

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 8TH DAY OF SEPTEMBER 2003, AT 7:15 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Larry N. Rush	-Chair
	Annette S. Perkins	-Vice Chairman
	Mary W. Biggs	-Supervisors
	Gary D. Creed	
	John A. Muffo	
	C.P. Shorter	
	Jeffrey D. Johnson	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	Robert C. Parker	-Public Information Officer
	Ron Bonnema	-County Engineer
	Vickie L. Swinney	-Secretary
ABSENT:	James D. Politis	-Supervisor

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The Chair called the meeting to order and the Pledge of Allegiance was recited.

PRESENTATION - RESOLUTION OF COMMEMORATION FOR REVEREND JOHN PRICE, JR.

The Chairman presented a resolution of commemoration to the late Reverend John Price, Jr., to members of the Asbury United Methodist Church. Reverend Price was Pastor of Asbury United Church and served on several county boards and commissions.

PUBLIC HEARING

Amendment to the Six Year Road Plan for Improvement to the State Secondary Highway System

Amendment to the Six Year Road Plan for Improvement to the State Secondary Highway System in Montgomery County, Virginia for Fiscal Years 2003-2009 to include Stroubles Creek (SR 619).

Charlie Bowles addressed the Board about concerns with road maintenance issues throughout the County. Mr. Bowles believes the maintenance of secondary roads should be a higher priority for the Virginia Department of Transportation. He requested the Board to check to see if Sidney Church Road could be added to the Rural Rustic Road Program.

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

PUBLIC ADDRESS

Judy Poff requested the Board to add Fishers View Road (SR 609) back to the Six Year Road Plan. Ms. Poff stated that Fishers View Road has been on the Six Year Road Plan for 18 years, and she would appreciate any help from the Board.

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

ADD TO THE AGENDA - ADDENDUM

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously, the following addendum dated September 8, 2003 was added to the Consent Agenda:

Schedule a Joint Public Hearing - Board of Supervisors and Department of Transportation (VDOT)

To hear citizens' comments on the proposed **Six Year Plan for Improvement of the Secondary System of Highways for Montgomery County** and establishment of priorities for the 2004-2005 budget years.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs None C.P. Shorter Annette S. Perkins Gary D. Creed		James D. Politis

John A. Muffo
Larry N. Rush

E-911 Street Name - Request to Name a Private Street - Hokie Drive

At the request of Supervisor Muffo, the above listed item was removed from the Consent Agenda. Supervisor Muffo explained that the word "Hokie" is copy righted by Virginia Tech and they are not willing to release the use of the name.

CONSENT AGENDA

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously, the Consent Agenda dated September 8, 2003 was approved with the removal of the following:

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	James D. Politis
Gary D. Creed		
Annette S. Perkins		
C.P. Shorter		
Mary W. Biggs		
Larry N. Rush		

Approval of Minutes Dated July 28, 2003 and August 13, 2003

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously, the minutes dated July 28, 2003 and August 13, 2003 were approved.

League of Women Votersm - Transfer from General Contingencies

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

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

FROM:
950 General Contingencies (\$200)

TO:

910 Other Agencies
League of Women Voters \$200

Said resolution transfers funds from General Contingencies to support the League of Women Voters publication of the *2004 Facts for Voters*.

Commonwealth's Attorney and Sheriff - Forfeited Asset Sharing Program

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004, for the function and in the amount as follows:

200 Commonwealth's Attorney \$593

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

419104	Confiscations-Commonwealth's Attorney	\$ 61
451205	Fund Balance	<u>\$ 532</u>
	Total	\$ 593

Said resolution appropriates monies received in FY03/04 as part of the Forfeited Asset Sharing Program from the Department of Criminal Justice Services and appropriates the unexpended portion of funds received as part of this program in prior years.

Jail Block Grant Funds: Reappropriation

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004 for the function and in the amount as follows:

310 Sheriff - Comp Board \$ 37,288

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

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Revenue Account

451205 Designated Fund Balance-Jail Block Grant \$37,288

Said resolution appropriates monies from the state Jail Block Grant carryover from the prior year.

Grant Appropriation: Dry Well Replacement Program

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By The Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004 for the function and in the amount as follows:

801 Dry Well Replacement Grant \$23,000

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

Revenue Account

424401 Dry Well Replacement Grant \$23,000

Said resolution appropriates monies from the Department of Housing and Community Development for the Dry Well Replacement Program Grant.

Comprehensive Services Act

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004, for the function and in the amount as follows:

510 Comprehensive Services Act \$167,765

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

02510-424445 Comprehensive Services Act \$120,220
02-451205 Designated Fund Balance \$ 47,545
Total \$167,765

Said resolution reappropriates the state Comprehensive Services Act allocation and the corresponding local match remaining at June 30, 2003 for use in FY 04 for goods and services received in FY 03.

Reappropriation of CIP Projects

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the County Capital Projects Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004, for the function and in the amount as follows:

700	Elliston/Lafayette Recreational Park	\$ 3,995
710	Alleghany Library	<u>\$10,770</u>
	Total	\$14,765

The source of funds for the foregoing appropriation is as follows:

Revenue Accounts:

451205	Designated Fund Balance	\$14,765
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Said resolution appropriates the available account balances for CIP projects, these balances are in addition to the resolution approved by the Board of Supervisors at its July 14, 2003 meeting.

School Operating Fund- Carry Forward of Funds

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the School Operating Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004, for the function and in the amount as follows:

564000	Operations and Maintenance	209,778
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The source of funds for the foregoing appropriation is as follows:

Revenue Account:

451204 Fund Balance \$209,778

Said resolution appropriates unspent school operating funds remaining at June 30, 2003.

Sheriff - Grant Appropriation

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004 for the function and in the amount as follows:

321 Sheriff Grants \$6,667

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

424401	State Grants	\$5,000
451202	Undesignated Fund Balance	<u>\$1,667</u>
	Total	\$6,667

Said resolution appropriates monies from a Multiple Agency Radio Interoperability Radio Interface grant.

Joint Public Hearing - Board of Supervisors and Department of Transportation (VDOT)

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby schedules a joint public hearing with the Virginia Department of Transportation (VDOT) on Tuesday, October 14, 2003 at 7:15 p.m. in the Board Chambers, Montgomery County Government Center, 755 Roanoke Street, Christiansburg, Virginia to hear citizens' comments on the proposed **Six Year Plan for Improvement of the Secondary System of Highways for Montgomery County** and establishment of priorities for the 2004-2005 budget years. Rural Addition requests will also be received at this public hearing.

BE IT FURTHER RESOLVED, That the Virginia Department of Transportation will assure proper advertising of said public hearing.

OLD BUSINESS

Conveyance of a Non Exclusive Right-of-Way - Texas Road

On a motion by Annette S. Perkins, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby agrees to convey a nonexclusive, perpetual forty (40) foot right- of- way from Woods Vista Drive heading south along an existing gravel road referred to as Texas Road to Ralph E. Martin and the forty foot right- of- way shall be 10 feet on the west side of the centerline of Texas Road and 30 feet on the east side of the centerline of Texas Road.

BE IT FURTHER RESOLVED, The Board of Supervisors hereby authorizes Larry N. Rush, Chairman of the Board of Supervisors, to sign the Deed of Right-of-Way conveying the above referenced forty (40) foot right of way to Ralph E. Martin on behalf of the Board of Supervisors of Montgomery County.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed Annette S. Perkins C.P. Shorter Mary W. Biggs John A. Muffo Larry N. Rush	None	James D. Politis

Amendment to Chapter 8, Article III, Section 8-64 - Entitled Erosion and Sediment Control

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously,

Ordinance 2003-19
An Ordinance Amending Chapter 8 Article III, Section 8-64
Of the Code of the County of Montgomery, Virginia,
Entitled Erosion and Sediment Control by Requiring
Certain Information Before Land Disturbing Activities Take Place
and by Waiving the Certificate of Competence
Requirement for an Agreement in Lieu of a Plan

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 8, Section 8-64 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

Sec. 8-64. Regulated land disturbing activities; submission and approval of plans; contents of plans.

(a) Except as provided herein, no person may engage in any land disturbing activity until he has submitted to the engineer for Montgomery County an erosion and sediment control plan for the land disturbing activity and such plan has been reviewed and approved by the plan approving authority. Where land disturbing activities involve lands under the jurisdiction of more than one (1) local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the board for review and approval rather than to each jurisdiction concerned.

Where the land disturbing activity results from the construction of single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan approving authority.

(b) The standards contained within the Virginia Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook are to be used by the applicant when making a submittal under the provisions of this section and in the preparation of an erosion and sediment control plan. The plan approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the state regulations shall take precedence.

(c) The plan approving authority shall, within forty-five (45) days, approve any such plan if it is determined that the plan meets the requirements of the local control program, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this section. In addition, as a prerequisite to approval of the plan engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, as provided by section 10.1-561 of the Code of Virginia, 1950, as amended, who will be in

charge of and responsible for carrying out the land-disturbing activity. The certificate of competence requirement shall be waived for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence as provided by Section 10.1-561 of the Code of Virginia, 1959, as amended.

(d) The plan shall be acted upon within forty-five (45) days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.

When a plan is determined to be inadequate, written notice of disapproval stating the specific reason for disapproval shall be communicated to applicant within forty-five (45) days. The plan approving authority shall specify the modifications, terms and conditions that will permit approval of the plan. If no action is taken by the plan approving authority within forty-five (45) days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

(e) An approved plan may be changed by the plan approving authority in the following cases:

(1) Where inspection has revealed that the plan is inadequate to satisfy applicable regulations;

(2) Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this section, are agreed to by the plan approving authority and the person responsible for carrying out the plans.

(f) In order to prevent further erosion, Montgomery County may require approval of a conservation plan for any land identified in the local program as an erosion impact area.

(g) When land disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

(h) Whenever electric, natural gas and telephone utility companies, interstate and intrastate natural gas companies or railroad companies undertake any of the activities included in subsections (h)(1) and (2), they shall be considered exempt from the provisions of this section.

(1) Construction, installation and maintenance of electric transmission, natural gas and telephone utility lines and pipelines, and

(2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Projects not included in subsections (h)(1) and (2) shall comply with the requirements of the Montgomery County erosion and sediment control program, pursuant to Section 10.1-563D, Code of Virginia.

(i) State agency projects are exempt from the provisions of this section except as provided for in Section 10.1-564, Code of Virginia.

ADOPTED, by the Board of Supervisors of the County of Montgomery, Virginia, this 8th day of September, 2003.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
C.P. Shorter	None	James D. Politis
Mary W. Biggs		
John A. Muffo		
Annette S. Perkins		
Gary D. Creed		
Larry N. Rush		

Amendment to Chapter 3, Sections 3-7, 3-28, 3-28.5, 3-28.7, 3-33, 3-50, 3-52 of the Code of the County of Montgomery, Virginia Entitled Animals

On a motion by C.P. Shorter, seconded by Gary D. Creed and carried unanimously,

2003-20
An Ordinance Amending Chapter 3,
Sections 3-7, 3-28, 3-28.5, 3-28.7, 3-33, 3-50
And 3-52 Respectively of the
Code of the County of Montgomery, Virginia,
Entitled Animals in Order to Comply with
Various State Enabling Legislation Changes

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 3, Sections 3-7, 3-28, 3-28.5, 3-28.7, 3-33, 3-59 and 3-52 respectively of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

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Sec. 3-7. Cruelty to animals; penalty.

(a) Any person who does any of the following shall be guilty of a class 1 misdemeanor:

- (1) Overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; or
- (2) Deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; or
- (3) Willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or
- (4) Carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or
- (5) Causes any of the above things, or being the owner of such animal permits such acts to be done by another.

~~(b) Any person who abandons any dog, cat or other domesticated animal in any public place including the right-of-way of any public highway, road or street or on the property of another shall be guilty of a class 3 misdemeanor.~~

~~(b)~~ (e) Nothing in this section shall be construed to prohibit the dehorning of cattle.

~~(c)~~ (d) For the purposes of this section, the word animal shall be construed to include birds and fowl.

Sec. 3-28. County dog pound; confinement and disposition of stray dogs.

(a) Rules and regulations for the operation of the county dog pound consistent with this article may be adopted from time-to-time by resolution of the board of supervisors.

(b) Dogs running at large without the tag required by this article shall be confined in the county dog pound for a period of not less than five (5) days, such period to commence on the day immediately following the day the dog is initially confined in the facility unless sooner claimed by the rightful owner.

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(c) The operator or custodian of the pound shall make a reasonable effort to ascertain whether the dog has a collar, tag, license, tattoo or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five (5) days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next forty-eight (48) hours following the animal's confinement. If the animal confined pursuant to this section is claimed by its rightful owner, such owner shall be charged with the actual expenses incurred in keeping the animal impounded.

(d) Either a custodian of a dog or an individual who has found a dog may qualify as owner and may claim the dog by expressing his or her desire in writing to claim the dog at the expiration of the appropriate holding period set out in this section and after payment of the required license fee.

(e) If an animal confined pursuant to this section has not been claimed upon expiration of the appropriate holding period, the animal shall be deemed abandoned and become the property of the pound. ~~If Such abandoned animal did not when delivered to the pound bear a collar, tag, license, tattoo, or other form of identification,~~ may be humanely destroyed or disposed of by the methods set forth in (1) through (5). The pound shall not release more than two animals or a family of animals during any 30-day period to any one person under subdivisions (2), (3) or (4).

~~(1) Sale or gift to a federal agency, state-supported institution, agency of the commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the commonwealth, provided that such agency, institution or dealer agrees to confine the animal for an additional period of not less than five (5) days;~~

~~(1) (2) Deliver~~ Release to any humane society, or animal shelter or other releasing agency within the commonwealth provided that each humane society, animal shelter, or other releasing agency obtain a signed statement from each of its directors, operators, staff or animal care givers specifying that each has never been convicted of animal cruelty, neglect or abandonment and updates such statements as changes occur.

~~(2) (3) Adoption by any person who~~ a resident of the county and who will pay the required license fee, if any, on such animal provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect or abandonment.

~~(3) (4) Adoption by a resident of an adjacent political subdivision of the commonwealth to the county~~ provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect or abandonment.

~~(4)~~ (5) Adoption by any other person, provided that such person has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment and provided that no animal may be adopted by any person who is not a resident of the county or of an adjacent political subdivision unless the animal is first sterilized and the sterilization shall be done at the expense of the person adopting the animal.

~~(5)~~ (6) ~~Delivery; Release~~ for the purposes of adoption or euthanasia only, to a ~~humane society or~~ an animal shelter or other releasing agency located in and lawfully operating under the laws of another state, provided that such ~~humane society or~~ animal shelter or other releasing agency: (i) maintains records which would comply with section 3.1-796.105 of the Code of Virginia, 1950, as amended; (ii) requires that adopted dogs and cats be sterilized; obtains a signed statement from each of its directors, operators, staff and animal care givers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment and updates such statement as changes occur; and (v) provided to the pound a statement signed by an authorized representative specifying entity's compliance with clauses (i) through (iii) and the persons of adequate care and performance of humane euthanasia, and (iii) has been approved by the state veterinarian or his designee as a facility which maintains such records, requires adopted dogs and cats to be sterilized, and provides adequate care and euthanasia. If such abandoned animal when delivered to the pound bore a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by the methods described in subsections (2), (3), (4) or (5) above. The pound shall not deliver more than two (2) animals or a family of animals during any thirty-day period to any one person under the methods described in subsections (3), (4) or (5) above.

(f) No provision in this section shall prohibit the immediate euthanasia ~~destruction~~ of a critically injured or critically ill or unweaned animal for humane purposes. Any animal euthanized ~~destroyed~~ pursuant to the provisions of this article shall be euthanized by one (1) of the methods prescribed or approved by the state veterinarian. The pound shall be accessible to the public at reasonable hours during the week. Nothing in this section shall be construed to prohibit confinement of other companion animals in such a pound or enclosure. Neither shall any provision in this section prohibit the euthanasia ~~destruction~~, for humane purposes, of any animal not weaned, whether or not the animal is critically injured or critically ill.

(g) No provision in this section shall prohibit the immediate euthanasia ~~destruction~~ or disposal by the methods listed in subsections (1) (2) through (5) (6) of subsection (e) of an animal that has been ~~delivered voluntarily or~~ released to the county pound, animal shelter, animal control officer or ~~humane society~~ other releasing agency by the animal's rightful owners after the rightful owner has, ~~in writing, surrendered~~ read and signed a statement (1) surrendering all property rights in such animal and has read and signed a statement (i) certifying (ii) stating that no other person has a right of property in the animal and (iii) (ii) acknowledging that the animal may be immediately euthanized or disposed of ~~by the methods listed in subsections~~ in accordance with subdivisions (1) (2) through (5) (6) of subsection (e).

Sec. 3-28.5. Exemptions .

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This article [sections 3-28.1 through 3-28.7] shall not apply to:

(1) An owner reclaiming his dog from the county dog pound;

~~(2) Disposal of an animal by sale or gift to a federal agency, state-supported institution, agency of the commonwealth, agency of another state, or licensed federal dealer having its principal place of business located within the commonwealth.~~

Sec. 3-28.7. Civil penalties.

Any animal control officer, humane investigator, releasing agency, the state veterinarian or the state veterinarian representative shall be entitled to bring a civil action for any violation which is subject to a civil penalty. Any civil penalty assessed pursuant to this article shall be paid into the treasury of Montgomery County and used for the purpose of defraying the costs of local animal control, including efforts to promote sterilization of dogs.

Sec. 3-33. Rabid animals.

(a) Dogs or cats showing active signs of rabies or which are suspected of having rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. If confinement is impossible or impracticable, such dog or cat shall be euthanized by one (1) of the methods approved by state veterinarian as provided in section 3.1-796.96, of the 1950 Code of Virginia, as amended.

(b) Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

(c) Any dog or cat which no proof of current rabies vaccination is available, and which is exposed to rabies through a bite, or through saliva or central nervous system tissue in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies, shall be confined in a pound, kennel or enclosure approved by the health department for a period not to exceed six (6) months at the expense of the owner. However, if this is not feasible the dog or cat shall be euthanized by one (1) of the methods approved by the state veterinarian as provided in section 3.1-796.96 of the 1950 Code of Virginia, as amended. A rabies vaccination shall be administered prior to release. Inactivated rabies vaccine may be administered at the beginning of confinement. Any dog or cat so bitten or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane with proof of a valid rabies vaccination, shall be revaccinated immediately following the bite and shall be confined to the premises of the owner, or other site as may be approved by the health department for a period of forty-five (45) ~~ninety (90)~~ days.

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(d) At the discretion of the director of the health department, any animal ~~which~~ that has bitten a person shall be confined under competent observation for ten (10) days, unless the animal develops active symptoms of rabies or expires before that time. A seriously injured or sick animal may be humanely euthanized as provided in section 3.1-796.96 of the 1950 Code of Virginia, as amended, and its head sent to the division of consolidated laboratory services of the state department of general services, or the local health department, for evaluation.

(e) When any potential rabid animal, other than a dog or cat, exposes or may have exposed a person to rabies through a bite or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, that animal shall be confined at the discretion of the local health director in a manner approved by the health department or humanely euthanized as provided in section 3.1-796.96 of the 1950 Code of Virginia, as amended, and its head sent to the division of consolidated laboratory services of the department of general services or the local health department for evaluation.

(f) When any animal, other than dog or cat, is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies, that newly exposed animal shall be confined at the discretion of the local health director in a manner approved by the health department or humanely euthanized as provided in section 3.1-796.96 of the 1950 Code of Virginia, as amended.

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 ~~which~~ that has bitten, attacked or inflicted injury on a person or companion animal, ~~other than a dog or killed a companion animal, however, when a dog attacks or bites another dog, 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 as a result of the attack or bite or (ii) both dogs are owned by the same person. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog 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 ~~which~~ 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 ~~which~~ that resulted in a previous finding by a court or 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. 3-52. 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.

(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;

(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 ~~fifty~~ One Hundred Thousand dollars (~~\$50,000~~) (\$100,000) that covers animal bites;

(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.

ADOPTED, By the Board of Supervisors of the County of Montgomery, Virginia, this 8th day of September, 2003.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	James D. Politis
Gary D. Creed		
C.P. Shorter		

Mary W. Biggs
John A. Muffo
Larry N. Rush

NEW BUSINESS

Escrow Requests-Appropriation

On a motion by Mary W. Biggs, seconded by C.P. Shorter 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, 2004, for the function and in the amount as follows:

100	Board of Supervisors	\$ 9,200
110	County Administrator	\$ 50,590
140	Information Management Services	\$ 182,914
152	Commissioner of Revenue	\$ 41,000
170	Registrar	\$ 23,618
180	Internal Services	\$ 81,000
210	Circuit Court	\$ 5,066
220	General District Court	\$ 1,350
230	Juvenile Domestic Relations	\$ 5,293
250	Circuit Court Clerk	\$ 55,667
320	Sheriff - County	\$ 14,014
400	General Services	\$ 405,735
520	Human Services	\$ 9,143
700	Parks and Recreation	\$ 30,000
800	Planning and Inspections	<u>\$ 17,400</u>
	Total	\$ 931,990

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

451205 General Fund Balance	\$ 897,990
451205 General Fund Balance – Jail Block	<u>34,000</u>
Total	\$ 931,990

Said resolution appropriates amounts recommended to be escrowed for use in the current year, FY 2003-04 to complete projects and to provide funding for liabilities over and above those encumbered by purchase orders.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	James D. Politis
Gary D. Creed		
C.P. Shorter		
Mary W. Biggs		
John A. Muffo		
Larry N. Rush		

County Capital Projects Fund -Advance of Bond Proceeds

On a motion by Mary W. Biggs, seconded by John A. Muffo 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 an advance from the General Fund to the County Capital Projects Fund for the fiscal year ending June 30, 2004 is hereby authorized, as follows:

General Fund

02-451209	Transfer to County Capital Projects Fund	\$2,400,000
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The source of funds for the foregoing appropriation is as follows:

02-451203	Undesignated General Fund Balance	\$2,400,000
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BE IT FURTHER RESOLVED, That an appropriation to the County Capital Projects Fund for the fiscal year ending June 30, 2004 is hereby authorized, as follows:

County Capital Projects Fund

121101C	Building C Renovations	\$2,400,000
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The source of funds for the foregoing appropriation is as follows

12-451100	Transfer from General Fund	\$2,400,000
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Said resolution transfers \$2,400,000 from the General Fund to the County Capital Projects Fund in advance of the proceeds from Courthouse Renovation bond sale. This resolution also appropriates the \$2,400,000, which allows for expenditures up to \$2,400,000 toward the renovations of Building C of the Government Center, which are incurred in advance of the receipt of bond proceeds.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	James D. Politis
C.P. Shorter		
Mary W. Biggs		
John A. Muffo		
Annette S. Perkins		
Larry N. Rush		

Service Rings for Volunteer Fire and Rescue Members

On a motion by Gary D. Creed, seconded by Annette S. Perkins and carried,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby authorizes the purchase of service rings for volunteer fire and rescue personnel of the Long Shop/McCoy Fire Department; Long Shop/McCoy Rescue Squad; Elliston Fire Department; Riner Fire Department; and the Shawsville Rescue Squad.

BE IT FURTHER RESOLVED, A transfer is authorized as follows:

FROM:

950 General Contingencies (\$15,000)

TO:

330 Fire and Rescue \$15,000

Said resolution transfers funds to Fire/Rescue for the purchase of service rings for volunteer fire and rescue personnel.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mary W. Biggs	C.P. Shorter	John A. Muffo	James D. Politis
Annette S. Perkins			
Gary D. Creed			
Larry N. Rush			

COUNTY ADMINISTRATOR'S REPORT

County Projects Update

The County Engineer gave updates on county construction projects as follows:

1. Development and maintenance of ball fields county-wide
2. Renovations of the Free Clinic of the New River Valley
3. New Long Shop/McCoy recycling and waste collection site
4. New Long Shop/McCoy Fire and Rescue Station
5. Mid-County Park restroom and trail improvements
6. Frog Pond parking lot paving
7. Methane gas remediation at the Mid-County Landfill

Media Projects

The Public Information Director presented two video projects prepared by the Public Information Office: Promotional video for economic development and the opening and closing segments for the Board of Supervisors meetings. The Public Information Director reported that they were ready to broadcast the Board meetings on the government access channels on the local cable station. The local cable companies provide a government access channel to local governments at no charge. The Board agreed to proceed with broadcasting its meetings on local cable t.v.

Authorization to Proceed with Broadcasting Board Meetings

On a motion by C.P. Shorter, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby approves broadcasting the Board of Supervisors meetings on the government access channels on Adelpia Cable T.V. and Charter Communications.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James D. Politis
C.P. Shorter		
Annette S. Perkins		
Gary D. Creed		
John A. Muffo		
Larry N. Rush		

County Administrator's Report Continued

Fluor Proposal - Improvements to I-81

The County Administrator has received a copy of Fluor's proposal for the Interstate 81 Corridor Improvement Project. Copies will be forwarded to the Board. The County Administrator explained that both proposals for improvement to I-81, the Fluor proposal and Star Solutions proposal, include a rail component.

BOARD MEMBERS' REPORTS

Supervisor Creed Donations for School Athletic Equipment Supervisor Creed stated that the Eastern Montgomery High School football field is in dire need of bleachers. They are still playing at the old high school, which houses the Shawsville Middle School. Chair Rush recalls the Montgomery Moose Lodge at one time offered to donate money toward school recreation. He will look into this and report back with the Board.

Supervisor Biggs - Rail Solution Supervisor Biggs was approached by Senator John Edwards and Delegate Jim Shuler and asked that the Montgomery County Board of Supervisors adopt a resolution supporting comprehensive rail approaches as part of any future transportation upgrades in the Interstate 81 corridor. Twenty four localities in Virginia have adopted resolutions in support of this concept. The County Administrator reported that both plans submitted to the Commonwealth Transportation Board for improvements along I-81 do include a rail component. This was done at the request of VDOT. A recommendation by the Metropolitan Planning Organization will be provided in the near future on the improvements to I-81. If this information is received before the next Board meeting, it will be included on the agenda.

Supervisor Shorter reminded Board members that the second anniversary for the Tom's Creek War Memorial will be held Saturday, September 13, 2003 starting at 10:00 a.m.

Warmhearth - Blacksburg Transit Supervisor Shorter reported that Warmhearth is still interested in the Blacksburg Transit scheduling bus service to Warmhearth. The County Administrator reported he talked with the Blacksburg Town Manager and was told it was not cost effective. Each bus would have to be handicap equipped. He will mention it again at the County/Town Liaison meeting. Supervisor Shorter suggested that a federal grant may be pursued to help with the cost. This idea will be added to the Metropolitan Planning Organization agenda.

Supervisor Muffo - Edward Via College of Osteopathic Medicine Supervisor Muffo noted that the opening of the new Via College of Osteopathic Medicine located at the Corporate Research Center will have a positive major impact on Montgomery County in the next few years.

Undergraduate Honors Class Supervisor Muffo reported that the Assistant County Administrator made a presentation on government to his undergraduate honors class. He expressed his appreciation to the Assistant County Administrator. This year his class will undertake two projects: 1) Library Planning; and 2) Emergency Services Planning. Students will meet with the appropriate county staff in the near future to start their projects.

Supervisor Rush Special License Fees for Motor Vehicles The Board adopted a resolution on October 14, 2002 requesting the General Assembly to grant the County the authority to issue special license fees on motor vehicles which the revenue would be contributed to school athletics. This request was denied by the General Assembly. The County Attorney advised the Board the County could issue special license fees if purchased voluntarily by the citizens. Chair Rush suggested the Board move forward with this project. A meeting with the Treasurer, County Administrator and County Attorney is to be scheduled to discuss the process.

INTO CLOSED SESSION

On a motion by Mary W. Biggs, seconded by C.P. Shorter 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 Administrator

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James D. Politis
C.P. Shorter		
Annette S. Perkins		
Gary D. Creed		
John A. Muffo		
Larry N. Rush		

OUT OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by C.P. Shorter 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</u>
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Mary W. Biggs None James D. Politis
C.P. Shorter
Annette S. Perkins
Gary D. Creed
John A. Muffo
Larry N. Rush

CERTIFICATION OF CLOSED MEETING

On a motion by Gary D. Creed, 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

Mary W. Biggs
C.P. Shorter
Annette S. Perkins
Gary D. Creed
John A. Muffo
Larry N. Rush

NAYS

None

ABSENT DURING VOTE

James D. Politis

ABSENT DURING MEETING

James D. Politis

OTHER BUSINESS

Extend Effective Date of County Administrator's Retirement

By consensus of the Board, the effective date for the County Administrator's retirement was extended to December 31, 2003.

Special Meeting - September 15, 2003

A special meeting of the Board of Supervisors is scheduled for Monday, September 15, 2003 at 7:15 p.m. in order to hold a closed meeting to review applications for the County Administrator's position.

ADJOURNMENT

On a motion by Annette S. Perkins, seconded by C.P. Shorter and carried unanimously, the Board adjourned to Monday, September 15, 2003 at 7:15 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James D. Politis
C.P. Shorter		
Annette S. Perkins		
Gary D. Creed		
John A. Muffo		
Larry N. Rush		

The meeting adjourned at 9:30 p.m.