

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA HELD ON THE 14TH DAY OF OCTOBER, 1997 AT 7:00 P.M. IN THE BOARD CHAMBERS, COUNTY COURTHOUSE, CHRISTIANSBURG, VIRGINIA:

PRESENT: Joseph V. Gorman, Jr. -Chairman  
Henry F. Jablonski -Vice Chairman  
Mary W. Biggs -Supervisors  
Ira D. Long  
Joe C. Stewart  
Larry N. Rush  
Jeffrey D. Johnson -County Administrator  
L. Carol Edmonds -Assistant County Administrator  
Martin M. McMahon -County Attorney  
T. C. Powers, Jr. -Planning Director  
Bob Isner -Economic Development Director  
Judy W. Kiser -Secretary

ABSENT: James M. Moore -Supervisor

### **CALL TO ORDER**

Chairman Gorman called the meeting to order.

### **Public Hearing-Intent to Declare Public Necessity**

**-Board of Supervisors intent to declare the public necessity** to enter and take a certain 11.401 acres of right-of-way; a certain 0.076 acre of access easement and a certain 3.926 acres, for a temporary construction easement, more or less, from Joseph L. Conrad and Sandra G. Conrad for the purpose of constructing a road and related storm water management facility and a water tank for the appraised fair market value of \$180,000.

The County Attorney reported that a settlement has been reached with the land owner and a public hearing is no longer necessary.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

### **PUBLIC ADDRESS SESSION**

American Electric Power Company's Proposed 765 kV Power Line The following citizens addressed the Board with their concerns about the proposed Wyoming-Cloverdale 765 kV Transmission Project: Delbert Jones, Linda Majors, William Dougherty, Joyce Smith, Debbie Broce, R.P. Hensley, Robin Boucher, Johanna Jones, John McLeod and Cecil Broce. These residents are concerned that at least 95 homes in the Norris Run and Straley Valley areas would be impacted.

American Electric Power Company (AEP) distributed information packets to the Board prior to the meeting.

The Chairman reported that he has requested the Planning District Commission (PDC) to assess the power line's regional impact, and hopefully a report can be made to the Board of Supervisors in early November.

Greenboxes in the McCoy Community-Bobby Fuller Mr. Fuller presented a petition, with 88 signatures, asking that the Board of Supervisors re-install the greenboxes in the McCoy community.

Coles Road-Donna Yopp and John Richmond Ms. Yopp and Mr. Richmond asked about the status of Coles Road in Elliston being taken into the secondary highway system.

The Chairman explained that a resolution requesting that the Department of Transportation add Coles Road to the Secondary Highway System is on the Consent Agenda for the Board's consideration.

## **DELEGATIONS**

**Report on School Projects-Christiansburg Middle School/Blacksburg Middle School/New High School at Elliston Site** The School Board was scheduled to make a report on these projects. The Chairman announced that this matter had been pulled from the Agenda, and a joint work session with the Board of Supervisors and the School Board has been scheduled for Monday, October 20, 1997 at 7:00 p.m. in the new Health and Human Services Building.

## **ADD TO AGENDA-ADDENDUM**

On a motion by Ira D. Long, seconded by Henry F. Jablonski and carried unanimously, the Addendum dated October 14, 1997 was added to the Agenda as follows:

### **Executive Session**

- Section 2.1-344(A)                      (7)      Consultation with Legal Counsel and Briefings by Staff Members Pertaining to Actual or Probably Litigation or Other Legal Matters Requiring Provision of Legal Advice by Counsel
1.      Boundary Line Adjustment and Utility Agreement

### **Addition to Secondary System-Coles Road**

The above referenced matter was pulled from the Consent Agenda at the request of Supervisor Jablonski

### **Ordinance Amendment-concealed Handgun Permits**

The above referenced matter was pulled from the Consent Agenda at the request of Supervisor Rush.

## **CONSENT AGENDA**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously, the Consent Agenda dated October 14, 1997 was approved. The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

### **Approval of Minutes of September 22, 1997**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously, the Minutes of September 22, 1997 were approved.

**Schedule Public Hearing-Board of Supervisors and Department of Transportation-6-Year Road Improvement Plan**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby schedules a joint public hearing with the Department of Transportation on Wednesday, November 12, 1997 at 7:00 p.m. in Courtroom B, County Courthouse, Christiansburg, Virginia to hear citizens' comments on the proposed update of the **Six Year Plan for Improvement of the Secondary System for Montgomery County** and establishment of priorities for the 1998-99 budget year.

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

**Alleghany Springs Locked Greenbox Site**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

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

FROM:

550 General Contingencies (\$8,700)

TO:

151 Solid Waste Collections \$8,700

Said resolution transfers funds from General Contingencies to establish a locked Green box site in the Alleghany Springs community.

**School Bond Construction Fund-Closure of Account**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

BE IT RESOLVED, By The Board of Supervisors of Montgomery County, Virginia that the School Construction Fund was granted an appropriation in addition to the annual appropriation for fiscal year ending June 30, 1998 for the function and in the amount as follow:

993 School Construction Fund \$795

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

Revenue Account

1501-19 Interest on Investments \$795

Said resolution appropriates the final amount of interest earned to close the bond account.

**Circuit Court-Supplemental Appropriation**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

BE IT RESOLVED, that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ended June 30, 1998, for the function and in the amount as follows:

300 Circuit Court \$943

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

Revenue Account

7000-16 Designated General Fund Balance \$943

Said resolution appropriates additional funds to cover invoices related to an outstanding purchase order from the prior fiscal year.

**Transfer of Funds-Juvenile and Domestic Relations Court**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

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

FROM:

550 General Contingencies (\$1,145)

TO:

303 Juvenile and Domestic Relations Court \$1,145

Said resolution transfers funds from General Contingencies to purchase furniture for the Juvenile and Domestic Relations Court judge.

**Supplemental Appropriation-Sheriff's Office**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 1998 for the function and in the amount as follows:

310 Sheriff-State/County	\$1,762
311 Sheriff-100% County	\$3,366
510 Grants-DARE	<u>\$1,713</u>
Total	\$6,841

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

Revenue Account:

1901-05 Recovered Cost Sheriff	\$5,129
1901-49 DARE	<u>\$1,712</u>
Total	\$6,841

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

**Re-Schedule Meeting Date to November 12, 1997**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby schedules its first meeting in November for **Wednesday, November 12, 1997 at 7:00 p.m.**

**Plat of Subdivision-Wades Lane Property**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

WHEREAS, Montgomery County has recently rezoned approximately 2 acres of County owned property located on the southeast corner of the intersection of Wades Lane and Graves Road from Agriculture to Residential R-2; and

WHEREAS, Montgomery County intends to sell this property as a separate lot.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby authorizes the subdivision of the Wades Lane property and directs the Chairman to sign the plat of subdivision on behalf of the Board of Supervisors.

## **ORDINANCE AMENDMENTS**

### **Planning Commission Ordinance**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

#### **ORDINANCE 1997-20**

#### **AN ORDINANCE AMENDING CHAPTER 2, SECTION 2-10 OF THE CODE OF THE COUNTY OF MONTGOMERY VIRGINIA, ENTITLED PLANNING COMMISSION IN ORDER TO COMPLY WITH THE STATE ENABLING LEGISLATION.**

BE IT ORDAINED by the Board of Supervisors of Montgomery County, Virginia, that Chapter 2, Section 2-10 of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

#### **Sec. 2-10. Planning Commission.**

(a) *Created; composition; term; vacancies.* A county planning commission is hereby established which shall consist of not less than five (5) nor more than fifteen (15) members as may be determined from time to time by the board of supervisors as vacancies in the membership of the commission occur all of whom shall be residents of the county; provided, that at least one-half of the members so appointed shall be owners of real property. One (1) member of the commission may be a member of the board of supervisors, who may be elected by the board of supervisors for a term coextensive with his or her term as a supervisor and may be an ex officio member of the commission, and other members shall be appointed by the board of supervisors for terms of four (4) years each, provided that each member other than a supervisor member shall serve until his or her successor is appointed and qualifies, unless the board of supervisors determines not to fill a vacancy occurring by reason of the expiration of a term office. Vacancies which occur by any cause other than expiration of the term for which appointed shall, if the vacancy is to be filled, be for the unexpired term only.

(b) *Removal from office; compensation of members.*

(1) Any member may be removed by the board of supervisors for malfeasance in office provided, that such removal may be made after a public hearing at which such member is given an opportunity to appear and be heard on the charges raised against him or her.

(2) All members of the planning commission shall receive such compensation as determined by the board of supervisors.

(c) *Powers and duties generally.* The planning commission shall have all the functions, powers and duties prescribed for local planning commissions by state law.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

AYE

NAY

ABSENT

Henry F. Jablonski  
Mary W. Biggs  
Ira D. Long  
Larry N. Rush  
Joe C. Stewart  
Joseph V. Gorman, Jr.

None

James M. Moore

### **Disposition of Unclaimed Property Ordinance**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

#### **ORDINANCE 1997- 21**

### **AN ORDINANCE AMENDING CHAPTER 2, SECTION 2-13 OF THE CODE OF THE COUNTY OF MONTGOMERY, ENTITLED DISPOSITION OF UNCLAIMED PROPERTY IN ORDER TO COMPLY WITH THE STATE ENABLING LEGISLATION**

BE IT ORDAINED, by the Board of Supervisors of Montgomery County, Virginia, that Chapter 2, Section 2-13 of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

#### **Sec. 2-13. Disposition of unclaimed property.**

(a) *Authority to sell or retain.* The sheriff or a county law enforcement agency is hereby authorized to sell at public sale or retain for use by the sheriff or a county law enforcement agency any unclaimed personal property which has been in the possession of such sheriff or agency and unclaimed for a period of more than sixty (60) days.

(b) *Definitions.* As used in this section, "unclaimed personal property" shall be any personal property belonging to another which has been acquired by a law enforcement officer pursuant to his or her duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner, and which the state treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Code of Virginia, section 55-210.1 et seq.).

(c) *Procedure.* Prior to ~~any such~~ the sale or retention for use by the law enforcement agency, the sheriff, ~~chief of police~~ or their duly authorized agents shall:

- (1) Make reasonable attempts to notify the rightful owner of the property;
- (2) Obtain from the commonwealth's attorney in writing a statement advising that the item is not needed in any criminal prosecution; and
- (3) Cause to be published in a newspaper of general circulation in the county once a week for two (2) successive weeks, a notice that there will be a public display and sale of unclaimed personal property. Such notice shall generally describe the property, together with the date, time and place of the sale and shall be made available for public viewing at the sale.

(d) *Proceeds of sale.*

- (1) From the proceeds of any such sale held under the provisions of this section, the sheriff, ~~chief of police~~ or ~~one (1) of their~~ a duly authorized agent shall pay the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the sheriff shall become the property of the county and shall be retained only if, in the opinion of the sheriff, there is a legitimate use for the property by the sheriff and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

- (2) If no claim has been made by the owner for the property or proceeds of such sale within sixty (60) days of the sale, the remaining funds shall be deposited in the general fund of the county and the retained property may be placed into use by the sheriff. Any such owner shall be entitled to apply to the board of supervisors within three (3) years from the date of sale, and if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the county shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation.
- (3) No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three (3) years from the date of the sale.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

### **Classes of Property Exempt from Taxation Ordinance**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

#### **ORDINANCE 1997-22**

### **AN ORDINANCE AMENDING CHAPTER 2, SECTION 2-31 OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, ENTITLED CLASSES OF PROPERTY EXEMPT FROM TAXATION IN ORDER TO COMPLY WITH THE STATE ENABLING LEGISLATION.**

BE IT ORDAINED by the Board of Supervisors of Montgomery County, Virginia, that Chapter 2, Section 2-31 of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

#### **Sec. 2-31. Classes of property exempt from taxation.**

- (a) The county exempts the following classes of property from taxation:
  - (1) Horses, mules and other kindred animals;
  - (2) Cattle;
  - (3) Sheep and goats;
  - (4) Hogs;
  - (5) Poultry;
  - (6) Grains and other feeds used for the nurture of farm animals;
  - (7) All farm machinery and farm implements.
- (b) Certified pollution control equipment and facilities as defined in (b)(2) below are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classifications of real or personal property:

- (1) Certified pollution control equipment and facilities as defined in (b)(2) below shall be exempt from all county taxes, including taxes upon the sale, purchase or use thereof.
- (2) As used in this subsection, the term “certified pollution control equipment and facilities” shall be deemed to mean any property, including real or personal property, equipment, facilities or devices used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the county, and which the state-certifying authority having jurisdiction with respect to such property has certified to the state department of taxation as having been constructed, reconstructed, erected or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination.
- (3) As used in this subsection the term “state-certifying authority” shall be deemed to mean the state water control board for water pollution and the state air pollution control board for air pollution; the department of mines, minerals and energy for coal, oil, and gas production, including gas, natural gas and coal bed methane gas; and the Virginia Waste Management Board for waste disposal facilities, and shall include any interstate agency authorized to act in place of a certifying authority of the state.

(c) The excess of bills and accounts receivable over bills and accounts payable shall be exempt from taxation as merchant’s capital.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u> Mary W. Biggs Henry F. Jablonski Ira D. Long Larry N. Rush Joe C. Stewart Joseph V. Gorman, Jr.	<u>NAY</u> None	<u>ABSENT</u> James M. Moore
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**Tax Exemptions and Deferrals for Elderly and Handicapped Ordinance**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

**ORDINANCE 1997-23**

**AN ORDINANCE AMENDING CHAPTER 2, DIVISION 5 OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, ENTITLED TAX EXEMPTIONS AND DEFERRALS FOR ELDERLY AND HANDICAPPED IN ORDER TO COMPLY WITH THE STATE ENABLING LEGISLATION**

BE IT ORDAINED, by the Board of Supervisors of Montgomery County, Virginia, that Chapter 2, Division 5 of the Code of the County of Montgomery, Virginia, be amended and reordained as follows:

**Sec. 2-106. Definitions.**

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Affidavit* means the real estate tax exemption or deferral affidavit, a sworn statement in writing.

*Deferral* means a deferral from the county real estate tax, according to the provisions of

this division.

*Dwelling* means the full-time residence of the person or persons claiming an exemption or deferral.

*Exemption* means an exemption from the county real estate tax, according to the provisions of this division.

*Property* means real property.

*Taxable year* means the calendar year, from January first until December thirty-first, for which an exemption or deferral is claimed.

*Title, title to real property* means the record title ascertainable from the records of the clerk of the circuit court to the county but which shall not include leasehold estates.

**Sec. 2-107. Established; restrictions and conditions.**

(a) The board of supervisors of the county hereby provides for the exemption from or deferral of taxation of real estate, and manufactured homes as defined in Code of Virginia, section 36-85.3 or any portion thereof, owned by and occupied as the sole dwelling of a person not less than sixty-five (65) years of age, and providing the same exemption for such property of a person who is determined to be permanently and totally disabled as provided in subsection (e) of this section, subject to the following restrictions and conditions:

- (1) That the total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners' relatives living in the dwelling does not exceed fourteen thousand dollars (\$14,000.00) provided that the first four thousand dollars (\$4,000.00) of income of each relative other than the spouse of the owner who is living in the dwelling shall not be included in such total.
- (2) That the net combined financial worth, including equitable interest, as of December thirty-first of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding one (1) acre, upon which it is situated does not exceed fifty thousand dollars (\$50,000.00).
- (3) That the person or persons claiming such exemption files annually no later than the first day of April of the taxable year with the commissioner of the revenue of the county, on forms to be supplied by the county, an affidavit or written statement setting forth the names of the related persons occupying such real estate; that the total combined net worth, including equitable interests, and the combined income from all sources of the person as specified in paragraph (1) of this subsection does not exceed the limits prescribed in this section. If such person is under sixty-five (65) years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs, or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors who are either licensed to practice medicine in the commonwealth or who are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled as defined in subsection (e); however, a certification pursuant to 42 U.S.C §4-23(d) by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in subsection (e). The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in subsection (e). Such certification, written statement, or affidavit shall be filed after the first day of January of each year, but before the first day of April of each year, for the permanently and totally disabled, for hardship cases, and for the first-time applicants. The commissioner of the revenue has the discretion to accept

late filings of first time applicants or for hardship cases until the 31st day of December of the taxable year. The commissioner of the revenue of the county shall make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under oath to determine qualifications as specified in this section including, qualification as permanently and totally disabled as defined in subsection (e) and qualification for the exclusion of life insurance benefits paid upon the death of an owner of a dwelling. The commissioner of the revenue of the county is hereby empowered, in addition to require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief or deferral.

(b) Such exemptions may be granted for any year following the date that the qualifying individual occupying such dwelling and owning title, or partial title, thereto reaches the age of sixty-five (65) years or for any year following the date the disability occurred. Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed, and having the effect of exceeding or violating the limitations and conditions provided in this section shall nullify any exemption or deferral for the remainder of the current taxable year and the taxable year immediately following. The amount of exemption of the real estate tax for qualified persons shall be determined by the following table:

Annual Income (Calendar Year)	For Qualified Persons The percentage of Tax Which May Be Exempted
\$ 0-9,000	100%
9,001-11,000	60%
11,001-14,000	40%

(c) The person or persons qualifying for and claiming deferral shall be relieved of real estate tax liability levied on the qualifying dwelling and land up to an amount equal to one hundred (100) percent of this liability, the amount to be deferred to be elected by the claimant. If a deferral of real estate taxes, the accumulated amount of taxes deferred shall be paid without penalty or interest to the county by the vendor upon the sale of the dwelling, or from the estate of the decedent within one (1) year after the death of the last owner thereof who qualified for tax deferral by the provisions of this section. Such deferred real estate taxes shall constitute a lien upon such real estate as if they had been assessed without regard to the deferral permitted by this section. Any such lien shall, to the extent that it exceeds in the aggregate ten (10) percent of the price for which such real estate may be sold, be inferior to all other liens of record.

(d) The board of supervisors of the county hereby deems those persons falling within limits and conditions provided in subsections (a) and (b) of this section to bearing an extraordinary tax burden on the real estate described in this section in relation to their income and financial worth.

(e) For the purposes of this division, a person is permanently and totally disabled if he or she is so certified as required in paragraph (a)(3) of this section and is found by the commissioner of the revenue of the county under paragraph (a)(3) to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u> Mary W. Biggs Henry F. Jablonski Ira D. Long Larry N. Rush Joe C. Stewart Joseph V. Gorman, Jr.	<u>NAY</u> None	<u>ABSENT</u> James M. Moore
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**Transient Occupancy Tax Ordinance**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

**ORDINANCE 1997-24**

**AN ORDINANCE AMENDING CHAPTER 2, DIVISION 9 OF  
THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA  
ENTITLED TRANSIENT OCCUPANCY TAX  
IN ORDER TO COMPLY WITH THE STATE ENABLING LEGISLATION.**

BE IT ORDAINED, by the Board of Supervisors of Montgomery County, Virginia, that Chapter 2, Division 9 of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

**Section 2-170. Transient occupancy tax.**

There is hereby imposed and levied by the county a transient occupancy tax on hotels, motels, boarding houses, ~~and~~ travel campgrounds and other facilities offering guest rooms at a rate of two percent of the amount of charge for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or spaces rented for continuous occupancy by the same individual or group for thirty or more days in hotels, motels, boarding houses, ~~and~~ travel campgrounds and other facilities offering guest rooms.

**Section 2-171. Filing of returns and payment of tax.**

(a) Each hotel, motel, boardinghouse, ~~and~~ travel campground and other facilities offering guest rooms shall quarterly report on the twentieth day of October, January, April and July to the commissioner of the revenue the total gross receipts for the quarter next preceding from charges for the occupancy of rooms or spaces occupied in the unincorporated portions of the county, which report shall set forth the tax as computed pursuant to section 2-170.

(b) The report required by subsection (a) shall be completed on forms prepared and furnished by the county and shall be filed together with the payment of the tax.

(c) The county treasurer shall be charged with the power and duty of collecting the taxes imposed and levied under this division.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

**Animals, Definition Ordinance**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

**ORDINANCE 1997-25**

**AN ORDINANCE AMENDING CHAPTER 3, SECTION 3-1 OF THE  
CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA  
ENTITLED ANIMALS, DEFINITIONS  
IN ORDER TO COMPLY WITH THE STATE ENABLING LEGISLATION**

BE IT ORDAINED by the Board of Supervisors of Montgomery County, Virginia, that

Chapter 3, Section 3-1 of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

### Sec. 3-1 Definitions

The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

*Animal Warden* means the animal warden and deputy animal warden employed, contracted or appointed by the Board of Supervisors for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensing of dogs, control of dogs and cats, cruelty to animals or seizure and impoundment of companion animals,

*Enclosure* means a structure used to house or restrict animals from running at large.

*Kennel* means ~~an enclosure wherein dogs are kept and from which they cannot escape~~ any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

*Livestock* means all domestic or domesticated; bovine animals (ox or cow); equine animals (horse); ovine animals (sheep); porcine animals (pig); cervidae animals (deer); caprae animals (antelope); animals of the genus lama; ratites (ostrich); and enclosed domesticated animals rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

*Other officer* means all other persons employed or elected by the people of ~~the state~~ Virginia, or by any municipality, county or incorporated town thereof, whose duty it is to preserve the peace, to make arrests or to enforce the law.

*Own and Owner* means any person having a right of property in an animal ~~or fowl~~ and any person who keeps or harbors an animal ~~or fowl~~ or has it the animal in his or her care, or who acts as its a custodian of an animal. ~~and any person who permits an animal or fowl to remain on or about any premises occupied by him.~~

*Poultry* means all domestic fowl and game birds raised in captivity.

*Treasurer* means the treasurer of the county and his or her assistants.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

### Hybrid Canine Ordinance

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

#### **ORDINANCE 1997-26**

**AN ORDINANCE AMENDING CHAPTER 3 OF THE MONTGOMERY COUNTY CODE ENTITLED ANIMALS BY AMENDING SECTION 3-6, FOR THE PURPOSE OF REMOVING HYBRID CANINES FROM THE DANGEROUS ANIMALS SPECIAL PERMIT AND BY ADDING ARTICLE IV, SECTIONS 3-41 AND 3-42, ENTITLED, HYBRID CANINES, FOR THE PURPOSE OF**

## ESTABLISHING A HYBRID CANINE PERMIT SYSTEM

BE IT ORDAINED, by the Board of Supervisors of Montgomery County, Virginia, that Chapter 3 of the Montgomery County Code entitled Animals is hereby amended as follows:

### Sec. 3-6. Same-Special permit.

(a) No person shall import into the county, or liberate herein, or possess herein, any animal which is classified as predatory, ~~including but not limited to canine and canine hybrids for which there is no United States Department of Agriculture approved vaccine against rabies,~~ or which may pose a danger to human life or property, except under a special permit issued by the board of supervisors. A threat of danger to human life or property shall be based upon the customary habits or natural disposition of the animal, its size or strength, or its carnivorous appetite. Dogs ~~that can be vaccinated against rabies,~~ farm animals and animals utilized for research at public universities are specifically excluded from the coverage of this section.

(b) The special 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 and type of animals, including information as to habits or dispositions, size, strength, carnivorous appetites, predatory nature;
- (2) The type, quality and extent of the cage or enclosure intended to keep or restrain the animals; this enclosure shall prevent any escape by the animals enclosed therein to the greatest extent possible, protect neighboring landowners or residents from harm, injury or disturbance, and provide a safe, secure and healthy environment for the animals therein;
- (3) Coverage of the owner by a general liability insurance policy protecting the general public from any and all damages or injuries caused by the animals in their charge in an amount not less than two hundred fifty thousand dollars (\$250,000.00);
- (4) The payment of fees set from time to time by resolution of the board;
- (5) The background, knowledge and experience of the owner/applicant to adequately care for, keep and handle such animals;
- (6) Proximity to residences, centers of population and livestock;
- (7) Provide a list of all adjoining property owners and their current mailing addresses.

(c) The special permit may be revoked by the board of supervisors at any time upon written notice to the owner/applicant and after an opportunity to be heard. Grounds for revocation shall include escape of the animals from the cage or enclosure, or any death, damage, or injury caused by the animals.

(d) Any person whether as principal, agent, employee or otherwise violating, causing or permitting the violation of this section shall be guilty of a class 3 misdemeanor. Each day any violation shall continue shall constitute a separate offense. In addition, the county may bring legal action to ensure compliance with this section, including injunction, abatement or other appropriate action or proceeding.

(e) This section shall not be applicable within the corporate limits of any town within the county. This section shall apply only to those animals imported into the county after August 14, 1984. Traveling circuses or carnivals remaining within the county for seven (7) days or less are exempted from the provisions of this section.

## ARTICLE IV. Hybrid Canines

### Section 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, 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, humane investigator, official of the Department of Health or 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.

### Section 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 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 for euthanasia in accordance with Section 3.1-796.119 of the 1950 Code of Virginia, as amended.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

### **Fire Prevention and Protection Ordinance**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

#### **ORDINANCE 1997-27**

#### **AN ORDINANCE AMENDING CHAPTER 4, ARTICLE I 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 Montgomery County, Virginia that Chapter 4, Article I of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

#### **ARTICLE I. IN GENERAL**

#### **Sec. 4-1. Authority when answering alarm or operating at an emergency incident.**

(a) While any fire department or fire company is in the process of answering an alarm or operating at an emergency incident where there is imminent danger or the actual occurrence of fire, explosion or the uncontrolled release of hazardous materials which threaten life or property and returning to the station, the chief or other officer in charge of such fire department or company at that time shall have the authority to:

- (1) Maintain order at such emergency incident or its vicinity;
- (2) Direct the actions of the firefighters at the incident;
- (3) Notwithstanding the provisions of Code of Virginia, sections ~~46-1-248~~ 46.2-888 through 46.2-891, keep bystanders or other persons at a safe distance from the incident and emergency equipment;
- (4) Facilitate the speedy movement and operation of emergency equipment and firefighters;
- (5) Cause an investigation to be made into the origin and cause of the incident; and
- (6) Until the arrival of a police officer, direct and control traffic in person or by deputy

and facilitate the movement of traffic.

(b) The fire chief or other officer in charge shall display his or her firefighter's badge, or other proper means of identification. Notwithstanding any other provision of this Code, this authority shall extend to the activation of traffic-control signals designed to facilitate the safe egress and ingress of emergency equipment at a fire station.

(c) Any person refusing to obey the orders of the fire chief or his or her deputies or other officer in charge at that time shall be guilty of a class 4 misdemeanor. The fire chief or ~~their~~ his or her officer in charge shall have the power to make arrests for violation of the provisions of this section.

(d) The authority granted under the provisions of this section may not be exercised to inhibit or obstruct members of law-enforcement agencies or rescue squads from performing their normal duties when operating at such emergency incident, nor to conflict with or diminish the lawful authority, duties and responsibilities of forest wardens, including but not limited to the provisions of ~~Chapter 4~~ Chapter 11 (section ~~10.32~~ 10.1-1100 et seq.) of Title ~~10~~ 10.1, of the 1950 Code of Virginia, as amended.

(e) Personnel from the news media, such as the press, radio and television, when gathering the news may enter at their own risk into the incident area only when the officer in charge has deemed the area safe and only into these areas of the incident that do not, in the opinion of the officer in charge, interfere with the fire department or rescue workers dealing with such emergencies, in which case the chief or other officer in charge may order such person from the scene of the emergency incident.

#### **Sec. 4-2. Carelessly damaging property by fire.**

If any person shall carelessly, negligently or intentionally set any woods or marshes on fire, or set fire to any stubble, brush, straw, or any other substance capable of spreading fire on lands, whereby the property of another is damaged or jeopardized, he or she shall be guilty of a class 4 misdemeanor, and shall be liable for the full amount of all expenses incurred in fighting the fire.

#### **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 ~~March first~~ February fifteenth and ending ~~May fifteenth~~ 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.

(c) The provisions of subsection (b) above shall not apply to any fires which may be set on federal lands ~~rights of way of railroad companies by their duly authorized employees and between February fifteenth and March first of each year on lands owned by the Department of Game and Inland Fisheries.~~

(d) Any person violating any provisions of this section shall be guilty of a class 4 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 ~~as provided in Code of Virginia, section 10-62(d)~~ for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts to 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 ~~as provided in that section.~~

**Sec. 4-4. Serious fire hazards.**

It shall be unlawful for any person to set an open fire or do any open burning or use recreational fires or bonfires whenever an emergency exists as determined by the director of emergency services upon recommendation of the State Forester, that the forest lands, brushlands, and fields of Montgomery County have become so dry as to create a serious fire hazard endangering lives and property. Any person violating the provisions of this section shall be guilty of a Class 3 misdemeanor for each separate offense. For purposes of this section, the county administrator or his or her designee shall be the director of emergency services.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

**Automobile Graveyard Ordinance**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

**ORDINANCE 1997-28**

**AN ORDINANCE AMENDING CHAPTER 5 ARTICLE III,  
SECTION 5-71 OF THE CODE OF THE COUNTY OF  
MONTGOMERY, VIRGINIA ENTITLED AUTOMOBILE  
GRAVEYARDS, DEFINITIONS IN ORDER TO COMPLY  
WITH THE STATE ENABLING LEGISLATION**

BE IT ORDAINED by the Board of Supervisors of Montgomery County, Virginia, that Chapter 5 Article III, Section 5-71 of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

**ARTICLE III  
Automobile Graveyards**

**Section 5-71. Definitions**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Automobile graveyard* means any lot or place which is exposed to the weather and upon which ~~two (2) or more~~ than five (5) inoperative motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

*Federal-aid primary highway* means any highway within that portion of the state highway system as established and maintained under Article 2 (Section 33.1-25 et seq.), Chapter 1, of Title 33.1 of the 1950 Code of Virginia, as amended, which has been approved by the Secretary of Commerce pursuant to subsection (b) of Section 103 of Title 23, United States Code.

*Inoperative motor vehicle* means any motor vehicle which is not in operating condition or which for a period of ~~ninety (90)~~ sixty (60) days or longer has been partially or totally

disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. This definition shall not apply to vehicles exempt under the provisions of Sections 46.1-242 through 46.1-49 and 46.1-119 and 46.1-120, Code of Virginia. This definition shall also not apply to vehicles in a public landfill.

*Interstate system* means the system presently defined in subsection (e) of Section 103 of Title 23, United States Code.

*Primary highway* means any highway within the state highway system as established and maintained under Article 2 (Section 33.1-25 et seq.), Chapter 1 of Title 33.1, of the 1950 Code of Virginia, as amended.

*Visible* means capable of being seen without visual aid by a person of normal visual acuity.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

## **Licenses for Dealers in Secondhand Precious Metals and Jewelry Ordinance**

### **ORDINANCE 1997-29**

#### **AN ORDINANCE AMENDING CHAPTER 5, ARTICLE V OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, ENTITLED LICENSES FOR DEALERS IN SECONDHAND PRECIOUS METALS AND JEWELRY IN ORDER TO COMPLY WITH THE STATE ENABLING LEGISLATION**

BE IT ORDAINED by the Board of Supervisors of Montgomery County, Virginia, that Chapter 5, Article V of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

#### **ARTICLE V. LICENSES FOR DEALERS IN SECONDHAND PRECIOUS METALS AND JEWELRY**

##### **Sec. 5-131. Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Coin* means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, stamped by authority of a government with certain marks and devices, and having a certain fixed value as money.

*Dealer* means any person engaged in the business of purchasing secondhand precious metals or gems, removing in any manner precious metals or gems from manufactured articles not then owned by such person or buying, acquiring or selling precious metals or gems removed from such manufactured articles. "Dealer" shall mean all employers and principals on whose behalf a purchase is made, and any employee or agent who makes any such purchase for or on behalf of his or her employer or principal.

This definition shall not be construed so as to include persons engaged in the following:

- (1) Purchases of precious metal or gems directly from other dealers, manufacturers, or wholesalers for retail or wholesale inventories, provided the selling dealer has complied with the provisions of this article.
- (2) Purchases of precious metals or gems from a duly qualified fiduciary who is disposing of the assets of the estate being administered by such fiduciary in the administration of an estate.
- (3) Acceptance by a retail merchant of trade-in merchandise previously sold by such retail merchant to the person presenting that merchandise for trade-in.
- (4) Repairing, restoring or designing jewelry by a retail merchant, if such activities are within his or her normal course of business.
- (5) Purchases of precious metals or gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants, wholesalers, dealers, or by mail originating outside the commonwealth.
- (6) Persons regularly engaged in the business of purchasing and processing nonprecious scrap metals which incidentally may contain traces of precious metals recoverable as a by-product.

*Gems* means any item containing precious or semiprecious stones customarily used in jewelry.

*Precious metals* means any item except coins composed in whole or in part of gold, silver, platinum, or platinum alloys.

**Sec. 5-132. Penalties; first and subsequent offenses.**

(a) Any person convicted of violating any of the provisions of this chapter shall be guilty of a class 2 misdemeanor for the first offense. Upon conviction of any subsequent offense he or she shall be guilty of a class 1 misdemeanor.

(b) Upon the first conviction by any court of a dealer for violation of any provision of this chapter, the sheriff may revoke his or her permit to engage in business as a dealer under this chapter for a period of one (1) full year from the date the conviction becomes final. Such revocation shall be mandatory upon a second conviction.

**Sec. 5-133. Exemptions.**

The sheriff or his or her designee may waive by written notice implementation of any one (1) or more of the provisions of this article, except for the provisions in Section 5-138, for particular numismatic, gem, or antique exhibitions or craft shows sponsored by nonprofit organizations, provided that the purpose of the exhibitions is nonprofit in nature, notwithstanding the fact that there may be casual purchases and trades made at such exhibitions.

**Sec. 5-134. Coins exempt.**

The provisions of this article shall not apply to the sale or purchase of coins.

**Sec. 5-135. Banking institutions exempt.**

The provisions of this article shall not apply to any bank, branch thereof, trust company or bank holding company, or any wholly owned subsidiary thereof, engaged in the business of buying and selling gold and silver bullion.

**Sec. 5-136. Permit required; method of obtaining permit; no convictions of certain crimes; approval of weighing devices; renewal; permanent location required.**

(a) No person shall engage in the activities of a dealer without first obtaining a permit from the sheriff.

(b) To obtain a permit, the dealer shall file with the sheriff an application form which

shall include the dealer's full name, any aliases, address, age, date of birth, sex, and fingerprints; the name, address and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of a two-hundred-dollar application fee, the dealer shall be issued a permit by the sheriff or his or her designee, provided that the applicant has not been convicted of a felony or crime of moral turpitude within seven (7) years prior to the date of application. The permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any ordinance similar in substance to the provisions of this article.

(c) Before a permit may be issued, the dealer must have all weighing devices used in his or her business inspected and approved by local or state weights and measures officials and present written evidence of such approval to the sheriff.

(d) This permit shall be valid for one (1) year from the date issued and may be renewed in the same manner as such permit was initially obtained with an annual permit fee of two hundred dollars (\$200.00). No permit shall be transferable.

(e) If the business of the dealer is not operated without interruption, with Saturdays, Sundays, and recognized holidays excepted, the dealer shall notify the sheriff of all closings and reopenings of such business. The business of a dealer shall be conducted only from the fixed and permanent location specified in his or her application for a permit.

**Sec. 5-137. Records to be kept; copy furnished to local authorities; inspection of records.**

(a) Every dealer shall keep at his or her place of business an accurate and legible record of each purchase of precious metals or gems. The record of each such purchase shall be retained by the dealer for not less than twenty-four (24) months. These records shall set forth the following:

- (1) A complete description of all precious metals or gems purchased from each seller. The description shall include all names, initials, serial numbers or other identifying marks or monograms on each item purchased, the true weight or carat of any gem, and the price paid for each item;
- (2) The date and time of receiving the items purchased;
- (3) The full name, residence address, work place, home and work telephone numbers, date of birth, age, sex, race, height, weight, hair and eye color, driver's license number or social security number and signature of the seller; ~~and~~
- (4) Statement of ownership from the seller.
- (5) Verification of the identification by the exhibition of a government-issued identification card such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon.

(b) The information required by subdivisions (1) through (3) of subsection (a) above shall appear on each bill of sale for all precious metals and gems purchased by a dealer, and a copy shall be mailed or delivered within twenty-four (24) hours of the time of purchase to the sheriff.

(c) Every dealer shall admit to his or her premises during regular business hours the sheriff or his or her designee, or any law-enforcement official of the state or federal government and he or she shall permit such law-enforcement officer to examine all records required by this article, and to examine any article listed in a record which is believed by the officer or official to be missing or stolen and search for and take into possession any article known to him or her to be missing or known or believed by him or her to have been stolen.

**Sec. 5-138. Prohibited purchases.**

(a) No dealer shall purchase precious metals or gems from any seller who is under the age of eighteen (18) years.

(b) No dealer shall purchase precious metals or gems from any seller who the dealer

believes or has reason to believe is not the owner of such items, unless the seller has written and duly authenticated authorization from the owner permitting and directing such sale.

**Sec. 5-139. Credentials and statement of ownership required from seller.**

(a) No dealer shall purchase precious metals or gems without first ascertaining the identity of the seller by requiring an identification issued by a governmental agency with a photograph of the seller thereon, and at least one (1) other corroborating means of identification, and by obtaining a statement of ownership from the seller.

(b) The board of supervisors may determine the contents of the statement of ownership.

**Sec. 5-140. Dealer to retain purchases.**

(a) The dealer shall retain all precious metals or gems purchased for a minimum of ten (10) calendar days from the date on which a copy of the bill of sale is received by the sheriff. Until the expiration of this period, the dealer shall not sell, alter, or dispose of a purchased item in whole or in part, or remove it from the county.

(b) If a dealer performs the service of removing precious metals or gems, he or she shall retain the metals or gems removed and the article from which the removal was made for a period of ten (10) calendar days after receiving such article and precious metals or gems.

**Sec. 5-141. Record of disposition.**

Each dealer shall keep and maintain for at least twenty-four (24) months an accurate and legible record of the name and address of the person to whom he or she sells any precious metal or gem in its original form after the waiting period required by section 5-140. This record shall also show the name and address of the seller from whom the dealer purchased such item.

**Sec. 142. Bond or letter of credit required of dealers when permit obtained.**

(a) Every dealer shall secure a permit as required by section 5-136, and each dealer at the time of obtaining such permit shall enter into a recognizance to the county secured by a corporate surety authorized to do business in this commonwealth, in the penal sum of ten thousand dollars (\$10,000.00), conditioned upon due observance of the terms of this article. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the commonwealth a letter of credit in favor of the county in the sum of ten thousand dollars (\$10,000.00).

(b) A single bond upon an employer or principal may be written or a single letter of credit issued to cover all employees and all transactions occurring at a single location.

**Sec. 5-143. Private action on bond or letter of credit.**

If any person shall be aggrieved by the misconduct of any dealer who has violated the provisions of this article, he or she may maintain an action for recovery in any court of proper jurisdiction against such dealer and his or her surety, provided that recovery against the surety shall be only for that amount of the judgement, if any, which is unsatisfied by the dealer.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

## Barbershops and Beauty Parlor Ordinance

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

### ORDINANCE 1997-30

#### AN ORDINANCE AMENDING CHAPTER 5, ARTICLE VII OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, ENTITLED BARBERSHOPS AND BEAUTY PARLORS IN ORDER TO COMPLY WITH THE STATE ENABLING LEGISLATION

BE IT ORDAINED by the Board of Supervisors of Montgomery County, Virginia, that Chapter 5, Article VII of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

#### ARTICLE VII. BARBERSHOPS AND ~~BEAUTY PARLORS~~ COSMETOLOGY SALONS.

##### Sec. 5-160. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Barber* means any person engaged in or teaching or being instructed in for compensation, any one (1) or more or combination of the following practices upon the face, head or neck of others:

(1) Shaving the face or trimming the hair or cutting the beard;

(2) Singeing the hair, shampooing or dyeing the hair or applying ~~hair tonics~~ or lotions to the scalp or head.

(3) Massaging the face, neck or scalp or treating the same with oil, clay, cream, lotion; cosmetics, antiseptics, powders, or other preparations in connection with shaving, cutting or trimming the hair or a beard.

~~Beautician~~ *Cosmetologist* means any person engaged in or teaching or being instructed in for compensation any one (1) or more or combination of the following practices upon others:

(1) Cutting, singeing, dyeing, arranging, relaxing, straightening, dressing, curling or waving hair.

(2) Applying cosmetics, antiseptics, powder, oil, clay, cream, lotion or other preparation to the face or neck.

(3) Shampooing the hair or applying any tonic, lotion or other preparation to the head or scalp.

(4) Treating the hands, fingernails or toenails of any person.

*Shop or ~~parlor~~ salon* means every shop, parlor, salon, room or place where any or all of the foregoing practices are engaged in or where instruction is given therein on a regular basis for compensation and every shop, parlor, salon, emporium or place or room operated by a barber or ~~beautician~~: cosmetologist.

##### Sec. 5-161. Permit Required.

It shall be unlawful for any person to open to the public, maintain or operate in the County any barbershop or ~~beauty parlor~~ cosmetology salon without having first obtained from the health department a permit to maintain and operate such establishment, which permit shall specify the exact location of the premises on which such establishment shall be operated. Such permit shall be displayed conspicuously and in such a manner that it can be read by patrons upon entering the place of business.

Such permit may be revoked by the health department upon the conviction of the holder thereof of any violation of this article.

**Sect. 5-162. Alteration of Premises.**

It shall be unlawful to alter or enlarge the premises in which a barbershop or cosmetology salon ~~beauty parlor~~ is conducted unless such alteration or enlargement shall have been approved by the health department.

**Sec. 5-163. Inspection.**

All barbershops and ~~beauty parlors~~ cosmetology salons shall be open to inspection by the health department during all business hours. It shall be unlawful for any person maintaining or operating any such establishment to refuse or prevent the inspection of such establishment by the health department during business hours.

**Sec. 5-164. Examination of Personnel.**

Every person connected with any barbershop or ~~beauty parlor~~ cosmetology salon shall furnish such information, permit such physical examination or submit such laboratory specimens as the health department may require for the purpose of determining freedom from infection.

**Sec. 5-165. Hand Washing.**

All employees in and operators of barbershops and ~~beauty parlors~~ cosmetology salons shall wash their hands with hot water and soap immediately before waiting on a customer and immediately after visiting the toilet. Clean individual towels for drying hands shall be provided and shall be discarded or laundered after each use.

**Sec. 5-166. Communicable Diseases.**

No person suffering with any communicable disease shall act as a barber or ~~beautician~~ cosmetologist at any barbershop or ~~beauty parlor~~ cosmetology salon, and no barber or ~~beautician~~ cosmetologist at any barbershop or ~~beauty parlor~~ cosmetology salon shall shave any person known to be suffering from any communicable disease or whose skin is inflamed or broken out.

**Sec. 5-167. Floors, Walls, and Ceilings.**

All floors, walls and ceilings in all barbershops and ~~beauty parlors~~ cosmetology salons shall be kept in good repair and shall be clean and free of dust and dirt at all times.

**Sec. 5-168. Tables, Shelves, etc.**

All tables and shelves in all barbershops and ~~beauty parlors~~ cosmetology salons shall be properly constructed of material that can be thoroughly and easily cleaned. Table tops shall be free of unnecessary articles.

**Sec. 5-169. Hot and Cold Running Water.**

For the purpose of permitting thorough washing and cleaning of all instruments, a suitable lavatory supplied with running hot and cold water at all times during business hours shall be provided in the place of business occupied and used as a barbershop or ~~beauty parlor~~ cosmetology salon.

**Sec. 5-170. Condition of Instruments.**

All combs, hairbrushes, hair dusters, mugs, shaving brushes, razors, shears, scissors, clippers, tweezers and other instruments and tools used or stored in any barbershop or ~~beauty parlor~~ cosmetology salon shall be washed after each separate use and shall be kept clean at all times.

**Sec. 5-171. Sterilization of Razors, Tweezers, etc.**

All razors, tweezers and similar instruments used in any barbershop or ~~beauty parlor~~

cosmetology salon shall be sterilized after use on each customer by one of the following methods:

- (1) Submerge in a five percent aqueous solution of carbolic acid for not less than two minutes.
- (2) Submerging in rapidly boiling water for not less than one (1) minute.

Nothing contained in this section shall prohibit the use of any other procedure which has been approved by the health department of at least equal efficiency.

**Sec. 5-172. Storage of Instruments.**

All combs, hairbrushes, hair dusters, shaving brushes, razors, shears, scissors, clippers, tweezers and hair nets used in any barbershop or ~~beauty parlor~~ cosmetology salon shall be stored in a cabinet or drawer constructed only of metal and glass, either or both. Every cabinet or drawer shall contain formaldehyde vapor or shall be equipped with suitable ultra-violet ray lamps. Every cabinet or drawer shall be kept clean at all times.

**Sec. 5-173. Use of Certain Equipment, Cosmetics, etc., Prohibited; Construction of Hairbrushes.**

- (a) The use of powder puffs or sponges is prohibited.
- (b) No cosmetics or other supplies which contain substances injurious to the skin shall be used or permitted in the shop.
- (c) No alum except powder or liquid may be used for any purpose, and all such powder or liquid alum must be applied with a clean towel.
- (4) The back and handle of all hairbrushes shall be constructed of metal or of such other material and construction as approved by the health department and shall be open or slotted so as to permit thorough and easy cleaning.

**Sec. 5-174. Towels and Washcloths.**

No towel or washcloth may be used in any barbershop or ~~beauty parlor~~ cosmetology salon on more than one customer until relaundered, and each such towel or washcloth shall be discarded in a suitable container immediately after each such use.

**Sec. 5-175. Chair Headrests.**

The headrest of each chair used in a barbershop or ~~beauty parlor~~ cosmetology salon shall be fitted with a clean towel or paper for each customer.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

**Motor Vehicles and Traffic**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

**ORDINANCE 1997-31**

**AN ORDINANCE AMENDING SECTIONS 6-8, 6-55, AND 6-59  
RESPECTIVELY OF CHAPTER 6 OF THE CODE OF THE  
COUNTY OF MONTGOMERY, VIRGINIA ENTITLED MOTOR  
VEHICLES AND TRAFFIC IN ORDER TO COMPLY WITH  
THE STATE ENABLING LEGISLATION**

BE IT ORDAINED, by the Board of Supervisors of Montgomery County, Virginia that Chapter 6, Sections 6-8, 6-55, and 6-59 respectively of the Code of the County of Montgomery, Virginia, be amended and reordained as follows:

**Section 6-8. Temporary removal and disposition of vehicles involved in accidents**

Whenever a motor vehicle, trailer or semitrailer involved in an accident is ~~found upon a highway in the county~~ so located as to impede the orderly flow of traffic, ~~the police law enforcement personnel~~ may at no cost to the owner or operator remove ~~such the~~ motor vehicle,

trailer or semitrailer ~~from the highway~~ to some point in the vicinity where ~~such the~~ motor vehicle, trailer or semitrailer will not impede the flow of traffic or have the vehicle removed to a storage area for safekeeping and shall report the removal to the Department of Motor Vehicles and the owner of the vehicle as promptly as possible. It the vehicle is removed to a storage area, the owner of the vehicle shall pay to the parties entitled thereto, all costs incidental to its removal and storage.

**Section 6-55. Removal and disposition of unattended vehicles**

(a) Whenever any motor vehicle, trailer or semitrailer is found on the public highway or public grounds unattended by the owner or operator and constitutes a hazard to traffic or is parked in such a manner as to be in violation of law or whenever any motor vehicle, trailer or semitrailer is left unattended for more than ten (10) days upon any public property or privately owned property other than the property of the owner of such motor vehicle, trailer or semitrailer, within the county or is abandoned upon such public property or privately owned property without the permission of the owner, lessee or occupant thereof, or whenever any motor vehicle, trailer or semitrailer is stalled or rendered immobile as a result of adverse weather conditions or other emergency situations on any public roadway, any such motor vehicle, trailer or semitrailer may be removed for safekeeping by or under the direction of a police officer to a storage garage or area; however, no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof. The person at whose request such motor vehicle, trailer or semitrailer is removed from privately owned property shall indemnify the county against any loss or expense incurred by reason of removal, storage or sale thereof. It shall be presumed that such motor vehicle, trailer or semitrailer, or part thereof, is abandoned if (1) it lacks either; a current license plate, a current county, city or town plate or sticker, or a valid state inspection certificate or sticker and (2) it has been in a specific location for four (4) days without being moved. Each removal shall be reported immediately to the sheriff's office, and notice thereof shall be given to the owner of the motor vehicle, trailer or semitrailer as promptly as possible.

(b) The owner of such vehicle or trailer or semitrailer, before obtaining possession thereof, shall pay to the persons entitled thereto all reasonable costs incidental to the removal, storage and locating the owner of the motor vehicle, trailer or semitrailer. Should such owner fail or refuse to pay the cost or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made, and after notice to the owner at his or her last known address and to the holder of any lien of record in the office of the department of motor vehicles of this state against the motor vehicle, trailer or semitrailer, the sheriff or other officer designated by the board of supervisors of the county may, after holding the motor vehicle, trailer or semitrailer thirty (30) days and after due notice of sale, dispose of the same at public sale, and the proceeds from the sale shall be forwarded by the selling officer to the treasurer of the county, provided that if the failure of such motor vehicle, trailer or semitrailer be determined by three (3) disinterested dealers or garage men to be less than one hundred fifty dollars (\$150.00) it may be disposed of by private sale or junked. The treasurer shall pay from the proceeds of the sale the cost of removal, storage, investigation as to ownership and liens, the expense of the auction and the notice of sale, and publication costs, and the balance of such funds Any remainder from the proceeds of a sale shall be held by him the treasurer for the owner or any

person having a security interest in the vehicle, as their interest may appear, and paid to the owner or lien holder upon satisfactory proof of ownership or lien status.

(c) If no claim has been made by the owner or lien holder for the proceeds of such sale within ninety days of the sale, the remaining funds may be deposited to the general fund or any special fund of the county. Any such owner shall be entitled to apply to the county within three (3) years from the date of such sale, and if timely application is made therefor, the county shall pay the same to the owner without interest or other charges. No claim shall be made nor shall any suit, action or proceeding be instituted for the recovery of such funds after three (3) years from the date of such sale.

(d) This section shall not operate to deprive any person of other remedies available under law to obtain payment from the owner of unattended, abandoned or immobile vehicles for towing, storage or other services rendered.

### **Section 6-59. Parking in spaces reserved for disabled persons.**

No vehicle other than those displaying disabled parking license plates, organizational removal windshield placards, permanent removal windshield placards, or DV disabled parking license plates all issued pursuant to the Code of Virginia, shall park in any parking spaces reserved for persons with disabilities. No person without a disability that limits or impairs his or her ability to walk shall park a vehicle with disabled parking license plates, organizational removable windshield placards, permanent removal windshield placards, ~~or~~ temporary removal windshield placards, or DV disabled parking license plates in a parking space reserved for persons with disabilities that limit or impair their ability to walk except when transporting such a disabled person in the vehicle. ~~Any person violating any of the provisions of this section shall be found guilty of a Class 4 misdemeanor. Should the violation occur in a private parking lot. Parking a vehicle in a space reserved for persons with disabilities in violation of this section shall be punishable by a fine of not less than \$100 nor more than \$500.~~ A summons or parking ticket for the offense may be issued by county law enforcement officers and other uniform personnel employed by the county to enforce parking regulations without the necessity of a warrant being obtained by the owner of the private parking area. Proof that the vehicle described in the complaint summons, parking ticket, citation or warrant was parked in violation of this section or the ordinance, together with proof that the defendant was at the time the registered owner of the vehicle shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation. No violation of this section shall be dismissed for a property owner's failure to comply strictly with the requirements for disabled parking signs set forth in section 36-99.11 of the 1950 Code of Virginia, as amended, provided the space is clearly distinguishable as a parking space reserved for persons with disabilities that limit or impair their ability to walk.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

### **Vehicle License Ordinance**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

### **ORDINANCE 1997-32**

**AN ORDINANCE AMENDING ARTICLE IV, DIVISION 2,  
OF THE CODE OF THE COUNTY OF MONTGOMERY,  
ENTITLED COUNTY VEHICLE LICENSE IN ORDER TO**

## COMPLY WITH THE STATE ENABLING LEGISLATION

BE IT ORDAINED by the Board of Supervisors of Montgomery County, Virginia, that Article IV; Division 2 of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

### DIVISION 2. COUNTY VEHICLE LICENSE

#### Sec. 6-86. Violations.

~~Any person who violates any provision of this division shall be fined not more than twenty dollars (\$20.00). It shall be unlawful for any owner or operator of a motor vehicle, trailer, or semitrailer to fail to obtain and display a county vehicle license tin, tag or decal required by this division or to display upon a motor vehicle, trailer, or semitrailer any license county vehicle tin, tag or decal after its expiration date. A violation of this division shall constitute a Class 4 misdemeanor. Local law-enforcement officers are authorized to issue citations, summons, parking tickets or uniform traffic summonses for violations of this divisions. A violation of this division by the registered owner of the vehicle shall not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license tin, tag or decal has been obtained.~~

#### Section 6-87. Application of division.

(a) The license required by this division shall not be applicable to motor vehicles owned by persons establishing residence within the county after April first of any license year provided that payment of a similar license ~~tax~~ fee paid to the county, city or town from which the new resident just moved is evidenced by a current license tin, tag or decal displayed upon the vehicle issued by the county, city or town.

(b) Nothing in this division shall be construed to require a license ~~tax~~ fee of a person exempted under the provision of the law of the state or upon any motor vehicle, trailer or semitrailer not required to be licensed by the motor vehicle laws of the state.

#### Section 6-88. Required.

Every person who owns, or has in his or her custody or control, a motor vehicle, trailer or semitrailer that is normally garaged, stored or parked in the county shall purchase a county license tag, tin or decal for such vehicle. This section shall also apply to any person whose domicile is in this county when it cannot be determined where the vehicle is normally garaged, stored or parked.

#### Section 6-89. Amount of ~~tax~~ fee.

(a) *Automobile and motorcycles.* On each and every automobile, there shall be a license ~~tax~~ fee of twenty dollars (\$20.00) and on each and every motorcycle a license ~~tax~~ fee of ten dollars (\$10.00).

(b) *Trucks, buses, trailers, semitrailers, well-drilling machinery and auto wagons.*

(1) On each and every truck, bus and auto wagon, not exempt ~~from taxation~~ as otherwise provided, there shall be a license ~~tax~~ fee of twenty dollars (\$20.00).

(2) On each and every motor vehicle upon which well-drilling machinery is attached and which is permanently used solely for transporting such machinery, there shall be a license ~~tax~~ fee of twenty dollars (\$20.00).

(3) On each and every trailer with a gross weight of one thousand five hundred (1,500) pounds or less and all boat trailers, there shall be a ~~tax~~ fee of five dollars (\$5.00). On all other trailers and semitrailers, there shall be a ~~tax~~ fee of ten dollars (\$10.00). In the case of a combination tractor-trailer or semitrailer, each vehicle constituting a part of such combination shall be licensed as a separate vehicle and separate tins, tags or decals shall be issued therefor.

(4) On each and every antique motor vehicle displaying a Virginia antique vehicle license plate, there shall be a ~~tax~~ fee of ten dollars (\$10.00).

(c) *Vehicles not displaying current license plates.* There is hereby imposed an annual license ~~tax~~ fee of fifty dollars (\$50.00) per vehicle on owners of motor vehicles located in the county which do not display current license plates and which are not exempt from the requirements of displaying such license plates under the provisions of Title 46.2, Chapter 3 ~~6 Article 1~~, of the 1950 Code of Virginia, as amended, and which are not in a public landfill, in an automobile graveyard or in the possession of a licensed automobile dealer. This ~~tax~~ fee shall be due and payable on April first of each year and will not be considered in default if paid on or before May first of the year in which ~~tax~~ fee is due.

(d) *Vehicles exempt from license ~~tax~~ fee.*

(1) A local license plate or decal shall be issued for which there shall be no license fee for any one (1) motor vehicle owned or leased and used personally by any veteran who holds a current state motor vehicle registration card establishing that he or she has received a disable veteran's exemption from the department and has been issued a disabled veteran's motor vehicle license plate as prescribed in Section 46.2-739 of the Code of Virginia.

(2) A local license plate or decal shall be issued for which there shall be no license fee for any one (1) motor vehicle owned or leased by any active member of a volunteer rescue squad or volunteer fire department.

(e) Nothing in this section shall be applicable to any vehicle being held or stored by or at the direction of any governmental authority, to any vehicle owned by a member of the armed forces on active duty or to any vehicle regularly stored within an enclosed building. Operable vehicles used for businesses conducted on the premises where the vehicles are stored are also exempt. One (1) inoperable vehicle titled in the name of the property owner is also exempt, provided it is located on his or her property and at least fifty (50) feet from any publicly used right-of-way.

~~(f) Any person, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the regulations or provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than three hundred dollars (\$300.00). Each and every day during which any violation of this subsection is committed, continued or permitted shall constitute a separate offense and shall be punished as herein provided.~~

#### **Sec. 6-90. Disposition of tax revenue.**

The revenue derived from all county motor vehicle licenses under this division shall be paid into the general fund of the county.

#### **Sec. 6-91. County motor vehicle license tax year.**

A county motor vehicle license ~~tax~~ year shall begin on April first and shall expire on March thirty-first of each year.

#### **Sec. 6-92. Proration of tax fee.**

Fifty percent (50%) of the license fees prescribed by this division shall be collected whenever any license tag, tin or decal is issued during the period beginning on October first in any year and ending on January fifteenth in the same county motor vehicle license year and twenty five percent (25%) of such fees shall be collected whenever any license tag, tin or decal is issued after January fifteenth in any county motor vehicle license year.

#### **Sec. 6-93. License tags, tins or decals.**

(a) *Purchase.* License tags, tins or decals issued by the treasurer of the county pursuant to this division may be purchased for a vehicle owner's initial county motor vehicle license ~~tax~~ year upon acquisition of the vehicle; for any succeeding county motor vehicle license ~~tax~~ year the tags, tins or decals shall be purchased on or after March first. It shall be lawful to display such license tags, tins or decals after such date.

(b) *Issuance; display.* Any person coming under the provisions of this division shall make application for license upon forms prescribed by the treasurer of the county and, upon payment of

the required license fee shall be issued as evidence, tins, tags, or decals which shall be conspicuously placed upon the vehicle so licensed in such manner as to be plainly visible. ~~Failure to display such tins, tags or decals shall be a violation of this division, even though the license tax has been paid.~~ No such license tin, tag or decal shall be placed upon any vehicle other than that for which it was issued.

(c) *Records.* The county treasurer shall keep a record of each such license tin, tag or decal issued by ~~him~~ the treasurer, showing the number of such tin, tag or decal, the person to whom it was issued, the make, model, and identification number of the vehicle for which such tin, tag or decal is issued, and the state license number of such vehicle.

(d) *Transfer.* Any such license tin, tag or decal may be transferred from one (1) vehicle to another similar vehicle by presenting the tin, tag or decal to the treasurer for transfer to such other vehicle and upon payment of a fee amount set from time to time by resolution of the board of supervisors. The treasurer shall thereupon transfer the license, and issue a new tin, tag or decal to the vehicle to which such transfer is made.

(e) *Duplicate.* A duplicate tin, tag or decal shall be issued upon affidavit of the applicant that the original tin, tag or decal has been lost, destroyed or mutilated. The ~~charge~~ fee for a duplicate tin, tag or decal shall be as set from time to time by resolution of the board of supervisors.

#### **Sec. 6.94. Payment of personal property tax prerequisite to license.**

No vehicle so taxable shall be licensed until the applicant for such license has produced satisfactory evidence that all personal property taxes upon the vehicle to be licensed have been paid and satisfactory evidence that any other delinquent motor vehicle, trailer or semitrailer personal property taxes ~~owing~~ owed by the applicant have been paid which have been properly assessed or are assessable against the applicant by the county.

#### **Sec. 6-95. Refund.**

Any person holding a current license tin, tag or decal who disposes of the vehicle for which it was issued and does not transfer it to another vehicle may surrender the license tin, tag or decal to the treasurer, with whatever proof required by the treasurer that the vehicle for which the license was issued has been disposed of or assigned and request a refund for the unused portion of the fee paid. The treasurer shall then refund to the applicant one-half of the cost of the license if application for such refund is made on or before September thirtieth of the license year. No refund shall be made when the application therefor is made after September thirtieth of the license year.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

#### **Offenses and Miscellaneous**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

#### **ORDINANCE 1997-33**

#### **AN ORDINANCE AMENDING SECTIONS 7-5, 7-8, 7-28 AND 7-37 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 Montgomery County, Virginia that Chapter 7, Sections 7-5, 7-8, 7-28, and 7-37 respectively of the Code of the County of Montgomery, Virginia, be amended and reordained as follows:

**Sec. 7-5. Disorderly conduct in public places.**

A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he or she:

- (1) In any street, highway, public building, or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed, provided, that such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter; or
- (2) Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drugs of whatever nature, disrupts any meeting of the board of supervisors of the county or a division or agency thereof, or of any school, literary society or place of religious worship, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, such disruption is directed, provided that such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter; or
- (3) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption presents or interferes with the orderly conduct of the operation or activity or has a direct tendency to cause acts of violence by the person or persons at whom individually, the disruption is directed, provided that such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter.

The person in charge of any such building, place, conveyance or meeting may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any person who may be called upon for such purpose.

~~Sec. 7-8 ——— Bingo; raffles~~

~~————— Pursuant to section 18.2-340.8 of Article 1.1, of Chapter 8, of Title 18.2, of the Code of Virginia, the provisions of that article are hereby incorporated by reference for the purpose of regulating bingo games and raffles within the county.~~

**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.

**Sec. 7-37. Indecent exposure**

No person shall intentionally make an obscene display or exposure of his or her person or

the private parts thereof in any public place or in any place where others are present, nor shall he or she procure another to so expose himself or herself. No person shall be deemed to be in violation of this section for breast-feeding a child in any public place or any place where others are present.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 14th day of October, 1997.

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James M. Moore
Henry F. Jablonski		
Ira D. Long		
Larry N. Rush		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

### **Resolution of Appreciation-Montgomery County “Frog Pond”**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

WHEREAS, The Montgomery County “Frog Pond” has been awarded the “1997 Best New Facility Award” by the Virginia Parks & Recreation Society at their annual convention in Virginia Beach; and

WHEREAS, Montgomery County’s project was selected for this award from 36 State-wide entries being considered at this year’s competition; and

WHEREAS, The Society recognized, during their presentation of the award, Montgomery County’s efforts in re-energizing their aquatics program after being confronted with the disaster of the destruction of the old facility; for an innovative approach to aquatics with a state-of-the-art design in creating the Frog Pond; and for staying within financial constraints in constructing such an exceptional facility.

NOW, THEREFORE, BE IT RESOLVED, That the Montgomery County Board of Supervisors hereby formally recognizes and extends their appreciation for a job well done to the following staff members, past and present, who were instrumental in the Montgomery County “Frog Pond” project: Thomas Bain, Randall D. Bowling, Terry H. Caldwell, J. Jeffrey Lunsford, Gerald Mabry, Martin F. O’Toole, Stephen N. Phillips, and E. Randall Wertz.

FURTHER, That copies of the original resolution be provided to those mentioned above and to the family of Martin O’Toole with the original becoming a part of the official Minutes of Montgomery County, Virginia.

### **Appointments-Office on Youth Advisory Board**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia, hereby appoints **Ryan W. Childress** as the high school junior representative to the Office on Youth Advisory Board, effective October 14, 1997 and expiring June 30, 1998.

BE IT FURTHER RESOLVED, That the Board of Supervisors of Montgomery County, Virginia, hereby appoints **Dianne D. Simmons** as the high school senior representative to the Office on Youth Advisory Board, effective October 14, 1997 and expiring June 30, 1998.

## **Proposed Budget Calendar**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the proposed FY98-99 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 19, 1997.

### **COUNTY OF MONTGOMERY** **BUDGET CALENDAR FOR 1998-99**

The Budget Calendar is a schedule for the development of the County budget. It is very important that everyone adhere to the Budget Calendar and fulfill his/her responsibility in the budgeting process.

<b><u>DATE</u></b>	<b><u>FUNCTION</u></b>	<b><u>RESPONSIBILITY</u></b>
October 31, 1997	Budget working documents delivered to departments and agencies along with special instructions and guidelines, including initial budget session with department heads to set over-all direction for County to identify major needs, gaps in services and to provide larger program context for changes in County budget.	County Administration and Finance
November 20, 1997	Budget Training Worksessions for Departments and Agencies.	Finance and Information Management Services
December 19, 1997	Base Budget Request for all departments, agencies and organizations (except for Schools) returned to Co. Administrator. Budget Addenda request for all departments, agencies and organizations (except for School) returned to Co. Administrator.	Directors, Depts. and Agency Heads
January, 1998	Administrative review of budget requests.	County Administrator
January 12, 1998	Public Hearing for citizen input.	Board of Supervisors
February 2, 1998	School Budget delivered to County Administrator.	School Board
Feb. 9-12, 1998	Distribute budget recommendations to County Departments and Offices.	County Administrator
February 23, 1998	Budget document delivered to Board of Supervisors and placed in Libraries	County Administrator
Feb.23-March 6, 1998	Budget study sessions by the Board.	Board of Supervisors
March 6, 1998	Establish proposed tax rate and	Board of Supervisors

	prepare budget synopsis notices of public hearing in paper.	
March 12, 1998	Publishment date for public hearings on proposed tax rate and budget synopsis.	County Administrator
March 19, 1998	Public Hearing on proposed tax rate and budget.	Board of Supervisors
March 23-April 10, 1998	Adopt budget (including Schools) and establish tax rate	Board of Supervisors
By June 30, 1998	Make final budget appropriation.	Board of Supervisors
After July 1, 1998	Departments & Agencies notified of final appropriation.	County Administrator

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 IMPROVEMENTS BUDGET:** the Capital Improvements 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, 1998 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, 1998 is as follows:

<b><u>DATE</u></b>	<b><u>FUNCTION</u></b>
Mar.23-Apr. 10, 1998	Board of Supervisors adopts FY 1998-99 Budget.
April 15, 1998	Commissioner of Revenue notifies Information Management Services that landbook is complete and processing may begin.
April 15-18, 1998	Information Management Services delivers tax tickets to Treasurer as printing is completed.
May 5, 1998	Treasurer's Office mails tax tickets to taxpayers.
June 5, 1998	First installment of Real Estate Taxes is due.

**Contract with County Attorney-Authorization for Chairman to Sign**

On a motion by Henry F. Jablonski, seconded by Ira D. Long and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby authorizes the Chairman to affix his signature to Renewal No. 1 of the County Attorney Employment Agreement dated July 31, 1996.

**Addition to Secondary System-Coles Road**

On a motion by Henry F. Jablonski, seconded by Larry N. Rush and carried unanimously,

WHEREAS, The streets described below were established prior to 1985, and currently serve 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 requirement to qualify this county to recommend additions to the Secondary System of State Highways pursuant to 33.1-72.1 Code of Virginia; and

WHEREAS, After examining the ownership of all property abutting these streets, this Board finds that speculative interest does exist.

NOW, THEREFORE, BE IT RESOLVED, That the Montgomery County Board of Supervisors requests the following street be added to the Secondary System of State Highways, pursuant to 33.1-72.1(D), Code of Virginia:

Name of street: Coles Road Length: 0.40 miles  
From: End State Maint. Route 741  
To: a Turn-around  
Guarantee Right-of-way width: 40 ft.  
Recorded Date: September 19, 1997 Plat Book: 971 Page: 196-220  
Recorded Date: October 3, 1997 Plat Book: 971 Page: 649

BE IT FURTHER RESOLVED, This Board guarantees a clear and unrestricted right-of-way 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 improve said street to the prescribed minimum standards, funding said improvements pursuant to 33.1-72.1(D), 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.

### **Proposed Ordinance-Concealed Handgun Permits**

An ordinance requiring an applicant for a concealed handgun permit to submit to fingerprinting for the purpose of obtaining the applicant's state or national criminal history record was listed for the Board's consideration.

Supervisor Rush made a motion, seconded by Supervisor Long, to **not** adopt the proposed ordinance.

Following a discussion by the Board, on a motion by Henry F. Jablonski, seconded by Joe C. Stewart and carried unanimously, the proposed ordinance was **tabled pending additional information**.

### **OLD BUSINESS**

#### **Easement to American Electric Power (AEP)**

On a motion by Ira D. Long, seconded by Larry N. Rush and carried unanimously,

BE IT RESOLVED, That the Montgomery County Board of Supervisors hereby grants an easement along the southwesterly property line to the intersection of Warm Hearth Drive and Mabry Lane for the provision of an underground power line to serve the meter location for Warm Hearth, Inc.

#### **Renewal of Agricultural and Forestal District -9 (Elliston/Pedlar Hills)**

On a motion by Mary W. Biggs, seconded by Henry F. Jablonski and carried unanimously,

**An Ordinance Renewing Agricultural  
and Forestal District (AFD-9) Within  
Montgomery County, Virginia**

WHEREAS, Justin Askins, Elmer Bower, Opal Caldwell, John & Donna Conner, Marie David & Joyce Graham, Moyer & Mary Heslep, Randolph & Irene Leech, Madison & Charlotte U. Marye, James Marye; Charlotte M. Hawes, Robert Nutt; Juliet Dalton, William Rhodes, and Joe Stewart have filed an application for the renewal of AFD-9 on May 15, 1997, which Agricultural and Forestal District was created by an ordinance adopted on the 27th day of September, 1982; and

WHEREAS, The applications were referred to the Planning Commission on the 9th day of June, 1997; and

WHEREAS, The Planning Department held a public meeting on the 30th day of April, 1997; and

WHEREAS, The applications were referred to the Agricultural and Forestal District Advisory Committee and said Committee has reviewed the applications and reported its findings and recommendations on the 5th day of August, 1997; and

WHEREAS, The Planning Commission did publish notice of the pendency of the applications on the 14th day of June, 1997 in the News Messenger and on the 15th day of June in the New River Valley Current, newspapers of general circulation within Montgomery County, Virginia; and

WHEREAS, The Planning Commission held a public hearing on the 13th day of August, 1997; and

WHEREAS, The Planning Commission forwarded the applications with its findings and recommendation for approval to the Board of Supervisors on the 13th day of August, 1997; and

WHEREAS, The Board of Supervisors after proper notice, held its public hearing on the 22nd day of September, 1997.

WHEREAS, The Virginia Department of Transportation has requested that 4.17 acres not be renewed in order to allow additional right-of-way width for the future widening of Interstate-81 within Montgomery County. (VDOT Project No. 0081-962-F09,F-10).

NOW, THEREFORE, BE IT 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-9, has been reviewed and is hereby continued and renewed, term of eight years terminating on the 31st day of December, 2005, in accordance with the provisions of Title 15.1, Chapter 36, Sections 15.1-1506 through 15.1-1513 Code of Virginia, 1950, as amended.

(3) That said District as renewed shall consist of approximately 4,793 acres in the Mt. Tabor and Shawsville Magisterial District of Montgomery County, and shall include the following parcels:

	<u>TAX PARCEL</u>	<u>ACRES</u>
Justin Askins 3261 North Fork Rd Elliston, VA 24087	58-A-51	140.4
Elmer Bower 4849 North Fork Rd Elliston, VA 24087	46-A-3	340.16

Opal Caldwell 3336 Circle Brook Dr.Apt.H Roanoke, VA 24014	84-A-40	104.2580
John & Donna Conner 5520 North Fork Rd Elliston, VA 24087	46-A-23 (18.413 a. - 0.17a.) 46-A-24,25	18.243 (Note 1) 57.138 75.381 Renewed
Marie David & Joyce Graham P0 Box 144 Elliston, VA 24087	72-A-3 72-A-5 72-A-6 72-A-8	145.0 0.2 7.0 <u>380.0</u> 532.2
Moyer & Mary Heslip P0 Box 272 Elliston, VA 24087	58-A-57 58-A-58 58-A-59	74.1 132.0 <u>60.12</u> 266.22
Randolph & Irene Leech 4220 North Fork Rd Elliston, VA 24087	45-A-28, 29,29A,29C	73.209
Madison & Charlotte Marye P0 Box 37 Shawsville, VA 24162	72-A-47 72-A-49C	257.672 <u>291.70</u> 549.372
James Marye; Charlotte Hawes 8101 Roanoke Rd Elliston, VA 24087	72-A-47C	909.506
Robert Nutt; Juliet Dalton 8339 Roanoke Rd Elliston, VA 24087	59-3-57,59 59-3-58 72-A-4 72-1-56 72-1-60 &73-1-61	60.7 15.3 188.1 59.2 <u>304.4</u> 627.7
William Rhodes 313 Goodwin Ave Salem, VA 24153	71-A-5 71-A-6	84.689 <u>2.000</u> 86.689
Joe Stewart P0 Box 275 Elliston, VA 24087	58-A-55, 55A,55B 58-A-89 59-A-44,45,46 &59-2-3	60.935  7.679  263.460
	71-A-3 71-A-10 (48-790 a. - 3.11 a.) 71-A-13,16& 58-A-52,53,64-69, 74,75,79 (611.615 a. - 0.89 a.)	95.0 45.68(Note 2)  <u>610.725</u> (Note 3) 1,083.479Renewed
TOTAL		4,788.574

Note 1: Excludes from renewal 0.17 acre delineated on map entitled "Interstate 81 Improvement Study, Project No. 0081-962-F09,F-10, Montgomery County, Agricultural and Forestal Districts (AFD) Potentially Affected by Interstate 81 Widening (September 1997) Sheet 3.

Note 2: Excludes from renewal 3.11 acres delineated on map entitled "Interstate 81 Improvement Study, Project No. 0081-962-F09,F-10, Montgomery County, Agricultural and Forestal Districts (AFD) Potentially Affected by Interstate 81 Widening (September 1997) Sheet 1.

Note 3: Excludes from renewal 0.89 acre delineated on map entitled "Interstate 81 Improvement Study, Project No. 0081-962-F09,F-10, Montgomery County, Agricultural and Forestal Districts (AFD) Potentially Affected by Interstate 81 Widening (September 1997) Sheet 3.

(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 15.1-1513 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 15.1-1511E of the Code.

(7) That all County ordinances and regulations shall be applicable within said District; provided, such ordinance and regulations shall be applicable within said District; provided, such ordinance and regulations are 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 either 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 was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Henry F. Jablonski	None	Joe C. Stewart	James M. Moore
Mary W. Biggs			
Ira D. Long			
Larry N. Rush			
Joseph V. Gorman, Jr.			

### **Renewal of Agricultural and Forestal District-10 (Mt. Tabor)**

On a motion by Larry N. Rush, seconded by Ira D. Long and carried unanimously,

#### **ORDINANCE 1997 - 35**

#### **An Ordinance Renewing Agricultural and Forestal District (AFD-10) Within Montgomery County, Virginia**

WHEREAS, Robert & Alma Cox, Raymond Dessy, Dan & Jean Eversole, Joshua Fugate, Clayton Holmes Trust, Robert & Donna Jones, James & Phyllis Hutton, Arnold & Mildred Lafon, Leslie Austin-McCombs, Mercia Noble, Phillip Pickett; Lynda Majors, John Schug, Michael Slayton, Phillip & Torsten Sponenberg, John Sutphin and Thomas Triplet have filed an application for the renewal of AFD-10 on May 15, 1997, which Agricultural and Forestal District was created by an ordinance adopted on the 12th day of October, 1982; and

WHEREAS, The applications were referred to the Planning Commission on the 9th day of

June, 1997; and

WHEREAS, The Planning Department held a public meeting on the 30th day of April, 1997; and

WHEREAS, The applications were referred to the Agricultural and Forestal District Advisory Committee and said Committee has reviewed the application and reported its findings and recommendations on the 5th day of August, 1997; and

WHEREAS, The Planning Commission did publish notice of the pendency of the applications on the 14th day of June, 1997 in the New Messenger and on the 15th day of June in the New River Valley Current, newspapers of general circulation within Montgomery County, Virginia; and

WHEREAS, The Planning Commission held a public hearing on the 13th day of August, 1997; and

WHEREAS, The Planning Commission forwarded the applications with its findings and recommendation for approval to the Board of Supervisors on the 13th day of August, 1997; and

WHEREAS, The Board of Supervisors after proper notice, held its public hearing on the 22nd day of September, 1997.

NOW, THEREFORE, BE IT 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 environment resource of major importance is also in the public interest.

(2) That this Agricultural and Forestal District, AFD-10, has been reviewed and is hereby continued and renewed, term of eight years terminating on the 31st day of December, 2005, in accordance with the provisions of Title 15.1, Chapter 36, Sections 15.1-1506 through 15.1-1513 Code of Virginia, 1950, as amended.

(3) That said District as renewed shall consist of approximately 1,298 acres in the Mt. Tabor Magisterial District of Montgomery County, and shall include the following parcels:

	<u>TAX PARCEL</u>	<u>ACRES</u>
Robert & Alma Cox 1557 Mt. Tabor Rd Blacksburg, VA 24060	29-A-27	49.549
Raymond & Annabelle Dessy 2207 Bishop Rd Blacksburg, VA 24060	29-A-15	34.3
Dan & Jean Eversole 2495 Bishop Rd Blacksburg, VA 24060	29-2-6C	40.633
Joshua Fugate 1812 Dry Run Rd Blacksburg, VA 24060	18-A-8,9,36	184.294
Clayton Holmes Trust 2257 Bishop Rd Blacksburg, VA 24060	29-2-5,6,7 29-2-5D	106.263 <u>9.781</u> 116.044
Robert & Donna Jones PO Box 10698 Blacksburg, VA 24062	17-A-2A  17-A-2N	37.193 9.245 21.2

	17-A-2T	4.516
	17-A-2U	<u>0.728</u>
		72.882
James & Phyllis Hutton	17-A-3	15.083
305 E. Hemlock Dr	17-A-4	<u>37.017</u>
Blacksburg, VA 24060		52.100
Arnold & Mildred Lafon	28-A-53	4.732
1563 Mt. Tabor Rd	28-A-54	9.515
Blacksburg, VA 24060	28-A-55	<u>75.0</u>
		89.247
Leslie Auston-McCombs	29-6-4	85.35
1268 Catawba Rd		
Blacksburg, VA 24060		
Mercia Noble	17-A-11A	2.796
3021 Mt. Tabor Rd	17-4-A	35.088
Blacksburg, VA 24060	17-4-B	52.952
	<b>17-4-B1</b>	<u>10.048</u>
		100.884
Phillip Pickett & Lynda Majors	17-A-20	20.212
2620 Mt. Tabor Rd		
Blacksburg, VA 24060		
John Schug	29-A-41	90.45
2588 Bishop Rd		
Blacksburg, VA 24060		
Michael Slayton	17-A-2D	89.126
2626 Mt. Tabor Rd		
Blacksburg, VA 24060		
Phillip & Torsten Sponenberg	29-A-44	23.153
2620 Bishop Rd	29-A-45	12.800
Blacksburg, VA 24060	30-A-6	<u>84.300</u>
		120.253
John Sutphin	29-6-3 &	102.98
1279 Catawba Rd	30-3-1	
Blacksburg, VA 24060		
Thomas & Bonnie Triplett	17-A-2C	32.489
2664 Mt. Tabor Rd	17-A-2L	10.521
Blacksburg, VA 24060	17-A-2Y	1.752
	17-A-2X	0.214
	17-A-15	<u>4.621</u>
		49.597
TOTAL		1,297.901

(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 15.1-1513 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 15.1-1511E of the Code.

(7) That all County ordinances and regulations shall be applicable within said District; provided,

such ordinance and regulations shall be applicable within said District; provided, such ordinance and regulations are 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 either 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 was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Larry N. Rush	None	James M. Moore
Mary W. Biggs		
Henry F. Jablonski		
Ira D. Long		
Joe C. Stewart		
Joseph V. Gorman, Jr.		

#### **Additions to Agricultural and Forestal District-10 (Mt. Tabor)**

On a motion by Henry F. Jablonski, seconded by Mary W. Biggs and carried unanimously,

#### **ORDINANCE 1997-36**

#### **An Ordinance Creating An Addition to Agricultural and Forestal District (AFD-10) Within Montgomery County, Virginia**

WHEREAS, Richard and Jennifer Fenrich have filed application for an addition to AFD-10, on May 15, 1997 which Agricultural and Forestal District was created by an ordinance adopted on the 26th day of May, 1981 and renewed by an ordinance adopted on the 14th day of October, 1997; and

WHEREAS, The application was referred to the Planning Commission on the 9th day of June, 1997; and

WHEREAS, The application was referred to the Agricultural and Forestal District Advisory Committee and said Committee has reviewed the application and reported its findings and recommendations on the 5th day of August, 1997; and

WHEREAS, The Planning Commission did publish notice of the pendency of the application on the 14th day of June, 1997 in the News Messenger and on the 15th day of June in the New River Valley Current, newspapers of general circulation within Montgomery County, Virginia; and

WHEREAS, The Planning Commission held a public hearing on the 13th day of August, 1997; and

WHEREAS, The Planning Commission forwarded the application with its findings and recommendation for approval to the Board of Supervisors on the 13th day of August, 1997; and

WHEREAS, The Board of Supervisors after proper notice, held its public hearing on the 22nd day of September, 1997.

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

(1) That the addition to Agricultural and Forestal District, AFD-10, are in accordance with the provision of Title 15.1, Chapter 36, Sections 15.1-1506 through 15.1-1513, Code of Virginia, 1950, as amended.

(2) That said addition shall consist of approximately 30 acres in the Mt. Tabor District of Montgomery County, and shall include the following parcel:

	<u>TAX PARCEL</u>	<u>ACRES</u>
Richard & Jennifer Fenrich	17-A-2M	<u>30.275</u>
2344 Mt. Tabor Rd	TOTAL	30.275
Blacksburg, VA 24060		

The vote was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Larry N. Rush	None	James M. Moore
Mary W. Biggs		
Joe C. Stewart		
Henry F. Jablonski		
Ira D. Long		
Joseph V. Gorman, Jr.		

### **COUNTY ADMINISTRATOR'S REPORT**

Foreign Trade Zone The Economic Development Director provided an update on the New River Valley Alliance's application to establish a foreign trade zone at the New River Valley Airport. A foreign trade zone would allow industries to import pieces and parts that may be assembled into a value-added price at a later date with no duty or custom fees when they are imported. It is expected to take a minimum of 6 to 9 months to get final approval from the Customs Office. The U.S. Customs Office will hold a public hearing on November 13th at 9:00 a.m. at the New River Valley Airport Administration Building.

Supervisor Jablonski said that although he supports a foreign trade zone in general, he has some concern about what percentage of parts is allowed to be imported for a product and still be labeled "made in the USA".

Enterprise Development Center has approval from the EDA for a \$1.2 million grant to renovate the Health Tex building. The Industrial Development Authority (IDA) has made arrangements to borrow funds for a 1/3 match. Plans and specifications have been drawn up and the project went out to bid about two months ago. Bids came back about 15% over budget. A task force committee made up of the IDA and the EDC, along with Economic Development staff, are working with the architectural firm to try and bring the project cost down to budget.

Falling Branch Project A final agreement has been signed for right-of-way for an access road. The engineers are redesigning the access road plan to adjust the drainage. This should be completed within a week, and then turned over to the Virginia Department of Transportation (VDOT) so VDOT can go to bid for the access road project in December. The final development plan will be the responsibility of the IDA, who plans to pick up where VDOT stops on the road, with a gravel access road into the interior of the park.

Blacksburg Shell Building Construction is underway and completion is scheduled for mid-December.

Road Viewers The County Administrator reminded Board members that they, as the Road Viewers, are scheduled to review Rural Addition requests on Saturday, October 25th at 9:00 a.m.

Director of Finance and Management Services The County Administrator announced that Ms. Angela Hill has been hired as the County's new Director of Finance and Management Services. Ms. Hill is a certified public accountant and has 10 years experience in local government auditing.

## **BOARD MEMBERS' REPORTS**

**Supervisor Jablonski-Commerce Park Project** Supervisor Jablonski recently attended a Planning Commission meeting related to the Commerce Park project in Pulaski County, in which various jurisdictions may participate. Represented at the meeting was Montgomery County, Wythe County, City of Radford, Town of Pulaski, Town of Pearisburg, Town of Dublin and Town of Christiansburg. In answer to the question "what do you need to know to discuss participation in a commerce park project with your Board or Council" it was the consensus that the following needed to be addressed:

### Process

- what is the region
- when will ad hoc committee be formed?

### Legal

- land use regulatory oversight and responsibility

### Marketing

- how do you sell this?

### Revenue sharing

- can you create a special tax district?
- will tax exempt employers be considered for regional park?
- will all tax revenue be shared with participants in regional park?

### Financing

- cost
- cost/benefit analysis
- minimum threshold/local funds
- does investment determine level of participation?
- start cost and how revenue will be shared
- can a regional park be financed?
- how is long-term financing risk shared?
- can investment be in installments? term in years?

The PDC is gathering information on the above and is expected to report at the PDC's October 15th meeting.

**Supervisor Biggs-Zoning Ordinance Revision** Supervisor Biggs attended the Planning Commission work session on Wednesday night. Although Commission members still have questions, a public hearing is scheduled for October 22nd. There will be a regular meeting of the Planning Commission tomorrow (Wednesday) and Supervisor Biggs invited other Board members to attend.

**School Board** Supervisor Biggs provided figures on student enrollment projections that were released from Dr. Earthman's upcoming report.

**AEP Proposed 765kV power line** Supervisor Biggs said she attended a meeting, along with Supervisor Long, in the Norris Run community, to hear citizens' comments on the proposed AEP 765 kV power line.

**Health and Human Services Building** At a previous meeting, Supervisor Biggs had asked about when parking signs would be installed in the parking lot at the new building, as well as signs inside the building. Signs need to be in place before the building can be dedicated.

The County Administrator will ask staff to look into this and determine what needs to be done to complete this project.

**Supervisor Long-AEP Proposed 765 kV power line** Supervisor Long reported that approximately 150 people attended the meeting in Norris Run, all of them very much opposed to the proposed power line.

**Supervisor Rush-County Pool** According to the Parks and Recreation Director's report on the pool this season, the pool actually brought in more revenue than it cost to run it. The County

Administrator will forward copies of the pool reports to the Board.

Parks and Recreation Commission voted to try to get one thing put on the CIP for this year, to replace the plumbing and some of the exterior of the pool bathhouse.

Chairman Gorman-Evaluation Procedure Included in the Board's packet was an evaluation procedure for professional employees that was drafted by the Chairman at the request of the Board. Input was requested from the Board in order to finalize the draft so it can be included in the Policy Book.

### **Motion to Approve Evaluation Procedure**

On a motion by Ira D. Long, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the following evaluation procedure for professional employees be included in the Board's policy book:

### **EVALUATION PROCEDURE FOR PROFESSIONAL EMPLOYEES**

Purpose Procedure for evaluating professional county employees, such as the County Administrator and the County Attorney.

Expected Outcome Develop a consensus evaluation of the individual's job performance.

Schedule Annually (minimum) should coincide with "anniversary date" in current classification.

#### Methodology

1. Six weeks before employee's anniversary date the Board of Supervisors will agree on format and schedule for the evaluation.
2. All Supervisors will evaluate employee on the consensus format.
3. Appoint a "consolidator" who will summarize individual inputs into a consensus document.
4. Consolidator will present consensus evaluation to the Board of Supervisors two weeks before the due date (anniversary date of employee).
5. The Board will concur on the consensus and recommended salary.
6. The Chairman will present the evaluation to the employee with recommended contract changes.
7. All pages presented will be initialed and dated by both evaluator and evaluatee, signatures will be applied as required.
8. Salary agreement will be forwarded to the payroll department.

Copies of all evaluation documents will be distributed to all Supervisors, the originals will be retained by the employee and the Chairman of the Board of Supervisors. The Chairman will pass the "original" to successor.

### **BOARD MEMBERS' REPORTS (cont'd)**

Supervisor Rush-Student Enrollment Projections Since Christiansburg is growing at a faster percentage rate than Blacksburg, Supervisor Rush asked why this is not reflected in the student

enrollment projections provided by Supervisor Biggs from Dr. Earthman's report.

The Chairman reported that Health and Human Services has released a report for projections and age groups coinciding with the same time period, and asked that the County Administrator compare the two reports as to the population projections.

**The Board reconvened in the Board Chambers.**

**INTO EXECUTIVE SESSION**

On a motion by Joe C. Stewart, seconded by Larry N. Rush and carried unanimously,

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

- Section 2.1-344(A) (3) Discussion or Consideration of the Condition, Acquisition or Use of Real Property for Public Purpose, or of the Disposition of Publicly Held Property
  - 1. Sale of Old Health Department Building
- (1) Discussion of Performance of Personnel
  - 1. Performance of County Administrator
- (3) Discussion of the Condition, Acquisition or Use of Real Property for Public Purpose
  - 1. Christiansburg Middle School
- (7) Consultation with Legal Counsel and Briefings by Staff Members Pertaining to Actual or Probable Litigation or Other Legal Matters Requiring Provision of Legal Advice by Counsel
  - 1. Boundary Line Adjustment and Utility Agreement

**OUT OF EXECUTIVE SESSION**

On a motion by Ira D. Long, seconded by Joe C. Stewart and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors ends their Executive Session to return to Regular Session.

**CERTIFICATION OF EXECUTIVE SESSION**

On a motion by Ira D. Long, seconded by Henry F. Jablonski and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened an executive 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 executive 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 executive meeting to which this certification resolution applies, and (ii) only

such public business matters as were identified in the motion conveying the executive meeting were heard, discussed or considered by the Board.

VOTE

AYES

Mary W. Biggs  
Henry F. Jablonski  
Ira D. Long  
Larry N. Rush  
Joe C. Stewart  
Joseph V. Gorman, Jr.

NAYS

None

ABSENT DURING VOTE

James M. Moore

ABSENT DURING MEETING

James M. Moore

ADJOURNMENT

On a motion by Ira D. Long, seconded by Henry F. Jablonski and carried unanimously, the Board adjourned to Monday, October 20, 1997 at 7:00 p.m. at the Health and Human Services Building meeting room.

The meeting adjourned at 10:30 p.m.