

BOARD OF SUPERVISORS MEETING MINUTES OF NOVEMBER 24, 2008

At a regular meeting of the Pulaski County Board of Supervisors held on Monday, November 24, 2008 beginning with a Closed Session at 5:00 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; Ranny L. Akers; Charles Bopp; and Dean K. Pratt. Staff members present included: Peter M. Huber, County Administrator; Robert Hiss, Assistant County Administrator; Shawn Utt, Community Development Director; and Thomas J. McCarthy, Jr., County Attorney. Joining the regular session at 7:00 p.m. was Gena T. Hanks, Clerk to the Board of Supervisors.

1. Closed Session– 2.2-3711.A.1.3.5.7

Mr. Sheffey called the meeting to order and advised a Closed Session would need to be held as follows:

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. Pratt and carried, that the Board of Supervisors enter Closed Session for discussion of the following:

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:

- Administrator's Evaluation
- Appointments
- Compensation Study

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:

- Fairgrounds Easement
- Randolph Park Utility Easement

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.

- Marketing Trip Report

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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:

- Pulaski Furniture

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

Voting no: None.

Return to Regular Session

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

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

Voting no: none.

Certification of Conformance with Virginia Freedom of Information Act

It was moved by Mr. Akers, seconded by Mr. Pratt 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 were identified in this motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors.

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

Voting no: none.

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2. Invocation

Reverend Randy Winn of First Christian Church provided the invocation.

3. Recognition

There were no recognitions at this time.

4. Additions to Agenda

Mr. Huber requested the Board delete item "i – Randolph Park Pool" under Items of Consent due to staff waiting on contractor to provide estimated cost in pool repairs.

Mr. Sheffey recommended changing the order of the agenda to allow for a report on reassessment by Harold Wingate and Don Thomas, as well as to allow citizen comments particularly related to the reassessment.

Mr. Huber introduced Bobby Clark as the County's Emergency Management Coordinator.

Citizen Concerns Regarding Reassessment

Mr. Harold Wingate provided an update on the reassessment process to date, indicating he and his staff had seen approximately 1,100 individual property owners. Mr. Wingate emphasized the following: values that are proposed for the reassessment are Pulaski County values and not national values; appraisers do not determine the property value, but rather estimate a value by analyzing the market; appraisers had to comply with state law in assessing at 100% market value; reassessment is designed to equalize the tax burden and is not a revenue generating function; and assessment of utility companies changes annually based on the sales to assessment ratio for other property in the County. He noted if the tax rate is left as is, and the assessment ratio increased to 95% of sales, the County would collect approximately \$140,000 more on public utilities than collected in 08. Mr. Wingate advised that notices were sent out following the initial assessments notifying property owners of the appeal process.

Supervisor Conner questioned the current drop in property values nationally. Mr. Wingate emphasized the assessment for Pulaski County was based on Pulaski County values and not the national values.

Mr. Sheffey reviewed the requirements for reassessment by localities, including the requirement that assessments be done at least every six years.

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Mr. Sheffey requested a recommendation from Mr. Wingate on how often reassessment should be done in the county. Mr. Wingate declined to make a recommendation specifically for Pulaski County; however, he advised four years was typically a good number of years between reassessments.

Mr. Bopp advised of crop land that had been assessed at \$6,000 an acre. Mr. Wingate indicated some of the county's records are outdated and that any property owner experiencing a situation as described by Mr. Bopp should not hesitate to ask for a review by the assessors. Mr. Wingate advised Pulaski County has one of the best maps in the State of Virginia, but property lines go back to original maps done years ago and are not always accurate.

Mr. Huber referenced the reassessment ordinance distributed at the beginning of the meeting and explained in detail the scheduled events, noting staff will be doing some very careful calculations as to what cost has been, such that the rate can be set on solid figures.

Mr. Sheffey noted that an amount equal to the real estate taxes goes toward education.

Mr. Sheffey opened the floor for comments from citizens as it related to the reassessment.

The following citizens spoke regarding the current assessment of properties, with comments summarized as follows:

Dr. Bruce Fariss spoke in opposition to the current reassessment, specifically the high assessment of Pulaski County properties. He expressed concern that citizens would be paying higher taxes in the long run, regardless of whether or not the Board of Supervisors lowered the current real estate tax rate.

Sherrill Van Dyke requested the Board of Supervisors conduct any hearings related to reassessment in a larger facility to accommodate an expected large crowd. He also requested the hearings be advertised on the local television stations, and other newspapers beyond the local Southwest Times. Mr. Van Dyke requested Supervisor Akers make a motion to have the public hearings moved to a larger building and two separate hearings held. Mr. Van Dyke expressed concern that the Ingles District did not have cable to allow for notifying residents living in the Ingles District of the notices of public hearings. Mr. Van Dyke advised when 911 calls are made in the Ingles District that two ambulances respond from Dublin and Snowville. He expressed concern over the potential waste of funds due to the two units responding. Mr. Sheffey offered to advise the REMSI staff of Mr. Van Dyke's concerns.

Mr. Sheffey responded to Mr. Van Dyke by advising the public hearing had been set for the Board meeting on February 23rd. He advised that Mr. Huber

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would be able to provide a tentative outlook for the future budget at that meeting.

Thomas Graham advised his property values had increased by over \$100,000. He expressed concern over the overall increase in property values in Pulaski County, as well as the loss of jobs in the county and the financial strain facing Pulaski County residents on a fixed income.

Jackie Hunter advised her assessed property value had increased by 247%. Ms. Hunter expressed concern over the assessors not being able to provide her with information as to the criteria for evaluating a home. She indicated the assessors evaluation is "subjective" and that the property assessment was "flawed" and was concerned that this tax assessment will set the guidelines for future taxes.

Toby Turman questioned the criteria used by the assessors in assessing property values. Mr. Turman advised he was in the process of having a petition signed by Pulaski County residents to have Wingate removed as the county's assessors.

Bill Stroupe advised he had recently moved from Florida and now lived at 353 Vaughan Avenue. He advised the assessment on his property increased from \$13,000 to \$23,000 with a total increase of over 37%. He noted he had listed his property for sale and that it had been on the market for seven months. He suggested the county seek another assessor to conduct the property assessment.

Hoyt Sullivan advised the assessment of his property had increased considerably. He expressed concern over the inability of citizens to be able to afford the potential increase in taxes.

Paul Hamblin advised he owned property adjacent to Supervisor Bopp. He questioned the accuracy of the property values obtained by the assessors. He advised his land had no water or sewer and his property was designated farmland use. Mr. Hamblin expressed concern that the assessors do not know the conditions of the property being assessed, specifically noting a vacant house located across from his property.

Jerry White of Alum Spring Road expressed concern over the manner in which the present reassessment had been conducted. He questioned why there had been assessments in excess of 300% on some properties. He questioned why hearings were not scheduled for Saturdays so that citizens working during the week could be accommodated. Mr. White asked the Board to reject the assessment conducted by Wingate Appraisal.

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Richard Phillips of Shelburne Road advised he had received nine tax tickets and that the assessment of his land had doubled in five years.

E. W. Harless of Armstrong Street noted he was in agreement with Dr. Bruce Fariss's statements. He inquired of County Attorney McCarthy as to whether or not the county had to accept the assessments conducted by Wingate Appraisal. He indicated it was his belief that it was the Board of Supervisors responsibility to remedy the situation. He indicated the Board would need to review the budget every year to determine if taxes should be increased. He suggested the Board of Supervisors could advise the School Board on how to spend money allocated to the School Board. He further suggested the Board may have to set the current tax rate to 38 cents per \$100 to allow citizens to continue to pay their current amount with the new assessments.

Greg Oakley of Burma Road on Claytor Lake advised his property had doubled from the current value. He advised he was displeased with the current assessment.

Hugh Webb advised he owned property in the Allisonia area of Pulaski County but that the property did not have electricity or water and was only accessible by four wheel drive. He advised he disagreed with the reassessment and would like for the Board of Supervisors to review the matter.

Derek Long advised he had seen a 60% increase in the assessment of his property, with a 500% increase in his grandmother's property. He indicated the assessment was too much for his property.

Sherrill Van Dyke inquired as to the Virginia Code section allowing for localities to adjust the personal property tax each year. He indicated he was not aware of any legislation allowing for counties to make these annual adjustments.

Vivie Andrews advised she had property consisting of 19.56 acres and the property was rough terrain, and had no water or electricity. She advised the property was woodland with no improvements having been made. She expressed concern that the assessment was excessive.

Brian Ledmon of the Massie District requested the Board actively and aggressively pursue new industry for the county.

Dr. Fariss expressed concern over the hiring of an outside firm to conduct the appraisal of Pulaski County properties. He noted that he agreed with Jerry White in that the Board of Supervisors should consider terminating the services of Wingate Appraisal.

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Jim Gilmer of Claytor Lake expressed concern that he would be unable to sell his property to anyone locally due to the excessive assessment.

Dorothy Hall of Shelburne Road advised her property had been assessed at an excessive amount and would hope to be able to sell her property for the assessed value. She noted it was unrealistic to expect to be able to sell her property for the new assessed value.

Charles Haynes advised he is a disabled veteran and living on a limited fixed income. He expressed concern over the high cost of new schools and requested the Board to consider all options before making a decision on the assessment.

5. Public Hearings:

- a. Consideration by the **Pulaski County Planning Commission** of rezoning from Residential (R1) to Agricultural (A1) of various parcels in the Mt. Olivet Community (Rt. 710), (Robinson District).

Mr. Utt presented staff comments and advised the Planning Commission recommended approval of the rezoning request.

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

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

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

Voting no: none.

- b. A request by **Neil Cash** for a Special Use Permit (SUP) for an exception to limitations on a private dock facility allowed by Article 8-8, on property owned by **American Electric Power**, adjacent to property identified as tax map no. 066-029-0000-0005, zoned Residential (R1), located south of 4800 Lake Cliff Dr., (Draper District).

Mr. Utt presented staff comments and advised the Planning Commission recommended approval of the special use permit, with conditions.

Mr. Sheffey opened the public hearing.

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Supervisor Akers questioned Mr. Cash regarding any objections to the stipulations. Mr. Cash responded he was not aware of any objections at this time; however, he would most likely need to come before the Board in the future to apply for single boat lifts in the area. He indicated he would have to negotiate with American Electric Power at that time.

There being no further comments, the hearing was closed.

On a motion by Mr. Akers, seconded by Mr. Pratt and carried, the Board approved the special user permit, with conditions as follows, and as recommended by the Planning Commission allow three (3) additional dock slips with the following conditions: 1) this structure shall have only one walkway connecting to the shoreline (the existing walkway). 2) no further dock structures shall be allowed to serve this subdivision at this location.

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

Voting no: none.

c. The petition by the **County of Pulaski** to amend the following section (s) of the Pulaski County Zoning Ordinance:

- **Article 17: General Provisions;** (regarding revised zoning fee schedule).
- **Article 18: Site Development Plan;** (regarding revised zoning fee schedule).
- **Article 19: Board of Zoning Appeals (BZA);** (regarding revised zoning fee schedule).
- **Article 20: Amendment and Rezoning;** (regarding revised zoning fee schedule)

Mr. Utt presented staff comments and advised the Planning Commission recommended approval of the amendments to the Zoning 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. Bopp and carried, the Board approved the following amendments to the Zoning Ordinance, as recommended by the Planning Commission:

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ARTICLE 17: GENERAL PROVISIONS

17-1 Zoning Permits

Buildings or structures shall be started, reconstructed, enlarged, or altered only after a zoning permit has been obtained from the Zoning Administrator. *There shall be a twenty-five dollar (\$25.00) zoning permit fee for all buildings or structures requiring a permit.*

17-2 Special Use Permits

17-3.8 Each application for a Special Use Permit (SUP) shall be accompanied by a fee of ~~twenty-five dollars (\$25.00)~~ *one hundred fifty dollars (\$150.00)*, payable to the Pulaski County Treasurer for deposit in the general fund.

17-5 Uses Not Provided For

If in any district established under this ordinance, a use is not specifically permitted and an application is made by a property owner to the Zoning Administrator for such use, the Zoning Administrator shall refer the application, accompanied by a fee of ~~twenty five dollars (\$25.00)~~ *one hundred dollars (\$100.00)* to the Planning Commission which shall make its recommendations to the governing body within one hundred (100) days. ¹ If the use as applied for is approved by the governing body, the ordinance shall be amended to list the use as a permitted use in that district, either by right, or Special Use Permit, henceforth. The provisions for notice and hearing by the Planning Commission and Board of Supervisors provided for in Section 15.2-2204 of the 1950 Code of Virginia, as amended, shall be applicable to the amendment procedure herein set forth.

ARTICLE 18: SITE DEVELOPMENT PLAN

18-8 Fees and Performance Bonds

There shall be a charge for the examination and approval or disapproval of every site plan reviewed by the Commission. ~~The fee schedule shall be established by the Pulaski County Board of Supervisors.~~

18-8.1 Each application for a Site Plan Review (Major) shall be accompanied by a fee of one hundred fifty dollars (\$150.00), payable to the Pulaski County Treasurer for deposit in the general fund.

18-8.2 Each application for a Site Plan Review (Minor) shall be accompanied by a fee of twenty-five dollars (\$25.00), payable to the Pulaski County Treasurer for deposit in the general fund.

ARTICLE 19: BOARD OF ZONING APPEALS (BZA)

19-5 Board of Zoning Appeals Fees

19-5.1 The fee for each application for a variance request shall be one hundred fifty dollars (\$150.00).

19-5.2 The fee for each application for an Appeal to the Board of Zoning Appeals shall be one hundred fifty dollars (\$150.00).

¹ Revised to allow additional time for recommendations 12/16/2002

ARTICLE 20: AMENDMENT AND REZONING

20-1 Procedures for Amendment

By the filing with the Zoning Administrator of a petition by owners or contract owners of land proposed to be rezoned, which petition shall be accompanied by a fee of ~~twenty five dollars (\$25.00)~~ *one hundred fifty dollars (\$150.00)*.

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

Voting no: none.

- d. Revisions to the Business Professional and License tax ordinance modifying the language of the ordinance to conform with the way in which 2007 taxes were calculated.

Mr. Huber advised a public hearing had been scheduled regarding revisions to the Business Professional and Occupational License Tax Ordinance. As reported in the Board packet, the current language of the ordinance calls for a higher amount of tax due from each business than was calculated last year. The proposed revision will match the wording of the ordinance with the way in which the ordinance was administered last year. That being that businesses pay \$30 for the first \$100,000 or less in gross receipts with differing rates thereafter based on the specific class of business. Currently, the ordinance calls for \$30 in addition to the applicable rate.

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

On a motion by Mr. Conner, seconded by Mr. Pratt and carried, the Board adopted the revisions to the Business Professional and License Tax Ordinance as advertised. The ordinance in its entirety is as follows:

Pulaski County Uniform BPOL Ordinance

BE IT ORDAINED THAT:

- A. Overriding Conflicting Ordinances.

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current ordinances or resolutions enacted by the Board of Supervisors of Pulaski County, Virginia, whether or not compiled in the Ordinances of this jurisdiction, to the extent of any conflict, the following provisions shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons, firms and corporations engaged therein within this locality.

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B. Definitions.

For the purposes of this ordinance, unless otherwise required by the context:

"Affiliated group" means:

(a) One or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if:

(i) Stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the includible corporations, except the common parent corporation, is owned directly by one or more of the other includible corporations; and

(ii) The common parent corporation directly owns stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other includible corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includible corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

(b) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

(i) At least eighty percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation, and

(ii) More than fifty percent of the total combined voting power of all classes of stock entitled to vote or more than fifty percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the includible corporations, including the common parent corporation is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to

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the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Commissioner of Revenue" or "**assessing official**" means the Commissioner of Revenue of Pulaski County, Virginia.

"Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of §58.1-3715.

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

"Contractor" shall have the meaning prescribed in §58.1-3714.B of the Code of Virginia, as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

"Definite place of business" means an office or a location at which occurs a regular and continuous course of dealing for thirty consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis; and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

"Financial services" shall mean the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this ordinance.

"Broker" shall mean an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.

"Commodity" shall mean staples such as wool, cotton, etc. which are traded on a commodity exchange and on which there is trading in futures.

"Dealer" for purposes of this ordinance shall mean any person engaged in the business of buying and selling securities for his own account, but does not include

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a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

"Security" for purposes of this ordinance shall have the same meaning as in the Securities Act (§13.1-501 et seq.) of the Code of Virginia, or in similar laws of the United States regulating the sale of securities.

Those engaged in rendering financial services include, but without limitation, the following:

- Buying installment receivables
- Chattel mortgage financing
- Consumer financing
- Credit card services
- Credit Unions
- Factors
- Financing accounts receivable
- Industrial loan companies
- Installment financing
- Inventory financing
- Loan or mortgage brokers
- Loan or mortgage companies
- Safety deposit box companies
- Security and commodity brokers and services
- Stockbroker
- Working capital financing
- [Guidelines]

"Gross receipts" means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Chapter 37 of Title 58.1 of the Code of Virginia.

"License year" means the calendar year for which a license is issued for the privilege of engaging in business.

"Personal services" shall mean rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" under this ordinance, or rendered in any other business or occupation not specifically classified in this ordinance unless exempted from local license tax by Title 58.1 of the Code of Virginia.

"Professional services" shall mean rendering any service specifically enumerated below or engaged in any occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study is used by its practical application to the affairs of others, either advising,

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guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The words profession and professional imply attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others as a vocation, and including, but without limitation, such attainments attributed to the following:

- Architects
- Attorneys-at-law
- Certified public accountants
- Dentists
- Engineers
- Land surveyors
- Practitioners of the healing arts (the art or science or group of arts or sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities)
- Surgeons
- Veterinarians

"Purchases" shall mean all goods, wares and merchandise received or offered for sale at each definite place of business of every wholesaler or wholesale merchant, and shall not be construed to exclude any goods, wares or merchandise otherwise coming within the meaning of such word, including such goods, wares and merchandise manufactured by a wholesaler or wholesale merchant and sold or offered for sale as merchandise.

"Real estate services" shall mean rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in this ordinance, and such services include, but are not limited to, the following:

- Appraisers of real estate
- Escrow agents, real estate
- Fiduciaries, real estate
- Lessors of real property
- Real estate agents, brokers and managers
- Real estate selling agents
- Rental agents for real estate

"Retailer" or "Retail Merchant" shall mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

"Services" shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

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"Wholesaler" or "Wholesale Merchant" shall mean any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial and industrial users which because of the quantity, price, or other terms indicate that they are consistent with sales at wholesale.

C. License Requirement.

(a) Every person engaging in this jurisdiction in any business, trade, profession, occupation or calling (collectively hereinafter "a business") as defined in this ordinance, unless otherwise exempted by law, shall apply for a license for each such business if (i) in the case of professional services, such person (x) maintains a definite office in this jurisdiction, or (y) if such person does not maintain a definite office in the Commonwealth of Virginia but does maintain an abode in this jurisdiction, which abode for the purposes of this ordinance shall be deemed a definite place of business, or (ii) in the case of any other business, such person has a definite place of business or maintains an office in this jurisdiction; or (iii) such person is engaged as a peddler or itinerant merchant, carnival or circus as specified in §§ 58.1-3717, 3718, or 3728, respectively of the Code of Virginia, or is a contractor subject to §58.1-3715 of the Code of Virginia, or is a public service corporation subject to §58.1-3731 of the Code of Virginia. A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the Commissioner of Revenue may require concerning the nature of the several businesses and their gross receipts.

(b) Each person subject to a license tax shall apply for a license prior to beginning business, if he was not licensable in this jurisdiction on or before January 1 of the license year, or no later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official.

(c) The tax shall be paid with the application in the case of any license not based on gross receipts or purchases. If, the tax is measured by the gross receipts or purchases of the business, the tax shall be paid on or before March 1 of each year for the previous tax period.

(d) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license, for good cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax,

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subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent of the portion paid after the due date.

(e) A penalty of ten percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within thirty days the Treasurer of Pulaski County, Virginia, may impose a ten percent late payment penalty. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

"Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(f) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax **paid under this ordinance** from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under §58.1-3916.

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No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided the refund or the late payment is made not more than thirty days from (i) the date of the payment that created the refund, (ii) or the due date of the tax, or **(iii) the date of the taxpayer's application for a refund**, whichever is later.

(g) It shall be unlawful to engage in such business, employment or profession without obtaining the required license. Section 58.1-3700 of the Code of Virginia, 1950, as amended.

(h) No business license under this Ordinance shall be issued until Applicant has provided satisfactory proof that all delinquent business license tax owed by the business, owner, member, manager or operator of the business has been paid which has been property assessed, including real estate taxes, personal property taxes, transient occupancy taxes, food and beverage (meals) taxes or other outstanding fees due the County, and failure to pay such taxes due shall result in the revocation of the current business license.

D. Situs of Gross Receipts.

(a) General rule. Whenever the tax imposed by this ordinance is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within this jurisdiction. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of §58.1-3715.

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled.

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of personal services shall be attributed to the definite place of business at which the services are performed or, if not

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performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

(b) Apportionment. If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule **[and the affected jurisdictions are unable to reach an apportionment agreement]**, except as to circumstances set forth in §58.1-3709 of the Code of Virginia, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction in the event the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) Agreements. The Commissioner of Revenue may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. **In the event the Commissioner of Revenue is notified or becomes aware** that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100% of its gross receipts from all locations in the affected jurisdictions, the Commissioner of Revenue shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved.

4. Limitations, extensions, appeals and rulings. The enforcement of the provisions of this ordinance including limitations with respect thereto, the correction of any assessment hereunder and any appeal by this jurisdiction of a correction made by its assessing official or by any person assessed with taxes hereunder and aggrieved by such assessment shall be pursuant to Chapter 39, Title 58.1 of the Code of Virginia; provided, however:

(a) any person assessed with a licensing tax under this ordinance as the result of an audit may within the period provided in §58.1-3980 of the Code of Virginia, apply to the Commissioner of Revenue for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayers's contention. The Commissioner of Revenue may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The Commissioner of Revenue shall

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undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in Pulaski County, Virginia, with the name and address to which the application should be directed.

(b) Provided an application is made within 90 days of an assessment, collection activity shall be suspended until 30 days after the final determination is issued by the Commissioner of Revenue, unless the Commissioner of Revenue determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subsection (f) of Section C of this ordinance, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires (i) to depart quickly from the locality, (ii) to remove his property therefrom, (iii) to conceal himself or his property therein, or (iv) to do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(c) Any taxpayer may request a written ruling regarding the application of the tax to a specific situation from the Commissioner of Revenue. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or (ii) the Commissioner of Revenue notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

5. Recordkeeping and audits.

Every person who is assessable with a license tax shall keep sufficient records to enable the Commissioner of Revenue to verify the correctness of the tax paid for the license years assessable and to enable the Commissioner of Revenue to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the Commissioner of Revenue in order to allow the Commissioner of Revenue to establish whether a particular receipt is directly attributable to the taxable privilege exercised within Pulaski County, Virginia. The Commissioner of Revenue shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside Pulaski County, Virginia, copies of the appropriate books and records shall be sent to the Commissioner of Revenue's office upon demand.

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E. Exclusions and deductions from "gross receipts."

(a) General Rule. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.

(b) The following items shall be excluded from gross receipts:

(1) Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) Any amount representing returns and allowances granted by the business to its customer.

(4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

(5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

(6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

(7) Withdrawals from inventory for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.

(8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

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F. Rates of license taxes.

Except as may be specifically otherwise provided by ordinance or other law, the annual license tax imposed hereunder shall be thirty dollars, for the first \$100,000 or less of gross receipts plus the rate set forth below for gross receipts over the first \$100,000 based on the following classes of enterprises:

1. For contractors and persons constructing for their own account for sale, 14 cents per \$100 of gross receipts;

2. For retailers, 20 cents per \$100 of gross receipts;

3. For financial, real estate and professional services, 7 cents per \$100 of gross receipts;

4. For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this ordinance or otherwise by law, 15 cents per \$100 of gross receipts;

5. For wholesalers, 5 cents per \$100 of purchases;

6. For savings and loan associations and credit unions, 7 cents per \$100 of gross receipts.

All gross receipts over \$100,000 will be figured at the rates listed. This will be in addition to the \$30.00 to cover the first \$100,000

G. Penalty.

It shall be a Class I Misdemeanor to engage in any business, employment or profession covered by this Ordinance without first obtaining the required license.

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

Voting no: none.

6. Citizen Comments

Mr. Sheffey opened the floor for any additional citizen comments. There were no citizen comments at this time.

7. Highway Matters:

Mr. David Clarke, 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 KAT

Mr. Clarke advised there continues to be some speed studies pending.

Mr. Clarke advised Hatcher Road is complete.

Mr. Clarke advised an informal speed study on Hazel Hollow Road indicates a change in the speed is not likely, but that a formal speed study could be conducted if requested by the Board.

On a motion by Mr. Pratt, seconded by Mr. Bopp and carried, the Board approved VDOT conducting a formal speed study on Hazel Hollow Road.

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

Voting no: none.

b. Request for Culvert at Bond Cote in Corporate Center

Mr. Huber advised a request was received to add 10-15 feet of culvert in the turn approach at the Corporate Center. Mr. Clarke advised he would review the matter and provide an update at a future Board meeting.

c. Hubbard Way

Mr. Clarke advised VDOT may be able to come to an agreement with property owners to obtain the needed right-of-way.

d. Fine Arts Center Signage

Mr. Clarke advised he would attempt to locate the sign and erect it if it continues to be in good shape. Mr. Huber offered assistance by county staff in erecting the sign.

e. A Blueprint for VDOT's Response to a Declining Economy

Mr. Clarke reviewed VDOT Power Point "Organizational Streamlining" and advised that VDOT is looking at the actual physical locations of VDOT offices and reducing residency offices, shops and repair facilities, as well as reducing VDOT staff from 8,400 employees to 7,500,

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with reductions hopefully to occur through normal turnover and/or attrition. Mr. Clarke advised all indications are that this is not a temporary downturn, but a long term problem.

Mr. Clarke advised the Rt. 114 bridge continues to be on the six year plan for advertisement, but was moved to January 2010 (was fall of 2009); however, this date should be confirmed when revised construction plan is distributed with hearings in January 2009. Mr. Clarke indicated VDOT would continue to keep the Board apprised of activity related to the funding situation.

f. Citizen Concerns

There were no additional citizen comments at this time.

g. Board of Supervisors Concerns

Mr. Conner inquired if VDOT was looking to perform a speed study on Hatcher Road and requested VDOT consideration to Hatcher Road as a subdivision street. Mr. Clarke advised he would have VDOT review the matter.

Mr. Bopp expressed appreciation to VDOT for the work done by VDOT.

Mr. Bopp asked about trucks seen outside of Dublin with scrapers. Mr. Clarke advised if the trucks do not have the VDOT logo, they are likely a private contractor or they could be a Town of Dublin truck.

8. Treasurer's Report

Melinda Worrell, Treasurer, presented the monthly report.

9. Reports from the County Administrator & Staff:

a. Appointments

On a motion by Mr. Pratt, seconded by Mr. Conner and carried, the Board approved the following appointments as presented:

1. Library Board

No action was taken on this matter. Staff was directed to place this matter on the December Board agenda.

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2. NRRA Board

The Board reappointed Frank Conner for a term ending December 21, 2012.

3. PFRWTA

The Board reappointed Ron Coake and Frank Conner for terms ending December 31, 2012 and Peter Huber as alternate, also for a term ending December 31, 2012. Staff was directed to invite Kyle Dehart to consider filling the vacancy in the "alternate" position to Ron Coake.

4. Pulaski County Sewerage Authority

The Board reappointed Ron Coake and Kyle Dehart for three year terms ending December 31, 2011.

5. SWVA Economic Development Financing

The Board reappointed Dallas Cox for one year term ending December 31, 2009.

6. Telecommunications Committee

The Board reappointed Ed Belcher, Ed Harless and Randy McCallister for terms ending December 31, 2012.

7. Zoning Appeals Board

The Board nominated Mike Cox to Circuit Court for an additional term on the Zoning Appeals Board.

8. Clean Community Council

The Board appointed E. W. Harless, Chip Hutchinson, and Todd Garwood to the Clean Community Council.

9. Board of Equalization Nominations

The Board approved several individuals to be invited for nomination to Circuit Court for service as the county's Board of Equalization.

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Closed Session Action Items

The Board took the following actions as follow-up to the closed session:

Fairgrounds Easement

On a motion by Mr. Conner, seconded by Mr. Bopp and carried, the Board approved granting Mr. Malcolm Booth an easement for the placement of a water line for the purpose of watering his cattle, with said approval contingent on approval by the Fairgrounds operating board subjected to confirmation by the County Attorney.

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

Voting no: none.

Randolph Park Utility Easement

On a motion by Mr. Pratt, seconded by Mr. Conner and carried, the Board approved a utility easement at Randolph Park for guide wire for a new power line, subject to confirmation by the County Attorney.

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

Voting no: none.

In granting this easement AEP was requested to review the location of the power pole to provide maximum safety for vehicles which may not be able to negotiate the curve in Alexander Road.

b. Code Enforcement Update

Jamie Radcliffe, Code Enforcement Officer, provided an update on code enforcement activities to date. He also advised inmates have worked 211 days and 1,688 hours since March 15, 2008, using two inmates per day, with a county savings of over \$23,000. Mr. Radcliffe advised no citizen had been taken to court as allowed by the ordinance.

Mr. Sheffey thanked Mr. Radcliffe for his work towards cleaning up the county.

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c. Key Activity Timetable

Mr. Sheffey requested staff correct the Finance portion of the Key Activity Timetable to reflect Diane Newby as the County's Finance Director.

d. Reassessment Update

This matter was discussed previously on the agenda.

10. Items of Consent

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

Voting Yes: Mr. Akers, Mr. Conner, Mr. Sheffey, Mr. Bopp, Mr. Pratt
 Voting no: None

a. Approval of Minutes of October 27, 2008 Minutes

The Board approved the minutes of the October 27, 2008 Board meeting.

b. Accounts Payable

The Board approved accounts payable as presented on checks numbered 2005143 through 2005832, subject to audit.

c. Interoffice Transfers & Appropriations

The Board approved Interoffice Transfer #5 totaling \$49,871.98 and appropriations and transfers as follows:

General Fund # 5

<u>Account Number</u>	<u>Account Title</u>	<u>Amount Increase (Decrease)</u>
<u>Revenues:</u>		
041010-0100	Insurance Recoveries	\$ 3,013.00
041999-0000	Use of Fund Balance	47,703.00
019010-1100	Recovered Costs- Airport Commission	170,000.00

	Total	\$ 220,716.00

Expenditures:

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031200-3310	Sheriff's Department Professional Services	\$ 3,013.00
072700-3170	Jamestown 2007 Celebration Other Contracted Svs.	14,815.00
072700-8112	Jamestown 2007 Celebration Cleburne Wayside Imp.	5,892.00
012240-3120	Independent Auditor Accounting/Auditing Services	19,000.00
043400-1170	NRV Airport- Regular Wages	90,000.00
043400-1391	NRV Airport- Part-time Wages	42,500.00
043400-2100	NRV Airport- FICA	10,302.00
043400-2210	NRV Airport- VRS Retirement	9,822.00
043400-2220	NRV Airport- Health Care Credit	183.00
043400-2300	NRV Airport- Medical Plan	16,500.00
043400-2400	NRV Airport- Group Life Insurance	648.00
043400-2830	NRV Airport- Flexible Benefits Fee	45.00
093000-9206	Transfer to CIP	7,996.00
		<hr/>
	Total	\$ 220,716.00

Resolution No. 8

<u>Account Number</u>	<u>Account Title</u>	<u>Amount Increase (Decrease)</u>
<u>Revenues:</u>		
3-205-024020-2050	Social Services Grant	\$ 2,055.11
		<hr/>
	Total	\$ 2,055.11

<u>Expenditures:</u>		
4-205-061100-6013-211-315	Supplies for Pre School	\$ 2,055.11
		<hr/>
	Total	\$ 2,055.11

Resolution No. 9

<u>Account Number</u>	<u>Account Title</u>	<u>Amount Increase (Decrease)</u>
<u>Revenues:</u>		
3-205-024020-2050	Blue Ridge West	\$ 3,000.00
		<hr/>
	Total	\$ 3,000.00
Supplement	4-205-061100-1621-200-100-956	\$ 2,770.50
Fica	4-205-061100-2100-200-100-956	229.50
		<hr/>
	Total	\$ 3,000.00

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Resolution No. 10

<u>Account Number</u>	<u>Account Title</u>	<u>Amount Increase (Decrease)</u>
<u>Revenues:</u>		
3-205-16120-0500	Transportation/Students	\$ 268.46
3-205-18030-0330	Reimbursement/School Activities	4,694.81
3-205-18030-0400	Title I/Indirect Costs	6,250.00
3-205-18990-3900	Donations	1,000.00
3-205-18991-0200	Property Damage	18.00
		<hr/>
	Total	\$ 12,231.27

<u>Expenditures:</u>		
4-205-61310-6013-200-100	Educational Supplies	\$ 10,045.57
4-205-62130-5800-900	Asst. Sup. – Miscellaneous	1,730.74
4-205-62240-5540-900	Conference Travel	454.96
		<hr/>
	Total	\$ 12,231.27

REMSI Fund # 1

<u>Account Number</u>	<u>Account Title</u>	<u>Amount Increase (Decrease)</u>
<u>Revenues:</u>		
041999-0000	Use of Fund Balance	\$ 285,100.00
		<hr/>
	Total	\$ 285,100.00
<u>Expenditures:</u>		
032350-8270	REMSI Dublin Station	\$ 285,100.00
		<hr/>
	Total	\$ 285,100.00

CIP Fund #2

<u>Account Number</u>	<u>Account Title</u>	<u>Amount Increase (Decrease)</u>
<u>Revenues:</u>		
041010-0100	Insurance Recoveries	\$ 10,725.00
041050-1000	Transfer from General Fund	7,996.00
		<hr/>
	Total	\$ 7,996.00

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Expenditures:

031200-8105	Sheriff's Vehicles	\$ 10,725.00
071320-8232	Randolph Park Picnic Shelters	7,996.00
		<hr/>
	Total	\$ 7,996.00

Inter Department Transfer CIP

<u>Account Number</u>	<u>Account Title</u>	<u>Amount Increase (Decrease)</u>
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Revenues:

		<hr/>
	Total	\$ -

Expenditures:

063400-8105	School Buses	\$ (9,900.00)
043250-8105	General Properties – Grounds	9,900.00
		<hr/>
	Total	\$ -

d. Ratification and/or Approval of Contract, Change Orders & Agreements, Etc.:

1. Amateur Radio Agreement

The Board approved a Memorandum of Understanding between American Radio Relay/Amateur Radio Emergency Services and Pulaski County for amateur radio emergency communications, equipment, and personnel in the event of a communication emergency or disaster.

2. Purchase of Compact Flash Memory Cards

As reported in the Board packet, the Electoral Board has been notified that the compact flash cards in the voting machines will need to be replaced at a cost of \$29.50 each. The purchase would be a sole-source through the manufacturer of the voting machines. The Electoral Board is recommending the purchase of two cards for each of the 55 voting machines in order to ensure an adequate supply over several years. The Board ratified an expenditure of \$3,245 and appropriated funds from contingency.

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3. Contract – John Spangler

The Board approved an updated contract with John Spangler for continuation of his provision of Geographic Information System and addressing service for the county.

e. Personnel Changes

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

f. Purchase of Chairs for General District Court

As reported in the Board packet, the General District Court is in need of five new office chairs to replace old chairs currently being used by their staff. They have received quotes of around \$200 per chair to replace the new chairs. The Board approved replacing five new chairs at a cost not to exceed \$1,000.

g. Chamber of Commerce Annual Meeting Sponsorship

As reported in the Board packet, the Chamber of Commerce has inquired as to whether the county would like to help sponsor the Annual meeting, as has been done in the past, at a cost of \$200. This can be done with existing budgeted funds and will not require additional appropriations. The Board approved sponsorship of the Annual meeting at a cost of \$200.

h. Award Construction Contracts for Pulaski Central Water & Sewer Projects

As reported in the Board packet, Bids were received on November 12, 2008 for the Hidden Valley Water and Sewer Project. Nine bids were received ranging from \$341,999.50 to \$716,665 with Prillaman & Pace Inc. from Martinsville being the low bidder.

Five bids for Lee Highway Mobile Home Park, Tiny Town Mobile Home Park and Mabry Mobile Home Park were received on November 13, 2008 ranging from \$899,380.51 to \$1,545,075 with H. T. Bowling Inc. being the low bidder. Nine bids for Tiny Town and Mabry Mobile Home Parks were received ranging from \$331,289 to \$506,856 and Prillaman & Pace Inc being the low bidder.

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The Board approved the award of the following bids:

Prillaman & Pace	Hidden Valley Campground - \$341,999.50
	Tiny Town and Mabry Mobile Home Park - \$331,289.00
H. T. Bowling Inc	Lee Highway Mobile Home Park - \$899,380.51.

i. Repairs to Randolph Park Pool

This item was removed from the agenda.

j. Drought Declaration

The Board declared Pulaski County as in an emergency drought due to the lack of rain fall.

k. New River Playground Equipment

As reported in the Board packet, Anthony Akers has been working with the New River Community and the Gametime Corporation in the utilization of a \$12,000 grant from Gametime for the purchase of playground equipment to be placed at the New River School. Staff recommended approval of a County expenditure of \$8,901 consisting of \$4,000 in capital improvements funded by the County and the remaining 4,901 from the recreation budget less continued fundraising efforts by the New River Community.

The Board approved the expenditure of \$8,901 consisting of \$4,000 in capital improvements funded by the county and the remaining \$4,901 from the recreation budget less continued fundraising efforts by the New River community.

l. Residency Requirement for Library Director

As reported in the Board packet, the Library Board is requesting expansion of the residency requirement as they begin their search for a Library Director to include requiring residency in Pulaski County or a neighboring locality.

In a vote separate from the items of consent, the Board approved amending the policy to requiring residency by the Library Director to be in Pulaski County, or an adjacent locality or jurisdiction within one year of employment.

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

Voting no: none.

m. Southwest/Southern Virginia Fishing Promotional Effort

As reported in the Board packet, Board members reviewed a draft letter, resolution and supporting information regarding an initiative to promote a state initiative focusing on regional fishing opportunities. Approval of participation by Pulaski County in this effort is recommended along with a \$500 contribution from the existing economic development budget based on Pulaski County opportunities as described in the recently completed tourism plan.

The Board approved participation by Pulaski County in initiative to promote a state initiative focusing on regional fishing opportunities, along with a \$500 contribution from the existing economic development budget based on Pulaski County opportunities by adopting the following resolution:

WHEREAS, the southwest and southern regions of Virginia are abundant with fisheries and tourism infrastructure that can accommodate and sustain visitation, and the economic impact of fishing and outdoor recreation in Virginia demonstrates that the angler market is one of significance to tourism.

WHEREAS, freshwater fishing in Virginia provides \$500,663,394 in retail sales, 9,213 jobs, \$228,392,324 in salaries, wages, and income, and \$105,641,717 in federal and state taxes.

WHEREAS, Tourism is a significant aspect of Virginia's economy as an \$18.7 billion industry in Virginia, supporting 210,000 jobs and providing \$1.2 billion in state and local tax revenue for Virginia's communities.

WHEREAS, other states such as Georgia, Alabama, Florida, and Alaska have all worked at their respective state levels to market their fisheries, but also to develop and coordinate attractions and amenities so as to increase the amount of visitation at their public fisheries.

WHEREAS, there is a concerted planning effort to promote the southwest and southern regions of Virginia as a premier fishing destination, with representatives of various Destination Marketing Organizations, Convention and Visitor Bureaus, localities,

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organizations, and state agencies such as the Department of Inland Game and Fisheries, the Department of Conservation and Recreation, and the Virginia Tourism Corporation involved in the planning effort.

WHEREAS, there are opportunities to fund the initial development of such a promotional effort through funding requests to the Virginia Tobacco Indemnification and Revitalization Commission, the Virginia Tourism Corporation, the Department of Conservation and Recreation, and other funding sources, as well as sustain the effort through partner contributions from localities, businesses and organizations.

THEREFORE BE IT RESOLVED that the Pulaski County Board of Supervisors is supportive of the effort to plan, request and secure funds, and develop a regional marketing effort to promote the southwest and southern regions as a premier fishing destination in Virginia.

BE IT FURTHER RESOLVED that the Pulaski County Board of Supervisors anticipates participating in the planning and development effort, and partnering by not only being actively involved in the effort, but also by partnering financially.

FINALLY BE IT RESOLVED that the Pulaski County Board of Supervisors fully supports the concerted planning effort to promote the southwest and southern regions of Virginia as a premier fishing destination by representatives of various Destination Marketing Organizations, Convention and Visitor Bureaus, localities, organizations, and state agencies such as the Department of Inland Game and Fisheries, the Department of Conservation and Recreation, and the Virginia Tourism Corporation, and intend to be an active partner in the overall planning and implementation of the promotional effort.

n. Amendment to Purchasing Policies

As reported in the weekly update, the Board is requested to adopt amendments to the Purchasing Regulations, which are recommended in conjunction with the School Board staff as we work toward adoption of a unified purchasing policy.

The Board adopted the purchasing policies printed in their entirety with amendments highlighted:

**COUNTY OF PULASKI
PURCHASING REGULATIONS**

October 15, 1983 (Adopted)
September 1, 1984 (Revised)
April 27, 1987 (Revised)
March 27, 1989 (Revised Administratively for Clarity)
September 18, 1989 (Revised)
March 23, 1992 (Revised)
March 23, 1998 (Revised)
December 16, 2002 (Revised)
December 23, 2002 (Revised Administratively for Clarity)
January 27, 2003 (Revised Administratively to Conform to State Code of Virginia)
February 28, 2005 (Revised)
May 23, 2005 (Revised)
October 24, 2005 (Revised)
October 22, 2007 (Revised)
January 28, 2008 (Revised)
November 24, 2008 (Revised)

Effective September 1, 1984, all departments of the County of Pulaski shall adhere to the following purchasing regulations. These regulations are established in accordance with the Board of Supervisors resolution of October 4, 1983, which set forth the general procurement policy of the County.

I. SOURCE OF AUTHORITY

The General Assembly of Virginia enacted into law a set of regulations which govern all purchases by political subdivisions. These regulations are contained in Chapter 43 of Title 2.2 of the Code of Virginia, 1950 as amended. The Board of Supervisors is held accountable for seeing that all expenditures of public funds under its control are spent in compliance with this law. The Board of Supervisors established the general procurement policy of the County of Pulaski on October 4, 1983, with stipulation that detailed procedures would be established by the County Administrator. The County Administrator promulgated rules and regulations taking effect October 15, 1983. These rules and regulations have been revised periodically as noted above.

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II. LINE OF RESPONSIBILITY

The Board of Supervisors is responsible to the Commonwealth of Virginia for Compliance with the provisions of Chapter 43 of Title 2.2 of the Code of Virginia, 1950 as amended. The Board will hold the County Administrator responsible for management of procurement policies and adherence to purchasing laws. The County Administrator will hold department heads responsible for compliance with these regulations. The County has implemented an automated purchase order system. The system allows reporting to the Board of Supervisors weekly of all purchases. This weekly reporting will allow any questionable purchases to be delayed until any Board of Supervisors member has an opportunity to review the appropriateness of the purchase.

III. PURCHASES IN GENERAL – Purchases, regardless of their amount, may be made without additional competitive procurement where an item can be obtained through existing state, federal or local governmental contracts. Purchases through the Virginia Association of Counties, National Association of Counties, International City/County Management Association, Virginia Association of State College and University Purchasing Professionals, U.S. Communities and similar associations shall be treated in the same manner as state and federal contracts.

IV. OTHER LOCAL GOVERNMENTAL CONTRACTS – As stated above, cooperative purchases may be made utilizing other local governmental contracts. However, evidence of a successful procurement by another local governmental entity must be documented through a copy of the procurement documents and submitted with the purchase order. A minimum of three quotes will be considered a successful procurement by another governmental entity.

V. PURCHASES UNDER ONE THOUSAND DOLLARS (\$1,000)

Purchases of a routine nature which are incidental to the daily operation of Pulaski County

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departments may be made by certain designated individuals without the prior approval of the County Administrator, provided the amounts of such purchases do not exceed one thousand dollars (\$1,000). Individuals authorized to make purchases under one thousand dollars are:

Administrative Assistant for Operations

Assistant County Administrator

Assistant Library Director

Building Official

Chief Water Plant Operator

Cleaning Coordinator

County Engineer

Director of Technology

Director of Fleet Maintenance & operations

Director of Office on Youth

Emergency Services Coordinator

Executive Secretary

Finance Director

Garage Supervisor

General Properties Supervisor

Librarian

PSA Bookkeeper

REMSI Executive Director

Refuse Collection Supervisor

Registrar

Visitor Center Director

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Water Maintenance Supervisor

Water Treatment Plant Superintendent

Zoning Administrator

Any purchase made pursuant to the above authorization shall be evidenced by a purchase order. Purchase orders shall be used for all purchases including contracted items such as construction projects.

Purchase orders and related documentation should be distributed as follows:

copy to the County Administrator's Office for filing purposes. This copy should include bid documentation including the results of any request for proposals and state contract number if an item is being purchased through a state bid;

One copy to the Accounts Payable Clerk; and

One copy to be retained by the department head until the invoice is received and

One copy to be submitted with the invoice to the Accounts Payable Clerk.

Purchase orders entered through the automated purchase order system will be filed by that system. Competitive bidding of purchases under two thousand five hundred dollars (\$2,500) is not required. Employees authorizing such purchases should exercise diligent care to insure that a fair market price is paid for items purchased.

The County Administrator's and Account's Payable copies of purchase orders should be forwarded to each office on a daily basis.

V. PURCHASES OVER TWO THOUSAND FIVE HUNDRED DOLLARS BUT LESS THAN TWENTY THOUSAND DOLLARS (\$20,000)

Any purchase greater than two thousand five hundred dollars (\$2,500) must have the approval of the County Administrator or designee. The Administrator's approval must be evidenced on the purchase order. Purchases greater than two thousand five hundred dollars

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(\$2,500) will be handled in one of three ways. First, if a purchase is from a sole source provider such as a subscription to a periodical, membership dues, special piece of equipment, etc., a purchase order form should be completed and sent to the County Administrator's Office along with an envelope addressed to the vendor. If the purchase order is approved, it will be mailed by the Administrator's Office and copies will be returned to the requesting department.

Second, for a purchase greater than two thousand five hundred dollars (\$2,500) where the same commodity is offered by several vendors, the County Administrator will require evidence of competitive pricing. Such evidence, if required, should be from at least three vendors.

Evidence of competitive pricing should contain a listing of vendors and the prices for which they will supply a needed item. All prices should be based on delivery of the item to its needed location. Telephone inquiries will suffice if a careful record is maintained of the person from whom the price is obtained and the date and time the quotation was received. Documentation of competitive pricing should be submitted with a properly completed purchase order to the County Administrator's Office in accordance with the instruction previously outlined. One copy of the documentation should be maintained in the department making the purchase.

Third, the purchase of an item costing more than two thousand five hundred dollars (\$2,500), but anticipated to be less than twenty thousand (\$20,000) may, at the discretion of the County Administrator, be submitted to sealed bidding. The requesting department should contact the County Administrator's Office to ascertain if bidding will be required. Competitive pricing will be handled in accordance with the procedures outlined above either by the department requesting the purchase or the County Administrator's Office.

Bidding will be handled by the County Administrator's Office unless otherwise directed by the County Administrator. Bidding shall be conducted in accordance with the Board of Supervisors resolution of October 4, 1983, September 18, 1989, and Chapter 43 of Title 2.2 of the

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Code of Virginia, 1950 as amended.

V. PURCHASES OVER TWENTY THOUSAND (\$20,000)

With the exception of energy purchases (fuel and coal), purchases under state contract, cooperative purchases and professional services, all purchases anticipated to be over twenty thousand dollars (\$20,000) shall be submitted by competitive sealed bidding in accordance with the Board of Supervisors resolution of October 4, 1983, September 18, 1989, and Chapter 43 of Title 2.2 of the Code of Virginia, 1950 as amended. The County Administrator or his designee shall conduct the bidding process.

VI. EMERGENCY PROCUREMENT

The Board of Supervisors has authorized the County Administrator, Department Heads, Water Treatment Plant Superintendent, Utility Maintenance Supervisor and Building Maintenance Supervisor to purchase expend up to thirty thousand dollars (\$30,000.00) for goods or services without competitive bidding when an emergency exists requiring immediate procurement of a needed item. A department head authorizing an emergency purchase must attach documentation to the invoices of one or more of the following:

1. Delay in purchasing a given good or service would result in danger health and safety.
2. Delay in purchasing a given good or service would result in the County incurring substantial cost or serious exposure to potential litigation.
3. Delay in purchasing a given good or service would result in undue danger or hardship on County employees in the performance of their duties.
4. Delay in purchasing a given good or service would prevent the County from the performance of any of its normal daily operations and service.

All emergency purchases shall be reported to the County Administrator within 48 hours for subsequent reporting to the Board of Supervisors within 10 days.

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VII. BLANKET PURCHASE ORDERS

The County may determine that it is in the best interest to bid on open contract frequently purchased items such as office supplies and auto parts. When this procedure is used, frequently purchased items shall be submitted to competitive bid and a price set for the items for a given period of time. All County departments would then be required to purchase the items from the bidder awarded the contract. This process would permit departments to purchase items over five hundred dollars (\$500) without having such purchases approved by the County Administrator. Department heads will be notified of any blanket purchase orders awarded by the County. A purchase order must be completed in the same manner as set forth in Section III above.

VIII. PROFESSIONAL SERVICES

Professional services over \$20,000 shall be secured in accordance with the provisions of 2.2-4301 (3) a. of the Code of Virginia, as amended. The County Administrator or designee shall approve any contract for professional services and a copy of the contract shall be included in the minutes of the Board of Supervisors through ratification or inclusion as an item of consent.

IX. BASIS FOR AWARD OF BIDS OR CONTRACT FOR GOODS OR SERVICES

Price shall be a major factor in the award of a bid or contract. However, other factors such as the following shall be considered:

1. Durability and reliability of product or service.
2. Availability of replacement parts and service.
3. Availability of auxiliary or back-up service and support.
4. Past relationships with the vendor or contractor.
5. Delivery date of the commodity or completion date of service.

When a contract is awarded to a vendor or contractor other than the lowest bidder, a written

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explanation shall be given detailing the reasons for this action. Such action must be approved by the County Administrator.

X. VIOLATIONS OF PURCHASING REGULATIONS

A violation of these regulations by an employee of Pulaski County will result in one or more of the following:

1. Voiding of the purchase which was made in violation of the regulations.
2. Employee who violates the regulations being required to pay for the purchase made in violation of the regulations.
3. Suspension of the employee committing the violation without pay.
4. Dismissal of the employee committing the violation without pay.
5. Prosecution of the employee committing the violation.

The County Administrator shall judge any violation of these policies and be the sole determinate of any punitive action taken against an employee for violation of the regulations. The County of Pulaski will not defend an employee against litigation arising out of a purchase made in violation of the regulations.

XI. AMENDMENTS

From time to time, the County may need to amend or modify these regulations. When such amendments or modifications take effect, the County Administrator shall notify each department head of the changes in writing.

XII. ADHERENCE TO PROVISIONS OF VIRGINIA PUBLIC PROCUREMENT ACT

It is recognized that the requirements for public procurement contained in the Virginia Public Procurement Act may change from time to time. The requirements of Pulaski County Purchasing Regulations shall be automatically amended to embrace the amended standards of the Virginia Public Procurement Act when such alterations occur. The County Administrator shall

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notify all department heads in writing of such changes.

XIII. EMERGENCY PURCHASES WHEN COUNTY ADMINISTRATOR IS UNAVAILABLE TO AUTHORIZE A NEEDED EXPENDITURE

When the County Administrator is not available and cannot be reached to authorize an emergency purchase or other vitally needed expenditure, such purchase shall be authorized by the Finance Director or Assistant County Administrator.

XIV. LOCAL BUYING

It is the desire of the County to purchase from Pulaski County vendors whenever possible. Where the projected purchase price will be less than \$20,000 the contract may be awarded to the lowest responsive and responsible bidder from Pulaski County so long as that bidder's bid price is not more than one percent (1%) greater than the bid price of the lowest responsive and responsible bidder from outside Pulaski County.

XV. INVITATION TO BID

1. In response to any Invitation to Bid, if the bid from the lowest responsible bidder exceeds available funds as determined by the Board of Supervisors of Pulaski County, Virginia (the "Board"), the designee of the Board of Supervisors, in his discretion may negotiate with the apparent low bidder to obtain a contract price within available funds.
2. In so negotiating, the designee of the Board, shall adhere to the following procedures:
 - A. The designee of the Board shall advise the lowest responsible bidder, in writing, that the proposed bid exceeds available funds. He shall further suggest amendment of the proposed bid and invite the lowest responsible bidder to amend its bid or proposal based upon the proposed amendment.
 - B. Repetitive informal discussions with the lowest responsible bidder for purposes of obtaining a bid within available funds shall be permissible.
 - C. The lowest responsible bidder shall submit an addendum to its bid or proposal.

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- D. If the proposed addendum is acceptable to the designee of the Board, he may recommend to the Board of Supervisors that the Board award a contract to the lowest responsible Bidder based upon the amended bid or proposal.
- E. If the designee of the Board and the lowest responsible bidder cannot negotiate a contract within available funds, all bids or proposals shall be rejected.

11. Citizen Comments

There were no citizen comments.

12. Other Matters from Supervisors

By consensus, the Board adopted the following proclamation declaring Saturday, November 29 as Cougar Pride Day:

Proclamation

In Recognition of the Undefeated
Pulaski County High School Football Team

WHEREAS, the Pulaski County Board of Supervisors desires to recognize those citizens, who by virtue of their achievements and honors, have brought recognition to the County; and

WHEREAS, during the 2008 Football Season, the Pulaski County High School Cougar football team, through hard work, skill and determination compiled an undefeated record and have advanced to the State playoff semifinals; and

WHEREAS, this accomplishment is a great source of pride to Pulaski County and all its citizens; and

WHEREAS, this exceptional achievement is evidence to the dedication and discipline of the team as a whole and to the young adults in our community; and

NOW THEREFORE, be it **RESOLVED** by the Pulaski County Board of Supervisors sitting in regular session this 24th day of November 2008 that the Board extends its thanks and appreciation on behalf of our entire community, to the players, coaches, cheerleaders, sponsors, and fans of the Pulaski County High School Cougars football team for their outstanding undefeated season,

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BE IT FURTHER RESOLVED, that the Pulaski County Board of Supervisors does hereby proclaim Saturday, November 29, 2008 as Cougar Pride Day and wishes to show its support for the members of the Cougar Football team in their upcoming semi-final playoff game by encouraging all residents and businesses to show their "Cougar Pride" by wearing their Cougar colors or Cougar gear on Saturday, November 29, 2008;

BE IT FURTHER RESOLVED, that the text of this proclamation be spread upon the minutes of the Board of Supervisors this 24th day of November, 2008, in permanent testimony of its appreciation to the success of the Cougar football team.

Mr. Sheffey and Mr. Huber recognized Mr. McCarthy's for his 65th birthday and presented two University of Virginia baseball caps.

Mr. Huber reminded Board members of the following events: the employee Christmas breakfast on December 5; the January legislative trip; and the February VACo legislative day.

Mr. Hiss invited Board members to the Veteran's Remembrance Ceremony to be held on December 6, 2008 at 2:00 p.m. at the courthouse, at which time there will be a unveiling of Lloyd Mathews book, as well as a book signing.

13. Adjournment

On a motion by Mr. Conner, seconded by Mr. Bopp and carried, the Board of Supervisors adjourned its regular meeting. The next regular meeting of the Board of Supervisors is scheduled for Monday, December 15, 2008 at 6:00 p.m. in the County Administration Building, 143 Third Street, N. W. in the Town of Pulaski.

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

Joseph L. Sheffey, Chairman

Peter M. Huber, County Administrator