

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

At a regular meeting of the Pulaski County Board of Supervisors held on Monday, January 23, 2006 at 7:00 p.m. at the County Administration Building, Board Room, 143 Third Street, NW, in the Town of Pulaski, Virginia, the following members were present: Joseph L. Sheffey, Chairman; Frank R. Conner, Vice Chairman; William E. "Eddie" Hale; Ranny L. Akers; and Dean K. Pratt. Staff members present included: Thomas J. McCarthy, Jr., County Attorney; Peter M. Huber, County Administrator; Nancy M. Burchett, Assistant County Administrator; David Tickner, Community Development Director; and Gena T. Hanks, Clerk.

1. Invocation

The invocation was delivered by Reverend Terri Sternberg of Trinity Lutheran Church.

2. Featured Employees

Mr. Sheffey recognized Ronnie Ryan of the PSA Refuse Department and Don Cressell of the County Maintenance Facility, as the Featured Employees for the month of February. Mr. Sheffey read a detailed description of the job duties and personal interests of each employee. Mr. Ronnie Nichols accepted a gift certificate to Shoney's on behalf of each employee.

3. Additions to Agenda

Mr. Huber advised additional items included a request for legal counsel consultation regarding adult uses; a request from the Registrar regarding the county's position on paper trail ballots; and confirmation of Board member participation in the Lowe's opening date to be held on February 1, 2006.

4. Public Hearings:

a. Community Development Block Grant Funding

Mr. Huber explained the purpose of the hearing was to solicit public input on local community development and housing needs in relation to Community Development Block Grant (CDBG) funding for projects in Pulaski County. Further, the general solicitation is required in order for localities to be eligible for any CDBG funding.

Mr. Sheffey opened the public hearing. There were no citizen comments and the hearing was closed.

Mr. Huber advised a second public hearing will be scheduled should there be interest in specific projects.

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

- b. A rezoning request from Residential (R1) or Residential (R3) to Agricultural (A1) by the following individuals referenced by tax map number and acreage for properties located along Shelburne Rd. (Rt. 690) and Merry Point Road, a private road, Ingles District. General uses proposed are single-family residences and farm uses at a proposed density of no greater than one dwelling per 30,000 square feet. The properties are designated as either Residential or Agricultural on the Future Land Use Map of the 2000 Pulaski County Comprehensive Plan. The lot designated with an "*" is the lot currently zoned Residential (R3), otherwise other lots are zoned Residential (R1).

Property Owner	Tax Map No.	Acreage
Beckner, Robert G.	076-015-0000-0005	3.2380
Dalton, C. R.	076-022-0000-0001; 076-001-0000-077A	32.00
Lancaster, Elizabeth C.	076-001-0000-0052	4.0100
Lancaster, John F. & Ruth S.	076-001-0000-0076; 076-001-0000-076A*	20.62
Lancaster, Lowell L.	076-001-0000-0054	30.4500
O'Dell, Debra S. & Barry Lee	068-001-0000-0012	1.2100
Saunders, Todd A. & Rhonda B.	068-001-0000-0053	6.0000
Shelburne, James G. & Debra	067-001-0000-0062; 068-001-0000-0013; 067-001-0000-0072	126.4900
Wade, Brian G. & Sherry S.	068-001-0000-0051	4.4600

Mr. Sheffey read the details of the public hearing and called on Mr. Tickner for staff comments. Mr. Tickner explained the purpose of the public hearing was to solicit input from the public regarding the proposed rezoning as stated above. Mr. Tickner advised the Planning Commission recommended approval of the ordinance amendments as presented.

Mr. Sheffey opened the public hearing. There were no citizen comments and the public hearing was closed.

On a motion by Mr. Conner, seconded by Mr. Akers and carried, the Board approved the rezoning request as stated above and as recommended by the Planning Commission.

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers,
Mr. Pratt.

Voting no: none.

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

- c. A request for Special Use Permit (SUP) by **GAD L L C** to allow a sign setback variance for **Arby's Restaurant** on property identified as tax map no. 056-002-001A-0001 (1.210 acres), zoned Commercial (CM1), located on the southwest corner of Woodlyn St (Rt. 1028) and Cleburne Blvd. (Rt. 100), Draper District.

Mr. Sheffey read the details of the public hearing and called on Mr. Tickner for staff comments. Mr. Tickner explained the purpose of the public hearing was to solicit input from the public regarding the proposed Special Use Permit (SUP) to allow a sign setback variance as stated above. Mr. Tickner advised the Planning Commission recommended approval of the request.

Mr. Sheffey opened the public hearing.

Mr. Jerome Henschel, Architect for the Arby's project, provided specific information regarding the SUP. Mr. Sheffey noted a SUP granting approval of a similar request was approved in November 2000; however, the permit expired a year later since the SUP was not utilized within 12 months of approval. Mr. Sheffey questioned the reasoning for delaying the project for five years. Mr. Henschel responded the project was put on hold due to economic reasons.

Dr. Bruce Fariss, adjacent property owner, questioned the ability of the Board to grant approval of this SUP, without approval of the site plan. Further, Dr. Fariss requested Arby's erect a small two to three foot interlocking block wall and low fence that would not obstruct the view from the roadside to protect his property from trash from the proposed Arby's.

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

Mr. McCarthy suggested the Board table action on this matter to the February meeting to allow Planning Commission approval of the site plan prior to the consideration of the variance request. By consensus, the Board tabled action on this matter to the February Board meeting.

- d. A request by **Verizon Wireless** for consideration of a Special Use Permit (SUP) to allow construction of 150' communications tower on property owned by **Hort Viscoe Holdings L L C**, identified as tax map no. 040-001-0000-0002, (88.5650 acres), zoned Industrial (I1), located at 6540 Viscoe Rd., (Route 679), Cloyd District.

Mr. Sheffey read the details of the public hearing and called on Mr. Tickner for any staff comments. Mr. Tickner explained the purpose of the public hearing was to solicit input from the public regarding the Special

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

Use Permit as noted above. Mr. Tickner presented the staff report and advised the Planning Commission recommended approval of the Special Use Permit.

Mr. Sheffey opened the public hearing. Mr. Gregory Tully, representing Verizon Wireless, provided details regarding the request. Mr. Tully noted there would be free space on the tower for the county's 911 services. There being no further comments, the public hearing was closed.

On a motion by Mr. Akers, seconded by Mr. Pratt and carried, the Board approved the Special Use Permit, as recommended by the Planning Commission.

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers,
Mr. Pratt.

Voting no: none.

e. An initiative by the **County of Pulaski** to amend the following sections of the Pulaski County Zoning Ordinance:

- Amendments to Article 1, **Definitions Use and Design Standards**, defining various adult uses including but not limited to: adult book stores, adult video stores, adult businesses, adult entertainment, adult merchandise, adult motels, adult movie theatres, adult stores, specific anatomical areas, and specified sexual activities;
- Amendments to Article 4 of the Pulaski County Zoning Ordinance, **Commercial (CM1) Zoning District**, allowing adult book stores, adult video stores, adult businesses, adult entertainment, adult merchandise sales, adult motels, adult movie theatres, adult stores as either uses by-right or by Special Use Permit in the Commercial (CM1) Zoning District.

Mr. Sheffey read the details of the public hearing and called on Mr. Tickner for staff comments. Mr. Tickner explained the purpose of the public hearing was to solicit input from the public regarding the proposed zoning text amendments as state above. Mr. Tickner advised the Planning Commission recommended approval of the text amendments by Special Use Permit. Mr. Tickner also advised an emergency ordinance was adopted by the Board at its December 19, 2005 meeting with validity limited to 60 days. Further, Mr. Tickner advised Mr. McCarthy had provided various Supreme Court cases related to this matter.

Mr. Sheffey indicated his desire to see the Town of Pulaski and Town of Dublin adopt similar ordinance. Mr. Tickner advised

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

that due to the time constraints posed, staff had drafted the ordinance with the information available at this time.

Mr. Sheffey opened the public hearing. Mr. Craig Strain expressed concern over Pulaski County's consideration to waiting on the two towns to make a decision regarding adoption of a similar ordinance. Mr. Strain indicated the ordinance should be worded in a manner which would discourage, or limit, an adult business from locating in Pulaski County by making it not economically feasible to do so. Mr. Strain suggested prohibiting the sale of alcohol and food, and possibly limiting the size of any proposed signage.

There being no further comments, the public hearing was closed. Mr. Sheffey advised there would be no action at this time regarding this matter, but that further discussions would be deferred to the Closed Session portion of the meeting under "Legal Matters".

- f. The Board will consider making amendments to its two Enterprise Zones, the Pulaski County Enterprise Zone, Zone Number 25, and the New River Enterprise Zone, Zone Number 40. The Board will consider within the Pulaski County Enterprise Zone two boundary additions: an extension of the zone to the Town of Pulaski Industrial Park and the Bob White Building, off Bob White Boulevard (Rt. 611), and other properties in proximity; and a noncontiguous zone to include properties near the intersection of Bob White Boulevard and Route 99, and along Route 99 to the Town Limits and possibly Interstate 81, Exit 94. Both of these boundary additions will include property within the Pulaski Town Limits. The Board will also consider a boundary deletion and boundary addition for the New River Enterprise Zone to eliminate some residential areas off Viscoe Road (Rt. 679) and include properties in the Fairlawn area in proximity to Route 11 and Route 114.

Mr. Sheffey read the details of the public hearing and called on Mr. Tickner for staff comments. Mr. Tickner explained the purpose of the public hearing was to consider development of amendments to the two Pulaski County Enterprise Zones: the Pulaski County Enterprise Zone (Zone Number 25), and the New River Enterprise Zone (Zone Number 40) with consideration of three boundary additions as follows:

1. An extension of the zone to the Town of Pulaski Industrial Park and the Bob White Building, off Bob White Boulevard (Rt. 611), and other properties in proximity;

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

2. A noncontiguous zone to include properties near the intersection of Bob White Boulevard and Route 99, and along Route 99 to the Town Limits and possibly Interstate 81, Exit 94.

Both of these first two boundary additions will include property within the Pulaski Town Limits.

3. A boundary deletion and boundary addition for the New River Enterprise Zone to eliminate some residential areas off Viscoe Road (Rt. 679) and include properties in the Fairlawn area in proximity to Route 11 and Route 114.

Mr. Sheffey opened the public hearing. Hearing no comments, he noted that no action would be taken at this meeting, but rather the matter would be placed on the Board's February agenda for further review following review by the Pulaski Town Council. There were no comments and the public hearing was closed.

- g. A boundary line adjustment between the property owned by Michael Junior Cox and the New River Sewage Pump Station lot on Falling Branch Road in the Cloyd Magisterial District, and the acquisition of an easement as part of the above transaction

Mr. Tickner explained the purpose of the public hearing was to consider a property line adjustment pertaining to exchange of land between the County of Pulaski, Virginia, and Michael Junior Cox, to accomplish a boundary line adjustment between the property owned by Michael Junior Cox and the New River Sewage Pump Station lot on Falling Branch Road in the Cloyd Magisterial District, and the acquisition of an easement as part of the above transaction

Mr. Sheffey opened the public hearing. There were no citizen comments, and the public hearing was closed.

On a motion by Mr. Conner, seconded by Mr. Akers and carried, the Board approved the boundary line adjustments between the property owned by Michael Junior Cox and the New River Sewage Pump Station lot on Falling Branch Road in the Cloyd Magisterial District and the acquisition of an easement as part of the above transaction, pending confirmation from the County Attorney that all documents are in proper order.

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers,
Mr. Pratt.

Voting no: none.

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

5. Highway Matters:

Mr. David Clarke, VDOT Resident Engineer, met with the Board and discussed the following matters:

a. Follow-up from Previous Board Meeting:

1. Review of Highway Matters Section of Key Activity Timetable (KAT)

Mr. Clarke advised there were no changes to the current Key Activity Timetable, but provided a review of the items updated at the December 19, 2005 Board meeting including Dallas Freeman Road, Caseknife Road, Rt. 11 Chevrons and Church Hill Lane.

Mr. Sheffey requested Mr. Clarke contact him regarding the specifics on a request for guardrail installation on Church Hill Road.

b. Resolution Adding Fairway Drive to Secondary Road System

On a motion by Mr. Conner, seconded by Mr. Hale and carried, the Board adopted the following resolution:

WHEREAS, the street(s) described on Additions Form LA - 5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of Pulaski County, and

WHEREAS, the representative for the Virginia Department of Transportation has advised this Board the street(s) meet the requirements established by the Virginia Department of Transportation's Subdivision Street Requirements, and

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the street(s) described on the attached Additions Form LA-5(A) (Fairway Drive, State Route Number 853) to the secondary system of state highways, pursuant to 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements, after receiving a copy of this resolution and all outstanding fees and documents required of the developer, whichever occurs last in time.

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

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

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

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers,
Mr. Pratt.

Voting no: none.

c. Transportation Projects

Mr. Huber advised the Planning Commission is asking about any transportation projects needing to be studied in the upcoming year.

By consensus, the Board approved the following proposed projects: reducing congestion on Rt. 114 in Fairlawn area; the I-81/Rt. 100/Alexander Road interchange, including Dublin Town Center area; and Exit 101 interchange with Rt. 660, State Park Road.

d. Paving in Subdivisions

As reported in the Board packet, VDOT advises the paving of the streets in Orchard Hills and Rolling Hills are not scheduled to be paved in the near future; however, Highland Park was scheduled for paving sometime after July 1, 2006. Further, County Engineer Ron Coake advised the Highland Park project will not be ready for construction prior to the paving schedule and has suggested delaying the paving for one year, and if approved, is requesting an open cut for the road crossings.

VDOT approved delaying the paving of Highland Park for one year and open cut for road crossings.

e. Request for Guardrail – Ingles District

Supervisors Akers presented a request on behalf of Mr. Jeff Akers of 4883 Rock Creek Road in Allisonia for guardrail installation on Rt. 693, Farris Mines Road. VDOT agreed to add this road to the current requests for guardrail installation.

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

f. I-81 Corridor Improvement Study Draft Environmental Impact Statement

As reported in the Board packet, Mr. Huber advised he had received a request for an intergovernmental review on January 17 with a respond-by date of January 20, with recommendations to ask for additional information regarding the conclusion that "toll diversions to Route 11 and others appears low" and to support rail improvements and no, or low, toll road improvements (addition of one or two lanes).

By consensus, the Board directed staff to emphasize that toll diversions to Rt. 11 are a serious concern. Further, the Board supported rail improvements and no, or low, toll road improvements (addition of one or two lanes).

g. Citizen Concerns

There were no citizen comments.

h. Board of Supervisors Concerns

Mr. Pratt requested VDOT spread gravel on Worrell Road. The Board directed staff to place this matter on the Key Activity Timetable for an update at the next Board meeting.

Mr. Akers requested VDOT review the 40 mph sign blocking the view on east bound Rt. 114 near the intersection of Pepper's Ferry Loop road.

Mr. Akers requested guardrail be installed the entire length of Hazel Hollow Road. The Board directed staff to place this matter on the Key Activity Timetable for an update at the next Board meeting.

Mr. Akers advised gravel roads in Snowville and Hiwassee need attention as they are getting washboard affect from rains. The Board directed staff to place this matter on the Key Activity Timetable for an update at the next Board meeting.

Mr. Conner requested an update on the Pulaski County High School (PCHS) turn lane. Mr. Clarke advised of plans to talk with the PCHS principal.

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

Mr. Conner advised VDOT and the Board that the bridge on Little Creek withstood recent flooding.

Mr. Sheffey advised the surface on the New River Road Bridge across the railroad tract is peeling up. The Board directed staff to place this matter on the Key Activity Timetable for an update at the next Board meeting.

6. Treasurer's Report

Treasurer Rose Marie Tickle provided a monthly update, as well as the 2003 listing of delinquent taxpayers with approximately 541 accounts, with total base taxes of \$68,248.95.

On a motion by Mr. Conner, seconded by Mr. Pratt and carried, the Board approved publicizing the 2003 delinquent tax listing.

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers, Mr. Pratt.
Voting no: none.

7. Citizens' Comments

Mr. Huber presented written comments on behalf of E. W. Harless who was unable to attend the meeting. In summary, Mr. Harless requested a full-time junk car and litter control officer, as well as requesting the county take steps to strengthen the county's property maintenance standards.

8. Reports from the County Administrator & Staff:

a. Key Activity Timetable (KAT)

The Board reviewed in detail the Key Activity Timetable.

Mr. Akers questioned the length of time being taken on the raw water pump station, the stilling wall design, and the coordination of PSA garbage billing with property records and GIS. Staff was requested to provide an update on these matters in a future weekly update.

Mr. Sheffey requested an explanation regarding the Fairview Home roofing. Mr. Huber advised materials had been donated by an individual who had initially designated the materials for Hurricane Katrina rebuilding efforts; however, the materials were no longer needed in that effort.

b. Appointments

Action regarding appointments was deferred to Closed Session.

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

c. Carroll Wellness Center Pictures

Mr. Huber presented a detailed slide show from a recent visit by county staff and Supervisor Hale to the Carroll Wellness Center.

d. Budget Goals

Mr. Huber presented the following budget goals as adopted from the budget process last year and solicited comments from the Board:

1. Limit the expenditure of operational funding in order to be able to live within current local revenues over the next three years while being able to fund the most critical capital improvement needs;
2. Reduce recurring operational costs, as much as possible, in order to be able to afford improvements in employee working conditions, fund Board goals, and meet other community needs on a pay-as-we-go basis;
3. Invest any remaining funds into reducing future costs by replacement of roofs, windows, etc.,
4. Increase the effectiveness of local expenditures by encouraging different approaches to operational problems; and
5. Encourage continued collaboration and coordination between various organizations not directly accountable to each other, but receiving financial support from the citizens of the County.

e. Cable TV Legislation

As reported in the Board packet, a request from Adelphia Cable was received urging local objection to cable franchise legislation being considered by the General Assembly with a recommendation by staff to send letters to federal and state representatives with a copy of our current cable TV franchise standards urging maintenance of our current standards in the consideration of any changes to state or federal franchise law

By consensus, the Board concurred with the staff recommendation to send letters to federal and state representatives urging maintenance of current standards in the consideration of any changes to state or federal franchise law.

9. Items of Consent:

On a motion by Mr. Hale, seconded by Mr. Conner and carried, the Board approved the following items of consent:

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers, Mr. Pratt.
 Voting no: none.

a. Approval of Minutes of December 19, 2005

The Board approved the minutes of the December 19, 2005 meetings.

b. Accounts Payable

The Board approved accounts payable as presented on checks numbered 20572 through 20889, subject to audit.

c. Appropriations and Interoffice Transfers

The Board approved Interoffice Transfer #7 totaling \$39,149.94 and appropriations and transfers as follows:

GENERAL FUND RESOLUTION #12	
Revenues:	
16150-0500 – Donations (Alliant Techsystems)	\$500.00
16150-0500 – Donations	\$267.00
TOTAL	\$767.00
Expenditures:	
5850 – Children’s Program	\$500.00
6014 – Petty Cash – Fines to be given to Pulaski Daily Bread, collected during amnesty period. (Per Library Board)	\$767.00
TOTAL	\$767.00
GENERAL RESOLUTIONS #13	
Revenues:	
Speeding Fund	\$10,000.00
TOTAL	\$10,000.00
Expenditures:	
31200-6010 – Sheriffs Office (Police Supplies)	\$10,000.00
TOTAL	\$10,000.00
GENERAL RESOLUTION # 14	
Revenues:	

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

033010-2000 – Homeland Security (NRV Citizen Core)	\$15,000.00
Total	\$15,000.00
Expenditures:	
011010-5810 – Board of Supervisors Association Memberships	\$5,000.00
012700-3170 – Citizen Service Center	\$2,577.00
032200-2840 – Draper Volunteer Fire Department Hepatitis Vaccine	\$1,800.00
035520-8103 – Domestic Preparedness Grant Machinery & Equipment	15,000.00
092100-5861 – Treasure’s Tax Refunds	\$100.00
TOTAL	\$24,477.00
SCHOOL FUND #11	
Revenues:	
3-33010-1500 – School Improvement	-\$50,000.00
3-205-033020-4600 – Blue Ridge West	-\$600.00
Total	-\$50,600.00
Expenditures:	
4-205-061100-1121-202-100-945 – Salaries & Wages Teachers	\$50,000.00
4-205-061100-1621-200-110-956 – Supplements	\$600.00
Total	\$50,600.000
SCHOOL CONSTRUCTION FUND # 1	
Revenues:	
041040-0600 – Other Financing Proceeds (SNAP)	\$30,000.00
Total	\$30,000.00
Expenditures:	
66500-8260 – New Elementary School Construction/Equipment	\$30,000.00
Total	\$30,000.00
CAPITAL IMPROVEMENT FUND # 2	
Revenues:	
041050-1000 – Transfer from General Fund	\$43,000.00
Total	\$43,000.00

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

Expenditures:	
035100-8240 – Animal Control Shelter Construction/Equipment	\$8,000.00
032260-8205 – Twin Comm. Fire Department Pumper	\$10,000.00
071320-3170 – Randolph Park Pool Chlorination System	\$25,000.00
Total	\$43,000.00

- d. Ratification - Agreement with Radford University for Internship - The Board ratified an agreement between Radford University and Pulaski County for the internship being provided by Byron Cox.
- e. Contracts, Change Orders & Agreements - There were no items presented other than the ratification of the above agreement.
- f. Personnel Changes - The Board reviewed a listing of recent personnel changes.
- g. Joint Application with Wythe County for Virginia Opportunity Region Grant

As reported in the Board packet, Pulaski County was invited to jointly submit an application with Wythe County for a \$5,000 Virginia Opportunity Region grant having a deadline of the same day. Further, Dave Tickner worked with Alan Hawthorne to get the grant submitted in time, with plans to use these funds to improve the economic development content in the web sites for both Wythe and Pulaski counties.

The Board ratified a joint application with Wythe County for a \$5,000 Virginia Opportunity Region grant.

- h. HOME Consortium of New River Valley Formation

As reported in the Board packet, correspondence had been received from New River Community Action Executive Director Terri Smusz and from Housing Partnership of the New River Valley of Virginia President, Glenda Vest, requesting the Board support the formation of a HOME Consortium for the New River Valley. Approval to the formation of the proposed Consortium is recommended.

The Board approved support of the formation of a HOME Consortium.

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

i. Resolution Honoring Joel Sayers as Spokesman for the U.S. Coast Guard

As reported in the Board packet, a request had been received from Gail Long suggesting the Board of Supervisors commend Joel Sayers for doing an excellent job in representing Pulaski County as a spokesman for the U.S. Coast Guard. The Board endorsed sending a letter of commendation for Joel Sayers.

j. Use of Fire Department Funding

As reported in the Board packet, the Draper Fire Department is requesting consideration to the use of capital improvements funds for building improvements, as well as the purchase of a fire truck. The Department needs to expand their building, install new bay doors and make repairs to the insulation of their existing building. The request has been approved by the Fire Protection Committee. Mr. Huber recommended approval to the request to use capital funds for building construction with consideration of the building improvements to be included in the building maintenance budget as further described in item m.

The Board approved a request to use capital funds for building improvements.

k. Hiwassee Fire Department Loan

As reported in the Board packet, Rural Development has offered a \$50,000 grant for the expansion of the Hiwassee Fire Department. This grant offer is tied to a loan commitment of \$352,000 and \$45,500 in REMSI funding all of which must be spent prior to being able to access grant funds. Staff reported the proposed loan may be helpful to the Board in that it can reduce the cost of this project to as little as \$20,000 per year if the financing goes for its full 38-year amortization period. Mr. Huber recommended and the Board approved all acts necessary to undertake the project while budgeting prepayment of this loan over the next three to five years, since there is no prepayment penalty.

l. Fire Protection Funding Guideline

As reported in the Board packet, in conjunction with items "j" and "k" on the agenda, Mr. Huber suggested consideration to a general total fire department budget based on the increase in real estate tax values to be used for both capital, repairs and operating costs. This would establish a relationship between the funding of protective services to the value of properties being protected.

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

The Board approved the concept of a total fire department budget based on the increase in real estate tax values to be used for both capital, repairs and operating costs, based on a relationship between the funding of protection services in the value of properties being protected.

m. Voting Machine Legislation

Mr. Huber advised he had been notified by Registrar Kathy Webb of legislation being proposed in the General Assembly requiring localities to provide a paper trail of ballots which would cost approximately \$43,000 to Pulaski County.

The Board approved sending correspondence to legislators opposing the paper ballot trail legislation.

10. Citizen Comments

Mr. Allen Meek advised that while there had not been any problems locally with the electronic voting machines, there had been problems at the national level. Mr. Meek advocated the expenditure of funds needed for the paper ballot confirmation.

11. Other Matters from Supervisors

There were no other matters presented by Board members.

12. Closed Meeting

A closed meeting is requested pursuant to Section 2.2-3711.A.1.3.5.7 of the 1950 Code of Virginia, as amended, to discuss personnel, legal, land acquisition/disposition, and prospective industry matters.

It was moved by Mr. Pratt, seconded by Mr. Akers and carried, that the Board of Supervisors enter Closed Session for discussion of the following:

Property Disposition or Acquisition – Pursuant to Virginia Code Section 2.2-3711(A)3 discussion for consideration of the disposition or acquisition of publicly held property regarding:

- Industrial Park Land

Personnel – Pursuant to Virginia Code Section 2.2-3711(A)1 discussion for consideration of employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of public officers, appointees or employees, regarding:

- Appointments

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

Prospective Industry – Pursuant to Virginia Code Section 2.2-3711(A)5 discussion concerning a prospective business or industry, or the expansion of an existing business and industry, where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

- None

Legal Matters – Pursuant to Virginia Code Section 2.2-3711(A)7 consultation with legal counsels and briefing by staff for discussion of specific legal matters and matters subject to probable litigation regarding:

- Legal Advice on Land Use Issue
- Adult Uses – Preamble to Adult Business Ordinance

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers, Mr. Pratt.

Voting no: none.

Return to Regular Session

It was moved by Mr. Akers, seconded by Mr. Pratt and carried, that the Board return to regular session.

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers,
Mr. Pratt.

Voting no: none.

Certification of Conformance with Virginia Freedom of Information Act

It was moved by Mr. Conner, seconded by Mr. Hale and carried, that the Board of Supervisors adopt the following resolution certifying conformance with the Virginia Freedom of Information Act.

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Pulaski County, Virginia hereby certifies to the best of each members' knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

resolution applies; and (ii) only such public business matters as were identified in this motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors.

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers,
Mr. Pratt.

Voting no: none.

Personnel Matters:

On a motion by Mr. Hale, seconded by Mr. Akers and carried, the Board approved the following appointments:

1. Zoning Appeals Board Alternate

The Board requested staff contact Shawn Utt to determine his interest in being nominated to the Circuit Court for appointment as an alternate to the Board of Zoning Appeals.

2. Workforce Investment Board

The Board requested staff contact Dan Grubb and invite him to consider nomination to the Workforce Investment Board, with Lynn White to be contacted as a second contact and Marcus Thompson as a third contact, should Mr. Grubb decline the Board's invitation.

3. Building Space Needs Committee

The Board requested staff extend an invitation to Sybil Atkinson to serve on the Building Space Needs Committee and if Ms. Atkinson is unable to serve, to extend an invitation to Reverend Terrie Sternberg.

Legal Matters

An initiative by the **County of Pulaski** to amend the following sections of the Pulaski County Zoning Ordinance:

- Amendments to Article 1, **Definitions Use and Design Standards**, defining various adult uses including but not limited to: adult book stores, adult video stores, adult businesses, adult entertainment, adult merchandise, adult motels, adult movie theatres, adult stores, specific anatomical areas, and specified sexual activities;

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

- Amendments to Article 4 of the Pulaski County Zoning Ordinance, Commercial (CM1) Zoning District, allowing adult book stores, adult video stores, adult businesses, adult entertainment, adult merchandise sales, adult motels, adult movie theatres, adult stores as either uses by-right or by Special Use Permit in the Commercial (CM1) Zoning District.
 - Zoning Text Amendments

On a motion by Mr. Conner, seconded by Mr. Pratt and carried, the Board approved the following zoning text amendments, following review of community impact, with addition of "Preamble to Adult Business Ordinance:

ARTICLE 1: DEFINITIONS, USE AND DESIGN STANDARDS

Adult retail establishment: A retail establishment for which 25% or more of its stock in trade, as determined by floor area of space intended for usage by patrons (retail area), is in videos, magazines, books, publications, tapes, films or other periodicals and paraphernalia and/or products which are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas. An adult retail establishment may include but not be limited to: an adult book store, an adult video store, an adult business.

Adult entertainment establishment: Any establishment where live performances, display or dance of any type, which has a significant or substantial portion of such activity or, when considered as a whole, has as its dominant theme or purpose, any actual or simulated performance of sexual activity, removal of articles of clothing, or appearing unclothed. For the purposes of this definition, no viewing area on the premises of such an establishment shall be obstructed from the remainder of the establishment's interior by curtains, doors, walls, display racks or any other permanent or temporary enclosure.

Adult movie theatre: An establishment, which excludes minors by reason of age, and which is regularly used for presenting material distinguished or characterized by, or when considered as a whole having its dominant theme or purpose, emphasis on matters depicting, describing or relating to sexual; activities for observation by a patron therein. For the purposes of this definition, no viewing area on the premises of such an establishment shall be obstructed from the remainder of the establishment's interior by curtains, doors, walls, display racks or any other permanent or temporary enclosure.

Specified anatomical areas:

- 1. Less than completely and opaquely covered: a) Human genitals, pubic region, b) Buttock, and c) female breast; and*
- 2. Human genitals in a discernibly turgid state, even if completely and opaquely covered.*

Specified sexual activities:

- 1. Human genitals in a state of sexual stimulation or arousal;*
- 2. Acts of human masturbation, sexual intercourse, oral sex or sodomy;*
- 3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.*

ARTICLE 4: COMMERCIAL DISTRICT (CM-1)

4-3 Uses Permitted by Special Use Permit (SUP) Only

Adult retail establishment (please see Article 4-8 for criteria)

Adult entertainment (please see Article 4-8 for criteria)

Adult movie theatre (please see Article 4-8 for criteria)

4-8 Special Use Permit criteria for adult businesses

PREAMBLE TO ADULT BUSINESS ORDINANCE

WHEREAS, adult businesses as defined in this ordinance require special supervision from the public safety agencies of the County in order to protect and preserve the health, safety, morals and welfare of the patrons of such businesses as well as the citizens of the County; and

WHEREAS, adult businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over the sexually transmitted diseases is a legitimate health concern of the County which demands reasonable regulation of adult businesses in order to protect the health and well-being of the citizens; and

WHEREAS, there is a convincing documented evidence that their secondary effects have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

WHEREAS, it is recognized that adult businesses, due to their nature and secondary effects, have serious objectionable operational characteristics thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the Board of Supervisors desires to minimize and control these adverse secondary effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult businesses; and

WHEREAS, based on evidence concerning the adverse secondary effects of adult uses on the community presented in the public hearing and in reports made available to the Board, and on findings incorporated in the case of *City of Renton v. Playtime Theatres, Inc.* 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), *City of Erie v. Pap's A.M.*, 120 S.Ct. 1382 (2000); and *Steakhouse, Inc. v. City of Raleigh*, 166 F.3d 634 (4th Cir. 1999), *cert. denied*, 70 U.S.L.W. 3460 (2002), and on studies in other communities including Phoenix, Arizona; Tucson, Arizona; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Austin Texas; and also on findings from the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* (June 6, 1989, State of Minnesota), the Board of Supervisors finds:

- (1) Adult businesses lend themselves to ancillary unlawful and unhealthy activities. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
- (2) Certain employees of adult oriented businesses defined in this ordinance engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.
- (3) Illicit sexual acts occur at adult businesses.
- (4) Offering or providing such space encourages such activities, which creates unhealthy conditions.
- (5) Person frequent adult theaters and other adult businesses for the purpose of engaging in sex within the premises of such adult businesses.
- (6) At least 50 communicable diseases may be spread by activities occurring in adult businesses, including syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections.

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

- (7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
- (8) The Surgeon General of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother of a newborn.
- (9) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (10) Sanitary conditions in some adult businesses are unhealthy, in part, because the activities conducted there are unhealthy, and in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (11) Adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values.
- (12) The findings noted in paragraphs number 1 through 11 raise substantial governmental concerns.
- (13) The general health, safety and welfare of the citizens of the County will be promoted by the enactment of this ordinance.

In reviewing an application for these uses, the Planning Commission and Board of Supervisors, may consider the health, safety and general welfare of the public in accordance with the Preamble to this Ordinance and Section 15.2-2283 of State Code. To this end, the Planning Commission and Board of Supervisors may consider the following factors as well as other appropriate land use considerations:

- 1. The nature of the surrounding area and the extent to which the proposed use might significantly impair its present or future development;*
- 2. The proximity of dwellings, churches, schools, parks, public buildings or public gathering places, hotels or motels or other commercial establishments;*
- 3. The probable effect of the proposed use on the peace and enjoyment of people in their homes;*
- 4. The limitations of fire and rescue equipment and the means of access for fire and police protection;*
- 5. The effect of the use on the general transportation system and its ability to handle the additional use;*
- 6. The preservation of cultural and historical landmarks and trees;*
- 7. The probable effect of noise, vibrations and glare upon the uses of surrounding properties;*
- 8. The contribution, if any, such proposed use would make toward the deterioration of the area and nearby environs; and*

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 23, 2006

9. *The probable effect that alcohol sales and/or consumption at or in proximity to the adult use would have in heightening the risk of violations of local laws, and any negative secondary effects on surrounding properties and the neighborhood.*

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers,
Mr. Pratt.

Voting no: none.

13. Adjournment

On a motion by Mr. Conner, seconded by Mr. Hale and carried, the Board of Supervisors adjourned its regular meeting. The next regularly scheduled meeting of the Board of Supervisors will be held on Monday, February 27, 2006 at 7:00 p.m. in the Board Room of the County Administration Building, 143 Third Street, N. W. in the Town of Pulaski.

Voting yes: Mr. Hale, Mr. Conner, Mr. Sheffey, Mr. Akers, Mr. Pratt.

Voting no: none.

Joseph L. Sheffey, Chairman

Peter M. Huber, County Administrator