

VIRGINIA: AT AN ORGANIZATIONAL MEETING OF
THE TAZEWELL COUNTY BOARD OF SUPERVISORS HELD
JANUARY 11, 2011 AT 6:00 P.M. – IN THE TAZEWELL COUNTY
ADMINISTRATION BUILDING, 108 EAST MAIN STREET,
TAZEWELL, VIRGINIA 24651

PRESENT: SETH R. WHITE, MEMBER
DAVE R. ANDERSON, MEMBER
D. MICHAEL HYMES, MEMBER
JIM T. CAMPBELL, MEMBER
JOHN M. ABSHER, MEMBER
JAMES H. SPENCER, III. --
COUNTY ADMINISTRATOR
C. ERIC YOUNG, COUNTY ATTORNEY
PATRICIA GREEN, ASSISTANT COUNTY ADMINISTRATOR
RUTH GROSECLOSE, ADMINISTRATIVE ASSISTANT
MEMBERS OF THE PRESS

OTHERS

PRESENT: MEMBERS OF THE TAZEWELL COUNTY
PLANNING COMMISSION – PRESENT DURING A PORTION
OF THE MEETING

ABSENT: NONE

Chairman White called the annual/organizational meeting to order and presided with all members in attendance. Chairman White then gave the invocation, with Supervisor Anderson leading those present in the Pledge of Allegiance to the United States Flag.

MINUTES APPROVED

AS WRITTEN

Upon motion of Supervisor Hymes, seconded by Supervisor Anderson and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the December 7, 2010 meeting minutes as written.

AGENDA APPROVED AS AMENDED

Upon motion of Supervisor Hymes, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the January 11, 2011 agenda format as amended. Amendments included adding an A-7 legal matter to the Executive Closed Session involving the Bluestone and placing Board Concerns immediately following the first Executive/Closed Meeting.

ORGANIZATIONAL STRUCTURING 2011

Now, presiding Chairman, Seth R. White gave the floor to the County Administrator, James H. Spencer, III who called for nominations for a Chairman of the Board of Supervisors for a term of one year or until his successor is duly elected.

The name of Dave R. Anderson was placed in nomination by Supervisor Absher with Supervisor Hymes seconding the foregoing. The County Administrator called for further nominations and there being none, the County Administrator declared nominations for Chairman of the Board of Supervisors closed. Then, upon motion of Supervisor Absher, seconded by Supervisor Hymes, and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby elects Dave R. Anderson as Chairman of the Tazewell County Board of Supervisors for calendar year 2011 or until his successor is duly elected. The following roll call vote is hereby recorded:

Supervisor Absher: Aye

Supervisor Anderson: Aye

Supervisor Hymes: Aye

Supervisor Campbell: Aye

Supervisor White: Aye

Supervisor White thanked the board for giving him the opportunity to serve as Chairman last year and further thanked them for their support during his tenure. He said he knew Supervisor Anderson would do an excellent job and he looked forward to the many accomplishments in the New Year. Chairman Anderson reiterated Supervisor White's comments and thanked the Board for electing him to lead the County, and said he would do his best to expedite and move forward with the many challenges ahead. He also commended Supervisor White for his leadership and accomplishments during his term as Chairman of the Board of Supervisors.

ELECTION OF A VICE CHAIRMAN

The newly elected Chairman, Dave R. Anderson then proceeded with the election of a Vice Chairman of the Board of Supervisors for calendar year 2011.

The name of Jim T. Campbell was placed in nomination by Supervisor Mike Hymes with Supervisor Anderson seconding the foregoing, with member Campbell declining the nomination. Chairman Anderson sought further nominations from the floor for Vice Chairman of the Board of Supervisors. The name of Mike Hymes was placed in nomination by Supervisor Campbell, with Supervisor Absher seconding the foregoing and with all members present voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby elects Supervisor Mike Hymes as Vice Chairman of the Tazewell County Board of Supervisors for calendar year 2011 or until his successor is duly elected. The following vote is hereby recorded:

Supervisor Absher – Aye

Supervisor Campbell – Aye

Supervisor Hymes – Aye

Supervisor White – Aye

Supervisor Anderson – Aye

REGULAR MEETINGS, DATE, TIME AND PLACE

Upon motion of Supervisor White, seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby designates the 1st Tuesday of each month beginning at 6:00 p.m. in the Tazewell County Administration Building, 108 East Main Street, Tazewell, Virginia 24651 as the regular meeting date, place, time and location for meetings of the Tazewell County Board of Supervisors.

ROBERTS RULES OF ORDER ADOPTED

Upon motion of Supervisor Hymes, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby adopts Robert's Rules of Order as the official rules of procedure for conducting meetings/business of the Tazewell County Board of Supervisors for calendar year 2011.

CLERK OF THE BOARD OF SUPERVISORS

Upon motion of Supervisor Hymes, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby appoints the County Administrator, Jim Spencer, as Clerk to the Board of Supervisors for calendar year 2011.

DIRECTOR OF EMERGENCY SERVICES FOR TAZEWell COUNTY

Upon motion of Supervisor Absher, seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby appoints the County Administrator, as the Director of Emergency Services for Tazewell County for calendar year 2011.

LEGISLATIVE CONTACT TO WORK WITH VACo

Upon motion of Supervisor Absher seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby appoints Seth R. White and D. Michael Hymes to serve as Tazewell County's legislative contact to work with VACo during the upcoming 2011 General Assembly. The County Attorney will advise and assist in this endeavor.

TAZEWell COUNTY BUDGET COMMITTEE FY2011-12

Upon motion of Supervisor Hymes, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby appoints Supervisor White and Supervisor Campbell to serve as members of the Tazewell County Budget Committee for Fiscal Year FY2011-12.

EXECUTIVE/CLOSED MEETING

Upon motion of Supervisor Hymes, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby enters into an executive/closed meeting, pursuant to Virginia Code, Section 2.2-3711:

- A-3 Property Disposition involving the Jeffersonville Rescue Squad

- A-1 Personnel matter - involving County Administrator

- A-7 Legal Consultation – involving a member of a county volunteer fire department

- A-3 Property Disposition involving the old Health Department Building

- A-3 Property Acquisition involving easements for Mount Vista Court

- A-3 Property Acquisition involving Camp 31 property

- A-6 Investment of Public Funds regarding a regional utility project with the Town of Richlands and the PSA

- A-1 Personnel regarding the IDA Attorney

- A-7 Legal Matter involving the Bluestone Development Agreement

RETURN/CERTIFICATION/REPORT OF ACTION

Upon motion of Supervisor Absher seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby returns from the

Executive/Closed Session and hereby adopts the following certification read by
Supervisor Hymes:

**CERTIFICATION
OF EXECUTIVE/CLOSED MEETING**

WHEREAS, the Tazewell County Board of Supervisors has convened an executive/closed meeting on this date pursuant to an affirmative vote and in accordance with The Virginia Freedom of Information Act; and

WHEREAS, 2.2-3712 of the Code of Virginia requires a certification by the Tazewell County Board of Supervisors that such executive/closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Tazewell County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) that only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive/closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Tazewell County Board of Supervisors. The Chairman called for a roll call vote with the following vote hereby recorded.

Ayes: Supervisor Absher, Hymes, Campbell, White and Anderson

Nays: None

Absent: None

Absent during vote: None

**REPORT OF ACTION AS A RESULT OF THE EXECUTIVE/CLOSED MEETING
HEALTH DEPARTMENT TO THE IDA
RESCIND MOTION OF MARCH 1, 2005**

Upon motion of Supervisor Campbell, seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby rescinds the March 1, 2005 action of the Tazewell County Board of Supervisors, which said action authorized transfer of the Tazewell County Health Department property to the Tazewell County Development Authority (IDA) to wit: "Beginning at a concrete monument in the

south boundary line of State Highway No. Alt. 61 or Benbolt Avenue near opposite the east end of a bridge across what is known as Sulphur Spring Branch and 25 feet south from the center line of said highway; thence running with the said south boundary line N. 80 degrees 40' E. 123.74 feet to a concrete monument; thence S. 75 degrees 02' E. 83.21 feet to a concrete monument on a curve 40' from the center line of, and in the south boundary line of Highway No. 61; thence running with the said south boundary line on a curve to the left with a radius of 756.20 feet, S. 29 degrees 58' E. 50.00'; thence S. 33 degrees 45' E. 50.00 feet; thence S. 37 degrees 34' E. 50.00 feet; thence S. 41 degrees 20' E. 50' thence S. 45 degrees 10' E. 50.00 feet; thence S. 48 degrees 55' E. 50.00 feet; thence S. 52 degrees 46' E. 50.00; thence S. 56 degrees 24' E. 46.57 feet to a concrete monument at the end of said curve; thence leaving the south boundary line of said Highway No. 61, 2. 37 degrees 01' W. 97.65 feet to a stake; thence S. 80 degrees 28' West 354.66 feet to a stake; thence N. 9 degrees 32' W. 428.66 feet to stake in the south boundary line of said Highway No. Alt. 61 and on the south edge of said Sulphur Spring Branch; thence running with said south boundary line, N. 80 degrees 28' E. 9.18 feet to the beginning, containing 2.96 acres, and being a portion of the tract of land conveyed by T.C. Bowen, Jr. Executor and Trustee under the Will of Harman N. Peery, deceased, to Tazewell Community Hospital, Inc. by deed dated August 20, 1969, and recorded in the Tazewell County Clerk's office in Deed Book 352, page 638."

BOARD CONCERNS

Video/Record Upcoming Legislative Meeting

Upon motion of Supervisor Campbell, seconded by Supervisor White and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby recommends that the meetings of the January 2011 Legislative Meeting, as well as the dinner/ reception, especially those meetings involving state officials, the Governor, and members of the General Assembly, be videoed/filmed for the purpose of providing transparency to other Board members as well as releasing the recordings to the public when available. Supervisor Anderson questioned whether the County would have adequate staff there to

handle this request. The County Administrator stated that he would discuss this matter with the IT Director, Sam Wolford.”

Chairman Anderson also requested that the County Administrator prepare a list of proposals/topics to be addressed during the upcoming Legislative Meeting e.g. Transportation, Tazewell Carilion Hospital, etc.

PUBLIC HEARINGS

Now, the Chairman of the Board of Supervisors called to order a “JOINT PUBLIC HEARING BETWEEN THE TAZEWELL COUNTY BOARD OF SUPERVISORS AND THE TAZEWELL COUNTY PLANNING COMMISSION TO CONSIDER THE ADOPTION OF “AN ORDINANCE TO PERMIT CERTAIN SUBDIVISIONS TO INCLUDE PRIVATE ROADS NOT OPEN TO THE GENERAL PUBLIC”, that was duly advertised according to law and which said ordinance is attached to these minutes and incorporated herein by reference thereto.

It was the consensus of the Planning Commission as well as the Board of Supervisors to allow Chairman Anderson to serve as Chairman of both boards for the purpose of conducting the joint public hearings scheduled this date.

Now, the Planning Commission meeting was duly reconvened with all members in attendance.

Member Seth White praised and commended members of the Planning Commission for developing the proposed ordinance. He said when he served as a member of the Planning Commission he encouraged the development of the ordinance. He thanked Planning Commission Members Gillespie and Member Hackworth for their direction and attentiveness in getting the ordinance to this step.

Chairman Anderson then called for public comments from the floor with regard to the public hearing “AN ORDINANCE TO PERMIT CERTAIN SUBDIVISIONS TO INCLUDE PRIVATE ROADS NOT OPEN TO THE GENERAL PUBLIC”.

- Father Mark Tyson, 299 Miracle Lane, Tazewell, Virginia requested approval of the proposed ordinance, stating that he would like to see economic development move forward in Tazewell County. He said the ordinance would be a wonderful thing for Tazewell County.

- Mary Frances Lester, 423 Marion Avenue, Tazewell, Virginia – requested the Board’s support and approval of the ordinance. She also said the ordinance would be important to Tazewell County.

Now, the Chairman called for further comments from the floor three times and there being none, he declared the public hearing closed.

Then, upon recommendation and approval of the Tazewell County Planning Commission this date, and upon motion of Supervisor White, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby adopts “AN ORDINANCE TO PERMIT CERTAIN SUBDIVISIONS TO INCLUDE PRIVATE ROADS NOT OPEN TO THE GENERAL PUBLIC.”

Ordinance No.1112011-3

Date: January 11, 2011

**AN ORDINANCE TO PERMIT CERTAIN SUBDIVISIONS TO INCLUDE
PRIVATE ROADS NOT OPEN TO THE GENERAL PUBLIC**

WHEREAS the Board desires to promote responsible development of residential property in the County:

WHEREAS the Board recognizes that requiring all roads within subdivisions to be built to Virginia-Department of Transportation Standards limits development in the County, escalates the cost of residential lots, and constricts housing opportunities for County residents;

WHEREAS the Board also recognizes that persons who purchase lots within an approved subdivision are entitled to expect certain minimum standards for access to their property;

WHEREAS, the Tazewell County Planning Commission has recommended the following ordinance to permit subdivisions to be approved when their planned roads do not meet standards for the Virginia Department of Transportation’s secondary road system, while requiring such roads to meet certain minimum standards that safeguard the interests of potential purchasers of lots;

WHEREAS, the Board has considered the recommendations of the Planning Commission and desires to approve said ordinance;

NOW THEREFORE BE IT ORDAINED, that pursuant to Section 15.2-2242(3) of the Code of Virginia (1950) as amended, Section 4-4-1 of the Subdivision Ordinance shall be amended to include new subparts (h) and (i):

“(h) Streets within certain subdivisions may be constructed to standards other than those for Virginia Department of Transportation Secondary Roads, under the following conditions:

1. If a proposed subdivision contains less than one hundred (100) lots, the streets shown therein may be constructed to standards set forth in Tier I of the private road standards set forth in Table II of this Ordinance.

2. If a proposed subdivision contains less than forty (40) lots, the streets shown therein may be constructed to standards set forth in Tier II of the private road standards set forth in Table II of this Ordinance.

3. Subdividers may not repeatedly avail themselves to the exception herein created by segregating their subdivisions into phases. Therefore, for purposes of calculating the number of lots in a proposed subdivision, the number of lots shall include the lots in any adjacent subdivision, either created from the same parent parcel or subdivided by the same subdivider pursuant to the provisions of this subpart (h). However, if such developer upgrades or causes to be upgraded, a thoroughfare to be shared by both subdivisions, to Virginia Department of Transportation Secondary Road Standards, then a subsequent subdivision may be eligible for development pursuant to this subpart (h).

“(i) If a proposed subdivision includes streets built to those standards set forth in sub part (h) such streets shall not be dedicated to the public. And such subdivision shall:

(i) Convey ownership of such streets at the time of recordation of the plat to a duly organized Home Owners Association, whose articles provide that said streets may not be conveyed or dedicated to public use except by a two thirds vote of the membership

of the Association. The Articles of the Association must provide that the President of the association may not be the subdivider; *and*

(ii) The recorded plat and any deed conveying any lot within said subdivision must state in bold font as follows:

”The streets within this subdivision are not dedicated public streets and will not be maintained by the Virginia Department of Transportation (V-DoT) or the County of Tazewell. The streets are conveyed to the (*Name of Development*) Home Owners Association. The Association will be responsible for maintaining and repairing the streets. The streets have not been built to V-DoT standards for secondary roads.”

And

(iii) The Subdivider must provide the Association, for initial road maintenance, the sum of \$500.00 for each and every lot sold at the time each and every lot is sold by the Subdivider. These funds shall be deposited into a noninterest bearing account in the name of the Home Owners’ Association and may only be withdrawn by the President of the Home Owners’ Association. The subdivider shall be solely responsible for maintaining the road until a majority of the lots have been sold. Once a majority of the lots have been sold, the Home Owners Association shall be responsible for maintaining the road, pursuant to the terms of the Articles of the Home Owners Association. Such terms shall include the limitation that the funds deposited by the subdivider for road maintenance may not be used for snow removal, landscaping, lighting, or any purpose other than maintaining the surface integrity of the road. The subdivider shall also include this obligation in every deed conveying each lot as a covenant between the Subdivider and the purchaser of the lot;

And

(iv) The Subdivider shall, nevertheless, dedicate to the County of Tazewell, a nonexclusive, transferrable easement for the construction, installation, inspection, maintenance, replacement and repair, of gas lines, water lines, sewer lines, electric power

lines, telecommunications lines, or other utility lines beneath the streets shown on the plat.

And

(v) The subdivision plat must show and the deeds conveying affected lots must include an easement for adequate street drainage easements where necessary, as determined by the County's Agent for plan approval."

And

(vi) The Deeds, Articles for the Home Owner's Association and plat including the required provisions hereinabove set forth must be approved by the Commission. The Commission shall not deny approval of such documents for any reason other than their failure to adequately state those provisions required by this ordinance.

The Board further ORDAINS that Table II above referenced is attached hereto and hereby incorporated into this Ordinance by reference.

It is so ORDAINED by the Board on this the 11 day of January 2011.

RECORDED VOTE: 5 to 0

MEMBERS PRESENT: Absher, Campbell, Hymes, Anderson & White

MEMBERS ABSENT: None

AYES: Five (5)

NAYS: None

ABSTENTIONS: None

FLOOD PLAIN ORDINANCE ADOPTED
AS AMENDED

The Chairman, Dave R. Anderson called to order a JOINT PUBLIC HEARING that was duly advertised according to law, BETWEEN THE TAZEWELL COUNTY BOARD OF SUPERVISORS AND THE TAZEWELL COUNTY PLANNING COMMISSION TO CONSIDER THE ADOPTION OF “AN ORDINANCE TO REGULATE CONSTRUCTION ON FLOOD THREATENED PROPERTIES IN TAZEWELL COUNTY, VIRGINIA.”

Eric Young, County Attorney explained the ordinance as proposed, stating that the ordinance classifies property into three classes, i.e. property that does not flood, property that may flood and property that does flood. If a property owner has property that may flood and a building permit is required, the property must be inspected by an engineer to determine whether the structure being built could perhaps flood. If a property owner owns property that does flood, then any proposed structure or fill on the property would have to be reviewed and approved by the County Engineer; ex. standard: would the structure of fill raise the flood level by one (1) foot? FEMA developed a new map outlining flood plains and food ways and highly recommended that the County adopt the amendments to the county’s flood plain ordinance. If the County has a devastating flood and the ordinance is not in place, FEMA may not provide funding assistance to the County. Now, following explanation of the permit process, the County Attorney then explained the Appeals and Variance Process as well as explaining other such factors that may be relevant to the ordinance in the future, such as zoning.

Now, the Chairman called for public input from the floor with regard to the subject public hearing three (3) times and there being none, he declared the public hearing closed.

Then, following recommendation from the Tazewell County Planning Commission that the Board of Supervisors adopt the ordinance as proposed, and upon motion of Supervisor Hymes, seconded by Supervisor White and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby adopts AN ORDINANCE TO

REGULATE CONSTRUCTION ON FLOOD THREATENED PROPERTIES IN
TAZEWELL COUNTY, VIRGINIA.

BE IT ENACTED AND ORDAINED BY TAZEWELL COUNTY, VIRGINIA,
AS FOLLOWS:

The Board does resolve and hereby ORDAIN that the County's Flood Plain Ordinance hereby is repealed, together with all amendments thereto previously enacted, and is reenacted as hereinafter set forth:

**An Ordinance to Regulate Construction on
Flood Threatened Properties in Tazewell County.**

Ordinance No. 1112011
2011

Date: January 11,

ARTICLE I - GENERAL PROVISIONS

Section 1.1 – Statutory Authorization and Purpose

This ordinance is adopted pursuant to the authority granted by Va. **Code** § 15.2 - 2280. The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by

regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;

restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;

requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,

protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 - Applicability

These provisions shall apply to all privately and publicly owned lands within jurisdiction of the unincorporated portions of Tazewell County, Virginia, and identified as being flood prone.

Section 1.3 - Compliance and Liability

No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.

Records of actions associated with administering this ordinance shall be kept on file and maintained by the Department of Building Safety or such other custodian as may from time to time be selected by the Board of Supervisors by resolution.

This ordinance shall not create liability on the part of Tazewell County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

Section 1.4 - Abrogation and Greater Restrictions

This ordinance supersedes any ordinance currently in effect in flood-prone areas. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

Section 1.5 - Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Section 1.6 - Penalty for violations

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of Tazewell County shall be guilty of a misdemeanor and subject to the penalties there for.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure con-

structed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be condemned, declared to be a public nuisance, and be abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

ARTICLE II - DEFINITIONS

Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation - The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.

Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.

Board of Appeals - The board designated by separate ordinance to review appeals made by individuals with regard to decisions of the Ordinance Administrator in the interpretation of this ordinance until such time as an Appeals Board is so designated, all appeals shall be presented to the Board of Supervisors.

Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Flood or flooding -

A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; or, the unusual and rapid accumulation or runoff of surface waters from any source. mudflows which are proximately caused by flooding as defined in paragraph (1) (b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) – an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.

Flood proofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be cheaper.

Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure - Any structure that is listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or, individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior; or,

directly by the Secretary of the Interior in states without approved programs.

Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.

Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the enactment of this ordinance, or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational vehicle - A vehicle which is built on a single chassis;

400 square feet or less when measured at the largest horizontal projection;

designed to be self-propelled or permanently towable by a light duty truck; and,

designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.2 of this ordinance.

Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure - for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:

any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.

Violation - the failure of a structure or other development to be fully compliant with the County's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Zoning Administrator or Ordinance Administrator or Administrator – the public official designated by the Tazewell County Board of Supervisors, by separate ordinance or resolution, to administer, interpret and enforce the ordinance for the County.

ARTICLE III - ESTABLISHMENT OF DISTRICTS

Section 3.1 - Description of Districts

Basis of Districts

The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for Tazewell County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, and Tazewell County, dated February 18, 2011 and any subsequent revisions or amendments thereto.

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Tazewell County Building Safety office.

The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.

The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.

The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated. For these areas, the one hundred (100)-year flood

elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain Information Reports, U.S. Geological Survey Flood-prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the governing body.

Overlay Concept

The Floodplain Districts described above shall be overlays to districts as shown on any future Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Section 3.3 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the Tazewell County Board of Supervisors where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of

Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

Section 3.4 - Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Flood Plain Ordinance Administrator (hereinafter referred to as the Ordinance Administrator or Administrator). Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals, or if there being none, the Board of Supervisors shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Section 3.5 – Submitting Technical Data

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

ARTICLE IV - DISTRICT PROVISIONS

Section 4.1 – Permit and Application Requirements

Permit Requirement

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a flood plain building permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Tazewell County Subdivision Ordinance. Prior to the issuance of any such permit, the Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

Site Plans and Permit Applications

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

The elevation of the Base Flood at the site.

The elevation of the lowest floor (including basement).

For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

Topographic information showing existing and proposed ground elevations.

Section 4.2 - General Standards

The following provisions shall apply to all permits:

New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.

Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.

New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administrator.

The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Section 4.3 - Specific Standards

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according Article 4, section 4.6, the following provisions shall apply:

Residential Construction

New construction or substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood level of at least one foot above the base flood level.

Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building or manufactured home shall have the lowest floor, including basement, elevated to or above the base flood level of at least one foot above the base flood level. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the

elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation to which such structures are flood-proofed, shall be maintained by the Ordinance Administrator.

Elevated Buildings

Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).

be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.

If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

Standards for Manufactured Homes and Recreational Vehicles

All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article 4, section 4.2 (A) and (B), and section 4.3 (A).

All recreational vehicles placed on sites must either

be on the site for fewer than 180 consecutive days;

be fully licensed and ready for highway use: A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions; or,

meet all the requirements for manufactured homes in Article 4, sections 4.2 and 4.3 (D).

Section 4.4 - Standards for the Floodway District

The following provisions shall apply within the Floodway District:

Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Ordinance Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the Ordinance Administrator’s endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

If Article 4, Section 4.6 (A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.

The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

Section 4.5 - Standards for the Special Floodplain District

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point on property not owned by the applicant.

Development activities in Zones A1-30, AE, and AH, on the County's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the Ordinance Administrator's endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

Section 4.6 - Standards for Approximated Floodplain

The following provisions shall apply with the Approximate Floodplain District:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation. For development proposed in the

approximate floodplain the applicant must use technical methods that correctly reflect currently accepted technical concepts, such as point on boundary, high water marks, or hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Ordinance Administrator.

The Ordinance Administrator reserves the right to require hydrologic and hydraulic analyses for any development.

When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level. During the permitting process, the Ordinance Administrator shall obtain:

the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,

if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Section 4.7 - Standards for Subdivision Proposals

All subdivision proposals shall be consistent with the need to minimize flood damage;

All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

ARTICLE V –PERMIT PROCESS

5.1 Ordinance Administrator review Required

No Development or Construction may be built in a Flood District without a permit issued by the Ordinance Administrator or a Certificate from the Ordinance Administrator that such Development or Construction does not come within the jurisdiction of this ordinance. Persons proposing Development or Construction in Flood Districts shall apply for a determination of applicability or a permit from the Ordinance Administrator.

5.2 Development or Construction Permitting

Applications for permits shall be submitted to the Building Official's Office who shall forward the same to the Ordinance Administrator. The Ordinance Administrator shall establish a form for applications. The Board of Supervisors may by resolution establish a reasonable fee for processing applications.

Permit Approval- the Ordinance Administrator shall, within ten days of submission of an application, (1) determine whether the proposed Development or Construction is within the jurisdiction of this ordinance and (2) whether the proposed Development or Construction would be permitted by this ordinance. The ten day time limit for approval shall be tolled for any application that is incomplete, while such application is incomplete, or for any application where any particular request for additional information is outstanding, until such information is supplied by the applicant.

If Development or Construction as proposed is not within the jurisdiction of this ordinance the Ordinance Administrator shall provide a certificate to the applicant

advising that the structure is not within the jurisdiction of this ordinance and advising the building inspector that such construction is not regulated by the ordinance

If the proposed Development or Construction is within the jurisdiction of this ordinance, the Ordinance Administrator shall, notify the applicant in writing and advise him that the application is either approved or that it is not approved. If the application is denied the notice shall state the reasons for the denial.

Any notice given pursuant to this section shall advise the applicant of their right to request a variance from Ordinance requirements or to appeal any decision of the Ordinance Administrator to the Board of Supervisors or Zoning Board and shall include the date, location and approximate time by which the application for variance or for an appeal must be submitted to the County Administrator. Such notice to the applicant shall be in writing sent by Certified Mail to the address shown on the application. Failure to provide the applicant notice or any defect in notice shall be remedied by tolling the time in which the applicant may request a variance or an appeal until proper notice is given. If no notice is sent to the applicant within thirty (30) days of the date of the application, the applicant may consider the application denied and proceed with an appeal, should the applicant chose to do so.

The Applicant shall have THIRTY (30) DAYS from the date of the notice of denial to file a written request for an appeal or a variance with the County Administrator. failure to note the appeal within thirty (30)days shall forever bar the request for appeal or variance.

5.3 Appeal and Variance Process

(A) Upon receipt of a notice of appeal or variance from a decision of the Ordinance Administrator, the County Administrator shall schedule a hearing before the Board of Supervisors or Zoning Board. Where the applicant requests a variance the Administrator shall cause a notice of the application for variance to be mailed to all

owners of property adjoining the property upon which applicant proposes Development or Construction not in conformity with the Ordinance. Such notice shall be sufficient if mailed by first class U.S. mail to the address of the owner as shown in the Commissioner of Revenue or Treasurer's office. The Board of Supervisors by resolution may establish a fee for the costs of issuing such notice to be paid by applicants for variances. Such fee shall be established annually.

(B) The Board of Supervisors or Zoning Board shall hear the appeal or request for variance within a reasonable time. Should the Board not hear the appeal within six months, the applicant may consider the appeal denied. A conditional variance granted to the applicant may be deemed a denial by the applicant. Notice of the Board's decision shall be given to the applicant in the same manner as notice of denial was given to the applicant by the Ordinance Administrator.

(C) The Applicant may appeal the Board's decision to the Circuit Court for the County of Tazewell, Virginia by filing a Petition with said Court within NINETY (90) DAYS of the date of the notice of the Board's decision.

ARTICLE VI- APPEALS AND VARIANCES

6.1 Appeals- Appeals are a claim that the decision of the Ordinance Administrator was in error. If an appeal is granted by the Zoning Board the Ordinance Administrator may appeal the decision of the Zoning Board to the Circuit Court of Tazewell County, Virginia, by filing a petition with said court within sixty (60) days of the notice of the Board's decision.

6.2 Variances- Variances are a request that the regulations contained in the Ordinance not be applied to the applicant's proposed Development or Construction.

ARTICLE VII- FACTORS TO BE CONSIDERED

Variations shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals or Board of Supervisors has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals or Board of Supervisors has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variations generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variations may be issued by the Board of Zoning Appeals or Board of Supervisors for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variations may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variations, the Board of Zoning Appeals or Board of Supervisors shall satisfy all relevant factors and procedures specified in other sections of the County's ordinances and consider the following additional factors:

The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or

activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.

The danger that materials may be swept on to other lands or downstream to the injury of others.

The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

The importance of the services provided by the proposed facility to the community.

The requirements of the facility for a waterfront location.

The availability of alternative locations not subject to flooding for the proposed use.

The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

The safety of access by ordinary and emergency vehicles to the property in time of flood.

The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation

will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals or Board of Supervisors may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variations shall be issued only after the Board of Zoning Appeals or Board of Supervisors has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variations shall be issued only after the Board of Zoning Appeals or Board of Supervisors has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals or Board of Supervisors shall notify the applicant for a variance, in writing and signed by {title of appropriate public official, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variations. Any variations that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

ARTICLE VIII – EXISTING STRUCTURES IN FLOODPLAIN AREAS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in an increase in the base flood elevation of more than one foot.

Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.

The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

ARTICLE IX- OTHER PERMITS NOT TO BE ISSUED

The Office of Building Safety, or such other agency as may be delegated responsibility for enforcement of the Building Code, shall not issue a permit for Development or Construction on property located in Flood Districts without a letter of authorization from the Ordinance Administrator. The County Engineer's Office or such other agency as may be delegated responsibility for enforcement of the County's Erosion and Sediment Control Laws, shall not issue a permit for Development or Construction on

property located in Flood Districts without a letter of authorization from the Ordinance Administrator.

ARTICLE X - ENACTMENT

IT IS SO ENACTED AND ORDAINED THIS 11 DAY OF January 2011 by the Tazewell County Board of Supervisors. This ordinance shall become effective upon passage.

MEMBERS PRESENT: Supervisors Absher, Campbell, Hymes, White and Anderson

MEMBERS ABSENT: None

MEMBERS VOTING AYE: Absher, Campbell, Hymes, White and Anderson

MEMBERS VOTING NAY: None

ABSTENTIONS: None

FIVE (5) MINUTE RECESS

The Chairman then called for a brief recess to allow time for the Planning Commission to adjourn their meeting, after which the Board of Supervisors annual/organizational meeting was duly reconvened.

PUBLIC HEARING –

ORDINANCE OF VACATION

MOUNT VISTA COURT IN FINCASTLE FARMS

The Chairman of the Board of Supervisors called to order a public hearing that was duly advertised according to law, entitled “AN ORDINANCE OF VACATION to

vacate a portion of Mount Vista Court in Fincastle Farms Subdivision currently located within a private fence” – The Ordinance of Vacation is proposed to vacate a portion of Mount Vista Court in Fincastle Farms Subdivision currently located within a private fence, on the west side of the north end of said street adjacent to parcels numbered 041A0020,0040,0041. The property owners who may be affected by this Ordinance of Vacation are Michael Hegstrom, Stephanie Hegstrom, Jerry Elswick, Christine Elswick, Peter Romano, Deborah Romano, James David Hicks, Kenneth Mathena, Paul Rutherford, Pamela Rutherford, Rodney Cline, Serena Cline, Michael J. Harrison, Patricia Bowman, Darla Bowman, David W. Sluss and Karen B. Sluss.

That portion of Mount Vista Court to be vacated is described as follows:

All that portion of Mount Vista Court in Fincastle Farms Subdivision lying more than eight (8) feet west of the center line of Mount Vista Court from the Southeastern corner of lot 41 to the north eastern corner of lot 20, bordering lots 20, 40 and 41.

Now, the Chairman called for public comments from the floor. The following people spoke with regard to the subject public hearing:

- Joey Stiltner, Attorney – New Haven Road, North Tazewell, Virginia representing Michael J. Harrison, a property owner affected by the proposed Ordinance of Vacation, advised the Board that the Michael J. Harrison opposes the abandonment/vacation of the portion of Mount Vista Court in Fincastle Farms Subdivision. He said there is no sound reason to vacate the portion of ROW as proposed.

Chairman Anderson called for further comments from the floor three times, with regard to the public hearing and there being none, he declared the public hearing closed. No action was taken at this time and deferred action to the February 1, 2011 regular meeting.

The Chairman requested that the email submitted to County Officials from Michael J. Harrison be made part of these minutes and incorporated herein by reference thereto.

“Re: Mount Vista Court, Fincastle Farms Subdivision

Intent to vacate a portion of ROW adjacent Lots 40 & 41

Gentlemen: We are opposed to abandonment (narrowing) of a portion of this right of way (ROW). This relatively new subdivision is not yet built-out. There is no sound rationale based on engineering or safety principles that justifies narrowing a short segment of this ROW in front of a few select lots to benefit a specific property owner who has illegally encroached on the right of way. Narrowing the right of way will ensure that we will never be able to create a properly centered, safe road with controlled run-off. In fact, narrowing the ROW and paving of a one-lane road in its current off-center position will create specific hazards that could cause serious injuries to my family and other existing/future homeowners and their guests that must use this ROW.

In light of the events outlined below and in the attached documents, it is plausible that this request to vacate (narrow) a short segment of the ROW may be part of a plan to have the road paved without the need to respect the rights of all property owners that abut/use this ROW. Jim Spencer's 6-14-10 letter to David Sluss (see attached) succinctly defined those rights. By vacating the illegally occupied portion of the ROW, the current unimproved gravel strip magically becomes centered in what remains of the ROW, thus negating the need to move it to the center of the existing ROW. Anyone advocating for a paved road regardless of safety concerns or the rights of adjacent property owners may have this in mind. In late 2009 and throughout 2010, I received 5 – 6 phone calls urging us to agree to pave the existing gravel strip in its current off-center position.

We want the road to be paved, but ask that it be done properly. We asked for the encroachments to be removed from the ROW and the proposed one-lane road be centered in the ROW or at least abut the centerline. Our attached emails to Mr. Kenneth Dunford (10-1-09), Mr. David Anderson (2-17-10) and Mr. Jim Spencer (6-21-10) clearly defined our rationale for making this request (summarized in the next paragraph for your convenience). Allowing the illegally installed encroachments to remain and paving of the road off-center will not leave room for cars to pull off the one lane paved road to allow another on-coming car to pass and leave room for a ditch or swale to manage run-off. In the winter, on this steep icy hill, cars will be forced into any future fence erected on the east side of the ROW or into on-coming traffic and/or into any drainage ditch or swale that might be dug someday. The attached Partial Plat shows the many existing and future homeowners that will have to navigate a substandard road. The attached Encroachment

Sketch shows the hazard that will arise from paving the road off-center. We have many family members in the Bluefield area; my wife grew up in the area and we plan to live there someday. Narrowing the ROW to benefit those who illegally encroached on the ROW will create hazards for all current and future homeowners in this still developing subdivision. Rewarding encroachment and punishing those who abided by the rules only encourages other to “stake a claim” to a portion of the ROW in front of their lot before some else does.

If this was your property, would you want the ROW narrowed only if front of your lot?

There is no sound rationale based on engineering or safety principles that justifies narrowing a short segment of this ROW in front of a few select lots to benefit a specific property owner who has illegally encroached on the ROW. The current 50’ ROW should be maintained the full length of the street as it will provide adequate room for paved lanes and swales. There are enough improperly position paved roads in the County already. Please avoid another that will present hazards to the citizenry and Vote “No” on this matter.

Sincerely,

Jane & Michael Harrison

P/F: 407-774-9393

M: 407-963-2211”

SCHEDULED CITIZEN COMMENTS

There were no scheduled citizen comments.

UNSCHEDULED CITIZEN COMMENTS

The Chairman called for citizen comments from the floor.

- Mr. William A. Gillespie, 191 Clinch Mt. Road, Tazewell, Virginia – voiced opposition to the new road through the Cove Section of Tazewell County as proposed by Delegate Morefield during the December 7, 2010 meeting. He said no one contacted residents of the Cove about the proposal and the entire Cove neighborhood is totally opposed to the project. Mr. Gillespie however requested

- that VDOT consider paving parts of Route 91, as well as opening ditches and paving the graveled portions of Route 91. He said that Route 91 is the only primary unpaved/graveled road in the State of Virginia.
- Mr. Adam Light, 693 Shannon's Branch Road, Baptist Valley, North Tazewell, Virginia – echoed and supported Mr. Gillespie's comments concerning the proposed road through the Cove. He stated that he conducted some quick study on the proposed road and the timesavings on a 2-lane road at an average speed of 45 mph that is 27 miles long to Chilhowie is actually a longer route to Abington from Claypool Hill on current 19; the timesavings would be 2 minutes. He stated that the proposed project would not expedite travel time or alleviate traffic. Mr. Light stated that this type of project should not be pursued with the State's current 20 billion debt. He said upgrades to the present roads would be a more practical undertaking.
 - Charles Orrock, 1152 Triangle Road, Bluefield, Virginia, husband of Dr. Teresa Paine who was on a citizen's steering committee with regard to the Tall Structure proposal debated recently. He said there was great concern about the recent article in the Bluefield Daily Telegraph and Dominion Resources and their intent to continue with the wind turbine project on East River Mt. Mr. Orrock stated that Dominion Resources pledged last year that they would respect Tazewell County's ordinance as well as the wishes of its citizens and that they would leave the County. He said not only have they not left, they plan to continue with their project. Mr. Orrock stated there was great concern in the Eastern District. Supervisor Anderson stated he was not aware of any required applications from Dominion Resources. Supervisor White stated that as far as he was concerned the subject of windmills was over. He said the County has an ordinance in place and if Dominion wants to pursue the project, they should contact federal representatives or state officials.
 - Dallas Sparks, 153 Blackberry Road, Tazewell, Virginia 24651 (Burkes Garden) spoke in opposition to Delegate Will Morefield and Senator Phillip Puckett's recent televised remarks in support of windmills. He said he has a real problem with stealing taxpayers dollars and he continues to look for ways to sue the

Federal and state government for stealing tax payers dollars for something that don't work.

- Father Mark Tyson, 299 Miracle Lane, Tazewell, Virginia 24651 suggested that the Board of Supervisors strengthen the county's present Tall Structure Ordinance to protect all of the ridge-tops in Tazewell County as well as standing strong against Dominion's proposal while in Richmond. He said he feared Dominion would lobby County officials while in Richmond and try to reverse our County ordinance.
- Tom Childress, 207 Peel Chestnut Mt. Road, Pocahontas, Virginia 24635. He clarified the process in which Dominion would have to take in order to seek application to obtain a variance to construction of windmills in Tazewell County. He reminded the Board that the Planning Commission adopted a wind-energy resolution, but did not pass it on to the Board by ordinance because he was told the Board of Supervisors had "wind-ordinance fatigued".

Now, there being no further citizens comments, the Chairman closed the citizen comment portion of the agenda.

CONSENT CALENDAR

Upon motion of Supervisor White seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the following items as Consent Calendar. The County Administrator is hereby authorized and directed to issue said warrants in accordance with this action and which said warrants will be converted to negotiable checks by the Treasurer of Tazewell County, Virginia:

WARRANTS

November/December 2010

Payroll

Ordered that Warrant Nos. 133122 through 133204, and direct deposits totaling \$330,324.65 from the General, Landfill Enterprise, and 911 Funds, covering payroll for the various County agencies, for the period ending November 30, 2010, be approved.

Ordered that Warrant Nos. 133206 through 133281 and direct deposits totaling \$204,965.76 from the General, Landfill Enterprise, and 911 Funds, covering payroll for the various County agencies, for the period ending December 15, 2010 be approved.

Accounts Payable/Payroll Deductions

Ordered that Warrant Nos. 450521 through 450635, for \$346,948.41 from the General, Landfill Enterprise, Capital Outlay, Law Library and 911 Funds, covering operating expenses for the various County agencies for the month of November 2010, be approved.

Ordered that Warrant Nos. 450637 through 450655, for \$166,217.38 from the General, Landfill Enterprise, and 911 Funds, covering payroll deductions for the various County agencies for the period ending November, 2010, be approved

Ordered that Warrant Nos. 450657 through 450799, for \$1,409,934.06 from the General, Landfill Enterprise, Capital Outlay, Law Library and 911 Funds, covering operating expenses for the various County agencies for the month of December 2010, be approved.

Ordered that Warrant Nos. 450801 through 450819 for \$154,282.08 from the General, Landfill Enterprise, and 911 Funds, covering payroll deductions for the various County agencies for the period ending December 15, 2010, be approved.

Handwritten

Ordered that Warrant Nos. 801540 through 801551 for \$28,072.51 from the General, Landfill Enterprise, Capital Outlay, Law Library, and 911 funds, covering operating expenses for the month of November 2010, be approved.

Coyote Claims Approved

- \$50.00 to Jack Harman, 6440 Sinking Waters Rd. Bandy, VA 24602 for 1 coyote killed with a snare on Nov. 27, 2010
- \$50.00 to William Bandy, 231 Gillespie Road, Pounding Mill, VA 24637 for 1 coyote killed with a trap on December 7, 2010
- \$50.00 to William Bandy, 231 Gillespie Road, Pounding Mill, VA 24637 for 1 coyote killed with a trap on December 8, 2010

- \$100.00 to William Bandy, 231 Gillespie Road, Pounding Mill, VA 24637 for 2 coyotes killed with a trap on December 5, 2010
- \$50.00 to Kyle Wimmer, 202 Sherley Ave. Bluefield, VA 24605 for 1 coyote killed on November 23, 2010 with a snare
- \$50.00 to Johnny Horn, 094 Goss Road, Bluefield, Virginia 25605 for 1 coyote killed with a rifle on December 17, 2010 with a rifle
- \$100.00 to Jack Howery, Jr. 208 Ferndale St. Cedar Bluff, VA 24609 for 2 coyotes killed with a rifle on December 14, 2010
- \$100.00 to William Bandy, 231 Gillespie Road, Pounding Mill, VA 24637 for 2 coyotes killed with a trap on December 21, 2010
- \$50.00 to William Bandy, 231 Gillespie Road, Pounding Mill, VA 24637 for 1 coyote killed with a trap on December 16, 2010
- \$50.00 to William Bandy, 231 Gillespie Road, Pounding Mill, VA 24637 for 1 coyote killed with a trap on December 27, 2010
- \$50.00 to Brenda Hayes, 176 Empire Drive, North Tazewell, VA 24630 for 1 coyote killed with a trap on January 1, 2011.
- \$50.00 to Ira Horne, 519 Grays Branch Rd. Cedar Bluff, VA 24609 for 1 coyote killed on December 21, 2010 with a snare.
- \$50.00 to Johnny Horn, 904 Goss Road, Bluefield, VA 24605 for 1 coyote killed on January 10, 2011 with a trap.
- \$50.00 to William Adams, Jr. 28010 Gov. Peery Hwy. North Tazewell, VA 24630 for 1 coyote killed on January 6, 2011 with a rifle.
- \$50.00 to Kenny Christian, Rt. 1, Box 263G Longview, Cedar Bluff, VA 24609 for 1 coyote killed on December 30, 2010 with a rifle.
- \$50.00 to Norm Mullins, PO Box 1703, Cedar Bluff, VA 24609 for 1 coyote killed on December 22, 2010 with a trap.
- \$50.00 to Norm Mullins, PO Box 1703, Cedar Bluff, VA 24609 for 1 coyote killed on December 26, 2010 with a trap
- \$50.00 to John Martin, 920 Goose Creek Rd. North Tazewell, VA 24630 for 1 coyote killed on December 29, 2010 with a rifle

- \$100.00 to Lonnie Honaker, 520 Grace St. Pounding Mill, VA 24637 for 2 coyotes killed on January 3, 2011 with a rifle.

Library Account

Approved a transfer in the amount of \$12,000 from Contingent Expenditures & Grant Account No. 91050-7041 to the Library Account No. 7301-3310 (donation – Skewes Family Foundation)

Approved a transfer in the amount of \$49.90 from the Contingent Expenditures & Grant Account No. 91050-7041 to the Library Account No. 7301-6012 (donation – Oxmoor House)

Approved transfers in the amount of \$1,000.00 & \$25.00 from the Contingent Expenditures & Grant Account No. 91050-7041 to the Library Account No. 7301-6012 (donations from Rinehart (\$1,000 & Barrett \$25)

Sheriff's Department

Approved \$150.00 from the Contingent Expenditures and Grant Account No. 91050-7041 to the Sheriff's Budget - Account No. 31020-5510 Travel/Training (ck from the VA. Sheriff's Institute) refund for a cancelled class

EMERGENCY SERVICES REPORT

Supervisor Campbell addressed a letter of response from Derrick Ruble, 911 Director with regard to Supervisor Campbell's letter to Mr. Ruble concerning alleged problems with the county's emergency alphanumeric paging system issues. In essence, Mr. Ruble's letter indicated that no problems exist with the voice and alphanumeric paging systems. Supervisor Campbell stated the ESC would address this topic again at their next meeting. The Board reiterated their December 7, 2010 request for a 911 representative to attend, if possible, meetings of the Tazewell County Emergency Services.

BISHOP FIRE DEPARTMENT -

\$8,000 APPROVED FROM FIRE DEPT. EQUIPMENT FUND

TO PURCHASE 1986 FORD F-800

Following a recommendation of the Tazewell County Emergency Services Committee and upon motion of Supervisor Campbell, seconded by Supervisor White and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the amount of \$8,000.00 from the Fire Department Capital Outlay Account No. 32010-8109 to the Bishop Fire Department to assist in the purchase of a 1986 Ford F 800 -5 Speed Transmission with a 2 Speed rear-end w/1000 gallon tank pumper truck.

Further, Supervisor Hymes requested that Patricia Green check on the value of the truck to make certain the truck merits \$8,000.00.

FIRE INSURANCE-

COVERAGE CONCERNS

Supervisor Anderson requested that the Emergency Services Committee explore ways to expand fire department boundaries, more particularly for the Springville area, with regard to fire insurance purposes. He reported that some citizens are unable to obtain fire insurance due to a lack of fire department coverage in their areas, and if available, they pay enormous premiums. Supervisor Campbell stated he would reach out to the Tazewell County Fire Chiefs with Supervisor Anderson stating that he would speak to the Town of Bluefield to see if the fire departments could possibly expand their boundaries to help remedy the situation.

APPOINTMENTS

Airport Authority –

Two (2) appointments to the Tazewell County Airport Authority were deferred to the Feb. 1, 2011 regular meeting.

Joint Economic Development Authority –

Two (2) appointments to the Joint Economic Development Authority (JEDA) were deferred.

Redistricting/Census 2010 -

Upon motion of Supervisor Hymes, seconded by Supervisor White and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no none against the same, the Tazewell County Board of Supervisors hereby appoints the following individuals to serve as members of the Tazewell County Redistricting/Census 2010 Committee – with a term at the will and pleasure of the Tazewell County Board of Supervisors – and further upon motion of Supervisor Hymes, seconded by Supervisor Anderson and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, Supervisor Seth White is hereby delegated the responsibility of calling the initial meeting of the Tazewell County Redistricting Committee.

- Gregory A. Carter, 312 Steels Lane, Tazewell, VA 24651 (At Large Representative)
- Doug Light, 175 Carol Street, Pounding Mill, VA 24639 (Town of Richlands Representative)

Library Board of Trustees-

- One (1) northern district appointment to the Tazewell County Library Board of Trustees was deferred to the Feb. 1, 2011 regular meeting.

Tazewell County Wireless Authority -

Upon motion of Supervisor Campbell, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby appoints Mrs. Ann Robinson, PO Box 11, Falls Mills, VA 24613 to serve as a member of the Tazewell County Wireless Authority, pursuant to Section 15.2-5431 of the Code of Virginia, with a term effective immediately and expiring June 30, 2014 (this appointment fills the unexpired term of John Wimmer who resigned).

CMPT – Community Policy and Management Team -

The name of Tammy Allison was placed on the floor by Supervisor Hymes, with Supervisor Campbell seconding the foregoing. Following discussion, the motion was withdrawn.

Now, upon motion of Supervisor Absher, seconded by Supervisor White and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby appoints Barbie Matney, 314 Bandy Road, Cedar Bluff, VA 24609 as the Parent Representative of the Tazewell County Community Policy and Management Team (CPMT). This appointment fills the resignation of Barbara Smeltzer.

Jeffersonville Rescue Board of Directors -

One at large appointment to the Jeffersonville Rescue Board of Directors was deferred.

TAZEWELL COUNTY COUNCIL –
LEGISLATIVE MEETING

The County Administrator, Jim Spencer, updated the board with a brief itinerary of the upcoming legislative meeting scheduled for January 20, 2011 in Richmond. The group plans to meet with VDOT officials early Thursday morning, deliver gift bags to the General Assembly - House and Senate Members and going to other official meetings and attending the regional banquet on Thursday evening.

ZONING WORKSHOPS/MEETINGS

Supervisor White announced May 2011 as the time-line for the County's adoption of a Proposed Zoning Ordinance for Tazewell County. There will be a total of nine (9) zoning workshops – community meetings and workshops. Four (4) community meetings will be held beginning January 24th -27th in Baptist Valley, SWCC, Springville School and Thompson Valley. Staff will also meet with various community residents and the zoning consultant will conduct meetings with the local planning commission to update County officials on the status of the proposed ordinance.

SOUTHWEST VIRGINIA COMMUNITY COLLEGE

2011 FESTIVAL OF THE ARTS \$2,500.00

Upon motion of Supervisor White, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one

against the same, the Tazewell County Board of Supervisors hereby approves the amount of \$2,500.00 from District Funds as set forth below, payable to the Southwest Virginia Community College, Educational Foundation, Inc. P.O. Box SVCC, Richlands, VA 24641. Said warrant will be converted to negotiable check by the Treasurer of Tazewell County, Virginia-

\$500.00 Eastern

500.00 Southern

750.00 Western

750.00 Northwestern

\$2,500.00

VACO's – REQUEST FOR SPECIAL ASSESSMENT (\$3,000.00)

DEFERRED

VACO's request for Special Assessment for \$3,000 was deferred to the January 27, 2011 recessed meeting. The Board suggested this topic be addressed in Richmond during the upcoming Legislative Meeting. This issue involves protecting the current burden of proof process in real estate and property assessment appeals. If new legislation is passed, the costs of appeals will be shifted to localities. VACo is requesting each County to consider a special assessment of at least \$3,000 to help with costs associated with protecting the current standard of proof in real estate and property assessment.

ORDINANCE TO REGULATE THE ACCEPTANCE OF ROADS INTO THE
COUNTY'S SYSTEM

Now, following a public hearing duly held December 7, 2010, in accordance with all legal notices and advertising requirements, and upon motion of Supervisor Absher, seconded by Supervisor White and adopted by a vote of 4 to 1, with Supervisor Hymes voting no, the Tazewell County Board of Supervisors hereby adopts "AN ORDINANCE TO REGULATE THE ACCEPTANCE OF ROADS INTO THE COUNTY'S SYSTEM" as set forth below:

**AN ORDINANCE TO REGULATE THE ACCEPTANCE OF ROADS INTO THE
COUNTY SYSTEM**

WHEREAS the Board desires to maintain certain public roads within the County which are not within the Virginia Department of Transportation System and not within the corporate limits of any town;

WHEREAS the Board desires to maintain such system of County roads in an orderly fashion, to protect the safety of the travelling public, to prevent the inclusion of ill conceived roads that represent an extraordinary maintenance burden on the County, and to provide the public quality access to their homes and businesses;

NOW THEREFORE, be it ORDAINED that:

Sec. 1 County Road Standards—The Board of Supervisors shall not repair, improve or maintain any road not included on the attached “List of County Roads “unless the following criteria are met:

- a. The road must have a width of thirty (30) feet of dedicated public right of way as certified by the County Attorney, or an attorney retained by the Board for the purpose of determining roadway rights of way.
- b. The right of way must include all necessary drainage easements, as certified by the County Attorney, or an attorney retained by the Board for the purpose of determining roadway rights of way, and the County Engineer or any other licensed engineer retained by the Board for purposes of determining the drainage requirements of public roads.
- c. The road must connect with a State maintained public road or another road in the County system that meets the same standards contained in this ordinance.
- d. The road right of way must intersect on both ends with a road described in part (c) or at its terminus include sufficient right of way for a *cul-de-sac* or “T” turn around.
- e. The road must serve a minimum of seven (7) residences.
- f. The Board may by resolution set such additional standards as the Board may deem necessary.

Sec. 2 Road Acceptance Procedure- The Board of Supervisors shall not repair, improve, or maintain any road not included on the attached “List of County Roads” except by the following process:

- a. Upon resolution of the Board, the Board shall cause to be advertized a public hearing to consider accepting the road into the County road system. Such advertisement

shall meet the standards set forth in the Code of Virginia for any other County Ordinance. Such advertisement shall also include providing written notice by certified mail to the owners of each parcel that connects to the road as shown by the County tax maps: the names and addresses of the adjoining property owners for purposes of the advertisements shall be as shown in the Commissioner of Revenue's records, unless any other owners or addresses are known.

b. The advertisement shall include the names of the affected property owners, the number of homes served by the road, and an estimated cost to improve the road to meet the standards set forth in this ordinance.

c. After consideration of any comments made at the public hearing, the Board shall refer the proposal to the Planning Commission for comment.

d. After receipt of official comment from the Planning Commission or after sixty (60) days from the date of the public hearing, the Board may vote to accept the road into the County Road System.

e. The minutes shall include a certification of compliance with the standards set forth in this ordinance by the County Attorney, County Engineer, and County Administrator.

f. An instrument indicating the County's acceptance, containing a certified Copy of the Ordinance accepting the road shall be recorded in the Circuit Court Clerk's Office among the land records, listing the adjoining property owners as Grantors and the Board of Supervisors as Grantee for indexing purposes.

Sec. 3 Existing Roads No road shall be repaired, improved, or maintained without compliance with this ordinance, unless it is listed on the attached "List of County Roads". Any other roads heretofore improved by the County without an expressed resolution of the Board accepting such road into the County Road system shall not be considered County Roads; the County's prior improvements thereof shall be deemed *ultra vires*; and no implication of acceptance by the Board of such roads into the system may be inferred from such improvements.

It is so ORDAINED by the Board on this the 11 day of January 11, 2011

RECORDED VOTE: 4 to 1

MEMBERS PRESENT: Absher, Campbell, Hymes, White and Anderson

MEMBERS ABSENT: None (0)
AYES: Four (4)
NAYS: One (1) Hymes
ABSTENTIONS: None (0)

EMERGENCY OPERATIONS PLAN 2010

Presentation of the Tazewell County Emergency Operations Plan (EOP) 2010 was deferred to the next regular meeting. Dave White, Emergency Services Coordinator recently fell and broke his leg. Mr. White's condition and the inclement weather prohibited him from attending this meeting.

RECREATION TRAILS PROGRAM RESOLUTION ADOPTED

Upon motion of Supervisor Hymes, seconded by Supervisor White and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby adopts a resolution authorizing application(s) for federal funding assistance from the Recreational Trails Program to the Virginia Department of Conservation & Recreation (DCR) as provided by the Federal Highway Administration of the United States Department of Transportation, as follows:

RECREATIONAL TRAILS PROGRAM RESOLUTION

A resolution authorizing application(s) for federal funding assistance from the Recreational Trails Program to the Virginia Department of Conservation & Recreation (DCR) as provided by the Federal Highway Administration of the U.S. Department of Transportation.

WHEREAS, under the provisions of RTP, federal funding assistance is requested to aid in financing the cost of the construction and/or rehabilitation of recreational trails and trail related facilities,

WHEREAS, Tazewell County considers it in the best public interest to complete the Pocahontas ATV recreational trail project described in the preliminary application and proposal description and environmental screening application;

NOW, THEREFORE, BE IT RESOLVED, that:

1. The County Administrator, James H. Spencer, III be authorized to make formal application to DCR for funding assistance;

2. Any fund assistance received be used for implementation and completion of the Pocahontas ATV Trail within the specified timeframe;

3. Tazewell County hereby certifies that project funding is committed and will be derived from:

Tazewell County Board of Supervisors	\$125,000
--------------------------------------	-----------

4. We acknowledge that we are responsible for supporting all non-cash commitments to this project should they not materialize;

5. We are aware that the grant, if approved by the Federal Highway Administration, will be paid on a 80-20 reimbursement basis. This means we may only request payment after eligible and allowable costs have already been paid and remitted to our vendors and evidence of such has been provided to DCR in the format required by the project agreement.

6. This resolution becomes part of a formal application to the Virginia Department of Conservation & Recreation;

7. We acknowledge that we are responsible for compliance with the National Environmental Policy Act, Endangered Species Act, Historic Preservation Act and all applicable state and federal laws provided appropriate opportunity for public comment on this application

8. We acknowledge that appropriate opportunity for public comment has been provided on this application and evidence of such is a required component for approval.

This resolution was adopted by Tazewell County Board of Supervisors during the meeting held: January 11, 2011. Location Date: 108 E Main Street, Tazewell, VA 24651

BOARD CONCERNS

COYOTE BOUNTY PROPOSAL

Supervisor Hymes presented a letter from the Tazewell County Farm Bureau's, Attorney, Eric Whitesell, with regard to the Board of Supervisors possibility of amending the County's Coyote Bounty Ordinance to allow county trappers to collect some or all of the present bounty by retrieving the hide for sale as fur.

Now, upon motion of Supervisor Hymes, seconded by Supervisor White and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby authorizes and directs the County Attorney to work with Eric Whitesell in obtaining ideas for amending the coyote bounty ordinance, and further that the Board of Supervisors hereby authorizes and directs that a public hearing be held in accordance with this action with regard to amending said ordinance.

CONVENIENCE AREAS – PROPOSED

Supervisor Campbell requested that the County Administrator investigate whether the location at the face of Cavitts of Dam could possibly be used as a convenience area for the Adria community.

Supervisor White requested that the County Administrator determine if the Jewell Ridge Convenience area used in July during the July 4 celebration might be permanently used as a convenience area.

Supervisor Campbell requested that a groundbreaking ceremony be scheduled for the Horsepen, VA Water Project.

Supervisor Campbell requested that a Courthouse Space Study Report be completed and a copy provided to the Board of Supervisors.

Supervisor Campbell requested that the County Administrator move forward with writing letters to state and federal health officials regarding cancers statistics in Tazewell County.

Supervisor Hymes voiced disappointment with a recent response from the Tazewell County School Superintendent with regard to the disposal of elementary books when the Elgin Foundation Grant was implemented. The letter of response indicated that the school system did dispose of damaged books. Supervisor Hymes said he thought it was a crime to dispose of any kind of book. He said even if the books were damaged, someone in this world could read them. Supervisor Hymes further said it was bad judgment and misuse of taxpayer dollars. Supervisor Campbell reiterated Supervisor Hymes comments.

911 – REMAINING MONIES IN 911 RELOCATION ACCOUNT BE USED
FOR FIRE EQUIPMENT THROUGHOUT THE COUNTY

Upon motion of Supervisor Campbell, seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby authorizes and directs the remaining/unobligated monies in the Sheriff/911 Relocation Account be transferred to the Fire Department Account – Capital Outlay Acct. No. 32010-8109, to be used for emergency fire equipment throughout the County.

The Board further directed the County Administrator to set up a meeting with the Sheriff to address vehicle needs within his department.

DISTRICT FUNDS APPROVED

\$9,754.49 FROM WESTERN DISTRICT FUND

TO ROAD GRADING PROJECT

Upon motion of Supervisor Absher, seconded by Supervisor Anderson and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves a transfer in the amount of \$9,754.49 from the Western District Fund to the Western District Road Grading Account, No. 41010-3310-4. The County Administrator is hereby authorized and directed to transfer these funds in accordance with this action.

ROAD REPAIRS/PROJECTS

Supervisor Absher requested that the County's Road Dept. look into repairs for Caleb Hollow Road and Champion Street in the Western District.

TAZEWELL HIGH SCHOOL – PROJECT GRADUATION

\$1,000.00 SOUTHERN DISTRICT FUND

Upon motion of Supervisor Hymes, seconded by Supervisor Campbell and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the amount of \$1,000.00 from the Southern District Fund, payable to Tazewell High School Project Graduation.

The County Administrator is hereby authorized and directed to issue said warrant in accordance with this action and which said warrant will be converted to negotiable check by the Treasurer of Tazewell County, Virginia.

TAZEWELL HIGH SCHOOL - BOY'S BASKETBALL TEAM

\$900.00 (SOUTHERN DISTRICT) \$500.00 (NORTHERN DISTRICT)

Upon motion of Supervisor Hymes, seconded by Supervisor Campbell and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the amount of \$900.00 from the Southern District Fund and \$500.00 from the Northern District Fund, payable to the Tazewell High School – Boy's Basketball Boosters Tazewell, Virginia 24651 subject to legal review (Mike will pick up). The County Administrator is hereby authorized, empowered and directed to issue said warrant in accordance with this action and which said warrant will be converted to negotiable check by the Treasurer of Tazewell County, Virginia.

LANDFILL ALTERNATE DAILY COVERAGE

Supervisor Hymes questioned the landfill alternate daily coverage, 4B vs. 5. He said he heard if the County skipped 4 B and moved to Phase 5 the County would lose seven (7) years in the landfill with additional costs required for gas collections, etc. The County Administrator will investigate and inform Supervisor Hymes accordingly.

USDA TANNERSVILLE BROADBAND –

REQUEST AMENDING SCOPE OF PROJECT

Upon motion of Supervisor Hymes, seconded by Supervisor Anderson and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisor hereby requests the USDA to grant an amendment to the scope of the Tannersville Broadband Project, due to unforeseen hotspots and other irregularities occurring.

TOURISM ZONES

Upon motion of Supervisor Absher, seconded by Supervisor White and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby authorizes Supervisor Campbell and Supervisor Anderson, and with Supervisor Hymes, alternate, to work as a committee to study areas of proposed Tourism Zones for Tazewell County and to make a report on this topic at the February 1, 2011 regular meeting.

Supervisor White commented on the proposed Spearhead Trails Project and said he was willing to put up the necessary monies to see the project move forward.

NATIONAL CLEAN DIESEL FUNDING ASSISTANCE PROJECT

Upon motion of Supervisor Absher, seconded by Supervisor White and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approve a letter of Support to the U.S. Environmental Protections Agency's ARRA Grant for the National Clean Diesel Funding Assistance Program to fund the Virginia Green Fleets program. The propose project will formalize and expand on the proven success of VA Clean Cities' Virginia Diesel Emissions Reduction Initiative, and bring potential fleet upgrades throughout the State.

**RICHLANDS HIGH SCHOOL – \$1,000.00 GIRLS VARISTY BASKETBALL
PROGRAM \$500.00 NORTHWESTERN \$500.00 WESTERN**

Upon motion of Supervisor White, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the amount

of \$1000.00 (\$500.00 N.Western & \$500.00 Western) payable to the Richlands High School Girls Varsity Basketball Program, Richlands, Virginia 24641. The County Administrator is further hereby authorized and directed to issue said warrant in accordance herewith and which said warrant will be converted to negotiable check by the Treasurer of Tazewell County, Virginia.

GRAHAM HIGH SCHOOL – PROJECT GRADUATION

\$2,000.00 EASTERN DISTRICT FUNDS

Upon motion of Supervisor Anderson, seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the amount of \$2,000.00 from the Eastern District Fund payable to Graham Project Graduation, c/o First Community Bank, 101 Sanders Lane, Bluefield, VA 24605. The County Administrator is hereby authorized and directed to issue said warrant in accordance with this action and which said warrant will be converted to negotiable check by the Treasurer of Tazewell County, Virginia 24651.

UP TO \$500.00 FROM THE EASTERN DISTRICT FUND

NO TRUCKS

Upon motion of Supervisor Anderson, seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves an amount up to \$500.00 from the Eastern District Fund for the purchase and placement of a “No Truck” sign at the entrance of Fincastle Farms. The County Administrator is hereby authorized and directed to issue said warrant in accordance with this action and which warrant will be converted to negotiable check by the Treasurer of Tazewell County, Virginia.

VDOT REQUESTED TO ATTEND QUARTERLY

BOARD OF SUPERVISORS MEETINGS

Supervisor Anderson requested that a VDOT representative attend quarterly meetings of the Board of Supervisors.

Supervisor Anderson mentioned the Tazewell County Transportation Commission's recommendation regarding the Regional Long Term Transportation Plan. The Tazewell County Transportation Commission recommended that Source 1 and Source 4 Projects, especially those indicated on the Map Key as number 133 through 145, receive top priority on the Virginia Dept. of Transportation 6- year plan for Tazewell County.

Supervisor Anderson requested that the County Engineering/Road Department continue looking into the Barnes property, i.e. the road matter where 75 families live. He would like the road to be considered for inclusion in the State Road System if possible.

TOURISM SIGNS – WELCOME TO TAZEWELL COUNTY

Supervisor White requested that the County proceed with "Welcome" signs for Tazewell County. The Tazewell County Tourism Committee was requested to check on the status of this project and a report on this matter be given at the February 1, 2011 meeting.

EXECUTIVE/CLOSED MEETING

Upon motion of Supervisor Hymes, seconded by Supervisor Campbell and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby enters into and executive/closed session, pursuant to VA Code Section 2.2-3711:

- A-3 Property Acquisition involving Camp 31 property
- A-6 Investment of Public Funds regarding a regional utility project with the Town of Richlands and the PSA
- A-7 Development Agreement for the Bluestone
- A-1 Personnel involving the IDA Attorney

RETURN/CERTIFICATION/REPORT OF ACTION

Upon motion of Supervisor White, seconded by Supervisor Campbell and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby returns from the Executive/Closed Meeting, with Supervisor White reading the following certification:

CERTIFICATION

OF EXECUTIVE/CLOSED MEETING

WHEREAS, the Tazewell County Board of Supervisors has convened an executive/closed meeting on this date pursuant to an affirmative vote and in accordance with The Virginia Freedom of Information Act; and

WHEREAS, 2.2-3712 of the Code of Virginia requires a certification by the Tazewell County Board of Supervisors that such executive/closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Tazewell County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) that only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive/closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Tazewell County Board of Supervisors. The Chairman called for a roll call vote with the following vote hereby recorded.

CAMP 31 – REQUEST GOVERNOR TO CONVEY FACILITY TO TAZEWELL
COUNTY, VIRGINIA

Upon motion of Supervisor Hymes, seconded by Supervisor Campbell and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby adopts a resolution requesting the Governor to consider conveying the Camp 31 facility located on Route 61 in the Southern District of Tazewell County to the Tazewell County Board of Supervisors.

RECESS TO JANUARY 27, 2011

Now, there being no further business to be transacted, and upon motion of Member Hymes, seconded by Member Campbell and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby recesses this meeting to January 27, 2011 at 6:00 p.m. to conduct a joint meeting with the Tazewell County Industrial Development Authority.

Dave R. Anderson, Chairman

By: rg

Recess time: 12: 23 a.m.