

THE FRANKLIN COUNTY BOARD OF SUPERVISORS HELD THEIR REGULAR MONTHLY MEETING ON TUESDAY, AUGUST 19TH, 2008, AT 1:30 P.M., IN THE BOARD OF SUPERVISORS MEETING ROOM IN THE COUNTY COURTHOUSE.

THERE WERE PRESENT: Charles Wagner, Chairman
Wayne Angell, Vice-Chairman
Leland Mitchell
David Hurt
David Cundiff
Russ Johnson
Bobby Thompson

OTHERS PRESENT: Richard E. Huff, II, County Administrator
Christopher L. Whitlow, Asst. County Administrator
Larry V. Moore, Asst. County Administrator
B. J. Jefferson, County Attorney
Connie Stanley (Representing Sharon K. Tudor, Clerk)

Chairman Charles Wagner called the meeting to order.

Invocation was given by Supervisor Bobby Thompson.

Pledge of Allegiance was led by Supervisor Russ Johnson.

Mr. Huff recognized Greg Walker, Rocky Mount Town Council and Patricia Barnes, Human Resource and Research Analyst.

PUBLIC COMMENT:

CONSENT AGENDA

APPROVAL OF ACCOUNTS PAYABLE LISTING, APPROPRIATIONS, TRANSFERS & MINUTES FOR – JULY 17TH, 2008

APPROPRIATIONS

<u>DEPARTMENT</u>	<u>PURPOSE</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>
Commissioner of Revenue	Rollovers/Carry forwards		35,800.00
Information Technology	Rollovers/Carry forwards		6,400.00
Registrar	Rollovers/Carry forwards		5,000.00
General District Court	Rollovers/Carry forwards		2,500.00
J and D Court	Rollovers/Carry forwards		1,000.00
Court Services	Rollovers/Carry forwards		1,000.00
Clerk of Court	Rollovers/Carry forwards		162,176.00
Commonwealth Attorney	Rollovers/Carry forwards		3,000.00
Domestic Violence	Rollovers/Carry forwards		21,109.00
Public Safety	Rollovers/Carry forwards		27,418.00
EMS Billing	Rollovers/Carry forwards		208,208.00
General Properties	Rollovers/Carry forwards		64,527.00
Family Resources	Rollovers/Carry forwards		27,315.00
Parks and Recreation	Rollovers/Carry forwards		25,000.00

Planning Agencies	Rollovers/Carry forwards		64,732.00
Planning and Zoning	Rollovers/Carry forwards		100,000.00
Economic Development	Rollovers/Carry forwards		108,969.00
GIS	Rollovers/Carry forwards		15,809.00
E911	Rollovers/Carry forwards		3,000.00
Sheriff	Equipment Grant		4,820.00
Capital	Creek Freak Donation		1,095.00
		Total	888,878.00
PC Replacement			50,000.00
GIS Trimble GPS Units			8,600.00
IT Disaster Recovery			30,000.00
IT Network Switch Upgrade			22,000.00
IT Network Upgrade			25,500.00
IT Server Virtualization			20,000.00
Document Imaging Solution			25,000.00
Fire/EMS Equipment			27,400.00
Burn Building			50,000.00
Courthouse Fire Alarm System			72,362.00
Courthouse Painting			32,292.00
Aging Services Vehicle Match			9,600.00
SML Park			400,000.00
Community Park Development			20,000.00
Jamison Mill Rehab			10,000.00
Lynch Park Boulder Playground			15,000.00
Bowman Farm Cleanup			10,000.00
Henry Park Playground			10,000.00
Snow Creek Park Rehab			10,000.00
Economic Development Funds			555,099.00
EOC Dispatch Stations			37,400.00
Landfill Engineering			90,000.00
Landfill Compliance			22,500.00
Landfill Equipment			19,000.00
Landfill Development			50,000.00
Collection Sites			70,000.00
Landfill Gas Control			2,649.00
New Landfill Construction			1,700,000.00
		Total	3,394,402.00
To appropriate funds in the County Capital Fund which are currently budgeted			

2008 RABIES CLINIC – OCTOBER 4TH, 2008

In an effort to control the spread of the rabies virus, Franklin County in conjunction with local veterinarians and staff, previously sponsored a yearly rabies vaccination clinic to benefit citizens who ordinarily may not have an opportunity to obtain vaccinations for their pets. Traditionally the clinic is held in the fall prior to hunting season. The clinic, if approved, will be held in various locations throughout the county on October 4, 2008.

Sponsorship of a rabies vaccination clinic for pets in Franklin County will reduce the potential spread of the virus. The Code of Virginia relating to Animal Laws requires that two conditions be met before a canine or feline can be vaccinated outside the controlled environment of a certified veterinary facility. First, approval must be granted by the local health department. Second, the

local governing body must declare the holding of such a clinic is for the health, safety, and welfare of the citizens to reduce the potential threat of rabies transmission in the area.

Once approved by the Board of Supervisors, staff will secure authorization from the local health department to conduct the clinic.

The clinic will only be available to Franklin County and Rocky Mount residents. A \$5.00 fee per vaccination has traditionally been charged to the owner to offset the associated expense in conducting the clinic.

Fees for dog licenses sold at the authorized locations will remain unchanged from that charged at the Franklin County Treasurer's Office.

Estimated costs and revenues generated from the rabies clinic held in 2007 were as follows:

Costs associated with two (2) veterinarians:	\$3349.83
*(This amount reflects the cost of the rabies vaccine, syringes, mileage, and 50% of the revenue generated from providing 513 vaccinations.)	

Six (6) assistants, three (3) per veterinarian @ \$125.00 each.	
*(Assistants issue rabies receipt and collect fees for vaccination)	<u>\$750.00</u>
Total cost:	\$4099.83

Revenue received: (513 vaccinations @ \$5.00 each)	\$2565.00
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RECOMMENDATION: Staff respectfully recommends and requests the Board of Supervisors declare the holding of this County Rabies Clinic is for the health, safety, and welfare of the citizens to reduce the potential threat of rabies transmission in the area and authorize the County Rabies Clinic to be held on October 4, 2008.

The fee for vaccination is requested to remain unchanged at \$5.00 per animal. The date, times, and locations of the clinic will be published in local newspapers for a minimum of five (5) editions. Flyers will also be distributed in various places throughout the county.

2009-2010 PIEDMONT COMMUNITY SERVICES CONTRACT

As required by Virginia statute (37.1-198) Piedmont Community Services is required to provide to the localities (Franklin, Patrick, Henry Counties and the City of Martinsville) the FY 2008-09 Performance Contract between their agency and the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services. Piedmont Community Services is required to report to the Department the action taken by each locality.

The purpose of the contract is to establish requirements and responsibilities between Piedmont Community Services and the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services that are not established through other means, such as statute or regulation. The FY 2008-09 contract has not changed from previous years although reporting requirements continue to be simplified. Also the document has been split into three parts with the purpose of simplification:

- Performance Contract continues as the core financial and service agreement
- Partnership Agreement pulls out of the contract important policy understandings and
- General Requirements Document

Approval of the contract does not make Franklin County a party to the contract and creates no additional responsibility. The contract shall be in effect for a term of one year, commencing on July 1, 2008 and ending on June 30, 2009.

RECOMMENDATION:

Staff recommends that the Board of Supervisors, by resolution, authorize the County Administrator to execute the annual contract with Piedmont Community Services Board.

PASSENGER RAIL RESOLUTION

RESOLUTION FOR SUPPORT OF PASSENGER RAIL SERVICE IN THE ROANOKE VALLEY AT THE EARLIEST OPPORTUNITY

WHEREAS, the Roanoke Valley and its citizens have a long and storied history relating to railroads, both passenger and freight; and

WHEREAS, the residents of Franklin County once had access to passenger rail service, however that service was discontinued, leaving residents to rely on other forms of transportation, principally the automobile; and

WHEREAS, due to the current high cost of petroleum based fuels, travel by automobile over long distances is burdensome to the average family; and

WHEREAS, the cost of petroleum based fuels is expected to remain high for the foreseeable future; and

WHEREAS, dependency on the automobile forces our nation to rely on foreign oil from increasingly unstable parts of the world; and

WHEREAS, passenger rail service represents a significant increase in both fuel efficiency and safety over automobile travel; and

WHEREAS, reducing congestion on local interstates, primarily Interstate 81 and State Route 220, are in the best interests of the citizens of Franklin County and the Commonwealth; and

WHEREAS, a well balanced transportation plan must provide for passenger rail service as well as for highway construction; and

WHEREAS, passenger rail service has been consistently asked for by the citizens of Franklin County in various surveys and through comments made to local leaders and administrators;

NOW, THEREFORE, BE IT RESOLVED BY THE FRANKLIN COUNTY BOARD OF SUPERVISORS, FRANKLIN COUNTY, VIRGINIA request the Department of Rail and Public Transportation and the Commonwealth Transportation Board designate the Roanoke Metropolitan Area for passenger rail service to Washington D.C. and/or to Richmond in Phase I of the TransDominion Express project as described in the Statewide Rail Plan currently being considered.

BLUE RIDGE MOUNTAIN GARDEN TRACTOR PULLERS/SPECIAL EVENTS PERMIT

This is the third year that the Blue Ridge Mountain Garden Tractor Pullers have held the state tractor pull in Franklin County. The show will be held at the Franklin County Recreation Park on October 11, 2008. Approximately three hundred attendees are expected with fifty to seventy pullers. This event has been held in prior years with no known significant problems, issues, or complaints.

This event has a good track record over the past two years of being a safe, family-oriented activity. The organization has completed the necessary permit application and received its temporary land use permit through the Planning Department. The organization has noted that food vendors will be required to contact the Health Department to meet any requirements and portable toilets will be on site in an adequate number. The plans for the event have been approved by the Health Department, Public Safety, the Sheriff's Office, the Building Inspection Office, and the Planning Department. In accordance with County Code Section 3-83 a fee of \$100.00 will be collected contingent upon approval of the requested special event.

RECOMMENDATION: It is recommended that the Board approve this permit application and set a bond amount of \$500.00 which is equal to the amount paid each of the last two years for this event.

CONFEDERATE MONUMENT REPLACEMENT

On June 6, 2007, a Pickup truck lost control while travelling south on Main Street, struck the Confederate Statue in front of the Franklin County Courthouse and then struck the Courthouse. The statue was destroyed beyond repair.

All insurance proceeds have now been collected with the first appropriation by the Board during their May 20th, 2008, meeting in the amount of \$61,949 from VACO Insurance and a \$500.00 donation received from State Senator Charles Hawkins. The Progressive Insurance check was received in June, 2008 in the amount of \$100,000. With all insurance proceeds received and deposited staff requests authorization to solicit Request for Proposals for the replacement of the historical monument. .

RECOMMENDATION:

(RESOLUTION # 02-08-2008)

BE IT THEREFORE RESOLVED by the Board to approve the school carryovers of federal and state revenues as submitted.

MOTION BY: Wayne Angell

SECONDED BY: David Hurt

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Hurt, Cundiff, Angell, Johnson, Thompson & Wagner

GEREAU CENTER CEED ALTERNATIVE ENERGY POD PROGRAM

Dr. Charles H. Lackey, Division Superintendent, School System, shared with the Board the following chart which includes information relative to the available funding to date for the Gereau Center Energy Facility – CEED Project:

<u>DATE:</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
11/23/04	Federal Department of Energy Grant	\$250,000
11/23/04	Federal Department of Energy Grant - Project Funds Charge	<u>(9,000)</u>
	Balance	241,000
	Spent by VPI & SU for Architectural / Engineering Fees and Salaries & Benefits (Dr. Jim Jones' Estimate) (Confirmed by Dr. Bob Schubert 7/25/08)	<u>27,863</u>
	Balance (I have contacted Dr. Bob Schubert at VPI & SU to request verification of the unspent grant funds)	<u>213,137</u>
8/8/05	Local Funds for ECS	2,024
8/8/05	Payments to ECS	<u>(2,024)</u>
	Balance	<u>0</u>
5/9/07	Donation – Appalachian Power Co. (Note: APCO also agreed to provide \$5,000 in 2008) (Confirmed by 8/4/08 Letter)	<u>5,000</u>
12/26/07	Federal Department of Energy Grant	<u>196,800</u>
	Total Funding Remaining	<u>\$414,937</u>

We are required to provide a 100% local funding match of the \$196,800 grant. This may also be required on the original \$250,000 grant. Accordingly, a total local match of \$446,800 may be required. We need to determine the source of the required additional local matching funds.

We do have an exact confirmed amount that VPI & SU is still holding on our behalf. It looks like they have \$213,137 according to Dr. Schubert. Will they soon be turning over these funds to us?

Also, the second year of the Appalachian Power Company contribution of \$5,000 is due. I wrote a letter to Mr. Terry Hall about APCO's second year \$5,000 commitment to the project and he has confirmed that they will donate the additional \$5,000 during the third quarter of this year.

We have estimated funding of \$414,937 already committed but unspent as of August 6, 2008, as shown in the schedule above. If we add SNAP interest earned, but not committed to the Windy Gap Elementary School Project, in the estimated amount of \$174,984 plus interest earned from BB & T in the estimated amount of \$63,270 to the other unspent funds totaling \$414,937, we would have a grand total available of \$653,191. The Project cost is preliminarily estimated to be \$815,000 (3,700 sq. ft. x \$200 = \$740,000 plus \$75,000 in sitework). This means that we would only need additional funding in the amount of \$161,809. The uncommitted Windy Gap Elementary School interest earnings will continue to grow and there will also probably be some unused contingency funds left over. The \$238,254 interest and any unused contingency must be

used for a school capital project similar to Windy Gap Elementary School since these proceeds resulted from a school bond issue so it would be appropriate and necessary to ask the Board of Supervisors to approve using it for the CEED Project. The total CEED Project costs probably must be at least equal to \$903,600 in order to properly match the Federal grants plus the \$10,000 in APCO donations.

Dr. Lackey stated that no action at this time was necessary by the Board. This item would be brought back at a later date for funding request.

ACTION INSTALLERS, INC., PETITION FOR REZONE

Neil Holthouser, Director of Planning and Community Development briefly reviewed and highlighted Action Installers, Inc., Petitioner and Owner, petition for a Rezone from A-1, Agricultural District to RPD, Residential Planned Unit Development, with possible proffers, on +/- 87.039 acres for the purpose of a subdivision named "Poteet Meadows".

Clyde Perdue spoke on behalf of Action Installers.

(RESOLUTION #03-08-2008)

BE IT THEREFORE RESOLVED, by the Board of Supervisors to deny the Action Installers, Inc., Petition for rezone.

MOTION BY: David Hurt

SECONDED BY: Russ Johnson

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Hurt

NAYS: Mitchell, Cundiff, Angell, Johnson, Thompson & Wagner

THE MOTION FAILS WITH A 1-6 VOTE.

(RESOLUTION #04-08-2008)

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve the petition for rezone for Action Installers, Inc., with the following proffers dated August 19th, 2008:

Proffers for Case # R 08-05-01, Action Installers, Inc.:

1. The property shall be developed in substantial conformance with the Concept Plan prepared by Parker Design Group, dated March 18, 2008, Revised August 15, 2008, being filed with the Franklin County Planning Department.
2. All commercial uses will be prohibited.
3. No more than 75 dwelling units shall be constructed.
4. No structure shall consist of more than two (2) attached dwelling units.
5. Property Owner Association documents shall, at a minimum, contain provisions to require the owners to upkeep and maintain the open space including, but not limited to, landscaping, walking trail, gazebo, fishing pond, and any stormwater management practices proposed to meet state and local requirements.
6. Short term rentals shall be prohibited.
7. A berm shall extend from the southern right of way for the new state route right of way (to be constructed) within the open space, along the rear of Lots 1, 2 and 3, generally as shown on the concept plan, sheet 5 – except no berm shall be along the open space, generally south of Lot 3. This berm shall be shown on the site plans submitted and be subject to VDOT approval.
8. A fishing pier (minimum 6' wide x minimum 20' long and shall be made of non-corrosive materials) shall be added to the existing pond as shown on the concept plan sheet 03.
9. Walking trails, gazebos and other amenities shall be provided as shown on the concept plan sheets 03 and 04.
10. A Home Owners Association shall be established with an Architectural Committee.
11. Drainage improvements east of Route 678 for the length of this project shall be installed to meet the current VDOT Subdivision Street Requirements as necessary.
12. The "dry hydrant" shall be maintained for use by all applicable fire departments.
13. The area along Poteet Road south of Lot 3, shall be cleared and maintained by the Home Owners Association (possibly leaving a few trees) so as to provide a view of the pond area from Poteet Road.

MOTION BY: Wayne Angell

SECONDED BY: Russ Johnson

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Cundiff, Angell, Johnson, Thompson & Wagner

NAYS: Hurt

THE MOTION PASSES WITH A 6-1 VOTE.

VDOT REPORT

Mr. Huff requested the Board to allow Tony Handy, VDOT, to address the Board regarding Diamond Avenue Bridge. At this time, Mr. Handy advised the Board that the weight limit has been temporarily reduced to three tons to the bridge connecting Diamond Avenue to Route 840 (Diamond Avenue Extension) due to needed repairs. He explained that the work would be done as quickly as possible for traffic to continue as normal.

Mr. David Hurt requested Mr. Handy to provide a bridge report to the Board of Supervisors, including an update on Clements Mill Bridge.

Mr. David Cundiff inquired about Mountain Ridge Road. Mr. Handy explained that Mountain Ridge Road was a Class 4 road and improvements were rarely done on Class 4 roads.

PHASE I ZONING AMENDMENTS

Neil Holthouser, Director of Planning & Community Development, presented the revisions discussed during the Board Retreat as follows:

SUMMARY:

The Board of Supervisors has authorized an update of Franklin County's zoning and subdivision ordinances, to be conducted in two phases:

Phase I: Revisions and clarifications deemed necessary to address conflicts, interpretative issues, and other immediate concerns related to the zoning ordinance. This phase is to be prepared by Planning staff.

Phase II: General update of the entire zoning and subdivision ordinances, with a focus on the structure and usability of the code, as well as new provisions deemed necessary to implement the County's Comprehensive Plan. This phase is to be prepared with the assistance of an outside consultant.

As part of Phase I, staff has prepared a series of amendments to the zoning ordinance to incorporate corrected references to the Code of Virginia. The state code sets forth the statutory authority of local governments to enact zoning regulations. This authority was formerly granted under Title 15.1 of the Code of Virginia. The state code was amended in 1997, with the local authority for zoning now found in Title 15.2 Chapter 22.

REQUESTED ACTION:

Staff recommends that the Board of Supervisors authorize an amendment to the Zoning Ordinance, as outlined in this memorandum, to incorporate corrected references to the Code of Virginia. Upon Board authorization, staff will schedule the proposed amendment for public hearing before the Franklin County Planning Commission. The Planning Commission, in turn, will consider the proposed amendment and forward a recommendation to the Board for review, public hearing, and consideration for adoption.

ARTICLE I. GENERAL PROVISIONS**DIVISION 1. AUTHORITY, ESTABLISHMENT, PURPOSE AND OFFICIAL ZONING MAP****Sec. 25-1. Authority and enactment.**

This chapter, to be cited as the Zoning Ordinance of Franklin County is hereby ordained, enacted and published by the Board of Supervisors of Franklin County, Virginia, pursuant to the provisions of title 15.2, chapter 22, article 7 Code of Virginia, 1950, and amendments thereto.
(Ord. of 5-25-88)

DIVISION 2. APPLICATION OF REGULATIONS**Sec. 25-23. Conflicting ordinances.**

- (a) Whenever provisions within this chapter conflict with any local, state or federal statute or regulation with respect to requirements or standards, the most severe or stringent requirement or standard will prevail.
- (b) For purposes of this section, any proffer heretofore accepted by the board of supervisors in accordance with section 15.2-2296 et seq., of the Code of Virginia, shall be continued in effect and shall be construed to be a "local regulation" until amended or varied by the board of supervisors in accordance with law, regardless of the repealer of any previous ordinance.
(Ord. of 5-25-88)

DIVISION 3. DEFINITIONS

Sec. 25-40. Principal definitions of the Zoning Ordinance.

The following definitions shall apply in the interpretation and enforcement of this chapter:

Conditional zoning. "Conditional zoning" means, as part of classifying land within a governmental entity into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to the regulations provided for in a particular zoning district or zone by the overall zoning ordinance. It is the purpose of section 15.2-2296 of the Code of Virginia to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.

Inoperable vehicle. An inoperable vehicle means any motor vehicle which either is not in operating condition; and/or which it would not be economically practical to make operative, or which for a period of 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 the operation of the vehicle. This term shall not include vehicles used in agricultural or horticultural purposes as provided for in section 46.2-665 of the Code of Virginia.

ARTICLE V. PROCEDURE

DIVISION 3. SPECIAL USE PERMITS

Sec. 25-639. Application.

Application for a special use permit shall be made by the filing thereof by the owner or contract purchaser of the subject property with the zoning administrator, together with a fee as set forth in section 25-789, the fees of this chapter. No such permit shall be issued unless the board of supervisors shall have referred the application therefore to the planning commission for its recommendations. Failure of the planning commission to report within sixty (60) days after the first meeting of the planning commission after the application has been referred to the planning commission shall be deemed a recommendation of approval. No such permit shall be issued except after notice and hearing as provided by sections 15.2-2204 and 15.2-2205 of the Code of Virginia. Also, a notification sign shall be posted by the applicant upon the subject property and adjacent to the nearest state highway at the point of access to the subject property for a period of fourteen (14) days prior to the first public hearing of the board of supervisors.

(Ord. of 5-25-88)

Sec. 25-645. Review of public uses for compliance with the Comprehensive Plan.

- (c) The foregoing notwithstanding, the provisions of section 15.2-2232 of the Code of Virginia shall apply to any such review.

(Ord. of 5-25-88)

Cross references: For other provisions applicable to the above, see § 25-50.

DIVISION 6. AMENDMENTS TO ZONING ORDINANCE

Sec. 25-729. Code provisions.

The board of supervisors may amend, supplement or change the regulations in the zoning ordinance, or the zoning boundaries or classifications of property on the zoning map, in conformity with the provisions of title 15.2, chapter 14, article 7, of the Code of Virginia (1950), as amended, and the provisions and purposes of this division.

(Ord. of 5-25-88)

Sec. 25-732. By property owner contract purchasers and owner's agent petition; by motions.

Amendment of this chapter shall be initiated as follows:

- (1) By the filing with the board of supervisors of a petition of any owner or owners of land proposed to be rezoned, which petition shall be addressed to the board of supervisors and shall be on a standard form and accompanied by a fee set forth in section 25-789. In accordance with 15.2-2286 of the Code of Virginia, this petition shall also include, in the case of any application for a zoning map amendment, zoning ordinance modification, zoning concept development plan amendment, special use permit, variance, site plan or zoning permit, the provision of satisfactory evidence from the treasurer's office that any real estate taxes due and owed to the county which have been properly assessed against the property have been paid and that the property shall be in compliance with all county ordinances prior to final approval of such application.
 - (2) By motion of the commission.
 - (3) By motion of the board of supervisors.
- (Ord. of 5-25-88)

Sec. 25-733. Proffers of conditions.

Prior to any public hearing before the board of supervisors, any applicant for rezoning may voluntarily proffer, in writing, reasonable conditions to be applied to such rezoning as part thereof. Such conditions shall comply with the provisions of section 15.2-2297 of the Code of Virginia; provided, that the proffering thereof by the applicant shall be deemed prima facie evidence of such compliance.

(Ord. of 5-25-88)

Sec. 25-734. Effect of conditions.

Upon the approval of any such rezoning, all conditions so proffered and accepted by the board of supervisors shall be deemed a part thereof and nonseverable therefrom and shall remain in force until amended or varied by the board of supervisors in accordance with section 15.2-2302 of the Code of Virginia. All such conditions shall be in addition to the regulations provided for the district by this chapter.

(Ord. of 5-25-88)

Sec. 25-737. Public hearing; notice.

The commission shall hold a public hearing on any such rezoning petition, ordinance amendment, or resolution, as provided by section 15.2-2285 of the Code of Virginia, after notice as required by sections 15.2-2204 and 15.2-2205 of the Code of Virginia. Required notices to adjoining property owners shall be sent by an agent of the governing body and such notices shall be sent by first class mail. A representative of the agent shall make an affidavit that such mailings have been made and file such affidavit with the papers in the case.

(Ord. of 5-25-88)

Sec. 25-738. Report by planning commission to board of supervisors after hearing.

After the conclusion of the hearing provided for in this section, unless proceedings are terminated as provided herein, the commission shall report to the board of supervisors its recommendation with respect to the proposed amendment. In acting favorably with respect to a proposed amendment initiated by the petition of a property owner or owners, the commission need not confine its recommendation to the proposed amendment as set forth in the petition, but may reduce or enlarge the extent of land that it recommends be rezoned or may recommend that land be rezoned to a different zoning classification than that petitioned for if the commission is of the opinion that such revision is in accord with public necessity, convenience, general welfare and good zoning practice and is in furtherance of the purposes of this chapter and section; provided; that before recommending an enlargement of the extent of land or a rezoning to a less restricted classification than was set forth in the petition, the commission shall hold a further hearing on the matter, pursuant to the requirements of sections 15.2-2204 and 15.2-2205 of the Code of Virginia. No amendment to the zoning map shall be approved for a change in zoning classification different from that applied for and contained in the public notice of hearing nor for any land not included therein without referring said change to the commission for its review and recommendations and proceedings pursuant to this section and section 25-733; provided, however, that an amendment may be approved for only a portion of the area proposed for rezoning if the portion rezoned is accurately and sufficiently delimited in the approval action, or if a portion is reclassified pursuant to sections 15.2-2286 , 15.2-2288, 15.2-2287, and 15.2-2303 et seq. of the Code of Virginia, where land may be reclassified as in floodplain districts.

(Ord. of 5-25-88)

Sec. 25-747. Petition for review of decision.

Any zoning applicant or any other person who is aggrieved by the decision of the zoning administrator in enforcing and guaranteeing conditions to a rezoning (pursuant to section 15.2-2299 of the Code of Virginia) may petition the governing body for the review of the decision of the zoning administrator. All such petitions for review shall be filed with the zoning administrator and with the clerk of the governing body within thirty (30) days from the date of decision for which review is sought, and such petitions shall specify the grounds upon which the petitioner is aggrieved.

(Ord. of 5-25-88; Res. of 10-25-88)

DIVISION 7. BOARD OF ZONING APPEALS

Sec. 25-768. Board of zoning appeals; appointment and organization.

A board of zoning appeals, consisting of seven (7) members, shall be appointed in accordance with the provisions of section 15.2-2308 of the Code of Virginia, and shall have such powers and duties as set forth in section 15.2-2309 of the Code of Virginia.

(Ord. of 5-25-88)

Cross references: Powers and duties of board of zoning appeals, § 25-773.

Sec. 25-771. Removal.

Pursuant to the Code of Virginia, section 15.2-2308, any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after hearing held after at least fifteen (15) days' notice.

(Ord. of 5-25-88)

Sec. 25-773. Powers and duties of the board of zoning appeals.

The board of zoning appeals shall have the following powers and duties in accordance with section 15.2-2309 of the Code of Virginia:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or of any regulation adopted pursuant hereto.
- (2) To authorize upon appeal or original application in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, when owing to special conditions a literal enforcement of the provision will result in unnecessary hardship; provided, that the spirit of the chapter shall be observed and substantial justice done, as follows:
 - a. When a property owner can show that his property was acquired in good faith and where, by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property, or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.
 - b. No such variance shall be authorized by the board of zoning appeals unless it finds:
 1. That the strict application of this chapter would produce undue hardship;
 2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 - c. No such variance shall be authorized except after notice and hearing as required by sections 15.2-2204 and 15.2-2205 of the Code of Virginia.
 - d. No variance shall be authorized unless the board of zoning appeals finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the chapter.
 - e. In authorizing a variance, the board of zoning appeals may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- (3) To hear and decide appeals from the decision of the zoning administrator.

- (4) To hear and decide applications for interpretation of the zoning map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by sections 15.2-2204 and 15.2-2205 of the Code of Virginia, the board of zoning appeals may interpret the map in such a way as to carry out the intent and the purpose of this chapter for the particular section or district in question. The board of zoning appeals shall not have the power, however, to rezone property or substantially to change the locations of district boundaries as established by this chapter and the zoning map.

(Ord. of 5-25-88)

Sec. 25-775. Application for variances.

Application for variances may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the zoning administrator in accordance with the provisions of this section and with rules adopted by the board of zoning appeals. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board of zoning appeals, who shall place the matter on the docket to be acted on by the board of zoning appeals. No such variance shall be authorized except after notice and hearing as required by sections 15.2-2204 and 15.2-2205 of the Code of Virginia. The zoning administrator shall also transmit a copy of the application to the commission, which may send a recommendation to the board of zoning appeals or appear as a party at the hearing.

(Ord. of 5-25-88)

Sec. 25-776. Procedure.

- (a) Appeals and applications for variances shall be filed with the zoning administrator, together with a fee as set forth in section 25-789.
- (b) The board of zoning appeals shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof pursuant to sections 15.2-2204 and 15.2-2205 of the Code of Virginia, as well as due notice to the parties in interest, and decide the same within sixty (60) days. In exercising its powers, the board of zoning appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of four (4) members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter.

(Ord. of 5-25-88)

Sec. 25-777. Decision of board of zoning appeals.

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer, or any officer, department, board or bureau of the county, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the board of zoning appeals, which petition shall proceed in accordance with section 15.2-2314 of the Code of Virginia.

(Ord. of 5-25-88)

ADMENDMENTS TO CHAPTER 25 OF THE COUNTY CODE TO CLARIFY CERTAIN DEFINITIONS RELATED TO PRICIPAL AND ACCESSORY USES, STRUCTURES AND BUILDINGS.

SUMMARY:

The Board of Supervisors has authorized an update of Franklin County's zoning and subdivision ordinances, to be conducted in two phases:

Phase I: Revisions and clarifications deemed necessary to address conflicts, interpretative issues, and other immediate concerns related to the zoning ordinance. This phase is to be prepared by Planning staff.

Phase II: General update of the entire zoning and subdivision ordinances, with a focus on the structure and usability of the code, as well as new provisions deemed necessary to implement the County's Comprehensive Plan. This phase is to be prepared with the assistance of an outside consultant.

As part of Phase I, staff has prepared a series of amendments to the zoning ordinance to clarify definitions principal and accessory uses, structures, and buildings. The zoning ordinance currently states that accessory structures must be subordinate to, and may not

dominate, the principal building or structure on the property. This relationship is insufficiently defined, and was recently the subject of legal challenge. Staff has drafted language to clarify the definitions of principal and accessory uses, structures and buildings, and to more clearly articulate the relationships between these terms.

REQUESTED ACTION:

Staff recommends that the Board of Supervisors authorize an amendment to the Zoning Ordinance, as outlined in this memorandum, to clarify the definitions of principal and accessory uses, structures and buildings. Upon Board authorization, staff will schedule the proposed amendment for public hearing before the Franklin County Planning Commission. The Planning Commission, in turn, will consider the proposed amendment and forward a recommendation to the Board for review, public hearing, and consideration for adoption as follows.

Building. A structure having a roof supported by columns or walls, which is designed and intended to house, shelter, or enclose persons, animals, activities, processes, equipment, goods, materials, or personal property.

Building, accessory. A secondary and subordinate building which is incidental to and associated with a principal building and its corresponding principal use. An accessory building must be located on the same parcel of land as the principal building with which it is associated, and shall not exceed its associated principal building in terms of building footprint, gross floor area or height.

Building, principal. A primary building which is devoted to, designed for, or intended to house, shelter, or enclose a principal use. A principal building must be located on the same parcel of land as the principal use it serves.

Structure. Anything constructed or erected, the use of which requires permanent location or placement on the ground or attachment to something having a permanent location or placement on the ground.

Structure, accessory. A secondary and subordinate structure which is incidental to and associated with a principal structure and its corresponding principal use. An accessory structure must be located on the same parcel of land as the principal structure with which it is associated.

Structure, principal. A primary structure which is devoted to, designed for, or intended to be used by a principal use. A principal structure must be located on the same parcel of land as the principal use it serves.

Use. An activity, process, operation, or purpose to which land, or a building or structure located thereon, is devoted, and for which such land, building or structure is or may be utilized, occupied or maintained.

Use, accessory. A secondary and subordinate use of the land, which is incidental to, associated with, and dependent upon a principal use.

Use, principal. A primary use for which a given parcel of land, or the principal structure or building thereon, is designed, arranged, developed, or intended.

ADMENDMENTS TO CHAPTER 25 OF THE COUNTY CODE TO PROVIDE FOR AMATEUR RADIO TOWERS AND SERVICE.

SUMMARY:

The Board of Supervisors has authorized an update of Franklin County's zoning and subdivision ordinances, to be conducted in two phases:

Phase I: Revisions and clarifications deemed necessary to address conflicts, interpretative issues, and other immediate concerns related to the zoning ordinance. This phase is to be prepared by Planning staff.

Phase II: General update of the entire zoning and subdivision ordinances, with a focus on the structure and usability of the code, as well as new provisions deemed necessary to implement the County's Comprehensive Plan. This phase is to be prepared with the assistance of an outside consultant.

As part of Phase I, staff has prepared a series of amendments to the zoning ordinance to provide for amateur radio towers. The Zoning Ordinance does not currently address or provide for amateur radio towers or service. Virginia state law, however, requires local governments to “reasonably accommodate” amateur radio antennas, and to “impose the minimum regulation necessary to accomplish the locality’s legitimate purpose.” State law further states that localities with a population density less than 120 persons per square mile according to the 1990 US Census – which include Franklin County – shall not restrict the height of amateur radio antennas to less than 200 feet.

REQUESTED ACTION:

Staff recommends that the Board of Supervisors authorize an amendment to the Zoning Ordinance, as outlined in this memorandum, to provide for amateur radio towers. Upon Board authorization, staff will schedule the proposed amendment for public hearing before the Franklin County Planning Commission. The Planning Commission, in turn, will consider the proposed amendment and forward a recommendation to the Board for review, public hearing, and consideration for adoption.

SUMMARY:

The Board of Supervisors has authorized an update of Franklin County’s zoning and subdivision ordinances, to be conducted in two phases:

Phase I: Revisions and clarifications deemed necessary to address conflicts, interpretative issues, and other immediate concerns related to the zoning ordinance. This phase is to be prepared by Planning staff.

Phase II: General update of the entire zoning and subdivision ordinances, with a focus on the structure and usability of the code, as well as new provisions deemed necessary to implement the County’s Comprehensive Plan. This phase is to be prepared with the assistance of an outside consultant.

As part of Phase I, staff has prepared a series of amendments to the zoning ordinance to provide for amateur radio towers. The Zoning Ordinance does not currently address or provide for amateur radio towers or service. Virginia state law, however, requires local governments to “reasonably accommodate” amateur radio antennas, and to “impose the minimum regulation necessary to accomplish the locality’s legitimate purpose.” State law further states that localities with a population density less than 120 persons per square mile according to the 1990 US Census – which include Franklin County – shall not restrict the height of amateur radio antennas to less than 200 feet.

REQUESTED ACTION:

Staff recommends that the Board of Supervisors authorize an amendment to the Zoning Ordinance, as outlined in this memorandum, to provide for amateur radio towers. Upon Board authorization, staff will schedule the proposed amendment for public hearing before the Franklin County Planning Commission. The Planning Commission, in turn, will consider the proposed amendment and forward a recommendation to the Board for review, public hearing, and consideration for adoption.

ARTICLE I. GENERAL PROVISIONS

DIVISION 3. DEFINITIONS

Sec. 25-40. Principal definitions of the Zoning Ordinance.

The following definitions shall apply in the interpretation and enforcement of this chapter:

Tower, amateur radio. A structure, including cables, guy wires, or other structural supports, on which an antenna is installed for the exclusive purpose of transmitting and receiving non-commercial radio signals without remuneration, and which is operated by an amateur radio operator licensed by the Federal Communications Commission.

ARTICLE II. BASIC REGULATIONS

DIVISION 4. SUPPLEMENTAL REGULATIONS

Sec. 25-128. Towers, antennas, satellite dishes.

(b) Amateur radio towers shall be subject to the following requirements:

1. Amateur radio towers shall be permitted in all zoning districts.
2. Amateur radio towers, including any and all antennas, appurtenances, cables, guy wires, or structural supports, shall be subject to the front, side and rear setback requirements for accessory structures for the zoning district in which the tower is located.
3. No amateur radio tower may exceed a height of two hundred (200) feet, as measured from the ground at a point directly beneath the apex of the tower.
4. Prior to the issuance of a land use permit for any amateur radio tower, the applicant shall provide the following:
 - a. A completed land use application form.
 - b. A copy of the approved and valid Federal Communications Commission license.
 - c. A description of the proposed tower, including its height and method of construction.
 - d. A survey plat of the subject property, showing meets and bounds of all property lines, the location of all existing structures, and the proposed location of the tower, including the location of cables, guy wires or other structural supports.

ADMENDMENTS TO CHAPTER 25 OF THE COUNTY CODE TO ALLOW FOR THE ACCEPTANCE OF PERFORMANCE BONDS TO ENSURE THE COMPLETION OF REQUIRED SITE IMPROVEMENTS.

SUMMARY:

The Board of Supervisors has authorized an update of Franklin County's zoning and subdivision ordinances, to be conducted in two phases:

Phase I: Revisions and clarifications deemed necessary to address conflicts, interpretative issues, and other immediate concerns related to the zoning ordinance. This phase is to be prepared by Planning staff.

Phase II: General update of the entire zoning and subdivision ordinances, with a focus on the structure and usability of the code, as well as new provisions deemed necessary to implement the County's Comprehensive Plan. This phase is to be prepared with the assistance of an outside consultant.

As part of Phase I, staff has prepared a series of amendments to the zoning ordinance to allow for the acceptance of performance bonds, whereby a property owner or developer may post a bond of sufficient dollar amount to ensure the completion of required physical site improvements. The zoning ordinance currently allows for surety in the form of a letter of credit from a lending institution, or a cash amount placed in escrow to cover the costs of site improvements. The proposed code amendment would require corporate surety to be obtained from a company licensed in the State of Virginia.

REQUESTED ACTION:

Staff recommends that the Board of Supervisors authorize an amendment to the Zoning Ordinance, as outlined in this memorandum, to allow for performance bonding. Upon Board authorization, staff will schedule the proposed amendment for public hearing before the Franklin County Planning Commission. The Planning Commission, in turn, will consider the proposed amendment and forward a recommendation to the Board for review, public hearing, and consideration for adoption.

Sec. 25-677. Minimum standards and improvements required.

(b) *Bonding and agreement:* Prior to the approval of any site development plan, the applicant shall execute an agreement with the county to construct all physical improvements required

by the site development plan, except for such improvements as are bonded elsewhere under Section 7-14 (erosion and sediment control), Section 19-66 (subdivisions), Section 22-16 (water and sewer systems), and Section 25-97 (landscaping and buffering). Whenever the cost of such improvements as identified under Section 25-676(37) shall exceed twenty-five thousand dollars (\$25,000), the applicant shall post a performance guarantee with surety acceptable to the county to cover the estimated cost of the required improvements plus ten (10) percent contingency. Acceptable forms of surety include:

1. A letter of credit from a recognized lending institution;
2. A cash amount, placed in escrow with the county; or
3. A performance bond, issued by a surety company licensed in the State of Virginia.

Any dispute arising from the use of a posted performance guarantee shall be resolved by the Franklin County Circuit Court.

AMENDMENTS TO CHAPTER 25 OF THE COUNTY CODE TO LIMIT AND REGULATE ADULT-ORIENTED USES.

SUMMARY:

The Board of Supervisors has authorized an update of Franklin County's zoning and subdivision ordinances, to be conducted in two phases:

Phase I: Revisions and clarifications deemed necessary to address conflicts, interpretative issues, and other immediate concerns related to the zoning ordinance. This phase is to be prepared by Planning staff.

Phase II: General update of the entire zoning and subdivision ordinances, with a focus on the structure and usability of the code, as well as new provisions deemed necessary to implement the County's Comprehensive Plan. This phase is to be prepared with the assistance of an outside consultant.

As part of Phase I, staff has researched ordinances from neighboring jurisdictions to analyze a range of options for regulating adult uses.. Staff has compiled regulations from Roanoke City, Roanoke County, Bedford County and Botetourt County, which are attached to this memorandum.

REQUESTED ACTION:

Staff requests that the Board of Supervisors authorize consider the various approaches for regulation adult uses, and direct staff as an appropriate approach for Franklin County. Staff will then draft ordinance language for consideration by the Board. Upon Board authorization, staff will schedule the proposed amendment for public hearing before the Franklin County Planning Commission. The Planning Commission, in turn, will consider the proposed amendment and forward a recommendation to the Board for review, public hearing, and consideration for adoption.

DIVISION 3. DEFINITIONS

Sec. 25-40. Principal definitions of the Zoning Ordinance.

The following definitions shall apply in the interpretation and enforcement of this chapter:

Adult use. A use that regularly exploits an interest in matter related to specified sexual activities or specified anatomical areas, where:

- (1) *Specified sexual activities* shall include:
 - a) Human genitals in a state of sexual stimulation or arousal;
 - b) Acts of human masturbation, sexual intercourse, or sodomy; or
 - c) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- (2) *Specified anatomical areas* shall include:
 - a) Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or
 - b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Adult use, bookstore: An establishment that devotes more than fifteen (15) percent of the total floor area utilized for the display of books and periodicals, or fifteen (15) percent of the total sale stock of the establishment, to the display and sale of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, compact discs, DVDs, records or any other forms of visual or audio representations which are characterized by an emphasis upon the depiction and description of specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade and does not devote more than fifteen (15) percent of the total floor area or total stock of the establishment to the sale of books and periodicals.

Adult use, drive-in theatre: An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

Adult use, mini-motion picture theatre: An establishment, with a capacity of more than five (5) but less than fifty (50) persons, where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

Adult use, model studio: Any establishment open to the public where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by persons, other than the proprietor, paying such consideration or gratuity. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution which meets the requirements established in the Code of Virginia for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma.

Adult use, motion picture arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult use, motion picture theatre: An establishment, with a capacity of fifty (50) or more persons, where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

ARTICLE II. BASIC REGULATIONS

DIVISION 4. SUPPLEMENTAL REGULATIONS

Sec. 25-119. Adult Uses.

- (a) *Application of division.* In any zoning district in which a use is otherwise permitted, if such use constitutes an "adult use," as defined in this chapter, the minimum requirements and standards set out in this section shall apply to such use.
- (b) *Prohibited locations, generally.*
 - (1) No adult use may be established within two thousand (2,000) feet of any other such adult use in any zoning district.

- (2) No adult use may be established within one thousand (1,000) feet of a residentially zoned district or a school, educational institution, church, public park, playground, playfield or day care center.
- (3) The "establishment" of an adult use, as referred to in this section, shall include the opening of such business as a new business, the relocation of such business, the enlargement of such business in either scope or area or the conversion, in whole or in part, of an existing business to any adult use.
- (c) *Measurement of distances.* All distances specified in this division shall be measured from the property line of one use to another. The distance between an adult use and a residentially zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residentially zoned district.

(RESOLUTION #05-08-2008)

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve Phase I Zoning Amendments to Chapter 25 of the County Code as presented above for public hearing.

MOTION BY: Wayne Angell

SECONDED BY: David Cundiff

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Hurt, Cundiff, Angell, Johnson, Thompson & Wagner

MANDATORY SEWER CONNECTION FOR NEW CONSTRUCTION/WESTLAKE OVERLAY DISTRICT

Gary Robertson, Executive Director, Water Operations, Western Virginia Water Authority, advised the Board On February 12, 2007, Anderson and Associates presented to the Board of Supervisors a wastewater study for the area from the Hales Ford Bridge to the Westlake. The study showed within 20 years that wastewater needs could increase to 1,580,000 gpd and 2,600,000 gpd at build out. It stated the estimate to build infrastructure and facilities to handle these flows was 51 million dollars. This infrastructure would also require staff and equipment to maintain and run the system. An alternative would be to work with Western Virginia Water Authority to own and maintain a wastewater system for Franklin County. Western Virginia already has staff, equipment and experience in running wastewater treatment plants.

Western Virginia Water Authority has been negotiating with Westlake to purchase the Westlake Wastewater Treatment Plant, drainfields, offsite pump station, force main and gravity sewer. Western Virginia Water Authority would require Franklin County financial support to purchase this system. This system would provide an opportunity for public sewer to serve the Westlake Overlay District. It has been requested by WVWA that they be approved to require all "NEW" construction within the Westlake Overlay District to hook-up to the wastewater treatment system. Existing customers will not be mandated for connection and will have the option of connecting at a later date. This in conjunction with the Franklin County annual contribution and the Westlake one time operational supplement are calculated into the financial success of this new system. Gary Robertson provided the following power point presentation:

RECOMMENDATION:

It is recommended that the Board authorize the County Administrator to advertise for a public hearing to adopt the new sewer section of the code concerning mandatory hookup. As presented by WVWA this will help in providing connections to the infrastructure in order to meet their operational and maintenance needs. Please note that the required extension table is identical to the existing County Code requirement for water.

ARTICLE VI. GENERAL REQUIREMENTS - SEWER

SEC. 22-110. GENERAL PROCEDURES.

- (a) *Mandatory connection of new construction to the Franklin County Public Sewer System.*
- (1) No person shall make any connection to the Franklin County Public Sewer System or alter any fixtures so connected without first having received written approval from the Department of Public Works, its successors or assigns.
- (2) New structures and/or facilities shall be defined for the purposes of Franklin County Code section 22-110(a) as those which obtain a building permit following the passage of section 22-110 by the Board of Supervisors. New subdivisions and development for the purposes of section 22-110(a) shall be defined as those which are reviewed, approved, or permitted by the Franklin County Planning Commission, Board of Supervisors, Planning and Community Development Department, or Building Official, or their successors or assigns following the passage of section 22-110(a) by the Board of Supervisors.
- (3) New sewer systems for the purposes of offering such systems to the county for dedication and ownership according to Franklin County Code section 22-110 (b) and chapters 22, 19, and

25 shall be defined as those which are reviewed or approved by the Franklin County Planning and Community Development Department or the Public Works Department, or their successors or assigns, following the passage of sections 22-110 (b) by the Board of Supervisors.

(4) All new structures and/or facilities which are located within three-hundred (300) linear feet of the county's public sewer system (as measured from the closest point of the structure to the edge of an easement or right-of-way including the public sewer distribution system) shall be required to connect to the county's public sewer system. The connection of such premise to the county's public sewer system shall not be required when access to the affected property requires the crossing of another property without an available easement, provided that county property and the property of the Virginia Department of Transportation shall be exempted.

(5) All new structures and/or facilities, subdivisions, and developments with three (3) to fourteen (14) equivalent residential connections (ERCs) having a property line within six-hundred (600) linear feet of the county's public sewer system (as measured from the closest point of the property line to the edge of an easement or right-of-way including the public sewer distribution system) shall be required to connect to the county's public sewer system.

(6) All new structures, facilities, subdivisions, and developments with fifteen (15) or greater equivalent residential connections (ERCs) shall be required to connect to the county's public sewer system if they meet the following distance requirements for the number of applicable lots or ERCs (the distance measured from the closest point of the property line to the edge of an easement or right-of-way including the county's public sewer distribution system):

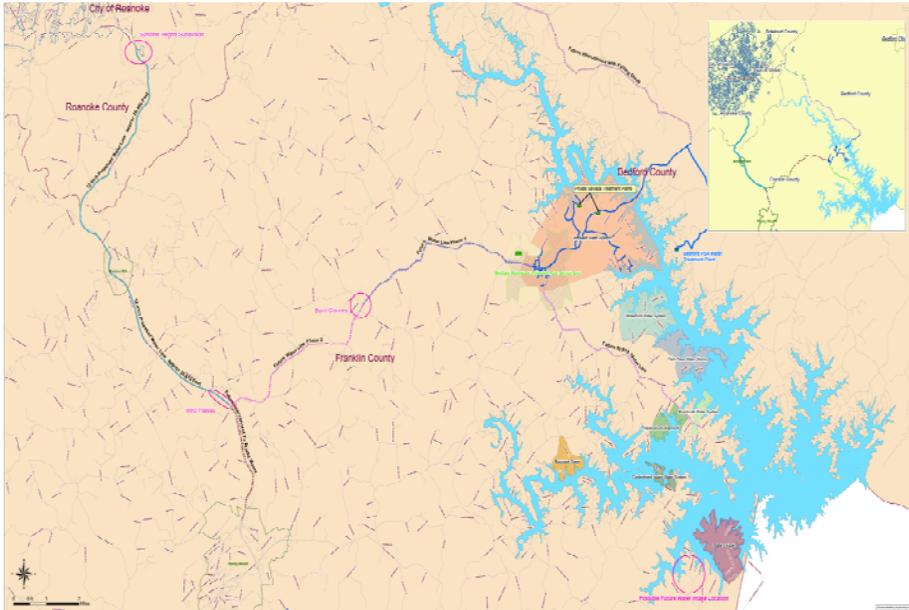
TABLE INSET:

<i>Number of Lots or ERCs</i>	<i>Required Extension (Linear Feet)</i>
15-20	1,000
25	1,250
30	1,500
35	1,750
40	2,000
45	2,250
50	2,500
60	3,000
70	3,500
80	4,000
90	4,500
100	5,000
125	6,250
150	7,500

The county shall require up to 1,000 linear feet (L.F.) extension for 15--20 lots or ERCs, and each lot or ERC over 20 shall require an additional 50 L.F. extension. The maximum extension required is 7,500 L.F.

(7) Structures and/or facilities, subdivisions, and developments existing at the time of the passage of this ordinance (section 22-110(a)) are exempt from the requirement to connect to the county public sewer system so long as the septic tank or sewer system serving the property with sewage disposal meets the requirements of the Virginia Department of Health. The county may impose a connection fee, a front footage fee, and/or a monthly nonuser service charge that shall not be more than that proportion of a minimum monthly user charge as debt service compares to the total operating and debt service costs. In the event of a privately owned septic tank or sewer system failure as determined by the Virginia Department of Health, existing structures and facilities which were served by the failed septic tank or sewer system shall be required to connect to the county public sewer system if they meet the aforementioned vicinity and distance requirements for new structures and/or facilities, subdivisions, and developments.

(b) *Transfer of approved sewer systems to ownership by Franklin County.* The developer and/or owner of any new sewer system in Franklin County which is designed to serve three (3) or greater equivalent residential connections (ERCs) shall assure that such new sewer system meets all required standards of chapter 22, shall seek and obtain approval of the design and its construction by the Public Works Department or its successors and assigns, shall not supply sewer until the new sewer system receives such approvals, and, as a condition precedent to



Proposed Scruggs Road Water System

- Estimated Construction Cost - \$2,500,000
- Assume minimum 50 connections/year
- Average consumption of 5,000 gal/month
- Allows Integration of Private Water Systems with Westlake Phase I System
- Flushing from Phase I would be reduced

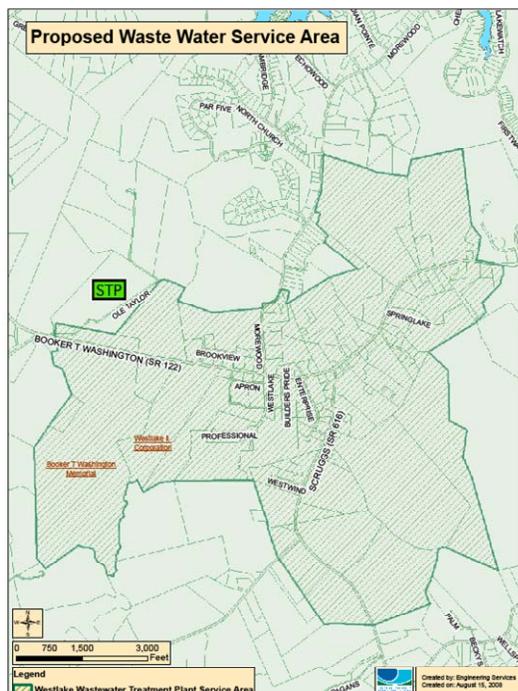
Proposed Scruggs Road Water System

- **Upfront Contribution** \$1,000,000
 - (Received from Developers or Grant)
- **Annual Debt Service** \$120,000
 - (On \$1.5M Loan)
- **Availability Fees** \$125,000
 - (Based Upon 50 Connections per Year)



Mandatory Sewer Connection Ordinance

- **Applies to New Construction in the Westlake Overlay District**
 - Primarily Targeting Commercial Construction
- **Does not Apply to Existing Construction**
 - Connection May be Required by a Previous Development Condition
- **Ordinance Will Help Support the Westlake Wastewater Treatment Plant**
- **Similar to the Existing Requirement for the Phase I Water System.**



Westlake Wastewater Treatment System

- System will Provide Public Sewer to Westlake Overlay District
- Purchase Price of \$2.8M Includes:
 - 50,000 gpd Treatment Plant (Plant is Expandable to 200,000 gpd)
 - 57 Acre Parcel for Plant and Drainfields
 - Lift Station, Force Mains, and Gravity Sewers
- Parcel is Screened from View and will Retain Rural Agricultural Feel



Westlake Wastewater Treatment System

- Authority will Own and Operate the System
 - Will Establish Rates and Fees for Customers
 - Will Work with County on Development Issues
- Asking Franklin County to Issue Debt for Purchase
 - Authority will Make Debt Service Payments back to Franklin County
- Asking Franklin County to Provide a \$200,000/yr Subsidy to Offset Operating Loss
 - Limited to 5 years - Subsidy Terminates Early if Plant is Financially Stable



Westlake Wastewater Treatment System

- Asking Developer to Rebate \$250,000 to Help with Startup Costs
 - Amount Credited Against Future Connection Fees
- Contract is Contingent Upon:
 - System Completion by Developer
 - Authority Obtaining a Special Use Permit from Franklin County
 - Adoption of the Mandatory Connection Ordinance by Franklin County



(RESOLUTION #07-08-2008)

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve staff's recommendation as presented.

MOTION BY: Russ Johnson

SECONDED BY: Bobby Thompson

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Hurt, Cundiff, Angell, Johnson, Thompson & Wagner

WASTEWATER AGREEMENT/WVWA & WESTLAKE WASTEWATER, LLC

Richard E. Huff, II, County Administrator and Michael McEvoy, Executive Director, Waste Water Services, Western Virginia Water Authority, stated on February 12, 2007, Anderson and Associates presented to the Board of Supervisors a wastewater study from the Hales Ford Bridge to the Westlake area. The study showed within 20 years it was possible that waste water needs could increase to 1,580,000 gpd and 2,600,000 gpd at build out. It was estimated that total build-out for infrastructure and facilities to handle these flows was 51 million dollars. This infrastructure would also require staff and equipment to maintain and run the system. An alternative would be to work with Western Virginia Water Authority to own and maintain a wastewater system for Franklin County. Western Virginia already has staff, equipment and experience in running wastewater treatment plants.

Western Virginia Water Authority has been negotiating with Westlake to purchase the Westlake Wastewater Treatment Plant, drainfields, offsite pump station, force main and gravity sewer. Western Virginia Water Authority would require Franklin County financial support to purchase this system. This system would provide an opportunity for public sewer to serve the Westlake Overlay District (see attached map). In order for Western Virginia Water Authority to make this work, Franklin County agrees to provide an operational subsidy for a period of time not to exceed five years. Maximum payout by the County could be one (1) million dollars. Franklin County shall be permitted to discontinue the supplement before the end of the five (5) year term if the wastewater system is determined to be financially stable as defined under the financing agreement. Franklin County shall only be responsible for the subsidy and WVWA has agreed to assume all financial liability and responsibility for management, maintenance and operations of the wastewater system from the time of closing whether financial projections by WVWA are correct or not. It will require financial support from Westlake Corporation in the amount of \$250,000.00 by purchasing future water and sewer connection fees from WVWA. It has been requested by WVWA that the Phase I water system be transferred to them so they may concurrently track and invoice water and sewer fees to their customers. Should the County agree to the transfer, mandatory hookups for new construction within the Westlake Overlay District will be required by WVWA to permit them to meet their financial projections. There will be a public hearing required to amend the special use permit for the sewer plant as it contained conditions specific to the private developer that will need to be amended by the Planning Commission and the Board of Supervisors.

RECOMMENDATION:

It is recommended that the Board authorize the County Administrator to enter into the attached contract with Western Virginia Water Authority and Westlake Corporation, subject to the submission of a new SUP indicating the service area. The SUP shall be subject to the appropriate public hearings and approval by both the Planning Commission and the Board of Supervisors. It is also recommended that all documents be reviewed and signed off by legal counsel.

(RESOLUTION #08-08-2008)

BE IT THEREFORE RESOLVED, by the Board of Supervisors to authorize staff to enter into the submitted contract with Western Virginia Water Authority and Westlake Wastewater, LLC. As presented.

MOTION BY: Russ Johnson

SECONDED BY: Wayne Angell

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Hurt, Cundiff, Angell, Johnson, Thompson & Wagner

BUSINESS PARK SEARCH

Scott Martin, Director of Commerce & Leisure Services, shared with the Board the limited inventory greenfield space for economic development activity in existing County Business/Industrial parks. Presently, the County has a total of 64 acres of developable land available. This shortage of product in the economic development market is limiting the County's economic development and job creation programs. Below is a comparison table of neighboring localities and their current inventory of publicly owned economic development park sites:

Community	Total Greenfield Site Acreage (VEDP Source)	Total Contiguous Land (VEDP)
Botetourt	1,110	389
Bedford	728	253

Campbell	1,757	696
Floyd	174	55
Franklin	294	64
Henry	3,083	508
Montgomery	489	91
Roanoke City	572	121
Roanoke County	1,730	577

It bears mention that communities to the north, east, and south of Franklin County have all recently added to the inventory of publicly owned industrial/business parks thereby placing Franklin County in a more competitive environment for business recruitment. Whereas Franklin County's previous market advantage was a large contiguous site at Franklin County Commerce Park, successful recruitment of McAirlaid's removed this site from the County's inventory. In the Roanoke regional market, only Floyd County has less land available for economic development prospects.

Should the County wish to provide greenfield space for economic development recruitment efforts, it should initiate the process to secure and identify the site for a new business/industrial park to ensure that Franklin County remains a competitive community for economic development, job creation, and business development.

For a point of reference, existing public business/industry parks in the County have produced over \$120 million in new private sector investment and over 700 jobs. These parks are now substantially full and new businesses recruitment by the County will be substantially aided if public economic development park space is added to the County's inventory of economic development resource advantages. This site selection process will focus on the development of a business park to host industries identified in the regional cluster development plan. These industries potentially include light industry, back-office FIRE (finance, insurance, real estate), 2nd tier automotive, data/server farm centers, and nanotechnology firms.

Through many prospect site visit processes over the last three years, it is clear to staff that the County's future competitiveness will be positively impacted by the proximity of the new park to natural gas, regional air service facilities, I-81, I-40, Smith Mountain Lake, Roanoke, and the Mid-Atlantic Broadband Fiber Corridor. Funding for this site selection study process was included in the Board 2008 adopted budget.

The first step in this process will be to carefully evaluate and select the site for the proposed new park. Identification of sites that meet the needs of the County for business/industrial expansion will be a multi-tiered project that is resource driven. That is, the location of the next park will be determined in large part by geography, ease of provision of public services, access to existing and future transportation corridors, and the development constraints of the land itself. The location of the park and the public services available will drive the type of business recruitment.

County staff recommends retaining a professional engineering firm to complete the site analysis study. The County will provide support and guidance through its Department of Commerce & Leisure Services, Community Development Department, GIS Department, and will bring into the discussion representatives from the Virginia Economic Development Partnership, VDOT, the Western Virginia Water Authority, the Roanoke Economic Development Partnership, and the Town of Rocky Mount. The study will also explore the potential of a private/public partnerships to assist in development of the park so as to minimize the burden to the taxpayers and develop a revenue/job producing resource.

The study will be divided into three phases. The first phase will identify sites most favorable to business park development (limit 10) within the area identified for commerce activities. Phase II will consist of preliminary engineering reports on the ten sites to determine the feasibility of the sites for development and land disturbance. Phase III will consist on a full environmental assessment for two to three sites.

The final site recommendation report will be brought to the Franklin County Board of Supervisors for consideration in early winter. Should the Board wish to pursue acquisition at the close of this process, staff will then seek direction from the Board to secure the necessary options from the landowners and develop an acquisition and development funding strategy.

RECOMMENDATION:

Review the proposal for a site selection study. Provide direction to staff on the possible advertisement of a request for services from the professional engineering firm to begin this process.

Board directed Scott Martin to advertise for a request for services from a professional engineering firm to begin a site selection study.

VIRGINIA DEPARTMENT OF HEALTH DRINKING WATER FINANCIAL AND CONSTRUCTION ASSISTANCE PROGRAM GRANT

Richard E. Huff, II, County Administrator advised the Board the he can apply for funding in the amount of \$25,000 through the Virginia Department of Health Drinking Water Financial and Construction Assistance Program Grant for the water system along the U. S. 220 Corridor.

**FRANKLIN COUNTY
VIRGINIA DEPARTMENT OF HEALTH
DRINKING WATER FINANCIAL AND CONSTRUCTION ASSISTANCE
PROGRAM GRANT**

WHEREAS, Franklin County has applied for funding for various water projects in its service area within Franklin County,

WHEREAS, Franklin County in order to provide a reliable water source is currently extending their water system along the U. S. 220 corridor

THEREFORE, BE IT RESOLVED, the County hereby votes to seek funding from the Drinking Water Financial and Construction Assistance Program Grant for the following project; 2008 Virginia Department of Health Planning Grant-Water Service Extension Planning outside the one quarter mile service area studied as part of the water line extension.

THEREFORE, BE IT RESOLVED, the County Administrator will immediately begin to process funding applications for these projects and be authorized to sign any and all documents to accept such funding contingent upon review and concurrence by the County Attorney.

MOTION BY: David Cundiff

SECONDED BY: David Hurt

AYES: Mitchell, Hurt, Cundiff, Angell, Johnson, Thompson & Wagner

(RESOLUTION #09-08-2008)

BE IT THEREFORE RESOLVED, by the Board of Supervisors to authorize the County Administrator to begin to process funding applications for this project and be authorized to sign any and all documents to accept such funding contingent upon review and concurrence by the County attorney.

MOTION BY: David Cundiff

SECONDED BY: David Hurt

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Hurt, Cundiff, Angell, Johnson, Thompson & Wagner

DECAL ELIMINATION – ADDITIONAL INFORMATION

Richard E. Huff, II, County Administrator, presented some additional information requested by the Board on important considerations for decal elimination. After much discussion the motion was made to continue the County Decal process as is.

(RESOLUTION #10-08-2008)

BE IT THEREFORE RESOLVED, by the Board of Supervisors to continue the County Decal process as is.

MOTION BY: Leland Mitchell

SECONDED BY: Russ Johnson

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Cundiff, Angell, Thompson & Wagner

NAYS: Hurt, Johnson

THE MOTION PASSED WITH 5-2.

ROAD VIEWER/BOONE DISTRICT/TERM EXPIRES 3/31/2009

David Hurt requested that this item be continue to next meeting, September 16, 2008.

TCRC WATER RELEASE PROTOCOL UPDATE

Russ Johnson, Gills Creek District Supervisor presented the following power point presentation:

TCRC GOALS & ISSUES

GOAL #1

- **Provide for adequate public drinking water supplies.**

GOAL #2

- **Protect the public safety within the project.**

GOAL #3

- **Promote habitat and a healthy fishery in and below the project.**

GOAL #4

- **Augment flows for downstream recreation while also protecting public access to the waters of SML for recreation.**

TCRC Position & Permit Matrix

TCRC Position & Downstream Position Matrix



Russ Johnson advised the Board the next public meeting is scheduled for September 5, 2008 at Charlotte Courthouse.

CLOSED MEETING **(RESOLUTION #11-08-2008)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to into a closed meeting in accordance with 2.2-3711, a-5, Discussion of a Prospective New Business or Industry AND A-7, Consult with Legal Counsel, of the Code of Virginia, as amended.

MOTION BY: Bobby Thompson

SECONDED BY: Leland Mitchell

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Hurt, Cundiff, Angell, Johnson, Thompson & Wagner

MOTION: David Cundiff

SECOND: David Hurt

WHEREAS, the Franklin County Board of Supervisors has convened an closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act: and

WHEREAS, Section 2.2-3712(d) of the Code of Virginia requires a certification by this Franklin County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Franklin County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were

RESOLUTION: #12-08-2008

MEETING DATE August 19th, 2008

identified in the motion convening the closed meeting were heard, discussed or considered by the Franklin County Board of Supervisors.

VOTE:

AYES: Mitchell, Hurt, Cundiff, Angell, Johnson, Thompson & Wagner

NAYS: NONE

ABSENT DURING VOTE: NONE

ABSENT DURING MEETING: NONE

Chairman Wagner adjourned the meeting.

CHARLES WAGNER
CHAIRMAN

RICHARD E. HUFF, II
COUNTY ADMINISTRATOR