

BOARD OF SUPERVISORS MEETING MINUTES OF AUGUST 22, 2011

At a regular meeting of the Pulaski County Board of Supervisors held on Monday, August 22, 2011 beginning with a Closed Session at 6:00 p.m. in the Board Room of the County Administration Building, 143 Third Street in the Town of Pulaski, the following members were present: Joseph L. Sheffey, Chairman; Charles Bopp, Vice-Chairman; Ranny Akers; Frank R. Conner; and Dean Pratt. Staff members present included: Peter Huber, County Administrator; Robert Hiss, Assistant County Administrator; Shawn Utt, Community Development Director; and Thomas J. McCarthy, Jr., County Attorney. Gena Hanks, Clerk to the Board of Supervisors, and Diane Newby, Finance Director, joined the regular session at 7:00 p.m.

1. Closed Session – 2.2-3711.A.1.3.5.7

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

A closed session 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.

On a motion by Mr. Pratt, seconded by Mr. Bopp and carried, the Board of Supervisors entered a 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:

- Appointments
- Administrator's Evaluation

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:

- New River Valley Livability Initiative

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

Return to Regular Session

On a motion by Mr. Conner, seconded by Mr. Akers and carried, the Board returned to regular session.

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

Certification of Conformance with Virginia Freedom of Information Act

On a motion by Mr. Bopp, seconded by Mr. Pratt and carried, the Board of Supervisors adopted 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.

2. Invocation

The invocation was provided by Reverend Randy Winn of the First Christian Church.

3. Presentations and Recognitions - Featured Employees

The Board recognized Scott Smith of the Regional Emergency Medical Services, Inc. as the featured employees for the month of September. A job summary for Mr. Smith was read aloud by Supervisor Sheffey. Board members presented Mr. Smith with a gift certificate to Fatz Café.

4. Additions to Agenda

Mr. Huber reported no additional additions to the agenda.

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5. Public Hearings

- a. Petition by Wallace L. Huff for Special Use Permit (SUP) to allow exceptions to limitations on piers, private dock facilities, and or moorings located at 4704 Lakeland Rd., (Private Road), southwest off of State Park Rd., (Rt. 660), zoned Residential (R1), tax map no. 067-009-0000-000A, Ingles District.

Mr. Utt described the following staff analysis which was reported in the Board packet: The owner is requesting a Special Use Permit (SUP) in order to retain an existing 346 sq. ft. pier/walkway, existing 80 sq. ft. personal water craft slip, the extended 312 sq. ft. to the newly constructed dock and two (2) 100 sq. ft. (total) sea doo docks to remain as shown on site photos. On July 8, 2008 Dublin Developers submitted an application to construct an 18' 6" X 36' (648 sq. ft.) boat lift w/sundeck above with a permit being issued on July 22, 2008. Board members were provided a survey and sketch submitted with the application showing the existing pier/walkway to be removed. Also noted on Page 1 of the American Electric Power Application that the "existing docks to be torn out". There was no indication on the sketch or American Electric Power Application that there was an existing personal water craft slip.

Mr. Utt advised the Planning Commission recommended approval of the Special Use Permit (SUP) with the following conditions: 1) allow the dock to exceed the 1,000 sq. ft.; 2) to remove the existing personal watercraft slip to the east; 3) the owner to remove 30' of the outside pier/walkway to suite his needs; 5) allow two (2) docks on one lot; 4) sign and record an Agreement with neighbor for encroachment of the sea doo docks or remove them completely.

Mr. Sheffey opened the public hearing.

Mr. Wallace Huff explained his request and advised he was not initially aware that the existing structure had to be removed. He stated that the contractor encouraged the extra pilings to tie the structures together. Mr. Huff advised he has a handicapped grandchild who uses the initial structure with steps to gain access to the water and feels the swim area is critical for her safety. Mr. Huff believes to his knowledge, this does not create any issues with navigation of the lake.

Mr. Akers expressed concern that the issue related to docks being built without proper permits, is an ongoing issue that needs to be addressed by the county. Specially, Mr. Akers indicated his desire to see that the contractor is held responsible in circumstances where proper permits are not received by the contractor. Mr. Utt advised there had

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been approximately nine similar special use permit requests using the same contractor as used by Mr. Huff.

Mr. Utt offered to have staff work with Mr. Huff to determine an area of the dock that can be removed, as well as seek a recommendation from AEP.

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

On a motion by Mr. Akers, seconded by Mr. Conner and carried, Board tabled action on this request to allow staff to work with AEP and the property owner for a recommendation to the Board as it relates to the area of dock to be removed.

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

Voting no: none.

b. Amendment to Section G of the Pulaski County Uniform Business and Professional Occupations License Tax Ordinance.

Mr. Huber advised a public hearing had been advertised to consider a proposed amendment to the Business and Professional Occupations License Tax Ordinance. He advised the proposed amendment allowed for changes in the collection efforts as it relates to penalties.

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 approved an amendment to Section G of the Pulaski County Uniform Business and Professional Occupations License Tax Ordinance, with the amendment included in the following ordinance in its entirety:

Pulaski County Uniform BPOL Ordinance

BE IT ORDAINED THAT:

I. 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

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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.

II. 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:

1. 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
2. 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:

1. 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
2. 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.

a. When one or more of the includible corporations, including

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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.

3. "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 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.
4. "Commissioner of Revenue" or "**assessing official**" means the Commissioner of Revenue of Pulaski County, Virginia.
5. "Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of §58.1-3715.
6. "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.
7. "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.
8. "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

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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.

9. "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.
 10. "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.
 11. "Commodity" shall mean staples such as wool, cotton, etc. which is traded on a commodity exchange and on which there is trading in futures.
 12. "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 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.
 13. "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.
- C. 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

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Security and commodity brokers and services
Stockbroker
Working capital financing

D. [Guidelines]

1. "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.
2. "License year" means the calendar year for which a license is issued for the privilege of engaging in business.
3. "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.
4. "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, 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

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Veterinarians

5. "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.
6. "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
7. "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.
8. "Services" shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.
9. "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.

III. License Requirement.

- A. Every person engaging in this jurisdiction in any business, trade, profession, occupation or calling (collectively hereinafter "a business") as

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defined in this ordinance, unless otherwise exempted by law, shall apply for a license for each such business if:

1. 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
 2. in the case of any other business, such person has a definite place of business or maintains an office in this jurisdiction; or
 3. 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:
 - a. 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;
 - b. 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.

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- 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, 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

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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.

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.

IV. 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

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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 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

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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.

1. 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 taxpayer'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 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

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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 therefore, (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.

2. Recordkeeping and audits.

- a. 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

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sent to the Commissioner of Revenue's office upon demand.

V. 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.

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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.

VI. Rates of license taxes.

- A. 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;
 5. 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;
 6. For wholesalers, 5 cents per \$100 of purchases;
 7. 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

VII. Penalties and Remedies.

- A. Interest. Interest shall accrue on the unpaid balance of any license tax which is not paid in full on the due date, shall commence on the calendar day immediately following the due date, and shall be at the rate (currently 10%) prescribed in Virginia Code §58.1-3703.1, as currently in force and as may be subsequently amended.

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- B. Penalty. A penalty of 10% of the amount of the license tax then due shall be assessed to every person (as defined in Virginia Code §§1-230 & -231) who fails to pay the license tax due under this ordinance within 30 consecutive calendar days following the due date. This penalty shall be abated by the Commissioner of the Revenue should the person establish "lack of fault" in failing to timely pay the license tax, as provided in Virginia Code §58.1-3703.1, as currently in force and as may be subsequently amended.
- C. Civil Enforcement. The Treasurer of Pulaski County shall enforce compliance with this ordinance through any and all civil actions and processes authorized in Articles 2 & 3 of Chapter 39 of Title 58.1 of the Code of Virginia, as currently in force and as may be subsequently amended, for the collection of other local taxes.
- D. Criminal Liability. In addition to the civil liabilities imposed under subsections a-c hereof, any person (as defined in Virginia Code §§1-230 & -231) that is required by this ordinance to obtain a license and pay a tax therefore and that willfully fails to do so shall be guilty of, and shall be subject to the penalties for, a Class II misdemeanor as provided in Virginia Code §18.2-11(b), as currently in force and as may be subsequently amended. The Commissioner of the Revenue of Pulaski County shall be responsible for initiating any action under this subsection in the name of the County of Pulaski.

Adopted in its entirety at November 24, 2008 Board of Supervisors meeting and Amended on August 22, 2011 to amend Section G - Penalties

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

Voting no: none.

6. Citizen Comments

a. New River Health District Presentation

Mr. Huber advised a presentation had been scheduled by Dr. Molly O'Dell of the New River Health District; however, the presentation would need to be postponed to the September Board meeting.

b. Presentation

Ms. Catherine Turner spoke in opposition to the Livability Initiative

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and provided a history of Board of Supervisors action on this matter. Ms. Turner expressed concern over the lack of formal action by the Board authorizing signature of the County Administration of the agreement. Ms. Turner provided history of events related to a special use permit request by Ms. Turner which had been denied by the Board of Supervisors in 2006. Ms. Turner referenced Debbie Lineweaver's opposition to the special use permit request in 2006, as well as Ms. Lineweaver's involvement with the Draper HUB and serving as marketing for conservation easements.

Ms. Turner advised she had launched a web site (www.petitiontoremove.com) for removal of the Board of Supervisors.

Ms. Jean Evans expressed concern over the method used in planning for the recent Livability Initiative Kick-off Summit and suggested the summit was manipulated to achieve a predetermined outcome. She noted the majority of the attendees were government employees and not economic producers. Ms. Evans requested the Board take action to withdraw from the livability initiative.

Ms. Jeanette Stevens expressed appreciation for the recent Livability Initiative Kick Off Summit. Ms. Stevens stated it was her desire for the community to have a good source of jobs that are diverse, as well as clean mountains and rivers. Ms. Steven indicated the need for everyone to work together and make Pulaski County a better place to live. She suggested a vote for the livability initiative was a vote for a social agenda. Ms. Stevens requested information regarding the initiative be placed in the county's newsletter.

Mr. Robert Piscura advised Pulaski County has many things to be proud of including the development of the Pepper's Ferry Regional Waste Water Treatment Authority, Randolph Park, Claytor Lake State Park, the Corporate Center, New River Trail and many others. He indicated planning is key to the development of the community and for the provision of a good source of food, jobs that are diverse, as well as clean mountains and rivers. Mr. Piscura noted he attended the Livability Initiative Kick-off Summit and found it to be all inclusive with a goal of making Pulaski County a better place to live.

Mr. David Pholig noted that while planning is essential to promoting a better community, the planning process did not include local people, but allowed for a pre-set agenda and a pre-set method of solving problems. He recommended the Board appoint a commission consisting of local citizenry.

Ms. Mickey Weikle suggested the initiative is a socialist agenda and is associated with the Agenda 21 initiative. Ms. Weikle questioned who

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authorized the signing of the agreement by the county administrator. She encouraged Board members to listen to the Pulaski County citizenry when making decisions regarding the livability initiative.

Ms. Debbie Mohay advised she was attending Board meetings throughout the New River Valley to discuss the livability initiative. She expressed concern that Board members appeared to be lacking information and knowledge about the initiative. Ms. Mohay referenced documents previously submitted to the Board regarding the initiative and urged Board members to read all of the information presented. She requested the Board pledge to pass on the appointment of an individual to the steering committee, as well as for the Board to come to a decision at the September Board meeting regarding withdrawal from the livability initiative.

Mr. John Reedy advised he had attended the livability initiative kick-off summit and was displeased with the conduct of individuals conducting the meeting. Mr. Reedy questioned the status of the appointment by the Board of an individual to serve on the steering committee and offered to consider serving if the Board should desire.

Ms. Genie Zunic indicated she had thoroughly researched the livability initiative and had also attended the livability initiative kick-off summit. Ms. Zunic expressed concern that the Board had not taken official action to authorize entering into the partnership agreement signed by the county administrator. She requested the Board formally vote on participation in the initiative.

Ms. Anne Carpenter referenced an e-mail sent to the county administrator and Board members in which contained quotes by Thomas Jefferson and John Adams related to protecting liberty.

Ms. Linda Wagner indicated she had reviewed the expenditure and revenue summary for the New River Valley Planning District Commission and noted over \$40,000 had been spent by the citizenry. Ms. Wagner encouraged citizens to send a Freedom of Information Request to the county to learn how much of the county's revenue has gone towards developing a plan for the community.

Mr. Sheffey thanked everyone for attending the meeting and for the comments presented.

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 Key Activity Timetable (KAT)

Mr. Clarke advised VDOT had installed some signage as requested, including "no outlet" signage and speed limit signage on Alum Spring Road. Mr. Clarke also advised VDOT was reviewing the Crossbow Drive speed study and would provide the results once completed.

Mr. Sheffey recalled a request from Ed Hoggatt of Parrott regarding needed ditch work and requested a timeframe for the work. Mr. Clarke advised a special permit is needed, which is only good for a certain amount of time. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Sheffey advised VDOT had not completed the ditch work of a concreted area in New River. Mr. Clarke advised a special permit is needed. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Sheffey inquired regarding the speed study on the other side of Church Street and also on Manns Drive. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

b. Citizen Comments

There were no citizen comments.

c. Board of Supervisors Comments

Mr. Pratt advised of a large pothole on Barrett Ridge Road, noting an orange cone had been placed in the pothole, thereby creating safety concerns. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Pratt inquired as to an issue related to drainage at the bridge in Draper. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Bopp advised of a culvert at Hylton Village Loop on Robinson Tract. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

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Mr. Conner inquired as to signage along Route 11 at curve near the Byrd property. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Conner expressed appreciation for the mowing on Hatcher Road, as well as expressed concern over the area not mowed. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Conner advised of a build-up of water at the grate coming off Cougar Trail Road onto Rt. 611 to Pulaski. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Akers inquired if VDOT would be providing any brush cutting, noting brush cutting is needed in the Snowville and Hiwassee areas. Mr. Akers also expressed concern over large potholes and the potential to cause damage to vehicles. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Akers advised of signage needing replaced/repared on interstate 81 between Exit 101 and 98 at the 99 mile marker. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Sheffey advised Deputy Brad Nester had advised of large size potholes at the intersection of Highland Road and Rt. 600 towards Belsprings. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Sheffey expressed appreciation for the repairs to the bridge on Old Rt. 11 and inquired as to any plans to replace guardrail on Old Rt. 11 from Dublin towards Fairlawn. Mr. Sheffey noted the guardrail had not been replaced following the serious accident at this location in 2010. Mr. Clarke offered to have VDOT staff to review the matter and provide an update at a future meeting.

Mr. Sheffey inquired if the Rt. 114 bridge repairs were on schedule. Mr. Clarke advised the repairs were on schedule.

8. Treasurer's Report

Treasurer Melinda Worrell provided the Board with a monthly update. Ms. Worrell advised personal property tickets had been mailed.

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9. Reports from the County Administrator & Staff:

On a motion by Mr. Pratt, seconded by Mr. Akers and carried, the Board approved the following action related to the various appointments.

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

a. Appointments – The board discussed various invitations in closed session but did not finalize or confirm any appointments. However, the Board authorized staff to proceed with extending invitations as discussed in Closed Session.

b. Key Activity Timetable

Mr. Sheffey inquired regarding the status of “construction management” on Highland Park sewer. Mr. Huber suggested changing the Target Date to September 2011.

Mr. Sheffey inquired regarding the date of the “workman’s comp audit” under “Finance”. Mr. Huber advised the work was completed.

c. School Board Carryover

Mr. Huber explained the carryover request by the School Board for \$125,000 in unexpended funds for “Camelot” replacement.

Dr. Robert Becker and Dr. Toni Elithorpe advised school staff were meeting to determine long range plans and options.

Board members inquired regarding the intended use of the funds, the options for servicing students displaced due to the closing of Camelot School, the long range plans for the former Camelot School students, and the student/teacher ratio.

On a motion by Mr. Conner, seconded by Mr. Akers, the Board approved the carryover request of \$125,000 of unused FY 2010-11 funds by the School Board for the purpose of continuing to provide the educational services previously provided by Camelot School.

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

Voting no: none.

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d. PCHS HVAC Conversion

Mr. Huber explained that currently the Pulaski County High School heating system utilizes electric resistance heat as its main source of heat. As a resulting of peaking charges by Appalachian Power Company, the School Board pays an extra \$115,000 to \$240,000 in demand charges. Mr. Huber recommended that the County and School Board staffs work together to reduce this usage either as a County funded project or through a long-term contract with Honeywell, or through the utilization of County reserve funding.

On a motion by Mr. Conner, seconded by Mr. Bopp and carried, the Board authorized county and School Board staffs working together to reduce usage either as a county funded project or through a long-term contract with Honeywell.

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

Voting no: none.

10. Items of Consent

On a motion by Mr. Pratt, 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 July 22, 2011

The Board approved the July 22, 2011 minutes as presented.

b. Accounts Payable

The Board approved accounts payable for checks numbered 2021739 through 2022264, subject to audit.

c. Interoffice Transfers & Appropriations

The Board approved interoffice transfer number two totaling \$43,470.28 and appropriations as follows:

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GENERAL FUND #2		
Account Number	Account Title	Amount Increase (Decrease)
REVENUES:		
100-041999-0000	Transfer from Reserves	\$ 316,352.00
100-041020-0001	Sale of Vehicles	10,150.00
	TOTAL	326,502.00
EXPENDITURES:		
100-093000-9204	Transfer to Internal Service Fund - Joint Services/Auction	\$ 149,299.00
100-093000-9201	Transfer to Schools	125,000.00
100-093000-9206	Transfer to Capital Improvements Fund Maple Shade Renovations	52,203.00
100-093000-9206	Transfer to Capital Improvements Fund Tower Maintenance	10,000.00
100-091400-9301	Contingency Funds	(10,000.00)
100-073150-6012	Library State Aid Books and Subscriptions	(49,122.00)
100-073150-1110	Library State Aid Salaries & Wages	8,500.00
100-073150-3170	Library State Aid Professional Services	8,765.00
100-073150-3320	Library State Aid Maintenance Service Contracts	11,900.00
100-073150-5540	Library State Aid Travel Convention & Education	1,000.00
100-073150-6021	Library State Aid Computer Software	2,500.00
100-073150-6022	Library State Aid Circulation Supplies	6,000.00
100-073150-8101	Library State Aid Machinery & Equipment	9,000.00
100-073150-8102	Library State Aid Furniture & Fixtures	1,457.00
	TOTAL	\$ 326,502.00
GENERAL FUND #3		
Account Number	Account Title	Amount Increase (Decrease)
REVENUES:		
100-032010-0300	CDBG Tornado Planning Grant	\$ 25,000.00
	TOTAL	\$ 25,000.00
EXPENDITURES:		
100-092501-3170	Tornado Grant Professional Services	\$ 25,000.00
	TOTAL	\$ 25,000.00

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INTERNAL SERVICE FUND #1		
Account Number	Account Title	Amount Increase (Decrease)
REVENUES:		
600-041050-1000	Transfer from General Fund	\$ 149,299.00
	TOTAL	\$ 149,299.00
EXPENDITURES:		
600-012560-3800	Central Garage Purchase of Services Other Governments	\$ 27,196.00
600-012510-3800	Information Technology Purchase of Services Other Governments	101,126.00
600-012570-3800	Communications Purchase of Services Other Governments	7,667.00
600-012560-8101	Central Garage Machinery & Equipment	13,310.00
	TOTAL	\$ 149,299.00
CAPITAL IMPROVEMENTS FUND #1		
Account Number	Account Title	Amount Increase (Decrease)
REVENUES:		
302-041050-1000	Transfer from General Fund	\$ 62,203.00
	TOTAL	\$ 62,203.00
EXPENDITURES:		
302-012570-8251	Tower Maintenance	\$ 10,000.00
302-093000-9209	Transfer to IDA Maple Shade Renovations	52,203.00
	TOTAL	\$ 62,203.00
IDA FUND #1		
Account Number	Account Title	Amount Increase (Decrease)
REVENUES:		
521-041050-1000	Transfer from Capital Improvements Fund	\$ 52,203.00
	TOTAL	\$ 52,203.00
EXPENDITURES:		
521-081721-8255-001	Maple Shade Renovations Phase 2	\$ 52,203.00
	TOTAL	\$ 52,203.00

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

1. Wilderness Road Museum Proposal

The Board approved the contract addendum related to the TEA-21 project in Newbern for the Wilderness Road Museum, which will allow Anderson and Associates to continue to complete work that is being requested by the Department of Historic Resources and VDOT.

2. Memorandum of Agreement – Big Brothers/Big Sisters School Based Program

The Board approved the Memorandum of Agreement as prepared by Big Brothers/Big Sisters of Southwest Virginia, with the understanding that the agreement is also being forwarded to the School Board for review and approval.

e. Personnel Changes

The Board reviewed recent personnel changes as provided by Norma Spence.

f. Eternal Flame Update

Mr. Hiss advised that after meeting with the Eternal Flame committee it was recommended to proceed with the manufactured stone veneer as presented at the July Board meeting. Mr. Hiss advised the recommended manufactured stone comes from Centurion, has a 50-year warranty, and is less porous than most all natural stone. The committee members asked that the brownish colored rock included in the presented sample be excluded and to keep all rock gray. Mr. Hiss further advised after following-up with several leads, staff was unsuccessful in finding suitable matches of natural rock to the Courthouse stone.

The Board approved proceeding with manufactured stone veneer, with expected unveiling ceremony to be scheduled for the 2011 Veteran's Day.

g. Scheduling of Gathering by Board of Supervisors

The Board scheduled Monday, September 19, 2011 at 6:00 p.m. as a social gathering for the Board and any participating press at Tom McCarthy's lake residence.

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h. COLA Pay Increase

The Board approved an additional one-half percent pay increase for county employees, which had also been approved by the PSA Board for PSA employees.

i. Opposition to Closing of Parrott and Belspring Post Offices

Mr. Sheffey advised that the Parrott and Belspring post offices were slated for closing and suggested the Board go on record as opposing the closings, as was done for the New River Post Office closing.

The Board approved sending a letter in opposition to the closing of the Parrott and Belspring post offices and including in that letter opposition to closing of the Newbern and Hiwassee post offices.

j. Resolution in Support of Restoration of State Funding for Aid to Localities

The Board adopted the following resolution asking Governor McDonnell to restore the \$60 million in each year of next year's Budget Bill:

**RESOLUTION IN SUPPORT OF RESTORATION OF STATE FUNDING
FOR AID TO LOCALITIES**

WHEREAS, state financial assistance for mandated and high priority programs, including public education, health and human services, public safety and constitutional officers, is \$800 million less in FY 12 than in FY 09; and

WHEREAS, cities and counties must balance their budgets during a time in which future state assistance is unreliable, federal stimulus dollars are dwindling, and real estate assessments are declining; and

WHEREAS, the Appropriation Act contains \$60 million in across-the-board cuts to cities and counties for both FY 11 and FY 12, under which localities are required to either elect to take reductions in particular state aid programs, or to send the State a check for the amounts determined by the Department of Planning and Budget ("Local Aid to the State"); and

WHEREAS, the reductions are applied to essential services, including law enforcement, jail administration, foster care and child protection services, election administration and social services; and

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WHEREAS, the County of Pulaski does not have the authority to unilaterally decide to discontinue providing services such as election administration or to refuse to house and care for State prisoners in local and regional jails; and

WHEREAS, the state budget cuts are not accompanied by any reductions in state-imposed mandates, standards and service requirements, nor do they provide any administrative flexibility for local agencies; and

WHEREAS, the County of Pulaski remitted \$330,752 in FY 11 and will be required to remit another \$346,939 in FY 12; and

WHEREAS, cities and counties will have provided the State with \$220 million by the close of FY 12 for this "Local Aid to the State" program; and

WHEREAS, these reductions shift State costs to local taxpayers and artificially increases the amount of state surplus revenue; and

WHEREAS, State revenues have begun to recover and the State is expecting to have a revenue surplus for the second year in a row; and

WHEREAS, revenue collections for the County of Pulaski continue to reflect the struggling housing market; and

WHEREAS, the State should not shift its share of the costs for mandates and responsibilities to local governments; now, therefore, be it resolved, that the Board of Supervisors of Pulaski County asks Governor Bob McDonnell to submit a budget amendment to the 2012 session of the General Assembly to reverse the \$60 million-a-year reduction for the current year, FY 12, and to eliminate the aid to localities reduction in the budget submitted for FY 13 and FY 14; and further, be it resolved, that the members of the General Assembly support a budget amendment to the 2012 session of the General Assembly to reverse the \$60 million-a-year reduction for the current year, FY 12, and to eliminate the aid to localities reduction in the budget submitted for FY 13 and FY 14.

k. Comp Time Payout

The Board approved a comp time payout allowing for a one-time financial payout rather than accumulation of compensatory time for employees who worked extra hours on the tornado recovery efforts.

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I. National Moment of Remembrance

The Board approved declaring "A National Moment of Remembrance at 1:00 p.m. Eastern Daylight Time on September 11, 2011" with fire departments and rescue squads to be notified of the planned recognition.

m. The 3rd Annual Virginia Bicyclist and Pedestrian Awareness Week

Mr. Huber provided a website page describing educational efforts by Bike/Walk Virginia (sponsors of the Bike Virginia rides) encouraging respectful conduct by cyclists, walkers and motorists as a support for the Share the Road signage. Participation as a partner is recommended based on the existence of several Share the Road signs in Pulaski County, growing interest in cycling and as a follow-up to the Bike Virginia event this spring. Recommended participatory activities would include signing up on the web site, and the placement of flyers and posters in grocery and convenience stores.

The Board approved participation as a partner in the Bike/Walk Virginia events.

n. Realignment Resolution

As reported in the Board packet, the New River Regional Jail passed a resolution requesting consideration to effects on local governments and regional jail operations in any realignment of judicial circuits, with reconsideration of the matter by the General Assembly likely to occur in the 2012 General Assembly.

The Board adopted the following similar resolution:

Realignment Resolution

WHEREAS, during the 2011 Session, the General Assembly considered Senate Bill 1240 ("SB1240") and House Bill 1990 (HB1990, and together the "Bills"), providing for realignment of the judicial circuits and districts of the Commonwealth;

WHEREAS, these bills did not pass, but the Supreme Court of Virginia was asked by the Senate Courts of Justice Committee to review and recommend changes to the existing boundaries for Virginia's judicial circuits and districts;

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WHEREAS, Chief Justice Cynthia V. Kinser, appointed a twenty-two member Committee to undertake the Judicial Boundary Realignment Study ("JBRS");

WHEREAS, the Committee is currently considering three separate proposals, including: (1) HB1990-SB1240 Proposal (the "Janice/Edwards Proposal"); (2) JBRS Committee Proposal ("JBRS Proposal"); and, (3) JBRS Committee Regional Proposal ("Regional Proposal");

WHEREAS, Pulaski County is a member of the New River Valley Regional Jail Authority (the "Authority") which also consists of: Bland County, Carroll County, Floyd County, Giles County, Grayson County, Pulaski County, City of Radford, and Wythe County ("Member Jurisdictions");

WHEREAS, the Janice/Edwards Proposal and the JBRS Proposal would both change current judicial districts such that the current members of the Authority would be split into different judicial districts;

WHEREAS, the Pulaski County Board of Supervisors is concerned that adoption of the Janice/Edwards Proposal, or JBRS Proposal, may have negative impact on the Authority, or the Authority's member jurisdictions, and a resulting negative fiscal impact on Pulaski County as an Authority Member; and

WHEREAS, the Regional Proposal retains current juridical boundaries and districts, but creates eleven or more judicial regions for purposes of managing the allocation of judges to meet changing needs of specific localities;

Now, therefore, be it resolved that the Pulaski County Board of Supervisors joins the New River Valley Regional Jail Authority and other member localities in opposing the adoption of the Janice/Edwards Proposal, or the JBRS Proposal; and

Be if further resolved that the Pulaski County Board of Supervisors requests that any realignment take into consideration local costs associated with such realignment, including incarceration, medical care and transportation costs.

Adopted this 22nd day of August, 2011.

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11. Citizen Comments

Mr. Rodell Cruise explained circumstances surrounding an issue related to a rodeo rink built on property adjoining Mr. Cruise's property. Mr. Cruise requested enforcement of the Zoning Ordinance as it relates to a rodeo rink. Mr. Cruise requested a response from the county within ten days.

Mr. James McClannahan expressed concern over the status of the New River Valley Livability Initiative and expressed concern that the Board of Supervisors had not taken a formal vote on the initiative.

Mr. Huber provided a chronology report on the Livability Initiative and advised the only official action by the Board regarding the initiative would come if the Board wanted to reconsider participation by Pulaski County in the initiative.

Ms. Jean Evans expressed concern over the planning and implementation of the Livability Initiative.

Mr. Huber explained the purpose of contracting with the New River Valley Planning District Commission was due to the limited size of the county staff.

Mr. Doug Bunn explained the purpose and intent for the rodeo arena developed on his property, citing the arena as being family oriented, an economic boost for county, providing employment and revenue for businesses, scholarship opportunities, and as an attraction to roping enthusiasts throughout the United States. Mr. Bunn requested the county not waive fees associated with the application to the Board of Zoning Appeals for either himself or Dr. Cruise.

Mr. Paul Paulant restated his understanding of the history of the membership agreement for the Livability Initiative.

Mr. Brenda Blackburn expressed appreciation to Mr. Bunn for the rodeo arena, indicating the operation of the arena posed no problems.

Ms. Mickey Weikel spoke regarding the Livability Initiative, specifically expressing concern over the need for a committee to study the initiative, if the county does not have the option to "opt out" of the initiative.

Ms. Janet Jones spoke representing the Kimberly Jones Foundation and expressed appreciation to Mr. Bunn for the operation of the rodeo arena, specifically indicating \$13,000 had been raised through fundraising efforts at the rodeo arena for the Foundation.

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Mr. Dwight Hanes expressed appreciation to Mr. Bunn for the operation of the rodeo arena. Mr. Hanes expressed concern over the Initiative and that the county may not be represented.

12. Other Matters from Supervisors

Mr. Sheffey recalled the challenge issued in 2010 by Radford City Mayor Bruce Brown as it related to the Radford/Pulaski "Battle of the Bridges" where the Mayor/Chairman of the losing team would wear the jersey of the opposing team at the Council/Board meeting. Mr. Sheffey advised Mayor Brown had offered the same challenge for the 2011 Radford/Pulaski ballgame. Mr. Sheffey formally accepted the challenge and encouraged citizens support the football team, as well as the coaches and staff during the 2011 football season.

Mr. Huber reminded the Board and press in attendance of the elected official's picnic to be held on Sunday, August 28th at 6:00 p.m. at Randolph Park and noted the potential for three or more Board members to be in attendance. He also reminded Board members and press of the scheduled Board gathering to be held at Mr. McCarthy' house on Monday, September 19th at 6:00 p.m.

Mr. Huber reminded Board members and press of the September 13th joint meeting with the School Board to be held at 6:00 p.m. at Pulaski Elementary School.

13. Adjournment

On a motion by Mr. Conner, seconded by Mr. Bopp and carried, the Board of Supervisors adjourned its regular meeting. The next meeting of the Board of Supervisors is a joint meeting with the Pulaski County School Board scheduled for Tuesday, September 13, 2011 at 6:00 p.m. at Pulaski Elementary School. The next regular meeting of the Board of Supervisors is scheduled for Monday, September 26, 2011 beginning with a Closed Session at 6:00 p.m. and regular session at 7:00 p.m. with said meeting being held in the Board Room of the County Administration Building 143 Third Street, NW, in the Town of Pulaski, Virginia.

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

Voting no: None.

Joseph L. Sheffey, Chairman

Peter M. Huber, County Administrator