(3) Is sold, given away or dies. ~~or~~

~~-(4) Has been moved to a different address.~~

(d) Any owner of a dangerous dog who relocated to a new address shall, within ten (10) days of relocating, provide written notice to the animal control officer as to where the animal has been moved and notify the appropriate animal control officer where the animal has been moved if that address is outside of Montgomery County.

(e) The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under §3.1-796.93:3, within 45 days of such a finding by the court of competent jurisdiction. The owner shall also cause the animal control officer to be promptly notified of (i) the names, addresses, and telephone number of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or such; (vi) proof of insurance or a surety bond; and (vii) the death of the dog.

Sec. 3-54. Exemptions.

(a) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed nor ~~shall~~ is the ownership of a particular breed of canine or canine crossbreed be prohibited.

(b) No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was:

(1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;

(2) Committing, at the time, a willful trespass ~~or other tort~~ upon the premises occupied by the animal's owner or custodian; or

(3) Provoking, tormenting or physically abusing the animal or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times.

(c) No police dog which was engaged in the performance of its duties at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog.

(d) No animal which, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person or its ~~owner or~~ owner's or custodian's property, shall be found to be a dangerous dog or a vicious dog.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Annette S. Perkins
Doug Marrs		
Mary W. Biggs		
James D. Politis		
John A. Muffo		
Steve L. Spradlin		

R-FY-07-39
REVENUE SHARING PROJECT
TRANSFER OF FUNDS
CRAIG'S CREEK ROAD (SR 621)

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

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby requests the Virginia Department of Transportation to transfer \$154,551.54 from Revenue Sharing Project 808-060-221, N501 UPC number 74068 to Project 0621-060-P56, M504 UPC number 4666 for the purpose of doing grading work.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Doug Marrs	None	Annette S. Perkins
Mary W. Biggs		
James D. Politis		
John A. Muffo		
Gary D. Creed		
Steve L. Spradlin		

R-FY-07-40
AWARD CONTRACT
HEALTH STAT

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

BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia hereby authorizes the County Administrator to sign a contract with Health Stat, Inc. for the provision of disease management services through an on-site clinic staffed with a Nurse Practitioner.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
James D. Politis	None	Annette S. Perkins
John A. Muffo		
Gary D. Creed		
Doug Marrs		
Mary W. Biggs		
Steve L. Spradlin		

R-FY-07-41
AMEND CLASSIFICATION PLAN
PUBLIC SERVICE AUTHORITY

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

WHEREAS, The Public Service Authority (PSA) has requested the Board of Supervisors to amend the County Classification Plan so that the PSA Maintenance Supervisor position is no longer regarded as an exempt position under the Fair Labor Standards Act; and

WHEREAS, This position has historically been exempt due to the supervisory and management responsibilities that the position held; and

WHEREAS, The PSA Director has agreed to assume these responsibilities for the Maintenance division of the Authority, thereby allowing the position to be non-exempt, and eligible for overtime hours worked over 40 hours per week, or the compensatory leave equivalent; and

WHEREAS, The Human Resources Director has concurred that the position will meet the criteria for non-exempt with the implementation of the above changes.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby amends the County Classification Plan so that the PSA Maintenance Supervisor position is no longer regarded as an exempt position under the Fair Labor Standards Act.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Annette S. Perkins
Gary D. Creed		
Doug Marrs		
Mary W. Biggs		
James D. Politis		
Steve L. Spradlin		

R-FY-07-42
MEMORANDUM OF AGREEMENT
PUBLIC SAFETY SHOOTING RANGE

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

WHEREAS, The Town of Blacksburg, the Town of Christiansburg, the County of Montgomery, the Montgomery County Sheriff's Office, and the New River Criminal Justice Training Academy desire to maximize the training of law enforcement officers in their jurisdictions in the use of firearms by combining resources and making the most efficient use of possible law enforcement firearms training opportunities; and

WHEREAS, Montgomery County owns appropriate land identified in the Denhill area of Montgomery County suitable for the development of a cooperative law enforcement firearms training facility; and

WHEREAS, The Board of Supervisors approved a special use permit on July 11, 2005 authorizing the use of property for a public safety shooting range and associated training and storage buildings.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby authorizes B. Clayton Goodman, III, County Administrator, to execute a Memorandum of Agreement between the Town of Blacksburg, the Town of Christiansburg, the County of Montgomery, the Montgomery County Sheriff's Office, and the New River Criminal Justice Training Academy.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Annette S. Perkins
Mary W. Biggs		
James D. Politis		
John A. Muffo		
Doug Marrs		
Steve L. Spradlin		

R-FY-07-43
RESOLUTION AUTHORIZING THE PAYMENT OF \$129,000 IN
WATER/SEWER INCENTIVE PROGRAM GRANT MONEY TO THE
PUBLIC SERVICE AUTHORITY
BY PROVIDING A CREDIT OF EQUAL VALUE TO THE
AMOUNT THE PSA OWES THE COUNTY

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

WHEREAS, The Montgomery County Public Service Authority (“PSA”) established an Incentive Program to get existing residents to agree to connect to the public water and/or sewer service that adjoins their property; and

WHEREAS, The Montgomery County Board of Supervisors agrees to participate in the Incentive Program by providing grant money to cover the facility fees for those existing residents who agreed to connect to public water and/or sewer service; and

WHEREAS, The Board agrees to compensate the PSA for the facility fees by reducing the outstanding debt owed to the County in an amount equal to the facility fees owed under the Grant Program; and

WHEREAS, The PSA has reported that there were 47 water connections and 14 sewer connections made by existing residents under the PSA Incentive Program totaling \$129,000 in facility fees owed to the PSA by the County.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board hereby agrees to pay the PSA for the facility fees for the 61 existing residents who agreed to connect to the PSA water or sewer service under the Incentive Program by reducing the PSA outstanding debt owed the County in the amount of \$129,000.

The vote on the foregoing resolution was as follows:

AYE

Mary W. Biggs
James D. Politis
Doug Marrs
Gary D. Creed
Steve L. Spradlin

NAY

None

ABSTAIN

John A. Muffo

ABSENT

Annette S. Perkins

R-FY-07-44
A RESOLUTION FORGIVING THE REMAINING DEBT OWED
THE COUNTY BY THE MONTGOMERY COUNTY
PUBLIC SERVICE AUTHORITY

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

WHEREAS, The Board of Directors of the Montgomery County Public Service Authority has requested by Resolution that the Board of Supervisors consider forgiving the remaining debt owed by the Authority to the County; and

WHEREAS, Following the approval of the \$129,000 Incentive Program Credit by the Board of Supervisors, the Montgomery County Public Service Authority owes the County an amount not expected to exceed more than \$94,000, which is the outstanding amount still owed the County from the \$150,000 loan made to the Authority for the Huckleberry Sewer Upgrade Project; and

WHEREAS, The Board of Supervisors desires to forgive the remaining amount not to exceed \$94,000 and any accrued interest owed the County by the Authority.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby agrees to forgive remaining debt and any accrued interest due still owed the County not to exceed \$94,000 by the Montgomery County Public Service Authority.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mary W. Biggs	James D. Politis	John A. Muffo	Annette S. Perkins
Doug Marrs			
Gary d. Creed			
Steve L. Spradlin			

Supervisor Biggs stated for the record that she voted to approve this resolution; however, she does not want the PSA to come back to the Board of Supervisors with any more requests to forgive any money owed to the County.

COUNTY ADMINISTRATOR'S REPORT

General Reassessment – The reassessment is almost complete and reassessment notices will be mailed out on or about November 1, 2006. The County Administrator suggested a work session be held either October 16, 2006 or October 30, 2006 to brief the Board on the reassessment process and the new on-line site for reassessment.

Auburn Strand School- Lot Coverage Issues At the Board's joint meeting with the School Board on August 29, 2006, the Board requested information on the lot coverage at the Auburn Middle/High School site under the current zoning of Agriculture. Under this zoning no more than 20% of any lot can be covered by buildings or other impervious surfaces unless approved by a special use permit. A maximum of 16% coverage would be permitted by right. If the property is rezoned to General Business, 40% coverage would be permitted and would allow lighted parks. If rezoned to Residential (R-2) a 30% coverage would be permitted. A memo outlining this information was submitted by the Planning Director and will be forwarded to the Board.

Literacy Volunteers of the New River Valley is applying for a Big Read Grant from the National Endowment of the Arts, up to \$20,000, and is asking for a letter of support from Montgomery County. There is no local match.

Public Information Officer The County Administrator announced the resignation of the County's Public Information Officer, Robert Parker. Mr. Parker has accepted a position with the Health Department as the regional Public Information Director for 10 cities and 29 counties in Southwest Virginia.

P.A. System and Name Identification in Board Chambers

The Public Information Officer provided information on options and recommendations for improving the sound and video quality in the Board of Supervisors meeting chamber for both the audience in the chambers and for the cable T.V. viewing audience.

BOARD MEMBERS' REPORTS

Supervisor Biggs believes the Board of Supervisors should contact Delegate Nutter and Delegate Shuler to voice the County's concern that the State be responsible for any shortfall to the school system due to the states error in miscalculating the state sales tax. The Board agreed a letter should be sent and the Chair and Vice-Chair follow-up with phone calls.

Virginia Department of Education public hearing on the Standards of Quality Supervisor Biggs reported she attended the public hearing earlier tonight in order to request the State to increase funding for the Standards of Quality.

Virginia Association of Counties (VACo) – Supervisor Biggs attended VACo's Education Steering Committee meeting on September 8, 2006 and reported that VACo is considering restructuring the number of steering committees.

County Dog Park – Supervisor Biggs received interest from citizens for a dog park in the County. She stated that the issue is land and funding; however, citizens are willing to volunteer to help.

County-Wide Cat Problem - Supervisor Biggs expressed concern with problems the County is having with cats. This is not a new issue and she believes the County needs to adopt an ordinance.

Supervisor Creed Consolidated Collection Sites – Paving - Supervisor Creed asked the status of paving the Consolidated Collection Sites.

Kirk Hollow Road (SR 690) - Supervisor Creed believes one of the problems residents are having on Kirk Hollow Road is that motorists are not stopping at the stop sign as you come off Briggs Road. He asked that the Sheriff patrol this area to warn motorists.

Appraisal of Potential Elliston/Lafayette Elementary School Site - Supervisor Creed suggested that the Board of Supervisors proceed with getting an appraisal on a potential school site for the Elliston/Lafayette Elementary School.

R-FY-07-45
APPRAISAL ON POTENTIAL
ELLISTON/LAFAYETTE ELEMENTARY SCHOOL SITE

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

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby instructs the County Administrator to obtain an appraisal on a potential Elliston/Lafayette Elementary School Site.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	Doug Marrs	Annette S. Perkins
James D. Politis		
Mary W. Biggs		
Gary D. Creed		
Steve L. Spradlin		

ADJOURNMENT

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously, the Board adjourned to Monday September 25, 2006 at 6:00 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
James D. Politis	None	Annette S. Perkins
John A. Muffo		
Doug Marrs		
Gary D. Creed		
Mary W. Biggs		
Steve L. Spradlin		

The meeting adjourned at 11:30 p.m.

APPROVED: _____ ATTEST: _____

Steve L. Spradlin
Chair

B. Clayton Goodman, III
County Administrator