

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA HELD ON THE 9TH DAY OF OCTOBER, 2001 AT 7:15 P.M. IN COURTROOM B, COUNTY COURTHOUSE, CHRISTIANSBURG, VIRGINIA:

PRESENT: Mary W. Biggs -Chair
Larry N. Rush (Arrived 8:35 p.m.) -Vice Chairman
John A. Muffo -Supervisors
Annette S. Perkins
James D. Politis
C.P. Shorter
Joe C. Stewart
Jeffrey D. Johnson -County Administrator
L. Carol Edmonds -Assistant County Administrator
Martin M. McMahon -County Attorney
T.C. Powers, Jr. -Planning Director
Ron Bonnema - County Engineer
Robert C. Parker -Public Information Officer
Vickie L. Swinney -Secretary

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

PUBLIC ADDRESS SESSION

Margaret Smith thanked the Board for changes to its recommendation regarding Route 8 in the Virginia Department of Transportation's 2020 Area Transportation Plan. She also asked that citizens be more involved in the process of reviewing the Comprehensive Plan, and that the Comprehensive Plan address regional issues.

ADD TO THE AGENDA - ADDENDUM

On a motion by John A. Muffo, seconded by C.P. Shorter and carried unanimously, the following addendum dated October 9, 2001 Was added to the agenda under Old Business:

-Comprehensive Plan Map Amendment - Maple Ridge Land LLC

-Rezoning Request - Maple Ridge Land LLC

The vote on the foregoing motion was as follows:

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

CONSENT AGENDA

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously, the Consent Agenda dated October 9, 2001 was approved.

The vote on the foregoing motion was as follows:

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

Approval of Minutes

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously, the minutes dated September 10, 2001 were approved.

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

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby schedules a joint public hearing with the Virginia Department of Transportation (VDOT) on Wednesday, November 14, 2001 at 7:15 p.m. in Courtroom B, County Courthouse, 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 2002-2003 budget year. Rural Additions 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.

Schedule Public Hearing - Proposed Ordinance Amending Chapter 8 Article III, Sections 8-64, 8-65, 8-66, 8-67, and 8-69 of the Code of the County of Montgomery, Virginia Entitled Erosion and Sediment Control

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia, hereby schedules a public hearing for Monday, November 26, 2001 at 7:15 p.m. in Courtroom B, County Courthouse, Christiansburg, Virginia for the purpose of receiving citizens' comments on the following:

Proposed Ordinance Amending the Erosion and Sediment Control Ordinance

An Ordinance Amending Sections 8-64, 8-65, 8-66, 8-67 and 8-69 Respectively of Chapter 8, Article III, of the Code of the County of Montgomery, Virginia, Entitled Erosion and Sediment Control in Order to Comply with the State Enabling Legislation.

ROAD MATTERS

Addition to Secondary System of State Highways - Mountainside Drive

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

WHEREAS, The street described below is shown on a plat recorded in the Clerk's Office of the Circuit Court was established prior to 1969 and currently serves at least 3 families per mile; and

WHEREAS, The Virginia Department of Transportation has deemed this county's current subdivision control ordinance meets all necessary requirements to qualify this county to recommend additions to the secondary system of state highways, pursuant to Section 33.1-72.1 Code of Virginia; and

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WHEREAS, After examining the ownership of all property abutting the street, this Board finds that speculative interest does not exist.

NOW, THEREFORE, BE IT RESOLVED, That the Montgomery County Board of Supervisors requests the Virginia Department of Transportation to add the following street to the secondary system of state highways, pursuant to Section 33.1-72.1(D), Code of Virginia:

ADDITION:

<u>Name of Street:</u>	<u>Length</u>
Mountainside Drive	0.14 mi

From: SR 1251
To: Turn Around

Plat Recorded: March 14, 1969
Plat Book: 5 Page 18

Plat Recorded: September 4, 2001
Plat Book: 22 Page 236

BE IT FURTHER RESOLVED, The Board guarantees a clear and unrestricted right-of-way of 40', as described, and any necessary easements for cuts, fills, and drainage; and

BE IT FURTHER RESOLVED, This Board requests the Virginia Department of Transportation to place said street into the secondary highway system of Montgomery County for maintenance pursuant to Section 33.1-72.1, Code of Virginia; and

BE IT FURTHER RESOLVED, That a certified copy of this resolution be forwarded to the Resident Engineer of the Virginia Department of Transportation.

OLD BUSINESS

An Ordinance Amending Chapter 3 Entitled Animals, Sections 3-28, 3-28.1, 3-28.2, 3-28.3, 3-28.7, 3-41 and 3-42 and Creating Article V Entitled Dangerous or Vicious Dogs Sections 3-50 Through 3-55

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

Ordinance 2001-12
An Ordinance Amending Chapter 3 Entitled Animals,
Sections 3-28, 3-28.1, 3-28.2, 3-28.3, 3-28.7, 3-41 And 3-42
And Creating Article V
Entitled Dangerous or Vicious Dogs
Sections 3-50 Through 3-55
Respectively of The
Code of The County of Montgomery, Virginia

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 3, Sections 3-28, 3-28.1, 3-28.2, 3-28.3, 3-28.7, 3-41 and 3-42 and Article V entitled Dangerous or Vicious Dogs Sections 3-50 through 3-55 respectively of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

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 at 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 thereof.

(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 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 animals 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, it may be humanely destroyed or disposed of by:

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 days;

2. Deliver to any humane society or animal shelter within the Commonwealth;

3. Adoption by any person who is a resident of the county and who will pay the required license fee, if any, on such animal;

4. Adoption by a resident of an adjacent political subdivision of the Commonwealth to the county;

5. Adoption by any other person, 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.

~~5. 6.~~ Delivery, for the purposes of adoption or euthanasia only, to a humane society or an animal shelter located in and lawfully operating under the laws of another state, provided that such humane society or animal shelter: (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; 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 Subdivisions (2), (3), ~~or~~ (4) ~~or~~ (5) above. The pound shall not deliver more than two animals or a family of animals during any thirty-day period to any one person under the methods described in Subdivisions (3), ~~or~~ (4) ~~or~~ (5) above.

(f) No provision in this section shall prohibit the immediate destruction of a critically injured or critically ill or unweaned animal for humane purposes. Any animal 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 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 destruction or disposal by the methods listed in Subsections 2 through 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 by the animal's rightful owners after the rightful owner has, in writing, surrendered all property rights in such animal and has read and signed a statement (i) certifying that no other person has a right of property in the animal and (ii) acknowledges that the animal may be immediately euthanized or disposed of by the methods listed in Subsections 2 through 6 of Subsection (e).

Sec. 3-28.1. Sterilization of adopted dogs and cats; enforcement.

(a) Every new owner of a dog or cat adopted from the county dog pound shall cause to be sterilized the dog or cat pursuant to the agreement required by subdivision (2) of subsection (b) of this section.

(b) A dog or cat shall not be released for adoption unless:

(1) The animal has already been sterilized; or

(2) The individual adopting the animal signs an agreement to have the animal sterilized by a licensed veterinarian (i) within thirty days of the adoption, if the animal is sexually mature, or (ii) within thirty days after the animal reaches six months of age, if the animal is not sexually mature at the time of adoption.

(c) The animal control officer may extend for thirty days the date by which a dog or cat must be sterilized on presentation of a written report from a veterinarian stating that the life or health of the adopted animal may be jeopardized by sterilization. In cases involving extenuating circumstances, the veterinarian and the animal control officer may negotiate the terms of an extension of the date by which the animal must be sterilized.

(d) Nothing in this section shall preclude the sterilization of a sexually immature dog or cat upon the written agreement of the veterinarian, the releasing agency, and the new owner.

(e) Upon the petition of an animal control officer, humane investigator, ~~or~~ the State Veterinarian or a State Veterinarian representative ~~his designee~~ to the district court of the county or city where a violation of ~~Section 3-29, through 3-35~~ this article occurs, the court may order the new owner to take any steps necessary to comply with the requirements of this article. This remedy shall be exclusive of and in addition to any civil penalty which may be imposed.

(f) Any person who violates subsection (a) or (b) of this section shall be subject to a civil penalty not to exceed fifty dollars (\$50.00).

Sec. 3-28.2. Sterilization agreement.

Any agreement used by a ~~releasing agency~~ the County dog pound pursuant to subsection b of § 3.1-796.126:1 shall contain:

- (1) The date of the agreement;
- (2) The names, addresses, and signatures of the ~~releasing agency~~ animal control officer and the new owner;
- (3) A description of the dog or cat to be adopted;
- (4) The date by which the dog or cat is required to be sterilized; and
- (5) A statement printed in conspicuous, bold print, that sterilization of the dog or cat is required under this article; that a person who violates this article sections 3-29 through 3-35 is subject to a civil penalty; and that the new owner may be compelled to comply with the provisions of these.

Sec. 3-28.3. Sterilization confirmation; civil penalty.

Each new owner who signs a sterilization agreement shall, within seven days of the sterilization, cause to be delivered or mailed to the ~~releasing agency~~ animal control officer written confirmation signed by the veterinarian who performed the sterilization. The confirmation shall briefly describe the dog or cat; include the new owner's name and address; certify that the sterilization was performed; and specify the date of the procedure. Any person who violates this section shall be subject to a civil penalty not to exceed ~~fifty dollars (\$50.00)~~; one hundred fifty dollars (\$150.00).

Sec. 3-28.7. Civil penalties.

Any animal ~~warden~~ ~~[control officer]~~ control officer, humane investigator, ~~or~~ the State Veterinarian or the State Veterinarian representative ~~his designee~~ 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 cats and dogs.

Sec. 3-41 Definitions

For the purposes of this Article, the following words and phrases shall have the meanings

respectively ascribed to them by this section.

“*Adequate Confinement*” means that, while on the property of its owner and not under the direct supervision and control of the owner or custodian, a hybrid canine shall be confined in a humane manner in a securely enclosed and locked structure of sufficient height and design to (i) prevent the animal’s escape; or if the hybrid canine is determined to be a dangerous dog pursuant to Section 3.1-796.93:1 of the 1950 Code of Virginia, as amended, or this Chapter, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine, and (ii) provide a minimum of 100 square feet of floor space for each adult animal. Tethering of a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement.

“*Hybrid Canine*” means any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf or coyote by its owner to a licensed veterinarian, law-enforcement officer, animal ~~warden~~ control officer, humane investigator, official of the Department of Health or State Veterinarian representative ~~compliance officer~~ who is under the direction of the state veterinarian.

“*Responsible Ownership*” means the ownership and humane care of a hybrid canine in such a manner as to comply with all laws and ordinances regarding hybrid canines and prevent endangerment by the animal to public health and safety.

Sec. 3-42. Hybrid Canine Permit

(a) No person shall import into the County or liberate herein or possess herein, any hybrid canine except pursuant to a hybrid canine permit issued by the Board of Supervisors.

(b) The initial hybrid canine permit shall be issued by the Board of Supervisors only after a public hearing upon due public notice as required by Section 10-37. The decision to issue such a permit shall be based upon the following criteria:

(1) The number of hybrid canines that will be confined on the subject property which in no case shall exceed two hybrid canines; and

(2) The type, quality and extent of the confinement of the hybrid canine while on the property of its owner. The owner shall be required to provide adequate confinement as defined in the ordinance; and

(3) The background, knowledge, experience, and responsible ownership of the owner to adequately care for, keep and handle hybrid canines; and

- (4) The means of handling the hybrid canine while not on the property of the owner.
- (c) The owner applying for a hybrid canine permit shall submit an annual permit fee in the amount of \$ 50.00 to cover the cost of the permitting system. A separate permit shall be obtained for each hybrid canine owned by the owner. The permit shall be granted for a period of twelve months and shall be eligible for renewal annually. A public hearing shall not be required for a renewal of an existing permit by the Board of Supervisors.
- (d) The owner shall be required to provide the following information when applying for a hybrid canine permit:
- (1) The sex of the hybrid canine
 - (2) The color of the hybrid canine
 - (3) The height and length of the hybrid canine
 - (4) Vaccination records
 - (5) Information as to identification tags, tattooing or other identifying marks of the hybrid canine.
 - (6) An executed consent form authorizing the animal warden control officer or designee, to inspect the premises where the hybrid is confined for the sole reason of ensuring that the owner is in compliance with the permit and this ordinance.
- (e) The permit may be revoked or not renewed by the Board of Supervisors if the owner has failed to renew any required permit or has violated a provision of the permit or this ordinance or any other law pertaining to the responsible ownership of the hybrid canine, including but not limited to, the escape of the animal from the confinement or any death, damage or injury caused by the hybrid canine.
- (f) Any person, whether an owner, agent or employee, violating, causing, or permitting the violation of this ordinance or the conditions of the permit shall be guilty of a class 3 misdemeanor for the first violation, and a class 1 misdemeanor for a second or a subsequent violation. Upon conviction of a violation of this ordinance, the violator shall surrender the hybrid canine to the animal warden control officer for euthanasia in accordance with Section 3.1-796.119 of the 1950 Code of Virginia, as amended.

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

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ascribed to them by this section.

“dangerous dog” means a canine or canine crossbreed which has bitten, attacked or inflicted injury on a person or companion animal, other than a dog or killed a companion animal.

“vicious dog” means a canine or canine crossbreed which has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of a bodily function; or (iii) continued to exhibit the behavior which resulted in a previous finding by a court 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 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. 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.

(c) 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. 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,

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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 (i) that the animal has been neutered or spayed; (ii) that 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; (iv) that the owner has liability coverage, to the value of at least fifty thousand dollars (\$50,000) that covers animal bites; (v) that 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 (vi) that 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 the animal control officer if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; (iii) is sold, given away or dies; or (iv) has been moved to a different address.

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 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 (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian, or (iii) 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, or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog.

Sec. 3-55 Penalties

The owner of any animal which has been found to be a dangerous dog, who willfully fails to comply with the requirements of this Article shall be guilty of a Class 1 misdemeanor and the animal which has been found to be a dangerous dog may be ordered by the court to be euthanized in accordance with the provisions of Section 3.1-796.119 of the Code of Virginia, 1950, as amended or ordered removed from the County of Montgomery and prohibited from returning to the County. Any animal which has been found to be a dangerous dog and ordered removed from the County of Montgomery which is later found in the County shall be ordered by the court to be euthanized immediately.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 9th day of October, 2001.

The vote on the foregoing ordinance was as follows:

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

Blacksburg/Christiansburg/Montgomery County 2020 Area Transportation Plan

On a motion by C.P. Shorter, seconded by Joe C. Stewart and carried unanimously,

WHEREAS, The Towns of Blacksburg and Christiansburg and Montgomery County have worked with the Virginia Department of Transportation in the preparation of the Blacksburg / Christiansburg Regional 2020 Transportation Plan; and

WHEREAS, This Transportation Plan evaluated the transportation system in the Blacksburg / Christiansburg region and recommended a set of transportation improvements to best satisfy existing and future transportation needs based on capacity, safety, and engineering aspects of the transportation system; and

WHEREAS, The Board of Supervisors has received the recommendations of the Planning Commission concerning this Transportation Plan and has received citizen recommendations concerning this Transportation Plan at a public hearing on September 24, 2001.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the proposed improvements to the 5 miles of Route 8 between the Town of Christiansburg and the community of Riner be changed:

From: Widen to four lanes by future year 2020

To: Upgrade the existing two lane roadway along with intersection improvements at Smith Creek Road (SR 675); Childress Road (SR 693) and Meadow Creek Road (SR 658) / Dairy Road (SR 670) by interim year 2010.

FURTHER, The Board of Supervisors of Montgomery County, Virginia supports two recommendations of the Planning Commission for:

1. Merrimac Road (SR 657) - Include roadway improvements and add bicycle facilities along the entire 4.8 mile segment between North Franklin Street and Prices Fork Road as an interim year 2010 project.
2. Parkway Drive Extension -Add extension of the existing Parkway Drive west to South Franklin Street (1 mile segment) as an interim year 2010 project.

FURTHER, The Board of Supervisors of Montgomery County, Virginia supports the remaining recommendations of the Blacksburg / Christiansburg Regional 2020 Transportation Plan.

The vote on the foregoing motion was as follows:

AYE

NAY

ABSENT

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Annette S. Perkins None Larry N. Rush
John A. Muffo
Joe C. Stewart
C.P. Shorter
James D. Politis
Mary W. Biggs

Rezoning -Oscar & Edith Akers (Agent: Margaret Owens)

On a motion by Joe C. Stewart, seconded by C.P. Shorter and carried unanimously,

ORDINANCE 2001 - 13
An Ordinance Amending the Zoning
Classification of approximately 0.5 acres from
Agriculture (A-1) to Residential (R-3)

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 tract or parcel of land consisting of approximately 0.5 acres of land is hereby amended and rezoned from the zoning classification of A-1 (Agricultural) to Residential (R-3).

This action was commenced upon the application of Oscar & Edith Akers (Agent: Margaret Owens).

This tract or parcel of land is located at 126 Walton Road and is identified as Tax Parcel No. 64-A-115 (Account ID #000283) in the Riner Magisterial District. The property lies in an area designated as Urban Expansion 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>
C.P. Shorter	None	Larry N. Rush
Annette S. Perkins		
John A. Muffo		
Joe C. Stewart		

James D. Politis
Mary W. Biggs

Special Use Permit - Oscar & Edith Akers

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Oscar & Edith Akers (Agent: Margaret Owens) Special Use Permit Request to allow either a Class A or Class B manufactured home is hereby approved.

The Property is located at 126 Walton Road and is identified as Tax Parcel No. 64-A-115 (Account ID #000283) in the Riner Magisterial District. The property lies in an area designated as Urban Expansion in the Comprehensive Plan.

The vote on the foregoing motion was as follows:

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

Special Use Permit - Walter Bowles

On a motion by Joe C. Stewart, seconded by James D. Politis and carried,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Walter Bowles (Agent: Thomas Bowles) request for a Special Use Permit, with possible conditions, in Agricultural (A-1) on a 10.44 acre tract to allow a private garage in excess of 850 square feet is hereby approved subject to the following conditions:

1. Private garage shall not exceed 1200 square feet in area and 20 feet in total height and meet all required setbacks.

2. Garage shall be private and not used for any work of a commercial nature.
3. Applicant must submit the following information (meeting USBC - 96 Edition) on the building to the Building Official for review and approval within fourteen (14) days of approval of this Special Use Permit:
 - a. Copy of building plan.
 - b. Licensed Virginia Engineer details to include:
 1. Wind load.
 2. Wind speed.
 3. Snow load.
 4. Installation details.
 5. Building blueprint (including footer).

The property is located at 3022 Seneca Hollow Road and is identified as Tax Parcel No. 70-A-34F (Account ID #035877) in the Mt. Tabor Magisterial District. The property lies in an area designated as Agriculture in the Comprehensive Plan.

The vote on the foregoing motion was as follows:

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

Special Use Permit - Travis & Calvert K. Poole

On a motion by Annette S. Perkins, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the A. Travis & Calvert K. Poole request for a Special Use Permit, with possible conditions, in Agricultural (A-1) on a 5.3140 acre tract to allow a private garage in excess of 850 square feet, is hereby approved subject to the following conditions:

1. Private garage shall not exceed 1200 square feet in area and 25 feet in total height.
2. Garage shall be private and not used for any work of a commercial nature.

The property is located at 4510 Preston Forest Drive and is identified as Tax Parcel No. 16-3-12 (Account ID #003659) in the Mt. Tabor Magisterial District. The property lies in an area designated as Conservation in the Comprehensive Plan.

The vote on the foregoing resolution was as follows:

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

Renewal of Agricultural & Forestal District 6 (AFD-6) South of Shawsville

On a motion by Joe C. Stewart, seconded by James D. Politis and carried unanimously,

ORDINANCE 2001 - 14 An Ordinance Renewing an Agricultural and Forestal District (AFD-6) Within Montgomery County, Virginia

WHEREAS, Given Land Associates, Ann Gardner Gray, Mary Rordam, Macon Sammons, Jr., and C.M. Yopp, Jr. and Jimmy Odell Yopp, have filed an application for the renewal of AFD-6 by May 15, 2001, which Agricultural and Forestal District was created by an ordinance adopted on the 26th day of May, 1981; renewed by an ordinance adopted on the 14th day of October, 1985, and renewed by an ordinances adopted on the 9th day of October, 1989 and 12th day of October 1993; and

WHEREAS, The application was referred to the Planning Commission on the 23rd Day of April, 2001; and

WHEREAS, The application was referred to the Agricultural and Forestal District Advisory Committee and said Committee held a public meeting, reviewed the application and reported its findings and recommendations on the 26^{ht} day of July, 2001; and

WHEREAS, The Planning Commission forwarded the application with its findings and recommendation for approval to the Board of Supervisors on the 19th day of September, 2001; and

WHEREAS, The Board of Supervisors, after proper notice, held it's public hearing on the 24th day of September, 2001.

NOW, THEREFORE, BE IT HEREBY ORDAINED, By the Board of Supervisors of Montgomery County, Virginia as follows:

1. That the conservation, protection and encouragement of the development and improvement of its agricultural and forestal land for the production of food and other agricultural and forestal products is vital to the public interest, and that the conservation and protection of these lands as a valued natural and ecological resource as well as an economic and environmental resource of major importance is also in the public interest.
2. That this Agricultural and Forestal District, AFD-6, has been reviewed and is hereby continued and renewed for a term of eight (8) years terminating on the 31st day of December 2009, in accordance with the provisions of Title 15.2, Chapter 43, Section 15.2-4300 through 15.2-4314, Code of Virginia, 1950, as amended.
3. That said District as renewed shall consist of approximately 1,328.39 acres in the Shawsville Magisterial District of Montgomery County, and shall include the following parcels:

Givens Land Associates	Tax Parcel 84-A-6	145.3	acres
Ann Gardner Gray	Tax Parcel 83-A-6	185.136	acres
Mary Rordam	Tax Parcel 83-A-7	103.8	acres
	Tax Parcel 83-A-8	50.26	acres
	Tax Parcel 83-A-9	59.00	acres
	Tax Parcel 83-A-10	19.00	acres
	TOTAL	<u>232.06</u>	acres
Macon Sammons, Jr.	Tax Parcel 83-A-5	483.000	acres
CM Yopp, Jr. Jimmy Odell Yopp	Tax Parcel 84-A-9	37.792	acres
	Tax Parcel 84-A-11	34.982	acres
	Tax Parcel 84-A-18	3.120	acres
	Tax Parcel 84-A-19	67.000	acres
	Tax Parcel 84-A-19	<u>160.000</u>	acres
	TOTAL	<u>302.894</u>	

TOTAL

1,348.39 acres

4. That these parcels qualify for land use value assessment provided the parcels meet the criteria of Section 58.1-3230 and 58.1-3233 of the Code.
5. That the owners of land within said District shall not terminate the District except in accordance with Section 15.2-4314 of the Code.
6. That lawful termination of any owner's association of the District shall not serve to terminate the existence of the District but the District shall continue in effect until the review required by Section 15.2-4311 of the Code.
7. That all County ordinances and regulations shall be applicable within said District; provided, such ordinance and regulations are not in conflict with the Agricultural and Forestal Districts Act. Further, the Planning Commission is hereby advised that it is the intent of the Board of Supervisors that land use planning decisions or ordinances enacted to implement same shall take into account the special status of both land adjacent to said District and land lying within said District.
8. That an exception for secondary roads whether within or along the boundary of said District is hereby created and consequently, there is hereby excepted from said District a strip of land extending twenty-five (25) feet on both sides of the center line of all existing secondary roads within or along the boundary of said District from this Ordinance.
9. That the landowners of said District who do not already have either a conservation plan for agricultural and or a forestry management plan for forest lands shall apply to the appropriate agency for the preparation of such a plan within one year of the establishment of the District.

This ordinance shall take effect upon its adoption.

The vote on the foregoing ordinance was as follows:

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

An Ordinance Amending Section 1-6 of Chapter 1 of the Code of the County of Montgomery,

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Virginia

On a motion by Joe C. Stewart, seconded by James D. Politis and carried unanimously,

Ordinance 2001-15
An Ordinance Amending Section 1-6 of Chapter 1
of the Code of the County of Montgomery, Virginia
Entitled General Provisions
in Order to Comply with the State Enabling Legislation

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 1, Section 1-6 of the Code of the County of Montgomery, Virginia, be amended and reordained as follows:

Sec. 1-6. Classification of and penalties for violations; continuing violations.

(a) Whenever in this Code or any other ordinance of the county, or any rules or regulations promulgated by any officer or agency of the county, under authority duly vested in such officer or agency, it is provided that a violation of any provision thereof shall constitute a class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as provided in Code of Virginia, section 18.2-11.

(b) Whenever in any provision of this Code or in any other ordinance of the county, or any rule or regulation promulgated by an officer or agency of the county, under authority duly vested in such officer or agency, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a class 1 misdemeanor.

(c) Notwithstanding any other provision of this section or any other section of this Code or any ordinance, rule or regulation, no penalty for the violation of this Code or other ordinance, rule or regulation of the county shall exceed that prescribed by state law for a like offense.

(d) Each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

(e) The board of supervisors may bring suit in the circuit court to restrain, enjoin or otherwise prevent a violation of this Code.

(f) Pursuant to Section ~~14.2-133.2~~ 17.1-281 of the Code of Virginia, 1950, as amended, that a

fee of two dollars (\$2.00) is hereby assessed as additional costs in each civil, criminal or traffic case in General District Court, Juvenile Domestic Relations Court, and Circuit Court, the proceeds of this assessment shall be used for the construction, renovation or maintenance of courthouse or jail and court-related facilities and to defray increases in the cost of heating, cooling, electricity, and ordinary maintenance.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 9th day of October, 2001.

The vote on the foregoing ordinance was as follows:

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

An Ordinance Amending Sections 2-1, 2-8, 2-12 and 2-122 Respectively of Chapter 2 of the Code of the County of Montgomery, Virginia, Entitled Administration in Order to Comply with the State Enabling Legislation

On a motion by Joe C. Stewart, seconded by C.P. Shorter and carried unanimously,

**Ordinance 2001-16
An Ordinance Amending Sections 2-1, 2-8, 2-12
and 2-122 Respectively of Chapter 2
of the Code of the County of Montgomery, Virginia,
Entitled Administration
in Order to Comply with the State Enabling Legislation**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 2, Sections 2-1, 2-8, 2-12 and 2-122 respectively of the Code of the County of Montgomery, Virginia, be amended and reordained as follows:

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Sec. 2.1. Bonds of officers, employees and agents.

All officers, employees and agents of the county who are required to give bond shall give bond with corporate surety, and the county shall pay the premium therefore, ~~except as to the treasurer, who may give bond as provided in Code of Virginia, section 15.1-43.~~

Sec. 2-8. Board of supervisors.

(a) *Meetings.* The board of supervisors may call meetings as follows:

- (1) The regular meetings of the board of supervisors shall be held in the board chambers, third floor of the Montgomery County Courthouse in Christiansburg, Virginia, or at an office building owned by the county or at such other public place in the county as the board of supervisors may prescribe, in regular session not less often than once each month upon such day or days as may be prescribed by resolution of the board of supervisors.
- (2) The first meeting held after the newly elected members of the governing body shall have qualified shall be known as the annual meeting, and the first meeting held in the sixth month thereafter shall be known as the semiannual meeting. The days, times and places of regular meetings to be held during the ensuing twelve (12) months shall be established at the annual meeting.
- (3) If the board of supervisors, however, subsequently shall prescribe any public place other than the courthouse or any day or time other than that initially established as a meeting day, place or time, the board of supervisors shall pass a resolution as to such future meeting day, place or time and shall cause a copy of such resolution to be posted on the door of the courthouse or the initial public meeting place and inserted in a newspaper having a general circulation in the county ~~once a week for two (2) successive weeks~~ at least seven (7) days prior to the first such meeting at such other day, place or time.
- (4) Should the day established by the governing body as the regular meeting day fall on any legal holiday, the meeting shall be held on the next following regular business day without action of any kind by the board of supervisors.
- (5) A majority of the members of the board of supervisors present at the prescribed day, time and place to attend any meeting shall constitute a quorum for the purpose of adjourning such meeting from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business before the board of supervisors is completed. At any meeting a majority of the board of supervisors shall constitute a quorum.

- (6) The board of supervisors may also hold such special meetings as it may deem necessary, at such times and places as it may find convenient; and it may adjourn from time to time as it may find either necessary or convenient.
- (b) *Agenda.* The county administrator shall prepare and make available to each member of the board of supervisors a detailed agenda at least one (1) day prior to each regular or adjourned meeting of the board. No such agenda shall be departed from at the meeting to which it relates, except by majority vote of the supervisors present at the meeting.
- (c) *Nonmembers addressing board.* Any orderly person present at a meeting of the board of supervisors may, upon recognition by the presiding officer, request permission to address the board, and the presiding officer may grant such request if he considers it to be in the public interest to do so. He shall grant such request upon demand of any two (2) supervisors. When, as the result of such an address to the board, it appears that a subject should be considered by the board at a subsequent meeting, the county administrator shall place such matter on the agenda for the next regular meeting of the board of supervisors.
- (d) *Rules.* The board of supervisors may, by resolution or ordinance, promulgate rules:
- (1) Governing the conduct of its members with respect to their official duties and transactions and with respect to the ethics of office, and imposing penalties for the violation thereof;
 - (2) Providing for the attendance at its meetings of the sheriff of the county or, at his option, one (1) of his deputies, to preserve order and to discharge such other duties as may be necessary for the dispatch of such business as may be before this board;
 - (3) Providing for the attendance at its meetings of such other county officers and employees as may be helpful to the board by providing information, opinions and advice;
 - (4) Providing for the order of business and parliamentary procedure at its meetings;
 - (5) Providing for the appointment, powers and duties of standing and special committees;
 - (6) Providing for ~~executive sessions~~ closed sessions of the board which shall be held in compliance with the Virginia Freedom of Information Act or successive legislation;
 - (7) Providing for the compulsory attendance of witnesses and the production of books and papers before the board or any of its committees;
 - (8) Providing for the chairman to the board of supervisors to administer an oath to any person

concerning any matter submitted to the board or connected with its powers and duties; and

- (9) For such other purposes not contrary to state law, this Code or other ordinance as may be within the power of the board of supervisors to regulate for the conduct of its business.

Sec. 2-12. Industrial development authority.

(a) *Created.* There is hereby created a political subdivision of the state with such public and corporate powers as are set forth in the Industrial Development and Revenue Bond Act (~~Chapter 33, Title 15.1, Code of Virginia~~): (Chapter 49, Title 15.2, Code of Virginia, 1950, as amended)

(b) *Name.* The name of the political subdivision of the state hereby created shall be the Industrial Development Authority of Montgomery County, Virginia.

(c) *Directors.* The authority shall be governed by a board of seven (7) directors to be appointed by the board of supervisors for staggered terms of four (4) years.

Sec. 2-122. Application for taxation on basis of use assessment.

(a) Property owners must submit an application for taxation on the basis of a use assessment to the local assessing officer at least sixty (60) days preceding the tax year for which such taxation is sought, provided that in any year in which a general reassessment is being made, the property owner may submit such application until thirty (30) days have elapsed after his notice of increase in assessment is mailed in accordance with Code of Virginia, section 58.1-3330, or sixty (60) days preceding the tax year, whichever is later. Such application shall be on forms provided by the state department of taxation and supplied by the commissioner of the revenue and shall include such additional schedules, photographs and drawings as may be required by the commissioner of the revenue. An individual who is the owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes, provided that such property owner must revalidate annually with the commissioner of the revenue any applications previously approved. An application fee, as set from time to time by resolution of the board, shall accompany each application.

(b) A separate application shall be filed for each parcel on the land book.

(c) In the years of general reassessment, the commissioner of the revenue shall accept applications filed no more than sixty (60) days after the filing deadline specified in this section, or no more than sixty (60) days after the notice of increase in assessment has been mailed, whichever is later, upon the payment of a late filing fee of one dollar (\$1.00).

(d) In years of general reassessment, the commissioner of the revenue shall accept revalidation forms for applications previously approved, submitted no more than sixty (60) days after the filing deadline specified in this section or before thirty (30) days have elapsed after the notice of increase in assessment has been mailed, whichever is later.

(e) In the event of a material misstatement of facts in the application or a material change in such facts prior to the date of assessment, such application for taxation based on use assessment granted hereunder shall be void and the tax for such year extended on the basis of value determined under Section 58.1-3236 D. of the Code of Virginia, 1950, as amended. No application for assessment based on use shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the provisions of this Article.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 9th day of October, 2001.

The vote on the foregoing ordinance was as follows:

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

An Ordinance Amending Section 4-3 of Chapter 4 of the Code of the County of Montgomery, Virginia, Entitled Fire Prevention and Protection in Order to Comply with the State Enabling Legislation

On a motion by Joe C. Stewart, seconded by C.P. Shorter and carried unanimously,

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**Ordinance Amending Section 4-3 of Chapter 4
of the Code of the County of Montgomery, Virginia,
Entitled Fire Prevention and Protection
in Order to Comply with the State Enabling Legislation**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Section 4-3 of Chapter 4 of the Code of the County of Montgomery, Virginia, be amended and reordained as follows:

Sec. 4-3. Regulating the burning of woods, brush, etc.

(a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he previously has taken all reasonable care and precaution by having cut and piled the same or carefully cleared around the same to prevent the spread of such fire to lands other than those owned or leased by him or her. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris, or other inflammable material upon such land unless he or she has taken similar precautions to prevent the spread of such fire to any other land.

(b) During the period beginning February fifteenth and ending April thirtieth of each year, even though the precautions required by subsection (a) have been taken, it shall be unlawful in any county, city or portion thereof organized for forest fire control under the direction of the state forester for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred (300) feet of any woodland, brushland, or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight. The provisions of this subsection shall not apply to any fires which may be set on federal lands.

(c) The provisions of subsection (b) above shall not apply to any fires which may be set ~~on federal lands and between February fifteenth and March first of each year on lands owned by the department of game and inland fisheries.~~ if:

1. The fire is set for “prescribed burning” that is conducted in accordance with a “prescription” and managed by a “certified prescribed burn manager” as those terms are defined in Section 10.1-1150.1 of the Code of Virginia, 1950, as amended;

2. The burn is conducted in accordance with Section 10.1-1150.4 of the Code of Virginia, 1950, as amended;

3. The State Forester has, prior to February 1, approved the prescription for the burn; and

4. The burn is being conducted for one of the following purposes: (i) control of exotic and invasive plant species that cannot be accomplished at other times of the year; (ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year; or (iii) management necessary for natural heritage resources.

(d) Any person violating any provisions of this section shall be guilty of a class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the commonwealth for the full amount of all expenses incurred by the commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the state forester in the name of the commonwealth on behalf of the commonwealth and credited to the forestry operations fund.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 9th day of October, 2001.

The vote on the foregoing ordinance was as follows:

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

An Ordinance Amending Sections 7-7 and 7-28 Respectively of Chapter 7 of the Code of the County of Montgomery, Virginia, Entitled Offenses-miscellaneous in Order to Comply with the State Enabling Legislation

On a motion by James D. Politis and seconded by C.P. Shorter and carried unanimously,

**Ordinance 2001-18
Ordinance Amending Sections 7-7 and 7-28
Respectively of Chapter 7
of the Code of the County of Montgomery, Virginia,
Entitled Offenses-Miscellaneous
in Order to Comply with the State Enabling Legislation**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Sections 7-7 and 7-28 respectively of the Code of the County of Montgomery, Virginia, be amended and reordained as follows:

Sec. 7-7. Musk thistle; curled thistle.

Pursuant to the provisions of Title 3.1, Chapter 13, Article 4 of the Code of Virginia, governing the eradication and control of musk thistle and curled thistle are hereby adopted by reference and made operative in the county as if set forth herein in their entirety. it is hereby declared that any such musk thistle and curled thistle growing in the County of Montgomery is a public nuisance and noxious weed harmful to plant and grass growth and to pastures and thus may be destroyed. Musk thistle and curled thistle shall be defined as prescribed in Section 3.1-177 of the Code of Virginia, 1950, as amended.

Sec. 7-28. Obscene items enumerated.

Obscene items shall include:

- (1) Any obscene book; or
- (2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, bumper sticker, drawing, photograph, film, negative, slide, motion picture, videotape, recording; or
- (3) Any obscene figure, object, article, instrument, novelty device, or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words, or sounds; or
- (4) Any obscene writing, picture or similar visual representation or sound recording, stored in an electronic or other medium retrievable in a perceivable form.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 9th_{th} day of October, 2001.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Joe C. Stewart	None	Larry N. Rush
Annette S. Perkins		
James D. Politis		
John A. Muffo		
C.P. Shorter		

Mary W. Biggs

An Ordinance Amending Sections 8-17 and 8-23 Respectively of Article II of Chapter 8 of the Code of the County of Montgomery, Virginia, Entitled Buildings in Order to Comply with the State Enabling Legislation

On a motion by Joe C. Stewart, seconded by C.P. Shorter and carried unanimously,

**Ordinance 2001-19
An Ordinance Amending Sections 8-17 and 8-23
Respectively of Article II of Chapter 8
of the Code of the County of Montgomery, Virginia,
Entitled Buildings
in Order to Comply with the State Enabling Legislation**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 8, Article II, Sections 8-17 and 8-23 respectively of the Code of the County of Montgomery, Virginia, be amended and reordained as follows:

Sec. 8-17. Violations and penalties.

Any person, firm or corporation who shall fail, refuse or neglect to comply with or who shall otherwise violate the provisions of this article, which includes the building code, shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00). Any person convicted of a second offense committed within less than five (5) years after a first offense under this Chapter shall be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than two thousand five hundred dollars (\$2,500.00). Any person convicted of a second offense committed within a period of five (5) to ten (10) years of a first offense under this chapter shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand five hundred dollars (\$2,500.00). Any person convicted of a third or subsequent offense involving the same property committed within ten (10) years of an offense under this chapter after having been at least twice previously convicted shall be punished by confinement in jail for not more than ten (10) days and a fine of not less than two thousand five hundred dollars (\$2,500.00) nor more than five thousand dollars (\$5,000.00), either or both. No portion of the fine imposed for such third or subsequent offense committed within ten (10) years of an offense under this chapter shall be suspended.

Sec. 8-23. Removal, repair or securing of buildings.

(a) *Duty of owner.* The owner of property within the county shall, at such time as the board of supervisors may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the county.

(b) *Authority of board generally.* The board of supervisors through its agents or employees may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the county, when the owner and lienholder of the property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure such building, wall or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two (2) successive weeks in a newspaper having general circulation in the county. No action shall be taken by the board of supervisors to remove, repair or secure any building, wall or other structure for at least thirty (30) days following the later of the return of the receipt or newspaper publication.

(c) *Costs of action by county.* If the board of supervisors, through its agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, then the costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the county as taxes and levies and collected.

(d) *Charges against property to constitute lien.* Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property: ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Article 3 (Section 58.1-3940 et seq. of the Code of Virginia, 1950, as amended) and Article 4 (Section 58.1-3965 et seq. of the Code of Virginia, 1950, as amended) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

ADOPTED by the Board of Supervisors of County of Montgomery, Virginia, this 9th day of October, 2001.

The vote on the foregoing ordinance was as follows:

AYE

NAY

ABSENT

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Annette S. Perkins None Larry N. Rush
James D. Politis
John A. Muffo
C.P. Shorter
Joe C. Stewart
Mary W. Biggs

Conveyance of Right-of-Way Easement to American Electric Power -Rogers Consolidated Collection Site

On a motion by James D. Politis and seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia, hereby authorizes the conveyance of right-of-way easement to American Electric Power in order to provide electric services to the Rogers Consolidated Collection Site located at 2750 Pilot Road.

BE IT FURTHER RESOLVED, That the Chairman of the Board of Supervisors is hereby authorized to execute the above referenced right-of-way easement to American Electric Power on behalf of the Board of Supervisors of the County of Montgomery, Virginia.

The vote on the foregoing resolution was as follows:

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

Maple Ridge - Comprehensive Plan Map Amendment

On a motion by John A. Muffo, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Montgomery County Comprehensive Plan Map is hereby amended as follows:

-Change the land use designation for Tax Parcel Nos. 028-A-93, 94, 95, 96, 97, 98 & 41-A-3, 1A &

41-8-85 (approximately a total of 131 acres) from Rural Area to Urban Expansion.

The vote on the foregoing resolution was as follows:

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

Maple Ridge Rezoning

On a motion by John A. Muffo, seconded by C.P. Shorter and carried unanimously,

ORDINANCE 2001-20
An Ordinance Amending the Zoning
Classification of approximately 11.35 acres from
Residential (R2) to Multi Family Residential (RM-1)
with proffered conditions
and
119.99 acres from Residential (R2) to
Residential (R2) with proffered conditions.

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 shall be:

-Approximately 11.35 acres of land is hereby amended and rezoned from the zoning classification of Residential (R2) to Multi Family Residential (RM-1) with proffered conditions;

-Approximately 119.99 acres land is hereby amended and rezoned from the zoning classification of Residential (R2) to Residential (R2) with proffered conditions.

The zoning classification is subject to the following proffered conditions:

1. The Applicant will develop the property substantially in accordance with “The Villages at Maple Ridge Planned Residential Development” Concept Plan prepared by Maple Ridge Land, LLC of Williamsburg, Virginia with assistance from Anderson & Associates, Inc. of Blacksburg, Virginia, dated 01, August, 2001, and amended 12, September, 2001.
2. A maximum of 86 single-family homes will be constructed in Villages 2,4, and 5.
3. A maximum of 84 multi-family dwellings of a two-story townhouse design will be constructed and managed by a management company.
4. The 119.99 acres rezoned as R-2 with Proffers will allow for the construction of single-family homes only; duplexes will not be allowed.
5. An emergency access trail will be built between roads G and H. The owners of the townhouse complex on behalf of “The Villages at Maple Ridge” homeowners association will maintain the trail.
6. The emergency access trail will have removable bollards at each end of the trail.
7. A vegetative berm will be constructed along Village 1A and 1B as shown on the Overall Master Plan. The owners of the townhouse complex will maintain the berm.
8. The property Rezoned as RM-1 will be constructed with a combination of brick and vinyl exteriors that are similar in look to those built in the Town in Village 1A as per the Overall Master Plan.

This action was commenced upon the application of Maple Ridge Land, LLC (Agent: Anderson & Associates, Inc).

The properties are located near the North Main Street (US 460) and Mount Tabor Road (Rte 624) intersection and are identified as Tax Parcel Nos. 028-A-93, 94, 95, 96, 97, 98 & 41-A-3, 1A & 41-8-85 (Acct ID #'s 015210, 012278, 015237, 015209) in the Mount Tabor Magisterial District. The properties currently lie in an area designated as Urban Expansion 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>
C.P. Shorter	None	Larry N. Rush
Joe C. Stewart		

Annette S. Perkins
James D. Politis
John A. Muffo
Mary W. Biggs

NEW BUSINESS

Reimbursement Resolution Relating to Renovations of the Montgomery County Courthouse

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

**Resolution of the Board of Supervisors
of Montgomery County, Virginia
Declaring its Intention to Reimburse Itself
from the Proceeds of One or More Tax-Exempt Financings
for Certain Expenditures Made and/or to be Made
in Connection with the Acquisition, Construction, Renovation
and Equipping of Certain Capital Improvements for the County**

WHEREAS, The County of Montgomery, Virginia (**the “County”**) is a political subdivision organized and existing under the laws of the Commonwealth of Virginia; and

WHEREAS, The County has paid, beginning no earlier than August 9, 2001, 60 days prior to the date hereof, and will pay, on and after the date hereof, certain expenditures (**the “Expenditures”**) in connection with construction, renovation, equipping and furnishing as related to the renovation of a County courthouse building (**the “Project”**); and

WHEREAS, The Board of Supervisors of the County (**the “Board”**) has determined that those moneys previously advanced no more than 60 days prior to the date hereof and to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the County for the Expenditures from the proceeds of one or more issues of tax-exempt bonds (**the “Bonds”**);

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

Section 1. The Board hereby declares, in accordance with U.S. Treasury Regulation Section 1.150-2, as amended from time to time, the County's intent to reimburse the County or the School Board,

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as appropriate, with the proceeds of the Bonds for the Expenditures with respect to the Project made on and after August 9, 2001, which date is no more than 60 days prior to the date hereof. The County reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds.

Section 2. Each Expenditure was and will be either (a) of a type properly chargeable to capital account under general federal income tax principles (determined in each case as of the date of the Expenditures), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the County so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the County.

Section 3. The maximum principal amount of the Bonds expected to be issued for the Project is \$12,000,000.

Section 4. The County will make a reimbursement allocation, which is a written allocation by the County that evidences the County's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The County recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

Section 5. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED THIS 9th day of October, 2001.

The vote on the foregoing resolution was as follows:

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

Authorization to Issue Lease Revenue Bonds - Christiansburg Middle School

On a motion by James D. Politis, seconded by C.P. Shorter and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County, Virginia (**the “Board of Supervisors”**) has determined that the County of Montgomery, Virginia(**the “County”**) has an immediate need to implement certain school projects and has requested the Industrial Development Authority of Montgomery County, Virginia (**the “Authority”**) to assist it in the financing of such projects and in furtherance of such financing (a) to issue, offer and sell its lease revenue bonds in an amount not to exceed \$18,000,000 (**the “Bonds”**) to finance a portion of the costs of the acquisition, construction and equipping of certain improvements and renovations to the Christiansburg Middle School and other capital improvements for the County (**the “Project”**) on real property (**the “Real Estate”**), owned by the County and by the Montgomery County School Board (**the “School Board”**) and (b) to lease the Project to the County to accomplish certain purposes of the Virginia Industrial Development and Revenue Bond Act (**the “Act”**), and the Authority has agreed to do so; and

WHEREAS, There has been presented to the Board of Supervisors a plan for lease financing of the acquisition, construction and equipping of the Project involving issuance of the Bonds by the Authority, which would not create debt of the County for purposes of the Virginia Constitution; and

WHEREAS, There have been presented to this meeting drafts of the following documents (**the “Documents”**), copies of which shall be filed with the records of the Board of Supervisors:

- (a) a Ground Lease between the Authority, the County and the School Board conveying to the Authority a leasehold interest in the Real Estate (**the “Ground Lease”**);
- (b) a Financing Lease between the Authority and the County conveying to the County a leasehold interest in the Projects (**the “Financing Lease”**);
- (c) an Indenture of Trust between the Authority and First Union National Bank, as the trustee (**the “Trustee”**), pursuant to which the Bonds are to be issued, including the form of Bond, which is to be acknowledged and consented to by the County (**the “Indenture”**);
- (d) an Assignment of Rents and Leases between the Authority and the Trustee, assigning to the Trustee certain of the Authority’s rights under the Financing Lease, which is to be acknowledged and consented to by the County (**the “Assignment Agreement”**);
- (e) a Bond Purchase Agreement among the Authority, the County and Davenport & Company, LLC, as Underwriter(**the “Underwriter”**) for the purchase of the Bonds (**the “Bond Purchase Agreement”**);
- (f) a Continuing Disclosure Agreement among the County, the Authority and the Underwriter for the purpose of assuring compliance with continuing disclosure obligations under Rule 15c2-12 (**the “Continuing Disclosure Agreement”**); and

- (g) a Preliminary Official Statement for the offering and sale of the Bonds.

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

1. The following plan for financing the acquisition, construction and equipping of the Project for the County as described in the preambles above is hereby approved. The Authority will be requested to issue the Bonds in the maximum amount of \$18,000,000 and to use the proceeds therefrom to finance the acquisition, construction and equipping of the Project. The Authority will acquire, construct and equip a portion of the Project on the Real Estate which will be leased to the Authority under the Ground Lease, and the Authority will lease the Project to the County pursuant to the Financing Lease. The Authority will also enter into the Indenture with the Trustee, pursuant to which the Bonds will be issued, which Indenture is to be acknowledged and consented to by the County. The Authority will also enter into the Assignment Agreement whereby the Authority's rights under the Financing Lease will be assigned to the Trustee, which Assignment Agreement is to be acknowledged and consented to by the County. The Authority will be requested to lease the Project to the County for the term of the Bonds at rents sufficient to pay interest and principal due on the Bonds, all pursuant to the Financing Lease. The obligation of the Authority to pay principal and interest on Bonds will be limited to rent payments received from the County. The obligation of the County to pay rent will be subject to the Board of Supervisors making annual appropriations for such purpose. The Bonds will be secured by an assignment of the Financing Lease to the Trustee for the benefit of the bondholders. If the County exercises its right not to appropriate money for rent payments, the Trustee or the holder of the Bonds may terminate the Financing Lease or otherwise take possession of the Project, subject to the terms of the Financing Lease, the Assignment Agreement, the Ground Lease, and the Indenture. The issuance of the Bonds, maturing, whether in serial or term form, not later than July 15, 2023 at a per annum interest rate not to exceed 6.50% is hereby approved.
2. The Board had previously selected Sands, Anderson, Marks & Miller as Bond Counsel, and in connection therewith, the Underwriter for the purchase of the Bonds, and the Authority is hereby requested to designate the Underwriter as such.
3. The Chairman or Vice Chairman of the Board of Supervisors, either of whom may act, is hereby authorized and directed to execute and deliver the Ground Lease, the Financing Lease and the Continuing Disclosure Agreement.
4. The Chairman or Vice-Chairman of the Board of Supervisors, either of whom may act, is hereby authorized and directed to acknowledge and consent to the provisions of the Indenture, the Assignment Agreement, the Bond Purchase Agreement and any other instruments executed by the Authority in connection with an assignment of the Financing Lease for the purpose of securing the Bonds, including

designating and confirming the final interest rate, maturities, redemption provisions and other terms of the Bonds.

5. The Documents shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, omissions, insertions and changes as may be approved by the officer executing them, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes.

6. The Project is hereby declared to be essential to the efficient operation of the County, and the Board of Supervisors anticipates that the Project will continue to be essential to the operation of the County during the term of the Financing Lease. The Board of Supervisors, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make annual appropriations in future fiscal years in amounts sufficient to make all payments under the Financing Lease and hereby recommends that future Boards of Supervisors do likewise during the term of the Financing Lease.

7. The Chairman or Vice-Chairman of the Board, the County Administrator, County Attorney, the County Treasurer and all other officers of the County are hereby authorized and directed to work with representatives of the Authority, the County Attorney, the Authority Counsel, Bond Counsel, and the Underwriter to perform all services and prepare all documentation necessary to bring the Bonds to market, including without limitation, final forms of the Documents.

8. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (**the “Code”**), or otherwise cause interest on the Bonds to be includable in the gross income for Federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds.

9. The County covenants that it shall not permit the proceeds of the Bonds to be used in any manner that would result in (a) 10% or more of the proceeds of the Bonds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the County’s use of the Project, (b) 5% or more of such proceeds being used with respect to any “output facility” (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than as governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County

receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for Federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

10. The Board of Supervisors hereby consents to Sands, Anderson, Marks & Miller serving as bond counsel and Underwriter's Counsel and recommends that such firm be appointed by the Authority as such.

11. All other acts of the Chairman or Vice-Chairman of the Board and other officers of the County that are in conformity with the purposes and intent of this resolution and in furtherance of the plan of financing, the issuance and sale of Bonds and the acquisition, construction, and equipping of the Projects are hereby approved and ratified.

12. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.

13. The County hereby agrees to indemnify, defend and save harmless the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses in any way connected with the County, the issuance of the Bonds or the acquisition, construction and equipping of the Project.

14. Nothing in this Resolution, the Bonds or the Documents shall constitute a debt or a pledge of the faith and credit of the County, and neither the County nor the Authority shall be obligated to make any payments under the Bonds or the Documents except from payments made by or on behalf of the County under the Financing Lease pursuant to annual appropriation thereof in accordance with applicable law. The Underwriter shall acknowledge on behalf of the Bondholders that any purchase of Bonds pursuant to the Bond Purchase Agreement is made solely based on representations of the County and no representations of any kind as to the Project or the ability to repay the Bonds has been made by the Authority.

15. The distribution of the Preliminary Official Statement and a final Official Statement is hereby authorized. The authorization and approval of the Preliminary Official Statement is deemed "final" for purposes of complying with Rule 15c2-12 of the Securities Exchange Act of 1934, as amended, and the County is understood and agreed to be the sole "obligated person" under such Rule.

16. This resolution shall take effect immediately.

PASSED AND ADOPTED this 9th day of October, 2001.

The vote on the foregoing resolution was as follows:

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

School Capital Projects Fund -Advance of Lease Revenue Bond Proceeds

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer from the General Fund to the School Capital Projects Fund for the fiscal year ending June 30, 2002 is hereby authorized, as follows:

<u>FROM:</u>		
02	General Fund	(2,000,000)
 <u>TO:</u>		
19	School Capital Projects Fund	\$2,000,000

Said resolution transfers \$2,000,000 from the General Fund to the School Capital Projects Fund in advance of the proceeds from the fall 2001 Lease Revenue bond sale. This resolution also allows for expenditures up to \$2,000,000 toward the Christiansburg Middle School approved for funding through bond proceeds, 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>
C.P. Shorter	None	Larry N. Rush
James D. Politis		
Joe C. Stewart		
John A. Muffo		
Annette S. Perkins		
Mary W. Biggs		

County Capital Projects Fund -Advance of Lease Revenue Bond Proceeds

On a motion by Joe C. Stewart, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer from the General Fund to the County Capital Projects Fund for the fiscal year ending June 30, 2002 is hereby authorized, as follows:

FROM:

02 General Fund (\$1,000,000)

TO:

12 County Capital Projects Fund \$1,000,000

Said resolution transfers \$1,000,000 from the General Fund to the County Capital Projects Fund in advance of the proceeds from the fall 2002 Lease Revenue bond sale. This resolution also allows for expenditures up to \$1,000,000 toward the Courthouse Renovation Project approved for funding through bond proceeds, 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>
James D. Politis	None	Larry N. Rush
C.P. Shorter		
John A. Muffo		
Annette S. Perkins		
Joe C. Stewart		
Mary W. Biggs		

Budget Calendar - Fiscal Year 2002-2003

On a motion by John A. Muffo, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the proposed FY 2002-2003 Budget Calendar is hereby approved. It is the intent of the Board of Supervisors that departments, offices and agencies requesting funds through the budget process adhere to the deadlines prescribed within the calendar. The names of the departments, offices and agencies failing to comply with this directive shall be reported to the Board of Supervisors at their first meeting following December 21, 2001.

March 20, 2002	to Board of Supervisors and placed in Libraries	County Administrator
March 21 - April 8, 2002	Establish proposed tax rate and prepare budget synopsis notices of public hearing in paper.	County Administrator
By June 30, 2002	Publishment date for public hearings on proposed tax rate and budget synopsis.	Board of Supervisors
After July 1, 2002	Public Hearing on proposed tax rate and budget.	County Administrator
	Adopt budget (including Schools) and establish tax rate.	Board of Supervisors
	Make final budget appropriation.	Board of Supervisors
Public Hearing for citizen input	Divisions and Agencies notified of final appropriation.	Board of Supervisors
Joint Review of Human Service Agencies by County and surrounding localities		County Administrator
Budget study sessions by the Board.	Board of Supervisors	
School Budget delivered to County Administrator.	County Administrator	
Distribute budget recommendations to County Divisions and Offices.	Board of Supervisors	
Budget document delivered	School Board	

1. PUBLIC HEARING: A public hearing on the budget is required. If a tax rate increase is needed, notice must be published at least 7 days before the public hearing and at least 14 days before final action.
2. TAX RATE AND BUDGET: The tax rate and budget must be established at the same time. This must be done early to process the first installment of real estate taxes.
3. CAPITAL BUDGET: The Capital Budget should be available to be considered along with Operating Budget if desired.
4. LEGAL NOTICES AND PUBLIC HEARINGS: Legal notices and public hearings on the School Budget may be considered separately from the Non-School Budget. The School Budget must be approved by May 1, 2002 or within 30 days after receipt of State revenue estimates, whichever is later.
5. The planned schedule for processing first installment of Real Estate Taxes due June 5, 2002 is as follows:

<u>DATE</u>	<u>FUNCTION</u>
March 21 - April 8, 2002	Board of Supervisors adopts FY 2002-2003 Budget.
April 15, 2002	Commissioner of Revenue notifies Information Management Services that land book is complete and processing may begin.
April 15-19, 2002	Information Management Services delivers tax tickets to Treasurer as printing is completed.
May 3, 2002	Treasurer's Office mails tax tickets to taxpayers.
June 5, 2002	First installment of Real Estate Taxes is due.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
C.P. Shorter	None	Larry N. Rush
John A. Muffo		
Annette S. Perkins		
Joe C. Stewart		

James D. Politis
Mary W. Biggs

Schedule Public Hearing - Proposed Ordinance Amending Chapter 9.1, Entitled Solid Waste

On a motion by James D. Politis, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia, hereby schedules a public hearing for Monday, November 26, 2001 at 7:15 p.m. in Courtroom B, County Courthouse, Christiansburg, Virginia for the purpose of receiving citizens' comments on the following:

Proposed Ordinance Amending Chapter 9.1, Entitled Solid Waste

An Ordinance Amending Chapter 9.1, Entitled Solid Waste, Section 9.1-36 of the Code of the County of Montgomery, Virginia in Order to Amend The Use of Bulk Containers and Roll-off Containers or "Green Boxes" to Allow For The Disposal of Certain Commercial Waste

The vote on the foregoing resolution was follows:

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

INTO WORK SESSION

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

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

-Cable T.V. Franchise Ordinance in the unincorporated areas of the County

The vote on the foregoing motion was as follows:

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

Supervisor Rush arrived at 8:35 p.m.

The County Attorney explained the purpose of a Cable Franchise Ordinance is to require the cable operator to agree to comply with the cable franchise provisions as a condition to providing cable service in the franchise area, which would be in the unincorporated areas of the County.

He went on to explain that there is a process for adopting a Cable Franchise Ordinance. The Board will have to hold a public hearing to receive public comment on issuing a cable t.v. franchise ordinance. Negotiations with the two existing cable operators in the County and draft Cable Franchise Ordinance. The Board will need to hold a second public hearing to receive public comment on the proposed ordinance. The process may be lengthy depending on how negotiations proceed with the two cable companies.

It was the consensus of the Board to add to the October 22, 2001 agenda the scheduling of a public hearing to receive public comment on issuing a cable t.v franchise ordinance.

OUT OF WORK SESSION

On a motion by James D. Politis, seconded by C.P. Shorter 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:

AYE
John A. Muffo None
Annette S. Perkins
Joe C. Stewart
James D. Politis
C.P. Shorter
Larry N. Rush
Mary W. Biggs

NAY

COUNTY ATTORNEY'S REPORT

SCC - Virginia Gas Pipeline/NCC The Virginia Gas Pipeline has surrendered its certificate to construct a pipeline through Virginia to the State Corporation Commission. Virginia Gas Pipeline has canceled their plans and will have to go through the entire application process again if they decide to proceed in constructing a pipeline in the future.

COUNTY ADMINISTRATOR'S REPORT

Comprehensive Plan Revision Update Joe Powers, Planning Director, presented a brief summary on the status of the Comprehensive Plan Revision. The following tasks have been completed to date in 2001:

1. Planning Commission approved four planning areas:
 - Mount Tabor/North Fork
 - Prices Fork/Belview/Merrimac
 - Riner/Bethel/Plum Creek
 - Shawsville/Elliston/Lafayette

2. Prepared base mapping for County and each planning area for the plan elements:
 - Current Zoning & Comprehensive Plan Designation
 - Community Facilities
 - Cultural Facilities
 - Housing
 - Natural Environment
 - Transportation
 - Water (Existing & Proposed)
 - Sewer (Existing & Propose)

3. Held first round of four community meetings, March 2001, around the County along with a mail-in survey.

4. Planning Commission Activities:
 - Virginia 177/Tyler Avenue Corridor - Text and Map Amendments to Comprehensive Plan
 - Regional Approach to Telecommunication Towers
 - Wireless Communication Structure Assessment (Underway)
 - Work Sessions with Blacksburg Planning Commission
 - VDoT Blacksburg/Christiansburg Regional 2020 Transportation Plan
 - VDoT Radford Area 2020 Transportation Plan

5. Selected Consultant for Comprehensive Plan Revisions. The work is scheduled to begin November, 2001.

Mr. Powers advised that the entire process to revise the comprehensive plan should be completed by December, 2003.

The Board of Supervisors asked if there will be more community meetings to receive public input. Mr. Powers stated yes and pointed out the Board agreed a while back that there will be a community committee formed for each planning area, representatives from each town and one from Virginia Tech. The Board then decided that each planning area will have a committee and then one representative from each committee will meet to discuss each planning area's concerns and recommendations.

BOARD MEMBERS' REPORTS

Supervisor Muffo requested that staff put on hold the idea of a County/Sister Relationship due to the ongoing world events.

Maple Ridge Rezoning Request Supervisor Muffo reported the Town of Blacksburg Council at their meeting on September 25, 2001 approved the Maple Ridge rezoning request.

League of Women Voters Forum - Supervisor Muffo attended the forum held by the League of Women Voters on September 26, 2001 where they discussed the Virginia Tax Structure.

Supervisor Shorter asked the status of the new LongShop/McCoy Fire & Rescue building. The County Engineer reported they are in the process of working on a site plan/design. The County Administrator stated the groundbreaking on the new building should be in the Spring of 2002. Supervisor Rush expressed his concern about the new building staying within budget. The Board has allocated a specific amount for construction and they should stay within the targeted amount.

Supervisor Rush received a call from a concerned citizen about the amount of dust on Yellow Sulphur Road. He asked staff to contact VDoT to see if something can be done.

Supervisor Politis asked staff to contact VDoT about a large pothole at the intersection of Route 8 and Fairview Church Road.

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Supervisor Stewart stated that Chair Biggs did an excellent job at the League of Women Voters forum.

Supervisor Perkins informed the Board that the annual Planning District Commission dinner will be held Thursday, October 25, 2001 at the Donaldson Brown Center in Blacksburg. Board members should be receiving an invitation soon.

Virginia Tech/Montgomery Regional Airport Authority The October meeting has been canceled and the next meeting is scheduled for November 14, 2001 at 3:00 p.m.

Supervisor Biggs thanked the County Attorney and Assistant County Administrator for providing her with information on the Virginia Tax Structure for the League of Women Voters forum. The information was very useful.

Voting Credentials - VACo Annual Meeting Chair Biggs asked the Board who they would like to have as a representative to vote at the annual VACo meeting. It was decided that Chair Biggs would be the voting delegate for Montgomery County.

INTO CLOSED MEETING

On a motion by James D. Politis, seconded by Annette S. Perkins and carried unanimously,

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

- Section 2.1-344(A) (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. Shelor v. Montgomery County
 2. Peppers Ferry Regional Wastewater Treatment Authority (PFRWTA) Agreement
- (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. Agency on Aging

2. Montgomery Regional Economic Development Commission

The vote on the foregoing resolution was as follows:

AYE

Larry N. Rush

C.P. Shorter

James D. Politis

Joe C. Stewart

Annette S. Perkins

John A. Muffo

Mary W. Biggs

NAY

None

OUT OF CLOSED MEETING

On a motion by Annette S. Perkins, 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:

AYE

Larry N. Rush

NAY

None

October 9, 2001

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C.P. Shorter
James D. Politis
Joe C. Stewart
Annette S. Perkins
John A. Muffo
Mary W. Biggs

CERTIFICATION OF CLOSED MEETING

On a motion by John A. Muffo, seconded by Larry N. Rush 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 2.1-344.1 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

Larry N. Rush
C.P. Shorter
Joe C. Stewart
Annette S. Perkins
James D. Politis
John A. Muffo
Mary W. Biggs

NAYS

None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

APPOINTMENTS

Agency on Aging

On a motion by Larry N. Rush, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Suzanne Mills Smith** to the Agency on Aging effective October 1, 2001 and expiring September 30, 2002.

The vote on the foregoing resolution was as follows:

AYE

Larry N. Rush

C.P. Shorter

Joe C. Stewart

Annette S. Perkins

James D. Politis

John A. Muffo

Mary W. Biggs

NAY

None

Montgomery Regional Economic Development Commission

On a motion by Larry N. Rush, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints

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Dr. Jerry Kopf to the Montgomery Regional Economic Development Commission effective October 10, 2001 and expiring December 31, 2002.

Said appointments fills the unexpired term of David A. Burdette, resigned.

The vote on the foregoing resolution was as follows:

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

ADJOURNMENT

On a motion by Larry N. Rush, seconded by James D. Politis and carried unanimously, the Board adjourned to Monday, October 22, 2001.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Annette S. Perkins	
Joe C. Stewart	
James D. Politis	
C.P. Shorter	

Larry N. Rush
Mary W. Biggs

The meeting adjourned at 10:00 p.m.