

BOARD OF SUPERVISORS MEETING MINUTES OF DECEMBER 18, 2006

At a regular meeting of the Pulaski County Board of Supervisors held on Monday, December 18, 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; Shawn Utt, Community Development Director; Gordon Jones, Finance Director, and Gena T. Hanks, Clerk.

1. Invocation

The invocation was presented by Reverend Jeff Kackley of the First Presbyterian Church.

2. Featured Employees

The Board recognized Debbie Boyd of the Treasurer's Office and Trina Rupe of the Commissioner of the Revenue Office as the Featured Employees for the month of January 2007. Mr. Sheffey read a detailed description of the job duties and personal interests of each employee and presented Ms. Boyd and Ms. Rupe with a gift certificate to Shoney's.

3. Additions to Agenda

Mr. Huber advised of the addition of a financial report from Finance Director Gordon Jones, as well as an update on the space needs related to New River Community Action.

4. Public Hearings

- a. A rezoning request by **John A. & Christine M. Treese** from Residential (R1) to Agricultural (A1) on property identified as tax map no. 068-001-0000-0007B, 068-001-0000-007C located at 4805 Shelburne Rd. (Rt. 690), (2.5190 total acreage), Ingles District.

Mr. Sheffey explained the purpose of the public hearing and called on Community Development Director Shawn Utt to provide additional details on the rezoning request.

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

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

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

Voting no: none.

- b. A rezoning request by **Vera Jane Mason ET AL** from Residential (R3) to Commercial Conditional (CM1) on property identified as tax map no. 029-001-0000-0063, located on the southwest corner of the intersection of Peppers Ferry Blvd. (Rt. 114) and Viscoe Rd. (Rt. 679), (21.7190 acres), Cloyd District.

Mr. Sheffey explained the purpose of the public hearing and called on Community Development Director Shawn Utt to provide additional details on the rezoning request, including a listing of voluntary proffers.

Mr. Sheffey opened the public hearing.

Comments were heard from Mr. John Mason in favor of the request, as well as comments from Jeannette Hall expressing concerns about the types of commercial development which may take place on the property, if the request is approved.

Supervisor Hale questioned what type of buffers would be provided between the land and the new school. Mr. Utt responded the buffers would most likely be in the form of a tree line. Supervisor Hale noted one of the reasons for choosing the site for the new school was for the view of the school from Route 114.

There being no additional citizen comments, the public hearing was closed.

On a motion by Mr. Conner, seconded by Mr. Akers and carried, the Board approved the rezoning request, including voluntary proffers as follows:

STATEMENT OF VOLUNTARY PROFFER
FOR THE FOLLOWING REZONING REQUEST,

A rezoning request by **Vera Jane Mason ET AL** from Residential (R3) to Commercial Conditional (CM-1 Cond.) on property identified as tax map no. 029-001-0000-0063, located on the southwest corner of the intersection of Peppers Ferry Blvd. (Rt. 114) and Viscoe Rd. (Rt. 679), (21.7190 acres), Cloyd District. The property is designated as Agricultural on the Future Land Use Map of the Pulaski County Comprehensive Plan. General uses proposed are business uses at a proposed density of no greater than one business per 10,000 square feet.

I, John D. Mason, Co-owner of the property identified above, do hereby submit the following voluntary proffers in association with our request for a rezoning of the above referenced properties from Residential (R-3) to Commercial Conditional (CM-1 Cond.):

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1. Uses shall be limited to the remaining uses as shown on the **attached** listing of allowable uses in the Commercial (CM-1) Zoning District. The uses crossed out shall not be permitted.
2. Additional buffering will be provided as necessary upon presentation of a site plan for review to the Pulaski County Zoning Administrator.

These proffers as submitted are completely voluntary, and are approved by me for the property identified by tax map parcel 029-001-0000-0063 and owned by Vera Jane Mason ET AL.

Signed:

John D. Mason Date

NOTARY STATEMENT

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ **day of** _____, **20** _____.

ALLOWABLE USES FOR PROPERTIES IDENTIFIED
 AS TAX MAP PARCELS 029-001-0000-0063, (21.7190 acres total)

ARTICLE 4: COMMERCIAL DISTRICT (CM-1)

Statement of Intent

Generally, this district covers that part of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized by constant heavy trucking other than stocking and delivery of retail goods, or by nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles, which are less disruptive than those uses provided for in Industrial, (I-1).

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Uses Permitted by Right 1

Within the Commercial District (CM-1), the following uses are permitted by right. An asterisk (*) indicates additional, modified, or more stringent standards are listed in Article 1, Definitions, Use and Design Standards.

- Accessory uses as they pertain to items covered in Statement of Intent
- Agricultural Products Sales * 2
- Autos and Home Appliance Services
- Banks
- Barber and Beauty Shops
- Bed and Breakfast * 3
- Boarding House
- Bowling Alley

 1 Section 4-1 Revised 08/24/1992 & 03/024/1997
 2 Use Added 07/25/2005
 3 Use Added 06/28/2004

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- Condominium, Business⁴
- Daycare Center * 5
- Dwelling, Business Accessory Use
- Feed and Seed Stores
- Fire Departments
- Food Sales
- Funeral Home
- Gasoline filling stations and/or the servicing and repairing of motor vehicles when in an enclosed structure.
- Golf Driving Ranges
- Hardware Stores
- Hotel
- Marina, Commercial 6
- Maintenance of public utilities, including railroads (except railroad yards) and water and sewerage installations
- Miniature Golf Courses
- Motel
- Office and Personal and Professional Services
- Off-street Parking as required by this ordinance.
- Professional Office Buildings
- ~~Public garages, for storage and/or repair of motor vehicles when in an enclosed space.~~
- Public and Semi-public uses, such as:
 - Churches
 - Church Adjunctive Cemeteries
 - Libraries
 - Museums
 - Schools
 - Hospitals
 - Post Offices
- Public utilities generating booster or relay stations, transformer substations, transmission line and towers, pipes, meters, and other facilities for the provisions and maintenance of public utilities, railroads and facilities; water and sewerage installations, and CATV⁷
- Rescue Squad Facilities
- Restaurants
- Retail Drug Stores
- Sales, Rental and Servicing of Construction and Agricultural Equipment 8
- Schools of Special Instruction
- Theaters
- Veterinarian Hospitals
- Waterfront Business Activities:
 - Wholesale and retail marine activities such as:
 - Activities primarily conducted on or about waterfront.
 - All such uses shall be contiguous to a waterfront.
 - Boat Docks
 - Boat Houses
 - Piers
 - Yacht Clubs and Servicing Facilities
- Wearing Apparel Shops
- Wholesale and Processing Activities

4 Use added 6/26/2000

5 Use Added 05/23/2005

6 Use Added 07/22/2002

7 Section 4-1 Public Utilities Edited for Consistency Administratively 01/05/1996

8 Use Added 12/19/2005

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RESERVED 9

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Uses Permitted by Special Use Permit (SUP) Only 10

Within the Commercial District (CM-1), the following uses are permitted by Special Use Permit only:

- Adult Entertainment (see Article 4-9 for criteria) 11
- ~~Adult Movie Theatre (see Article 4-9 for criteria) 12~~
- ~~Adult Retail Establishment (see Article 4-9 for criteria) 13~~
- ~~Automobile Graveyards~~
- ~~Borrow Pit~~
- ~~Commercial Amusement Parks~~
- Commercial Assembly Halls
- ~~Dance Halls and similar forms of public amusement.~~
- ~~Dock Facilities, Commercial/Non Residential (see Article 8-4, Commercial/Non Residential Docks Regulated) 14~~
- Dwelling, Commercial Apartment
- Flea Markets
- Fraternal Lodges and Community Buildings
- Hospitals, Special Care
- Manufacturing, Light 15
- Manufacturing, Temporary 16
- Parks and Recreational Facilities
- ~~Private Tanks or Pump Stations (above ground), except Pulaski County public water and sewer utility units shall require only a site plan review. 17 Exempt from these requirements are:~~
 - a. ~~tanks eight (8) feet in height or less intended to serve single family residences for water and/or heating fuel, and~~
 - b. ~~tanks eight (8) feet in height or less and 1,000 gallons or less for agricultural uses.~~
 - c. ~~Any tank used for agricultural purposes when such tank is located at least 1,000 feet from adjoining property. 18~~
- ~~Public Billiard Parlors and Pool Rooms~~
- ~~Racetracks (Motor Vehicle or Animal)~~
- Sale of New and/or Used Vehicles 19
- Sale of New and/or Used Manufactured Homes, with used manufactured homes not suitable for immediate occupancy to be stored in a fully enclosed area. 20
- Setback Variance
- ~~State Water Control Board Permitted Sewage Facilities~~
- Taxi Cab Service 21
- Towers, Public Safety and/or Government Communications, 250 ft. or less 22
- Windmills 23

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Height Regulations

9 All CUP's converted to SUP's 07/22/2002

10 Section 4-3 Revised 08/24/1992 & 03/024/1997; All CUP's converted to SUP's 07/22/2002.

11 Use Added 01/23/2006

12 Use Added 01/23/2006

13 Use Added 01/23/2006

14 Use Added 08/25/2003

15 Use Added 03/24/1997

16 Use Added 08/23/2004

17 Use Added 06/01/1998

18 Exemption Added 05/24/1999

19 Use Changed from By Right to SUP 03/24/1997

20 Use Changed from By Right to SUP 03/24/1997

21 Use Added 10/23/2000

22 Use Added 03/24/2003; amended 8/25/2003 increasing height from 199 ft. to 250 ft.

23 Use Added 06/28/2004

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- 4-4.1 Buildings may be erected up to thirty-five (35) feet in height from grade.
- 4-4.2 A building may be erected to a height of sixty (60) feet from grade provided that required front, side and rear yards shall be increased one (1) foot in height over thirty-five (35) feet.
- 4-4.3 Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, elevator towers, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- 4-4.4 No accessory building which is within ten (10) feet of any party line shall be more than one (1) story high. 24

4-5 Setback Requirements²⁵

Buildings in this zone shall be a minimum of twenty (20) feet from the right-of-way of any street or highway on which the lot fronts. The setback may be reduced to fifteen (15) feet if a sidewalk is provided.

4-6 Yard Regulations

- 4-6.1 The minimum side and rear yards adjoining a boundary of a residential, agricultural or conservation district shall be ten (10) feet.
- 4-6.2 Accessory uses, including parking areas, shall be located ten (10) feet or more from side and rear lot lines adjoining a boundary of a residential, agricultural or conservation district.

4-7 Frontage Regulations

A minimum width of one hundred (100) feet is required at a point located thirty-five (35) feet from the front property line with a minimum street frontage of sixty (60) feet.

4-8 Area Regulations.²⁶

For commercial lots, the minimum lot area shall be ten thousand (10,000) square feet.

4-9 Special Use Permit (SUP) Criteria for Adult Businesses ²⁷

- 4-9.1 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

24 Removed requirement that all accessory buildings shall be less than the main building in height. 07/22/2002

25 Section 4-5 Revised 08/24/1992; Revised 06/01/1998; Revised 04/25/2005 to reduce setback from 50 ft. to 20 ft. and eliminate allowance for Special Use Permit for setback reduction.

26 Section 4-8 Revised 08/26/1991

27 Section 4-9 Added 01/23/2006

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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:

- 4-9.1.1 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.
 - 4-9.1.2 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.
 - 4-9.1.3 Illicit sexual acts occur at adult businesses.
 - 4-9.1.4 Offering or providing such space encourages such activities, which creates unhealthy conditions.
 - 4-9.1.5 Persons frequent adult theaters and other adult businesses for the purpose of engaging in sex within the premises of such adult businesses.
 - 4-9.1.6 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.
 - 4-9.1.7 Since 1981 and to the present, there have been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
 - 4-9.1.8 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.
 - 4-9.1.9 According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
 - 4-9.1.10 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.
 - 4-9.1.11 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.
 - 4-9.1.12 The findings noted in paragraphs number 1 through 11 raise substantial governmental concerns.
 - 4-9.1.13 The general health, safety and welfare of the citizens of the County will be promoted by the enactment of this ordinance.
- 4-9.2 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 (Section 4-9.1) the Preamble to this Ordinance and Section

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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:

- 4-9.2.1 The nature of the surrounding area and the extent to which the proposed use might significantly impair its present or future development;
- 4-9.2.2 The proximity of dwellings, churches, schools, parks, public buildings or public gathering places, hotels or motels or other commercial establishments;
- 4-9.2.3 The probable effect of the proposed use on the peace and enjoyment of people in their homes;
- 4-9.2.4 The limitations of fire and rescue equipment and the means of access for fire and police protection;
- 4-9.2.5 The effect of the use on the general transportation system and its ability to handle the additional use;
- 4-9.2.6 The preservation of cultural and historical landmarks and trees;
- 4-9.2.7 The probable effect of noise, vibrations and glare upon the uses of surrounding properties;
- 4-9.2.8 The contribution, if any, such proposed use would make toward the deterioration of the area and nearby environs; and
- 4-9.2.9 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.

- c. Amendments to the Pulaski County Erosion and Sedimentation Control Ordinance as required conforming to revised state and federal requirements.

Mr. Huber explained a public hearing had been scheduled to consider the amendments to the Erosion and Sedimentation Control Ordinance.

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

On a motion by Mr. Akers, seconded by Mr. Conner and carried, the Board approved the following Erosion and Sedimentation Control ordinance and amendments:

AN ORDINANCE REPEALING AND REENACTING THE EROSION AND SEDIMENTATION CONTROL ORDINANCE OF PULASKI COUNTY, VIRGINIA. BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PULASKI COUNTY, VIRGINIA, THAT THE EXISTING EROSION AND SEDIMENTATION CONTROL ORDINANCE BE AND THE SAME IS HEREBY, REPEALED AND REENACTED AS FOLLOWS:

Section 10-1. TITLE, PURPOSE, AND AUTHORITY

This ordinance shall be known as the "Erosion and Sediment Control Ordinance of the **County of Pulaski**". The purpose of this chapter is to prevent degradation of

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properties, stream channels, waters and other natural resources of the **County of Pulaski** by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

This Chapter is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4 (Sec. 10.1-560 et seq.), known as the Virginia Erosion and Sediment Control Law.

Section 10-2. DEFINITIONS: As used in the ordinance, unless the context requires a different meaning:

- A. **"Agreement in lieu of a plan"** means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.
- B. **"Applicant"** means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.
- C. **"Board"** means the Virginia Soil and Water Conservation Board.
- D. **"Certified inspector"** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.
- E. **"Certified plan reviewer"** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- F. **"Certified program administrator"** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.
- G. **"Clearing"** means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.
- H. **"County"** means the County of Pulaski.

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- I. **"Department"** means the Virginia Department of Conservation and Recreation.
- J. **"Development"** means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.
- K. **"Director"** means the Director of the Virginia Department of Conservation and Recreation.
- L. **"District"** or **"Soil and Water Conservation District"** refers to the **Skyline Soil and Water Conservation District**.
- M. **"Erosion and Sediment Control Plan"** or **"Plan"** means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the plan approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.
- N. **"Erosion Impact Area"** means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes [or to shorelines where the erosion results from wave action or other coastal processes.]
- O. **"Excavating"** means any digging, scooping or other methods of removing earth materials.
- P. **"Filling"** means any depositing or stockpiling of earth materials.
- Q. **"Grading"** means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.
- R. **"Land-disturbing Activity"** means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:
 - (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
 - (2) Individual service connections;

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- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 10.1-604 et seq.) of Chapter 6 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Sec. 10.1-1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 10.1-1163;
- (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (9) Disturbed land areas of less than 10,000 square feet in size.
- (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (11) Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this ordinance; and
- (12) Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency,

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then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

- S. **"Land-disturbing Permit"** means a permit issued by **County of Pulaski** for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.
- T. **"Local erosion and sediment control program"** or **"local control program"** means an outline of the various methods employed by the **County of Pulaski** to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.
- U. **"Natural channel design concepts"** means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.
- V. **"Owner"** means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.
- W. **"Peak flow rate"** means the maximum instantaneous flow from a given storm condition at a particular location.
- X. **"Permittee"** the person to whom the permit authorizing land-disturbing activities is issued who will be the owner of the property.
- Y. **"Person"** means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.
- Z. **"Plan-approving authority"** means the County Engineer of Pulaski County or his/her representative responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.
- AA. **"Program authority"** means the **County of Pulaski** which has adopted a soil erosion and sediment control program that has been approved by the Board.
- BB. **"Responsible Land Disturber"** means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who

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(i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

- CC. **"Runoff volume"** means the volume of water that runs off the land development project from a prescribed storm event.
- DD. **"Single-family residence"** means a noncommercial dwelling that is occupied exclusively by one family.
- EE. **"Sinkholes"** means a closed topographic depression or basin, generally draining underground, including, but not restricted to a doline, uvala, blind valley or sink.
- FF. **"State Erosion and Sediment Control program"** or **"state program"** means the program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.
- GG. **"State waters"** means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.
- HH. **"Town"** means the incorporated towns of **Pulaski and Dublin**.
- II. **"Transporting"** means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.
- JJ. **"Water Quality Volume"** means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

Section 10-3. LOCAL EROSION AND SEDIMENT CONTROL PROGRAM

- A. Pursuant to section 10.1-562 of the Code of Virginia, the **County of Pulaski** hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the Board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook, as amended.

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- B. Before adopting or revising regulations, the **County of Pulaski** shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the **County of Pulaski** is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the **County of Pulaski** proposes or revises regulations that are more stringent than the state program.

In addition, in accordance with §10.1-561 of the Code of Virginia, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

In accordance with §10.1-561 of the Code of Virginia, any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

- C. Pursuant to Sec. 10.1-561.1 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The Erosion Control Program of **County of Pulaski** shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.
- D. The **County of Pulaski** hereby designates the County Engineer or his/her representative as the plan-approving authority.
- E. The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the County Engineer.

Section 10-4. SUBMISSION AND APPROVAL OF PLANS; CONTENTS OF PLANS

- A. Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the County Engineer for the **County of Pulaski** an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. The number of copies of the plan to be submitted shall be determined by the County Engineer. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Board for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.
- B. The standards contained within the "Virginia Erosion and Sediment Control Regulations", the Virginia Erosion and Sediment Control Handbook as amended and any local handbook or publication are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence.
- C. The plan-approving authority shall review conservation plans submitted to it and grant written approval within 45 days of the receipt of the plan if it determines that the plan meets the requirements of the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by § [10.1-561](#), of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance.

However, the plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence,

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as provided by § [10.1-561](#) of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ordinance.

- D. The plan shall be acted upon within 45 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.
When the plan is determined to be inadequate, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.
- E. An approved plan may be changed by the plan-approving authority when:
- (1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
 - (2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.
- F. Variances: The plan-approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:
- (1). At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.
 - (2). During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
- G. In order to prevent further erosion, the **County of Pulaski** may require approval of a plan for any land identified in the local program as an erosion impact area.
- H. When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission,

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and approval of an erosion and sediment control plan shall be the responsibility of the owner. The owner shall not authorize any land-disturbing activity by the contractor until a land-disturbing permit is issued.

- I. The owner shall obtain the land-disturbing permit.
- J. In accordance with the procedure set forth by §10.1-563 (E) of the Code of Virginia, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the Board for review and approval consistent with guidelines established by the Board.
- K. State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, Sec. 10.1-564.
- L. The County Engineer may seek technical advice from the District and/or such other engineering firms, local, state, or federal agencies that he deems necessary to ensure the adequacy of any submitted plan. When any person submits an erosion and sediment control plan to the County Engineer, the County Engineer may submit it to an independent professional engineering firm and/or engineering consulting firm with experience in preparing erosion and sediment control plans for recommendations. The applicant shall be responsible for any additional cost for review or assistance requested by this section.
- M. An approved plan shall be valid for 12 months after approval. If a land disturbing permit has not been issued and/or land disturbing has not occurred within the 12 month period after approval, the approval will be determined to have expired and the Erosion and Sediment Control Plan must be resubmitted.

Section 10-5. PERMITS; FEES; SECURITY FOR PERFORMANCE

- A. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.
- B. No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance, and has paid the fees and posted the required bond.

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- C. An administrative fee of fifty dollars (\$50) plus fifty dollars (\$50) per acre or any part thereof of land to be disturbed shall be paid to **The County of Pulaski** at the time of submission of the erosion and sediment control plan.
- D. No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.
- E. All applicants for permits shall provide to the **County of Pulaski** a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the **County Engineer**, to ensure that measures could be taken by the **County of Pulaski** at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him by the approved plan as a result of his land-disturbing activity.

The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action should it be necessary for the **County of Pulaski** to take such conservation action, the **County of Pulaski** may collect from the applicant any costs in excess of the amount of the surety held.

Within sixty (60) days of adequate stabilization, as determined by **County Engineer** in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

Section 10-6. MONITORING, REPORTS, AND INSPECTIONS

- A. The **County of Pulaski** may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- B. The **County Engineer** shall periodically inspect the land-disturbing activity in accordance with Sec 4VAC50-30-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

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If the **County Engineer** determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.

- C. Upon determination of a violation of this ordinance, the **County Engineer** may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the **County Engineer** may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of **County of Pulaski**.

If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the **County Engineer** may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of **County of Pulaski**.

The owner may appeal the issuance of an order to the Circuit Court of **County of Pulaski**.

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Any person violating or failing, neglecting or refusing to obey an order issued by the **County Engineer** may be compelled in a proceeding instituted in the Circuit Court of **County of Pulaski** to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the **County Engineer** from taking any other action authorized by this ordinance.

Section 10-7. PENALTIES, INJUNCTIONS, AND OTHER LEGAL ACTIONS

- A. Violators of this ordinance shall be guilty of a Class I misdemeanor.
- B. Any person who violates any provision of this ordinance shall, upon a finding of the District Court of **Pulaski County**, be assessed a civil penalty. The civil penalty for any one violation shall be \$100, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.

Note: The adoption of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of this section. Refer to Code of Virginia, Sec. 10.1-562 J.

- C. The **County Engineer**, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of **Pulaski County** to enjoin a violation or a threatened violation of this ordinance, without the necessity of showing that an adequate remedy at law does not exist.

However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

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- D. In addition to any criminal penalties provided under this ordinance, any person who violates any provision of this ordinance may be liable to **Pulaski County** in a civil action for damages.
- E. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the **County of Pulaski**.
- Any civil penalties assessed by a court shall be paid into the treasury of **County of Pulaski**, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.
- F. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance, the **County of Pulaski** may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection E of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection E.
- G. The Commonwealth's Attorney shall, upon request of the **County of Pulaski** or the permit issuing authority, take legal action to enforce the provisions of this ordinance.
- H. Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

Section 10-8. APPEALS AND JUDICIAL REVIEW

- A. Any applicant under the provision of this ordinance who is aggrieved by any action of the **County of Pulaski** or its agent in disapproving plans submitted pursuant to this ordinance shall have the right to apply for and receive a review of such action by the Pulaski County Planning Commission provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the Pulaski County Planning Commission shall be heard at the next regularly scheduled Pulaski County Planning Commission public hearing provided that the Pulaski County Planning Commission and other involved parties have at least 30 days prior notice. In reviewing the agent's actions, the Pulaski County Planning Commission shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the Pulaski County Planning Commission may affirm, reverse or modify the action. The Pulaski County Planning Commission's decision shall be subject to review by the Pulaski County Board of Supervisors in accordance with the same schedule as the Pulaski

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County Planning Commission. The Pulaski County Board of Supervisors's decision shall be subject to review by the Circuit Court of **Pulaski County**.

- B. Final decisions of the **County of Pulaski** under this ordinance shall be subject to review by the **County of Pulaski** Circuit Court, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

Section 10-9 **Sinkholes**

- A. Sinkholes should receive the same volume of stormwater runoff after development that was present before development. The erosion and sediment control plan shall document the stormwater runoff to sinkholes up to and including the 10 year storm.
- B. Where stormwater runoff to sinkholes increase as a result of improvements a Certified Professional Geologist registered in the State of Virginia must provide a study which documents the sinkhole has the capacity to accommodate the post development volume and rate of runoff. This report must be included with the Erosion and Sediment Control Plan.
- C. Where stormwater runoff to sinkholes increase as a result of improvements a drainage easement must be provided that will accommodate the total volume of post development runoff from a 10 year storm.
- D. Sinkholes receiving stormwater from improved land must comply with all federal, state and local regulatory requirements.
- E. Drainage outfalls from improved land must include a natural buffer zone between the outlet of the drainage structures and the sinkhole in order to provide for a natural filtering process. Where stormwater runoff naturally terminates in sinkhole areas, vegetated flow areas (minimum 80 feet in length to the floor of the sinkhole), runoff spreaders and vegetated swales shall be used between the outlet of the drainage structure and the bottom of the sinkhole in order to provide filtering of the flow.
- F. All applicable provisions of the Virginia Erosion and Sediment Control Regulations shall apply to sinkholes.

Section 10-10 **Severability**

If any provision of this ordinance is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining provisions.

Section 10-11 **Conflicting Ordinances**

The Pulaski County Soil & Erosion Control Ordinance adopted on November 22, 1999 is hereby repealed and the present ordinance adopted in its place and stead.

Section 10-12 **Amendments**

This ordinance may be amended in whole or in part by the Pulaski County Board of Supervisors provided that such amendments shall either originate with or be submitted to the Board for recommendation; and further provided that no such amendment shall be adopted without a public hearing having been held. Notice of the public hearing shall be in accordance with Section 15.10431 of the Code of Virginia, 1950, as amended.

Section 10-13 **Effective Date**

This ordinance shall be effective on and after _____, 2006.

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

Voting no: none.

- d. Amendments to the Pulaski County Sewage Disposal Regulations as required conforming to Pepper's Ferry Regional Wastewater Treatment Plant standards.

Mr. Huber explained a public hearing had been scheduled to consider the amendments to the Pulaski County Sewage Disposal Regulations as required for conforming to Pepper's Ferry Regional Wastewater Treatment Plant standards.

Mr. Sheffey opened the public hearing.

Mr. Jeff Worrell addressed the Board and requested consideration to revisiting issues related to the corrosion problem at the Pepper's Ferry plant. Mr. Worrell advised the long term affects on the Town of Pulaski would be detrimental. He further advised his greatest concern rests with the Town of Pulaski residents as they will bear the additional debt through utility billings. Mr. Worrell strongly urged the Board of Supervisors to bring the matter back to the table for consideration again by the Pepper's Ferry Authority.

Supervisor Hale questioned the reasoning for Pepper's Ferry's decision to turn down the Draper Aden proposal.

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Pulaski Town Mayor Charles Wade addressed issues related to the affects of the Pepper's Ferry decision on the James Hardie plant, which would be required to spend up to \$1 million to address the corrosion issue.

Mr. Huber advised the public hearing scheduled to consider this matter was scheduled prior to the decision of the Pepper's Ferry Authority.

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

On a motion by Mr. Conner, seconded by Mr. Akers and carried, the Board approved the following ordinance adopting amendments to the User Agreement of the Pepper's Ferry Regional Wastewater Treatment Authority, as revised on January 5, 2006, together with the Rules and Regulations of the Authority:

Ordinance Amendments to the User Agreement of the Pepper's Ferry Regional Wastewater Treatment Authority, as Revised on January 5, 2006, together with the Rules and Regulations of the Authority

WHEREAS, the County of Pulaski, Virginia, a political subdivision of the Commonwealth of Virginia, is a member of the Pepper's Ferry Regional Wastewater Treatment Authority (the Authority); and

WHEREAS, the Authority, from time to time, is required to amend and modify the User Agreement between the Authority and its members; and

WHEREAS, the Authority has previously presented its proposed User Agreement, with revisions adopted by the Authority, together with its Rules and Regulations, for adoption by the County; and

WHEREAS, after due consideration thereof, the County of Pulaski desires to continue its membership in the Authority and to adopt the proposed User Agreement, and the Rules and Regulations of the Authority.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Pulaski County, Virginia, acting by and through its duly elected Board, as follows:

The User Agreement of the Pepper's Ferry Regional Wastewater Treatment Authority, as revised on January 5, 2006,

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together with the Rules and Regulations of the Authority, are hereby adopted, and that the same are hereby incorporated into this Ordinance by reference.

THIS ORDINANCE IS THEREFORE ADOPTED this 18th day of December, 2006, by recorded vote of the Board of Supervisors of Pulaski County, Virginia, as follows:

| | |
|-------------------|------------|
| Joseph L. Sheffey | <u>yea</u> |
| Frank R. Conner | <u>yea</u> |
| William E. Hale | <u>no</u> |
| Ranny L. Akers | <u>yea</u> |
| Dean K. Pratt | <u>yea</u> |

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

Voting no: Mr. Hale.

- e. Amendments to the Pulaski County Enterprise Zone, Zone Number 25 to include one boundary addition: a non-contiguous zone to the Town of Pulaski to include properties near the intersection of Memorial Blvd. and Route 11, and along Route 11 to the Town Limits and along Memorial Blvd. to Pepper's Ferry Rd.

Mr. Utt explained the Virginia Department of Housing and Community Development is allowing the County to make an additional enterprise zone boundary amendment to allow inclusion of this area as part of the previously approved zone changes. The proposed additional zone area will make current renovations at the Pulaski Community Hospital eligible for zone benefits while enhancing the marketability of the Memorial Shopping Center following the anticipated Wal-Mart closing. This amendment is in addition to several boundary adjustments previously approved by the Board of Supervisors prior to final submission of all requested changes to the Virginia Department of Housing and Community Development as a single package.

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

On a motion by Mr. Akers, seconded by Mr. Pratt and carried, the Board adopted the following resolution approving the following additional amendment to the Pulaski County Enterprise Zone, Zone Number 25 to include a non-contiguous zone in the Town of Pulaski to include properties near the intersection of Memorial Blvd. and Route 11, and along Route 11 to the Town Limits and along Memorial Boulevard to Pepper's Ferry Road as well as other amendments as previously approved by the Board:

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WHEREAS, Sections 59.1-279 through 59.1-549 of the 1950 Code of Virginia, as amended, provide for the establishment/reestablishment of the Virginia Enterprise Zone Program, a State-funded program designed to assist communities that meet the distressed criteria as set forth in the Code to promote investment by either existing or new businesses and industries through the provision of incentives for new jobs and facility investment,

WHEREAS, Pulaski County has The Pulaski County Enterprise Zone number 25,

WHEREAS, the changes in Enterprise Zone regulations combined with the changes in development patterns in the County have prompted the Board of Supervisors of Pulaski County to re-evaluate the boundaries/limits of this Enterprise Zone,

WHEREAS the County of Pulaski is now applying to amend its Enterprise Zone boundaries for the Enterprise Zone number 25 and has held a public hearing in accordance with the requirements of the Enterprise Zone regulations cited above,

NOW, THEREFORE, BE IT RESOLVED that the Pulaski County Board of Supervisors does hereby authorize its chief administrator, the County Administrator, or other official as designated, to submit all information needed to apply for the zone boundary adjustments, which will include additions to the Zone number 25,

BE IT FURTHER RESOLVED that the Pulaski County Board of Supervisors does authorize its chief administrator to meet other program administrative and reporting requirements, as defined by the Enterprise Zone Regulations, throughout the life of the zone

BE IT FURTHER RESOLVED, that that text of this resolution be spread on the minutes of the Board of Supervisors.

Adopted this 18th day of December, 2006.

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

Voting no: none.

5. Highway Matters:

Mr. John Thompson, VDOT Resident Engineer, met with the Board and discussed the following matters:

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a. Follow-up from Previous Board Meeting:

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

The Board reviewed the highway matters portion of the Key Activity Timetable.

Supervisor Sheffey requested VDOT provide an updated KAT related to highway matters one week prior to **each** monthly Board meeting.

Supervisor Conner requested horse riding signs on Little Creek. Mr. Thompson expressed concern over the effectiveness of proposed signs. Supervisor Conner offered to find out who made the initial request and advise VDOT.

Supervisor Akers inquired regarding the status of guardrail installation in the Mountain View section of Wilderness Road and recalled a previous request related to this matter. Mr. Thompson advised he would confirm the guardrail is on list for installation.

2. Rt. 11 Entrance Sign Update

Staff presented a proposed drawing for review by the Board. The Board reviewed the drawing and suggested one potential change to make the clock tower stand out. Mr. Utt advised the dimensions of the sign are roughly 32 inches tall and just shy of 60 inches wide with the proposed sign for the median to be diagonal so that both sides can be used. Mr. Sheffey asked Mr. Thompson for his perspective on the proposed sign. Mr. Thompson indicated VDOT was ready for the proposal to be submitted by the county.

The Board directed county staff to make modifications to the sign to allow the clock tower to stand out. Supervisor Hale requested a scaled drawing of the proposed sign.

b. Guardrail Request for Rt. 711, Langhorn Road

As noted in the Board packet, staff submitted a request from Mr. Leroy Early for guardrail installation on Rt. 711, Langhorn Road. The Board requested Mr. Thompson contact Mr. Early to

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confirm the exact location of the requested guardrail and provide a report back to the Board.

c. Route 653, Clark Ferry Road

Mr. Thompson suggested the Board consider using Rural Rustic road designation on Route 643, and pave just the two ends of the road, which VDOT indicated would speed up construction of the project.

On a motion by Mr. Pratt, seconded by Mr. Akers and carried, the Board approved the following resolution allowing for use of the rural rustic road designation:

RURAL RUSTIC ROAD RESOLUTION

WHEREAS, during the 2002 session of the General Assembly, legislation was passed to revise §33.1–70.1 of the code of Virginia, to allow for the improvement and hardsurfacing of certain roads deemed to qualify for and be designated a Rural Rustic Road; and

WHEREAS, VDOT has expressed a willingness to adopt this concept on a pilot basis until the program is fully implemented to assist in developing and defining the guidelines to be used for the program; and be evaluated by VDOT with regard to safety, resident concerns, and environmental issues; and

WHEREAS, such roads must be located in a low-density development area, and have no more than 500 vehicles per day; and

WHEREAS, there is no known pending development that will affect the existing traffic on the road; and

WHEREAS, the citizens that utilize this road have indicated their support of this road being paved with minimal improvements; and

WHEREAS, a road that traverses an area known for its scenic vistas or a historic and relaxed ambiance is one that should be considered for designation as a Rural Rustic Road; and

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WHEREAS, this Board believes Route 653 should be designated a Rural Rustic Road, From: 1.1 mi. S. Route 609 (West Int.) To: 1.5 mi. S. Route 609 (East Int.) owing to its qualifying characteristics; and

WHEREAS, the road aforesaid is in this Board's six-year plan for improvements to its secondary system of state highways:

NOW, THEREFORE, BE IT RESOLVED, this Board hereby designates and requests the Department's Resident Engineer to concur in the aforesaid road as a Rural Rustic Road.

BE IT FURTHER RESOLVED, this Board requests that this road should be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state.

BE IT FURTHER RESOLVED, this Board pledges to discourage more development on this road.

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

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

Voting no: none.

d. Route 693 Bridge

Mr. Thompson advised the weight limit on the Route 693 bridge will need to be lowered to four tons, with plans by VDOT for a repair project to raise the weight limit over 10 tons which should last until the bridge is replaced in a few years. Further, Mr. Thompson advised that due to the time it takes to order the steel, the repair project will not take place until spring. Supervisor Akers inquired as to any means of speeding up the project due to the difficulty of transporting children to and from school. Mr. Thompson advised VDOT was working to complete the project in a timely manner.

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e. Participation in VDOT Revenue Sharing Program

Mr. Huber advised December is the deadline for applying for Revenue Sharing money.

On a motion by Mr. Akers, seconded by Mr. Pratt and carried, the Board approved applying for funding for reimbursement for picking up trash, road clearing of snow and roadside mowing.

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

Voting no: none.

f. Citizen Comments

Jack Martin requested clarification on the definition of spreading of gravel on Worrell Road. Mr. Thompson advised the spreading of gravel is a judgment call by VDOT staff, but he would review the matter and provide an update to the Board.

g. Board of Supervisors Concerns

Supervisor Conner advised of a request from Donnie Manning of 2474 Little Creek Road regarding a driveway entrance which drops approximately six inches down to driveway. Mr. Thompson agreed to review the matter and provide an update to the Board.

Supervisor Conner advised the road has been eroded into the creek just prior to approaching Hunter's Cemetery on Alum Spring Road in Pulaski. Mr. Thompson agreed to review the matter and provide an update to the Board.

Supervisor Akers expressed concern regarding tractor trailers parking on the Exit 101 on and off ramps, specifically truck traffic at nighttime. Mr. Thompson advised concerns were an enforcement issue and that VDOT would need a letter from the enforcement authority requesting the installation of no parking, no stopping and no standing signs. Supervisor Akers also advised of trash being thrown out and believes the parking issue on the ramps could be addressed, along with trash issue, if no parking signs installed. Staff was directed to contact the State Police and request a letter be sent on by the State Police to VDOT requested appropriate signage.

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Supervisor Pratt advised dirt has eroded from under the asphalt just past Clark Mill Road before approaching Worrell Road. Mr. Thompson agreed to review the matter and provide an update to the Board.

Supervisor Pratt advised of a culvert on Delton Road where the pavement has been widened beyond the concrete abutment creating an unmarked curb out in the traffic lane. Mr. Thompson agreed to review the matter and provide an update to the Board.

Supervisor Sheffey advised of potholes on Round House Road. Mr. Thompson agreed to review the matter and provide an update to the Board.

Supervisor Sheffey advised yellow signs had fallen down on the bridge at the intersection of Falling Branch and New River Road bridge. Mr. Thompson agreed to review the matter.

Mr. Huber requested widening a very short section of the southbound Rt. 100 shoulder between Landmark Builders and the El Rancho Restaurant in Dublin, to allow for easier access to El Rancho Restaurant. Mr. Thompson agreed to review the matter and provide an update to the Board.

6. Treasurer's Report

Supervisor Sheffey handed out the Treasurer's Report and the improper assessments report on behalf of Ms. Tickle.

7. Citizens' Comments

Mr. Bill Benson, a citizen and educator in Pulaski County, questioned what could be done at the Riverlawn Elementary School as an alternative to construction of a new school, requested review of renovation options for both middle schools, better pay for teachers, questioned whether teachers work for the School Board, Board of Supervisors or State, referenced the impact on educators by higher insurance in July with an October pay increase, noted Pulaski County is 121 out of 132 school divisions in teachers pay, noted the need for Board of Supervisors to earmark additional funding for teachers raises and advised School Board had advised him that teacher raises would have to come from localities and not State due to lack of funding.

Supervisor Sheffey advised he served on the Virginia Association of Counties (VACO) Education Committee and they are actively promoting increased pay for teachers in Virginia.

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8. Reports from the County Administrator & Staff:

a. Key Activity Timetable (KAT)

The Board reviewed the Key Activity Timetable in detail. Supervisor Sheffey advised he and staff had met with Social Services Board members and their staff regarding use of the Maple Shade Shopping Center for office space. The Board directed county staff to provide a timeframe for renovations and relocation to the Maple Shade Shopping Center. Mr. Huber advised that Social Services Director Jim Wallis had requested the matter be visited after the first of the year.

b. Reports from Finance Director, Gordon Jones

Mr. Jones provided a detailed report on the county finances, including debt service funds, debt service payments and offered to provide the report on a monthly basis, if the Board desired. Mr. Hale requested a work session of the Board to review the report in detail. By consensus, the Board scheduled a work session 6:00 p.m., just prior to the regular January 22, 2007 Board meeting.

Mr. Huber requested an opportunity to discuss the report with each Board member individually to determine how best to use the work session time in reviewing the report.

c. Appointments

Action regarding appointments was deferred to Closed Session.

9. Items of Consent:

On a motion by Mr. Hale, seconded by Mr. Pratt and carried, the Board approved the following "Items of Consent":

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

a. Approval of Minutes of November 27, 2006

Supervisor Pratt noted draft November 27 minutes need to be changed to reflect his "abstaining" on the public hearing on the Parrott River Properties, rather than a record of voting "yes". The Board approved the minutes as corrected.

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b. Accounts Payable

The Board approved accounts payable as presented on checks numbered 26196 through 26524, subject to audit.

c. Interoffice Transfers

The Board approved the following monthly appropriations and Interoffice Transfer #6 totaling \$36,694.89:

| | |
|--|--------------------|
| GENERAL FUND #8 | |
| Revenues: | |
| 033010-2000 – Homeland Security Funds | \$10,000.00 |
| 018990-5320 – C.E. Richardson Grant-Court Services | 1,000.00 |
| 018990-5310 – C.E. Richardson Grant-Jamestown 2007 | 5,000.00 |
| 018990-5330 – C.E. Richardson Grant – Library | 5,000.00 |
| 024040-5600 – DMV Sale of Animal Friendly Plates | 480.00 |
| 019020-4002 – Hazardous Material Training | 326.63 |
| 019020-7000 – Claytor Lake Restoration Project | 3,150.00 |
| 041999-0000 – Use of fund balance (carry-over from 2006) | 5,000.00 |
| TOTAL | \$29,956.63 |
| Expenditures: | |
| 035530-8201 – Homeland Security Grant-Machinery and Equipment | \$10,000.00 |
| 033300-5890 – Court Services Unit- Incentives/Youth Offenders | 1,000.00 |
| 072700-8112 – Jamestown 2007 Celebration-Cleburne Wayside Improvements | 5,000.00 |
| 073100-6012 – Library Administration-Books and Subscriptions | 5,000.00 |
| 092110-5850 – Misc. Revenue Refunds-Other Miscellaneous | 480.00 |
| 035500-4603 – Emergency Management-Central Garage-Fuel | 326.63 |
| 071360-5840 – Refund/Donations-Friends of Claytor Lake | 3,150.00 |
| 092110-5870 – Misc. Revenue Refunds-Erosion and Sediment Bond Refund | 5,000.00 |
| TOTAL | \$29,956.63 |
| SCHOOL FUND #18 & 19 | |

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| | |
|--|--------------------|
| Revenues: | |
| 16120-1100 – Substitute Teacher Fees | \$2400.65 |
| 18030-0320 – School Nurse Services | 6,675.34 |
| TOTAL | \$9,075.99 |
| Expenditures: | |
| 6300-6008 – Transportation-Fuel and Oil | \$9,075.99 |
| TOTAL | \$9,075.99 |
| CIP FUND #2 | |
| Revenues: | |
| 018030-1300 – Refund/Overpayment | \$11,745.00 |
| TOTAL | \$11,745.00 |
| Expenditures: | |
| 81400-8105 – Zoning and Planning –Zoning Vehicle | \$11,745.00 |
| TOTAL | 11,745.00 |
| INTER-FUND TRANSFER #3 | |
| Revenues: | |
| 3-600-041050-1000 – Transfer from General Fund | \$2,000.00 |
| 3-100-041050-0800 – Transfer from CIP Fund | 1,088.00 |
| TOTAL | 3,008.00 |
| Expenditures: | |
| 4-600-012560-8120 – Central Garage- Other Equipment | \$2,000.00 |
| 4-100-091400-9301 – Contingency | -2,000.00 |
| 4-100-093000-9204 – Transfer to Internal Service Fund | 2,000.00 |
| 4-100-034410-8101 – Code Enforcement-Machinery and Equipment | 1,088.00 |
| 4-302-081400-3800 – Planning and Zoning-Comp. Plan Update | -1,088.00 |
| 4-302-093000-9201 – Transfer to General Fund | 1,088.00 |
| TOTAL | 3,088.00 |
| INTER-DEPARTMENT TRANSFER #2 | |
| Revenues: | |
| TOTAL | -0- |

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| | |
|---|------------|
| Expenditures: | |
| 091400-9301 – Contingency | \$-5799.00 |
| 081500-8101 – Economic Development- Machinery and Equipment | 5,799.00 |
| TOTAL | -0- |

d. Ratification of Contracts, Change Orders & Agreements

There were no items submitted for ratification.

e. Personnel Changes

The Board reviewed recent personnel changes as prepared by Ms. Spence.

e. Community Service in Mississippi

The Board concurred with a staff recommendation to allow three county employees with required electrical licenses to spend a week each in construction work in Gulfport Mississippi the week of March 17 to 24, 2007 in community service.

f. FY 08 Budget Calendar

The Board approved the following FY 08 budget calendar:

**FY 2007-08
BUDGET CALENDAR**

DATE

ACTIVITY

Friday, January 5, 2007

Distribution of budget and capital improvement plan (CIP) instructions

Monday, January 22, 2007*

Review by Board of Supervisors of overall budget goals

Friday, February 9, 2007

Budget and CIP requests to be submitted to County Administrator

Tuesday, February 13, 2007

CIP requests distributed to Planning Commission

Friday, February 16, 2007

CIP requests distributed to Board of Supervisors

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| | |
|-----------------------------------|--|
| Monday, February 26, 2007* | Initial local revenue estimates and requested expenditures presented to the Board of Supervisors (real estate rate considerations begun, if needed) |
| Tuesday, March 13, 2007 | Planning Commission review of CIP |
| Friday, March 23, 2007 | Draft budget recommendations submitted to Board and agencies for review and comment via weekly update |
| Monday, March 26, 2007* | Presentation of preliminary budget recommendations to Board of Supervisors - Real estate tax rate set for 2006 |
| Monday, April 2, 2007 | Deadline for agency comments and scheduling of April 10 th presentations |
| Monday, April 9, 2007 | Other agency/department comments and additional budget discussions between Board of Supervisors and School Board (if needed) |
| Monday, April 16, 2007 | Budget work session |
| Monday, April 23, 2007* | Budget follow-up in conjunction with Board meeting |
| Monday, April 30, 2007 | Tentative budget work session and approval of public hearing advertisement |
| Sunday, May 6, 2007 | Budget advertised |
| Monday, May 21, 2007* | Public hearing |
| Monday, June 25, 2007* | Budget adoption in conjunction with Board meeting |

Meetings of Board of Supervisors are Bolded

*** asterisk indicates meetings held in conjunction with a regular meeting of the Board**

g. Cutting of Wood

The Board approved giving those who volunteered their time to build the Cloyd's tower, the first opportunity to cut up and remove downed trees on the condition that all insurance requirements are met and that cutting of wood be done through a permitting system.

h. Resolution for the Adoption of Common Language Protocol

The Board adopted the following resolution resolution stating that first responders (sheriff, fire & rescue) and public safety personnel use common language for radio transmissions instead of 10 codes as recommended by Governor Kaine:

**PULASKI COUNTY RESOLUTION
FOR THE ADOPTION OF
COMMON LANGUAGE PROTOCOL**

WHEREAS, the Board of Supervisors of the County of Pulaski, Virginia, does hereby find as follows:

WHEREAS, the Governor of Virginia and the Office of Commonwealth Preparedness State Interoperability Executive Committee has recommended this change to common language;

WHEREAS, the State Interoperability Executive Committee and Commonwealth Interoperability Coordinator's Office determined a common language protocol that allows the use of plain English for most radio transmissions; The initiative has been endorsed by the Virginia Association of Chiefs of Police, Virginia Sheriffs Association, Virginia Fire Chiefs Association and the Virginia State Police;

WHEREAS, the use of coded language can result in confusion and miscommunication, because local, regional and state public safety agencies use different codes; this is a problem especially during mutual aid incidents where multiple jurisdictions and disciplines must work together;

WHEREAS, the National Incident Management System (NIMS) requires common language for mutual aid situations, Pulaski County Virginia recognizes responders will default to their training in high-stress situations;

WHEREAS, the NIMS standardized procedures for communications will improve Pulaski County's ability to utilize federal funding to enhance local agency readiness, maintain first responder safety, and streamline communication processes;

NOW, THEREFORE, BE IT HEREBY PROCLAIMED by the Board of Supervisors of the County of Pulaski, Virginia, that the Common Language Protocol is established as the County standard for radio communications.

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i. Designation of Records Retention Officer

The Board designated Gena Hanks, Executive Secretary, as Records Retention Officer for Pulaski County.

j. Revised E-mail Retention Procedures and Time Estimate

The Board approved revised e-mail retention procedures and time estimate with the clarification to the procedures which would limit the request for review of e-mails to the school superintendent, county administrator or the two board chairs.

k. Resolution to Accept Low Bid on Dublin Fire Dept Equipment

The Board adopted the following resolution allowing for acceptance of the low bid on the Dublin Fire Department equipment:

The governing body of Pulaski County, consisting of five members, in a duly called meeting held on Monday, December 18, 2006 at which a quorum was present RESOLVED as follows:

BE IT HEREBY RESOLVED that, the purchase of fire equipment for Dublin Volunteer Fire Department using grant funds from Rural Development, an agency of the United States Department of Agriculture, is by low bid.

WHEREAS; the bid process of fire equipment for Dublin Volunteer Fire Department was completed using the County of Pulaski procurement procedure, which specifies that the low bid will be used provided the item meets bid specification.

WHEREAS; all items to be purchased with Rural Development fund are the lowest bid that meets advertised bid specifications.

WHEREAS; any low bid item that did not meet bid specifications was rejected and the next lowest price item will be used.

This Resolution, along with a copy of the above-referenced documents, is hereby entered into the permanent minutes of the meetings of the Pulaski County Board of Supervisors.

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I. Authorization to Proceed with the Design of New Riverlawn Elementary School

The Board approved proceeding with the design of a new elementary school serving the Fairlawn area as a replacement to the existing Riverlawn Elementary School.

10. Citizen Comments

There were no citizen comments.

11. Other Matters from Supervisors

Supervisor Conner requested county staff arrange for a copy of the Pepper's Ferry by-laws and studies by the town and Authority to be made available to the Board of Supervisors.

Supervisor Sheffey requested Ron Coake make a presentation to the Board on both studies at the January 22, 2007 Board meeting.

Supervisor Conner expressed a desire to work with the Town of Pulaski to try and resolve the situation involving the Pepper's Ferry sulfate issue.

Supervisor Hale requested county staff determine why the Pepper's Ferry Director was not in favor of the Draper Aden study prepared for the town.

Mr. Huber suggested the county broker mediation, or at least a discussion between the authority and the two towns to try and improve overall communications.

Supervisor Hale discussed in detail the county's debt schedule. County staff was requested to provide additional information at the January 22 Board work session.

Mr. Huber suggested hiring a financial advisor to assist with structuring of the debt service.

Supervisor Hale requested the Board review the implementation of a Business Professional Occupational License Tax.

Supervisor Sheffey advised he and Supervisor Pratt had attended a play at Pulaski County High School and learned of a state award honoring the director. Supervisor Sheffey requested a resolution be prepared for presentation at the January 22 Board meeting, as well as inviting Jeff McCoy to attend the January 22 meeting to accept the resolution.

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Supervisor Sheffey requested members of the Building Use Committee be sent a thank you letter for their service on the committee and determine their interest in continuing to serve on in recommending implementation of the plan as well as future decisions.

Supervisor Sheffey advised of receipt of a letter from the Henry County Board Chairman citing the recent situation involving the Henry County Sheriff and deputies and expressing concern that there is nothing in the constitution that would allow for a constitutional officer to be removed from elected office, unless upon resignation. Mr. Sheffey also advised the Henry County Board Chairman is requesting support by Pulaski County in asking VACO to recommend changes to the constitution related to removal of a constitutional officer. The Board directed the county attorney to review the matter and provide a recommendation to the Board of Supervisors.

12. Closed Meeting - 2.2-3711.A.1.3.5.7

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. Conner, seconded by Mr. Hale 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:

- Commerce Park Development

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
- Assistant County Administrator

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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.

- Wood Related Project
- Sallie Mae Project

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:

- Claytor Lake Suit

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 resolution applies; and (ii) only such public business matters as

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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. Pratt, seconded by Mr. Hale and carried, the Board approved the following appointments:

1. Wireless Authority

The Board appointed Jackie Freeman to the Wireless Authority for a term ending October 31, 2010.

2. New River Valley Community Services Board

The Board directed county staff to contact Jack Gill to determine his interest in serving.

3. Commission on Children and Families

The Board directed county staff to invite Danny Collins, Julie Williams and Mary Barbour to determine their interest in serving.

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

Voting no: none.

13. Adjournment

On a motion by Mr. Pratt, seconded by Mr. Hale and carried, the Board of Supervisors adjourned its regular meeting with the next regular meeting scheduled on Monday, January 22, 2007 beginning with a work session at 6:00 p.m. and the regular meeting 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