

## BOARD OF SUPERVISORS MEETING MINUTES OF SEPTEMBER 28, 2015

At a regular meeting of the Pulaski County Board of Supervisors held on Monday, September 28, 2015 beginning with a Closed Session at 5:00 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; Andy McCready; Ranny O'Dell; and Dean Pratt. Staff members present included: Peter Huber, County Administrator; and Karen Thompson, Assistant County Administrator. Joining the regular session at 7:00 p.m. were Gena Hanks, Clerk to the Board; Diane Newby, Finance Director; and Anthony Akers, Assistant County Administrator

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. Bopp, seconded by Mr. Pratt 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:

- County Administrator's Evaluation
- Appointments

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:

- Old Newbern School
- Old Riverlawn Elementary Trail
- Dublin Town Center Right-of-way and Parcel

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

- None

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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:

- Friends of Peak Creek

Voting yes: Mr. McCready, Mr. O'Dell, Mr. Sheffey, Mr. Bopp, Mr. Pratt.

Voting no: None.

Return to Regular Session

On a motion by Mr. O'Dell, seconded by Mr. Bopp and carried, the Board returned to regular session.

Voting yes: Mr. McCready, Mr. O'Dell, 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. McCready 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. McCready, Mr. O'Dell, Mr. Sheffey, Mr. Bopp,  
Mr. Pratt.

Voting no: None.

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Mr. Sheffey described the purpose of the Closed Session and action needed to return to open session. Mr. Sheffey also apologized for the late start of the regular meeting which was due to technical difficulties with equipment.

2. Welcome, Pledge and Invocation

A. Welcome

Mr. Sheffey welcomed those in attendance to the Board meeting.

B. Pledge of Allegiance

Supervisor O'Dell led the Pledge of Allegiance.

C. Invocation

Mr. Sheffey advised that citizens in the audience were under no obligation to stand during the invocation.

David Kester of Anderson Memorial Presbyterian Church provided the Invocation.

3. Presentations and Recognitions

A. Presentation of Veterans Certificate

Supervisor Bopp presented a Veteran's Certificate on behalf of the Daughters of the American Revolution to Army Sergeant Thomas Rhea Phipps.

Mr. Sheffey noted that Sergeant Phipps' dates of service were 1969 through 1972 with Vietnam service from 1969 through 1970 serving in the 1st Infantry Division. Further, Mr. Phipps was awarded the Bronze Star, Army Commendation and Medal of Good Conduct.

B. Resolution of Appreciation for Responders Train Wreck

Mr. Sheffey advised an invitation had been extended to each of the organizations/groups who responded to the train wreck requesting a representative attend the Board meeting to allow for the Board to formally present the resolution.

Supervisors Pratt and McCready presented on behalf of the Board a framed resolution to representatives from the Sheriff's Office, Fairlawn Fire Department and REMSI.

C. Featured Department – Regional Emergency Medical Services, Inc.(REMSI)

Mr. Sheffey advised the Featured Department was REMSI. Mr. Joe Trigg, Executive Director of REMSI, described a PowerPoint, which provided specifics related to emergency transport, call volume, community education and outreach, community programs, educational programs, etc.

Mr. Sheffey thanked Mr. Trigg for the services provided by REMSI and commended all REMSI staff and volunteers.

Anthony Akers spoke to the services provided by REMSI to local recreation league games and the quick responses when called upon. Mr. McCready referenced a recent incident in the county in which REMSI and Sheriff staff responded and offered any support needed by the staff involved.

D. Recognition of Brad Wright

Mr. Huber summarized the involvement by Brad Wright, one of the County's Deputy EMS Coordinators, in a "Rough Fire" event in California.

Mr. McCready described the event, as well as Mr. Wright's participation in a "Guardian Center Exercise" between September 28 and October 2 to be held in support of the New York City Fire Department's Incident Management Team and their Special Operations Team during a large scale event that will exercise these teams for a prolonged period of time.

On a motion by Mr. McCready, seconded by Mr. Pratt and carried, the Board approved staff drafting a resolution recognizing Mr. Wright for his efforts, with a special presentation to be made at the October 26, 2015 Board meeting.

Voting yes: Mr. McCready, Mr. O'Dell, Mr. Sheffey, Mr. Bopp,  
Mr. Pratt.

Voting no: None.

4. Additions or Changes to the Agenda

Mr. Huber advised of the following additional agenda items under Items of Consent, noting these items were discussed in Closed Session, with action needed in open session:

- 10Q - Dublin Town Center Right-of-Way and Parcel
- 10R - Old Riverlawn Elementary Trail

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Mr. Huber also advised of the removal of the following two items:

- 9G – Dublin Elementary School – Mr. Huber explained the School Board was able to reduce cost for equipping and furnishing the renovated DES and there was additional funds left from the roof repair and contingency; therefore, funds were no longer being requested.
- 10N – Friends of Peak Creek Inmate Labor Agreement – Mr. Huber advised the inmates were only needed for one day; therefore, an agreement for this limited use of inmates was not needed.

5. Public Hearings:

Mr. Sheffey advised there were no public hearings scheduled for this meeting.

6. Presentations and Citizen Comments

Mr. Sheffey explained the purpose of this first "Citizen Comments" section was to allow citizens to speak to any item on the current agenda only, as well as to allow those agencies funded by the Board of Supervisors an opportunity to speak.

Mr. Dean Jackson, Conrad Brothers Marina, spoke regarding item 10I, Leasing Barges, summarizing a request to the County for the leasing of the lake cleanup barges such that they could work on dredging the portion of the lake adjacent to the Conrad Brothers Marina. Mr. Jackson advised the dredging would be an ongoing process.

7. Highway Matters:

A. Follow-up from previous Board meetings:

- Review of Highway Matters Section of Key Activity Timetable

Mr. Clarke provided an update on the following: speed limit postings in Stone Ridge will be completed soon; continue to review Hatcher Road/Mountain View area and the need for VDOT to confirm signage is correct, specifically at the top of the hill on Hatcher Road; placement of stone on Landrum Road, as well as plans for patching potholes; patching on Giles Avenue and Rt. 11; ditching on three miles of Farris Mines Road; mowing throughout the county; review of gravel roads; and cutting of trees out of Clarke's Ferry Road.

Mr. Sheffey advised of having spoken with Anthony Barnes of VDOT and his understanding that VDOT had contracted out the mowing of county roads. Mr. Clarke confirmed Mr. Sheffey's understanding.

Mr. Sheffey inquired as to status of previous request related to the need for a left turn signal upon exiting the Kroger's Store in Fairlawn. Mr. Clarke advised he would send the results of the study in writing.

Mr. Sheffey inquired as to the status of the request for a stop sign at the Advance Auto in Fairlawn. Mr. Huber advised staff would review the plat to determine status of road ownership.

Mr. McCready inquired as to the timeframe for the installation of signs and rumble strips at Exit 98. Mr. Clarke advised he would review the schedule and provide an update to county staff for forwarding to the Board.

B. Request for Watch for Children Signage – Lakewood Estates Subdivision

On a motion by Mr. Pratt, seconded by Mr. McCready and carried, the Board approved placement of Watch for Children signage in the Lakewood Estates Subdivision, subject to approval of owner of property where signage is to be erected as entering subdivision.

Voting yes: Mr. McCready, Mr. O'Dell, Mr. Sheffey, Mr. Bopp,  
Mr. Pratt.

Voting no: None.

C. Request for Maintenance on Robinson Tract Road Crossing Little Walker Mountain

Donna Phipps described issues along Robinson Tract Road crossing Little Walker Mountain: washout of drainage ditch and cutting out under roads; rusted culverts; trees overhanging onto road; tractor trailers traveling along road; and need for guardrail. Mr. McCready described some problems in areas of the county where area is designated wetland and therefore cannot drain. Ms. Phipps also expressed concern over multiple buses traveling up Little Creek. Mr. Sheffey suggested Ms. Phipps contact the School Board regarding the issue related to buses. Mr. Bopp echoed Ms. Phipps request for guardrail. Mr. Clarke offered to meet with Mr. Bopp along the road to determine the exact location for the guardrail request.

D. Brush Cutting Request

Mr. Huber shared a request from Bill Smith for brush cutting at the intersection of Greenbriar and Brown Roads, due to blocking of road when turning onto Brown Road.

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E. Newbern Fall Festival

Mr. Huber described the annual request for closing/changing of thru traffic in Newbern to allow for the annual Newbern Fall Festival, noting a letter had previously been sent to VDOT providing support of the Festival and the closing of Newbern Road and Hance Road, subject to the event planners obtaining all required permits from VDOT. Mr. McCready spoke to the success at this annual event hosted by the Newbern community, etc.

F. Request for Signage at Top of Locust Avenue Extension

Staff shared a request from Ruth Ann Whitener advising that signage that had previously been erected at the top of Locust Avenue Extension, where Dunlap Road intersects, had been removed and appears to have been done so to allow for a new "Stop" sign to be installed. Mr. Clarke advised of having visited the area in question, noting signage appeared to be in place.

G. Citizen Comments

There were no citizen comments.

H. Board of Supervisors Comments

Mr. O'Dell advised VDOT had installed a pipe at the driveway at the Pentecostal Holiness Church in Hiwassee and requested some asphalt be placed at the pipe location to keep gravel from being washed down the ditch line. Mr. Clarke advised VDOT staff could review the matter and provide an update.

Mr. O'Dell inquired if asphalt could be placed at the "park and ride" area at the intersection of Rt. 99 and F047. Mr. Clarke advised VDOT staff could review the matter and provide an update.

Mr. Bopp thanked VDOT for the recent mowing of areas in the county.

Mr. Bopp requested areas along Little Creek, Brookmont and Robinson Tract roads be targeted with the bush hog. Mr. Clarke advised VDOT staff could review the matter and provide an update.

Mr. Pratt requested the bush hog be used throughout the county where trees are overhanging.

Mr. Sheffey also requested VDOT target areas in the county where brush cutting is needed.

Mr. Sheffey advised that the pavement edges on Hazel Hollow Road are deteriorating. Mr. Clarke advised VDOT staff could review the matter and provide an update.

Mr. Sheffey requested VDOT review the needed improvements to the road leading to the Cloyd's Mountain Landfill before winter weather. Mr. Clarke advised VDOT staff could review the matter and provide an update.

Mr. Bopp inquired as to any additional signage that could be installed at Little Walker Mountain for warning truckers. Mr. Clarke suggested signage at the end of Rt. 99 warning of end of road. Mr. Clarke advised VDOT staff could review the matter and provide an update.

#### 8. Treasurer's Report

Melinda Worrell, Treasurer, provided the monthly reports including the trial balance, statement of investments, and a chart and table describing the one-percent sales tax receipts. Ms. Worrell also presented the Treasurer's annual report, as well as summarized the decline in the sales tax because of the settlement amount with the City of Radford. Mr. McCready thanked the Treasurer for the reports provided.

#### 9. Reports from the County Administrator & Staff:

##### A. Appointments

On a motion by Mr. Bopp, seconded by Mr. McCready and carried, the Board approved the following action related to appointments:

##### 1. Tourism Advisory Board

The Board formally appointed Shay Dunnigan; a representative from Sunshine Tours; Deb Gardner, the Draper Merc.; Blair Hoke, Shelor Motor Mile; Chris Doss, Claytor Lake State Park; Tracy Nester, Fatz Restaurant; Mark Bennett, Eagle Brands; Bob McKinney, the Pulaski Theatre; Peggy Hemmings, Town of Dublin; Dallas Cox; and Sherry McGuire, McGuire Campground. The Board requested staff invite Bill Cunningham to consider serving.

##### 2. Board of Zoning Appeals

Staff shared the resignation of Anita Lynn Reed from the Board of Zoning Appeals. Staff was requested to provide listing of qualifications/experience needed by appointee.

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3. REMSI Representative

The Board appointed Andy McCready effective January 1, 2016, filling a position being vacated by Dr. David Stanley, with Bill Webb appointed as alternate filling a position being vacated by Joe Sheffey.

Voting yes: Mr. McCready, Mr. O'Dell, Mr. Sheffey, Mr. Bopp,  
Mr. Pratt.

Voting no: None.

B. Four-Year Goals

Mr. Sheffey inquired as to the status of the scheduling of an open house for the Dublin Elementary School. Mr. Huber advised that Dr. Brewster had indicated potential dates being considered were December 8, 9, or 10. Staff was requested to advise the Board of the date selected.

Mr. O'Dell referenced 8.3.2- "Large Item Drop Center on the South Side of Claytor Lake" and suggested the area of the former Hiwassee School as a potential location for a drop site. Staff to review and provide an update to the Board.

Mr. Sheffey noted the demolition of the Hiwassee School had occurred since the last regular meeting of the Board and expressed appreciation for a job well done.

Mr. Sheffey referenced 10.3.1.1 "Focusing on maintenance of county offices, buildings, etc. and inquired as to the status of the CAB columns. Mr. Huber described issues related to the discovery of moisture in the columns that had not been covered and plans to drill into the recently covered columns to determine if moisture exists. Staff was requested to provide updates to the Board as they occur.

Mr. McCready referenced 10.3.2.3 - "Provide Shelter for parking for PSA Trucks" and inquired as to the status. Mr. Huber advised the project was not currently funded and suggested reviewing in the future, noting the current priority is the dredging of the intake at Claytor Lake.

Mr. Bopp referenced 10.3.3.3 "Relocate School Board offices to CAB" and inquired as to the status. Mr. Huber advised the engineering study had resulted in a fairly high price tag and the next step would be to the Board of Supervisors setting a dollar amount for review by the School Board. Mr. Huber also described safety issues that need to be addressed before moving forward. Mr. McCready suggested consideration to using inmates to performing the demolition work and opening up the entire space. Mr. Huber expressed concern over heating/air related issues if the space is left open for

a long period of time. Mr. McCreedy indicated architects would likely be able to provide a better estimate using open space – Staff was requested to review the matter and provide suggestions at a future meeting.

C. Noise Control Ordinance

Mr. Kirtner provided a summary of the recent discussions related to the Noise Control Ordinance noting no changes had been made since the draft presented to the Board at its June 2015 meeting.

Board members discussed the two public hearings held to receive citizen comments on the ordinance and the improvements to the overall ordinance. Mr. Kirtner advised the proposed ordinance would be less susceptible to a constitutional challenge than the previous ordinance and incorporates changes discussed by the Board related to violations, specific exceptions, temporary exemption permitting, etc.

Mr. Huber advised of having talked with Mike Burchett of Rock House Marina and Mr. Burchett's confirmation of the summer schedule for live band performances at the Marina, as well as Mr. Burchett's willingness to work in addressing any citizen complaints by neighboring property owners.

Mr. McCreedy advised that while the Noise Control Ordinance would likely require amendments as situations arise, the ordinance being proposed was a good model and a much needed improvement over the current ordinance.

On a motion by Mr. Pratt, seconded by Mr. O'Dell and carried, the Board of Supervisors approved the following amended Noise Control Ordinance, with a copy of the ordinance entered in its entirety into the minutes:

NOISE ORDINANCE

**Section A. Short Title.**

This ordinance shall be known as the "Noise Ordinance of the County of Pulaski, Virginia".

**Section B. Declaration of policy.**

It is hereby declared to be the public policy of the County of Pulaski to promote an environment for its citizens free from excessive noise that jeopardizes their health or welfare or degrades the quality of life within Pulaski County.

**Section C. Definitions.**

The following words and phrases, when used in this ordinance shall have the meaning assigned to them in this section.

*Ambient noise level* shall mean the sound level at a given location that exists as a result of the combined contribution in that location of all sound sources, excluding the contribution of a source or sources under investigation for violation of this ordinance.

*Emergency* shall mean any occurrence or set of circumstances involving actual or imminent physical injury or illness or property damage that requires immediate action.

*Emergency work* shall mean work made necessary to restore property, public or private, to a safe condition following a state of emergency or a local emergency as defined by the Commonwealth of Virginia Emergency Services and Disaster Law of 1973, Chapter 3.2 of title 44 of the Code of Virginia, 1950, as amended, or its successor, or work required to protect persons or property from immediate exposure to danger, including work performed by the Pulaski County Public Service Authority or by public service companies when emergency inspection, repair of facilities or restoration of services is required for the immediate health, safety or welfare of the community.

*Motor vehicle* shall mean a self-propelled vehicle including passenger cars, trucks, truck-trailers, semi-trailers, recreational vehicle's, campers, racing vehicles, and any motorcycles (including, but not limited to, motor scooters, mini-bikes, all-terrain vehicles and three-wheelers) as defined in Section 46.2-100 of the Code of Virginia, 1950, as amended, and motorized boats.

*Noise disturbance* shall mean any sound which is plainly audible at a distance of 50 feet or more from (i) the source of the sound, if located or travelling on public property, or (ii) the edge of any private property upon or within which the source of the sound is located, and which, by reason of its volume, pitch, duration and/or repetition, and considering the location, time of day, and nature of the sound, (a) causes or tends to cause an adverse psychological or physiological effect on humans or (b) endangers or injures real or personal property or the reasonable use or enjoyment thereof. This definition includes, but is not limited to, a barking dog where the barking meets the criteria set forth in this definition.

*Person* shall mean any individual, corporation, cooperative, partnership, firm, association, trust, estate, private institution, group, agency or any legal successor, representative, agent or agency thereof.

*Plainly audible* shall mean of a character that (i) can be detected by a person using his or her unaided hearing faculties, (ii) is sufficiently distinct to enable the source to be clearly identified, and (iii) exceeds the ambient noise level. When music is involved, the detection of rhythmic bass tones shall be sufficient to be considered plainly audible sound.

*Public property* shall mean any real property owned or controlled by the County of Pulaski or any other governmental entity.

**Section D. General prohibition.**

(a) It shall be a violation of this ordinance for any person, after having received verbal and/or written notice from any law enforcement officer of Pulaski County that such person is causing a noise disturbance or permitting a noise disturbance for which that person is responsible, to cause or permit such noise disturbance to continue unabated for a greater period than is reasonably required, following receipt of such notice, to cease causing the noise disturbance or to cause the noise disturbance to cease. To the extent that the noise disturbance shall continue unabated into one or more successive days, each additional day during which the noise disturbance continues shall be deemed a separate offense.

(b) In the event that a person shall have received two or more prior verbal or written notices concerning noise disturbances emanating from the same noise source or which were otherwise of a substantially similar character within a two-month period, then it shall be a violation of this ordinance for such person to cause or permit additional instances of noise disturbance of the same type or character as the previous disturbances, without the need for any additional verbal or written notice to be issued by law enforcement officers as to the subsequent noise disturbances.

(c) Any person who has been warned, cited or penalized for causing or permitting one or more instances of noise disturbance shall have the right to seek an Undue Hardship Waiver in accordance with Section H of this ordinance or a Temporary Exemption Permit issued in accordance with Section I of this ordinance as to any future instances of what has previously been deemed a noise disturbance.

**Section E. Specific acts prohibited.**

(a) It shall be a violation of this ordinance for any person to cause or permit the following, after notification by a law enforcement officer, and irrespective of whether any of the following produces sound of a sufficient volume or character to qualify as a noise disturbance as defined under Section C:

- (1) Engaging in, or operating or causing to be operated any equipment used in the excavation, construction, repair, alteration or demolition of buildings, streets, roads, alleys or appurtenances thereto between the hours of 10:00 p.m. and 7:00 a.m. the following day; except, emergency repairs to public utilities or any emergency public works function, which may be done at any time.
- (2) Repairing, rebuilding or modifying any motor vehicle or other mechanical equipment or device between the hours of 10:00 p.m. and 7:00 a.m. the following day in a manner so as to be plainly audible across property boundaries.

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- (3) Sounding the horn or warning device of a vehicle, except when necessary as a warning during the operation of the vehicle between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- (4) Operating or permitting the use or operation of any radio; musical instrument; television; computer; MP3 player; video player; record, compact disc, tape or cassette player; or any other device capable of producing, reproducing, and/or amplifying sound, between the hours of 10:00 p.m. and 7:00 a.m. the following day, at a volume sufficient to be plainly audible (i) across property boundaries or through partitions common to two (2) residences within a multi-family building or (ii) fifty (50) feet or more from such device.
- (5) Using or operating a loudspeaker or other sound amplification device in a fixed or movable position in the interior or exterior of any building, or mounted upon any motor vehicle, with the intent of providing service to an exterior area for the purpose of commercial advertising, giving instruction, information, directions, talks, addresses, lectures, or providing entertainment to any persons or assemblage of persons on any private or public property, between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- (6) Using or operating any motor vehicle not meeting the standards of Title 46.2 of the Code of Virginia as to mufflers and exhaust systems on any public street, road or walkway.
- (7) Using a radio, stereo, MP3 player, audio cassette or compact disc player, or other device for the production or reproduction of sound in a motor vehicle at a volume sufficient to be plainly audible at fifty (50) feet from such vehicle.
- (8) Failure to deactivate an alarm system plainly audible at fifty (50) feet from such alarm within a reasonable time.

(b) Notwithstanding the foregoing, the hours during which certain sounds are allowed as aforesaid shall be increased from the time period of 7:00 a.m. through 10:00 p.m. the same day to 7:00 a.m. through 11:00 p.m. the same day from 7:00 a.m. on each Friday through 7:00 a.m. on the following Sunday, as well as on or during the following dates: (i) Memorial Day and the preceding Saturday and Sunday; (ii) Fourth of July and the preceding day; (iii) Labor Day and the preceding Saturday and Sunday; (iv) New Year's Eve; and (v) the day of graduation at Pulaski County High School.

(c) The provisions of this section allowing certain sounds to occur at certain times of day do not apply to other sounds defined as noise disturbances under Sections C and D.

**Section F. Exceptions from this ordinance.**

Notwithstanding anything to the contrary herein, the provisions of this ordinance shall not apply to:

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- (a) The emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work, including but not limited to sirens, loud speakers and emergency communications radios in public safety vehicles;
- (b) Music, bells, chimes or other sounds which are emanating from a church or other place of worship;
- (c) Sound generated at any time from school or county sponsored athletic or recreational events;
- (d) Sound generated by activities which are an official or an approved part of any county or state licensed or approved parade, festival, event or activity, provided such exemption shall terminate at 10:00 p.m. unless the activities are occurring on one of the dates set forth in Subsection E(b) of this Ordinance or, unless the activity is the subject of a Temporary Exemption Permit issued pursuant to Section I of this Ordinance;
- (e) Sounds generated in commercial and industrial zoning districts which are necessary and incidental to the uses permitted therein;
- (f) Sound generated from gardening, lawn care, tree maintenance or removal, and other landscaping activities, provided such exception shall terminate between 10:00 p.m. and 7:00 a.m. the following day;
- (g) Sound for which an Undue Hardship Waiver has been granted, in accordance with Section H of this ordinance, or for which a Temporary Exemption Permit has been issued in accordance with Section I of this ordinance;
- (h) Sounds generated from any agricultural activity or agribusiness;
- (i) Sounds generated from or incidental to emergency repairs to public utilities or any emergency public works function;
- (j) Sounds generated in the performance of any governmental function;
- (k) Activities for which the regulation of noise has been preempted by state or federal law;
- (l) Sound generated by any NASCAR sanctioned speedway or IHRA sanctioned drag strip located in Pulaski County, as a result of racing related activities, between 5:00 p.m. on Friday and 5:00 p.m. on the following Sunday;

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- (m) Sound generated by an event occurring at the New River Valley Fairgrounds where that event is held annually at the Fairgrounds and has been held annually for five (5) or more years preceding enactment of this Ordinance; and
- (n) Sound generated by any activity at Randolph Park, provided the activity is County or School sponsored, or conducted by a party renting any portion of Randolph Park and provided this exemption shall not apply between the hours of 11:00 a.m. and 7:00 a.m. each day.

**Section G. Penalties and enforcement.**

(a) Each separate act on the part of a person violating this ordinance shall be deemed a separate offense, and each day a violation is permitted to continue unabated shall constitute a separate offense.

(b) The County Administrator may issue or cause the issuance of civil summons assessing civil penalties for violations of this ordinance upon notification by Pulaski County law enforcement officers that a violation has occurred or is occurring, which shall not exceed \$250.00 for the first offense and \$500.00 for each subsequent offense committed within 12 months after a previous offense; provided, however, that civil penalties shall not be assessed in connection with business being performed on industrial property or the operation of railroads.

(c) The provisions of this ordinance may also be enforced by Pulaski County law enforcement officers through the issuance of criminal summonses; provided that a civil summons and a criminal summons shall not be issued for the same violation. Any person so found guilty of violating any provisions of this ordinance shall be convicted of a Class 3 misdemeanor.

(d) In addition to and not in lieu of the foregoing criminal penalties, the County of Pulaski may apply to the circuit court for an injunction against a continuing violation of any of the provisions of this ordinance and may further seek any other remedy or relief authorized by law.

(e) Citizens of Pulaski County believing that a noise disturbance constituting a public nuisance exists may file a complaint with the Pulaski County Sheriff's Department, as well as utilize the procedure set forth under §48-1, *et seq.* of the Code of Virginia (1950), as amended, or any other legal remedies that may be available to them.

**Section H. Undue Hardship Waiver.**

(a) Any person responsible for a noise source may apply to the Board of Supervisors for a waiver, or partial waiver, from the provisions of this ordinance. An application under this Section shall be in writing and shall be filed in the Office of the County Administrator. The Board of Supervisors may, after a public hearing, grant such waiver, or partial waiver, upon a finding that any of the following circumstances exists:

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- (1) The noise does not endanger the public health, safety or welfare; or
- (2) Compliance with the provisions of this ordinance from which a waiver is sought would produce serious economic hardship without producing substantial benefit to the public.

(b) In determining whether to grant such waiver, the Board of Supervisors shall consider the time of day the sound will occur, the duration of the sound, whether the sound is intermittent or continuous, its extensiveness, the technical and economic feasibility of bringing the sound into conformance with this ordinance and such other matters as are reasonably related to the impact of the sound on the health, safety and welfare of the community and the degree of hardship which may result from the enforcement of the provisions of this ordinance.

(c) No waiver, or partial waiver, issued pursuant to this ordinance shall be granted for a period to exceed one year, but any such waiver, or partial waiver may be renewed for successive like periods if the Board of Supervisors shall find such renewal is justified after again applying the standards set forth in this ordinance. No renewal shall be granted except upon written application therefor.

**Section I. Temporary Exemption Permits.**

(a) The provisions of this ordinance shall not apply to activities or uses permitted under the terms of issued Temporary Exemption Permits in force and effect where the sounds generated by such activities or uses are addressed and controlled by the provisions of said permits. A permit issued under this section does not exempt the Applicant or the activity from laws and regulations other than this Ordinance that may apply to the activity for which exemption from this ordinance is granted. Laws, regulations and ordinances relating to sanitation, crowd control, ingress/egress, illegal fireworks and alcoholic beverage control, among others, may also apply to activities at events permitted under this section and permits issued under this section provide no exception from application of such laws, regulations and ordinances.

(b) The County Administrator shall have the authority to issue Temporary Exemption Permits pursuant to this Section, the purpose of which is to exempt any person from the provisions of this ordinance for a specified date and time, under the following conditions:

- (1) A written request is submitted to the County Administrator's office at least fourteen (14) days before the event that includes the following information:
  - a. Property owner name and contact information;
  - b. Applicant's name and contact information;
  - c. If applicant is not the property owner, property owner authorization for the request;
  - d. Property location;
  - e. Type of event;

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- f. Date and time of the event;
  - g. Specific type and duration of noise that requires an exemption from this ordinance;
  - h. Seventy-five (\$75.00) application fee, which may be waived by the County Administrator for non-profit or charitable organizations.
- (2) The County Administrator can deny the request if any of the following occur:
- a. The application is deemed to be incomplete;
  - b. The applicant has violated the requirements of prior permits issued to the applicant; or
  - c. The applicant has been issued two (2) permits for same location within the twelve (12) months preceding the application or has been issued another permit for the same location for a date within five (5) calendar days of the date for which the pending application seeks a permit.
- (3) No temporary exemption permit shall allow noise to continue past 12:00 a.m. on the day following the day for which the permit is granted.
- (4) Temporary exemption permits shall only be issued for dates falling between the hours of 7:00 a.m. Friday through 7:00 a.m. Sunday or for the days specifically described in subsections (i) through (v) of Section E.(b).
- (5) The County Administrator shall have the authority to delegate duties and powers of the County Administrator described in this Section to other appropriate agents or departments of the County.
- (6) When any Temporary Exemption Permit is issued, a copy shall be provided to the Pulaski County Sheriff's Department and shall be sent by first class U.S. mail to all adjacent property owners.

**Section J. Jurisdiction.**

The provisions of this ordinance shall apply in all parts of Pulaski County, Virginia, which are not within the jurisdictions of the incorporated municipalities.

**Section K. Severability.**

If any portion or part of this ordinance or its subsections, paragraphs, sentences, clauses, or phrases shall be declared unconstitutional, invalid, or unenforceable by judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect the validity of the ordinance in its entirety or any of the remaining portions, parts, subsections, paragraphs, sentences, clauses, or phrases of the ordinance.

Voting yes: Mr. McCready, Mr. O'Dell, Mr. Sheffey, Mr. Bopp,  
Mr. Pratt.

Voting no: None.

D. Adult Day Care

Mr. Huber described a recommendation for funding in the amount of \$1,500 from Pulaski County to be matched by \$1,500 from the PADS 501C Corporation for a total of \$3,000 in order to pay the NRV Regional Commission for putting together an Appalachian Regional Commission grant which would provide a 1 to 1 match of additional funding being invested by the Board of Supervisors and the PADS Board. Mr. Huber advised that depending on what existing expenditures can be matched, there is the possibility of obtaining a matching ARC grant of up to \$500,000 and it is envisioned that any additional funding would be applied to items deleted from the current contract in order to meet CDBG budgetary goals.

On a motion by Mr. McCreedy, seconded by Mr. Bopp, the Board approved funding in the amount of \$1,500 from Pulaski County.

Voting yes: Mr. McCreedy, Mr. O'Dell, Mr. Sheffey, Mr. Bopp,  
Mr. Pratt.

Voting no: None.

E. 2016 Legislative Proposals

Mr. Huber shared information from VACo's Steering Committee requesting localities provide legislative priorities for the 2016 session of the General Assembly. Mr. Huber also shared legislative priorities submitted to the General Assembly in 2013 and also described the 2014 focus by the Board in efforts to obtain assistance from the General Assembly of a cigarette tax for Pulaski County. Mr. Huber suggested the Board consider making a request for a cigarette tax a priority for the 2016 legislative session.

Mr. McCreedy addressed a report provided by VACo on loss of state funding and affects on localities, including loss of funding for schools, maintenance of schools, etc. and recommended the Board request from the state the restoration of funding for school maintenance.

Mr. Sheffey advised of serving on VACo's Education Steering Committee, noting the committee had placed a high priority on restoration of school maintenance and construction funding. Mr. McCreedy also discussed a recommendation by VACo's Finance Committee for the return of state funds back to the localities.

By consensus, Board members approved as a priority the implementation of a request to the legislators of a cigarette tax, with support to be sought from the same groups, organizations, and localities as previously provided.

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F. Local Volunteer Coordination Program

Tina King, Executive Director of the Agency on Aging, described the discontinuance of the RSVP program by the NRV Agency on Aging effective October 1, 2015 due to difficulty by the local Agency on Aging in meeting national requirements combined with the loss of a full time staff person. Ms. King described a proposal to have a part-time person to continue to recruit volunteers, expand the base with non-profits and look at other volunteer opportunities. Ms. King also advised that funds in the amount of \$8,500 were on hand to be used to continue the program, that a request had been made to the Town of Pulaski to providing funding of \$3,500 and a request to the Board to fund \$2,797.

On a motion by Mr. O'Dell, seconded by Mr. Bopp and carried, the Board approved a request for funding by the county in the amount of \$2,797, contingent upon the Town of Pulaski funding the requested \$3,500.

Voting yes: Mr. McCready, Mr. O'Dell, Mr. Sheffey, Mr. Bopp,  
Mr. Pratt.

Voting no: None.

G. Dublin Elementary School

As previously reported, no action was needed on this item and therefore the item was removed.

10. Items of Consent

Mr. Sheffey reminded the Board of removal of item 10N – "Friends of Peak Creek Inmate Labor Agreement".

Mr. Huber reminded the Board of the addition of two items as follows:

- 10Q – Dublin Town Center Right-of-Way and Parcel; and
- 10R – Old Riverlawn Elementary Trail.

Mr. McCready requested the following items be pulled for separate discussion and action:

- 10F – Joint Dispatch Invoice;
- 10G – VFRIDA Revised Participation Agreement;
- 10I – Leasing Barges; and
- 10P – Adult Day Service and Fall Prevention Center Construction Contract.

On a motion by Mr. McCready, seconded by Mr. O'Dell and carried, the Board approved Items of Consent as listed and noted below, except for items 10F, 10G, 10I and 10P which were pulled for separate discussion and approval as appropriate.

Voting yes: Mr. McCready, Mr. O'Dell, Mr. Sheffey, Mr. Bopp, Mr. Pratt.  
Voting no: None.

A. Approval of Minutes of August 24, 2015 Meeting

The Board approved the minutes of the August 24, 2015 Board meeting.

B. Accounts Payable

The Board approved accounts payable for checks numbered 246833 through 2047315, subject to audit.

C. Interoffice Transfers and Budget Adjustments

The Board approved interoffice transfer #3 in the amount of \$38,539.27. The following listing of budget adjustments were also approved: School Fund #1 - \$656,439.24; School Capital Fund #1 - \$181,474.46; Governor's School Fund #1 - \$87,196.33; Capital Improvements Fund #2016-02 - \$86,939.00; General Fund #2016-04 - \$37,051.92; General Fund #2016-05 - \$181,474.46.

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

1. Generator Maintenance Contract

Mr. Huber provided information related to options for maintenance emergency response generators and related costs.

The Board approved establishing a comprehensive maintenance program either on a contracted basis or through hiring of a shared part-time person.

E. Personnel Changes

The Board ratified approval of personnel changes that were presented in weekly updates from August 27, 2015 through September 17, 2015.

F. Joint Dispatch Invoice

Mr. McCready advised of serving on the Joint Dispatch Board and expressed concern over the Joint Dispatch Board not receiving this information from the Town of Pulaski prior to submitting of request to the Board of Supervisors.

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On a motion by Mr. McCready, seconded by Mr. Bopp and carried, the Board requested staff place this item on the Joint Dispatch Board agenda for discussion prior to a formal request to the Board of Supervisors.

Voting yes: Mr. McCready, Mr. O'Dell, Mr. Sheffey, Mr. Bopp,  
Mr. Pratt.

Voting no: None.

G. VFRIFA Revised Participation Agreement

Mr. McCready advised of serving on the VFRIFA and described that the proposed updated draft Amended and Restate NRV Commerce Park Participation and Revenue Sharing Agreement was as a result of tremendous efforts to streamline agreements. Mr. McCready recommended approving the agreement, subject to any changes that the County Attorney may bring forth, which would need to then be brought back to the Board of Supervisors for review and subsequent approval.

On a motion by Mr. McCready, seconded by Mr. Pratt and carried, the Board approved the amended agreement as presented, subject to review by the County Attorney, with any suggested changes by the County Attorney to be brought back to the Board of Supervisors for further review.

Voting yes: Mr. McCready, Mr. O'Dell, Mr. Sheffey, Mr. Bopp,  
Mr. Pratt.

Voting no: None.

H. Historical Artifact Acceptance Policy

The Board approved the following policy related to the acceptance of items donated to the County for display purposes:

**Donation/Loan Policy for Pulaski County Courthouse Exhibits Committee**

It shall be the policy of Pulaski County and the Pulaski County Exhibits Committee to welcome and encourage donations and/or loan of historic artifacts from citizens for display at the Pulaski County Old Historic Courthouse or other county owned buildings. The following sets forth the criteria and procedure for accepting an artifact, as well as, the forms required for the donation or loan of an historic artifact:

**Criteria:**

1. The artifact will be reviewed by members of the Pulaski County Exhibits Committee for acceptance on behalf of Pulaski County;
2. The artifact must be of a historic nature and specifically related to Pulaski County and/or the surrounding area; and

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- 3. The artifact's size, historic significance and space availability shall be taken into consideration in determining if the artifact is accepted for display.

If the artifact is accepted for display by the members of the Pulaski County Exhibits Committee, said Committee will determine the building, place and manner in which the artifact is displayed. Further, the Committee will determine if the artifact is displayed on a rotational basis, special occasions basis or on a permanent basis.

It shall be understood that any and all artifacts donated and accepted by the Pulaski County Courthouse Exhibits Committee shall become the sole property of Pulaski County. The Committee also reserves the right to donate the artifact to another group or museum, if said artifact can be better served by another group or museum or should county buildings space availability becomes a problem in the future.

**Forms:**

- 1. Donations Form – This form must be executed by the owner of the artifact that is being permanently donated to the county for display. The original of this form shall be filed at the Office of the County Administrator and the donator of the artifact will receive a copy of the executed form for their records.
- 2. Loan Form – This form must be executed by the owner of the artifact that is being loaned to the county for display. The original of this form shall be filed at the Office of the County Administrator and the loaner of the artifact will receive a copy of the executed form for their records.

I. Leasing Barges

Mr. McCreedy declared a potential conflict of interest due to personally knowing the individual requesting the leasing of the barges and therefore acknowledged plans to abstain from voting on the matter.

On a motion by Mr. O'Dell, seconded by Mr. Bopp and carried, the Board approved the lease of the barges based on the following: 1. The waters of Claytor Lake are accessible to the public 24-hours per day 365 days per year. Thus dredging improvements will benefit the general public; 2. There are no other barges available either privately or publicly on Claytor Lake; 3. Mr. Jackson is willing to pay commercial rental rates; and 4. Any lake clean-up or other County needs would take precedence over the proposed Lease.

Voting yes: Mr. O'Dell, Mr. Sheffey, Mr. Bopp, Mr. Pratt.  
 Voting no: None.  
 Abstaining: Mr. McCreedy.

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J. Passenger Rail Service – Support of Bristol Effort

The Board acknowledged providing support of the passenger rail service to Bristol, with the main focus and primary commitment on the extension of rail passenger service from Roanoke to the New River Valley.

K. Equalization of IT Salaries

The Board approved equalizing the pay differential between County and School Board IT computer technicians at an annual cost of \$3,196 and/or the approval of broadly worded agreement with changes to be implemented following six month probationary period.

L. Juvenile and Domestic Relations Court Funding

The Board reviewed a letter from Anne Helms, Clerk, Pulaski County J&D District Court, related to a savings in county funds due to the ability to set up courtroom video equipment to operate without the use of ISDN data lines.

The Board approved the purchase of new office chair at a cost of approximately \$300, as well as the reimbursement of \$90 to employee Lori Beverly for the purchase of a mini refrigerator.

M. DES Financing

The Board approved a letter of agreement with Davenport for services related to soliciting proposals for and arranging financing of the Dublin Elementary project, with copy of said agreement filed in the County Administrator's Office.

N. Friends of Peak Creek Inmate Labor Agreement

This item was removed from the agenda as previously reported.

O. Reuse of Surplus Sheriff's Vehicles

The Board approved the transfer of 2006, 2007 and 2009 Crown Victoria vehicles with high mileage to the School Board for running school errands including student transports, pending review of other vehicle needs in the county.

P. Adult Day Service and Fall Prevention Center Construction Contract

Mr. McCreedy reminded the Board that action on this matter had been provided at the September 14, 2015 Special Board meeting.

Q. Dublin Town Center Right-of-Way and Parcel

The Board approved allocation of \$1,500 to the Town of Dublin for 50% of survey costs.

R. Old Riverlawn Elementary Trail

The Board accepted the donation of trail right-of-way from Ms. Margaret Smith and requested the County Attorney prepare the appropriate deed.

11. Citizen Comments

Mr. Walter Viers reminded the Board of a previous request for assistance in addressing the growth of bamboo throughout the county and described concerns over the lack of action by the Board. Mr. Viers expressed concerns that there are no regulations addressing the overgrowth of bamboo. Mr. Pratt acknowledged Mr. Viers concerns. Board members requested staff and the county attorney to review the county's noxious weeds ordinance and provide an update to the Board at a future meeting as to the ability to include bamboo in the ordinance, as well as addressing the Kudzu issue.

Staff was requested to provide a copy of the noxious weed ordinance to Board via an upcoming weekly update.

12. Other Matters from Supervisors

Mr. McCready described the Kids Fishing Day scheduled for Saturday, October 3, 2015 at Camp Powhatan and also described the county's sponsorship. Mr. McCready requested the media to provide the public as much information as possible encouraging participation by youth in the county. Mr. Sheffey advised he would be unable to attend the event due to attendance at the rescheduled PulaskiFest event.

Mr. Sheffey advised the next meeting where there was the potential for there to be three or more Board members would be at the Manufacturing Day event scheduled for Friday, October 2 at 10:00 a.m. at the Pulaski Visitors Center.

Mr. Sheffey shared an invitation received for Board members to attend the Raymond Ratcliffe Transportation Museum's "Memorial Brick Garden Dedication, scheduled for Tuesday, October 6<sup>th</sup> at 5:30 p.m. at the Museum.

Mr. Sheffey reminded the Board that the attire for attendance at Board meetings would return to wearing ties beginning with the October 26, 2015 Board meeting. Staff was requested to send a reminder to the Board via the October 22<sup>nd</sup>

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weekly update, as well as call Board members the week before the October 26<sup>th</sup> Board meeting.

Mr. Sheffey expressed appreciation for participation by Board members, staff and Volvo officials at the recent announcement of expansion by Volvo. Mr. Sheffey provided a brief history of the Volvo plant and also described a photo used in the ads for the expansion announcement which was the original photo when White Motors located in the county. Staff was requested to provide a copy of the photo via the weekly update.

Mr. Sheffey advised the next meeting of the Board was the regular Board meeting to be held on Monday, October 26, 2015 beginning with a Closed Session at 5:30 p.m. followed by a regular meeting at 7:00 p.m. in the Board Room of the County Administration Building.

13. Adjournment

On a motion by Mr. O'Dell, seconded by Mr. McCreedy and carried, the Board of Supervisors adjourned its regular meeting. The next regular Board of Supervisors meeting is scheduled for Monday, October 26, 2015 beginning with a Closed Session at 5:30 p.m. and the regular meeting at 7:00 p.m. with said meeting to be held in the County Administration Building.

Voting yes: Mr. McCreedy, Mr. O'Dell, Mr. Sheffey, Mr. Bopp, Mr. Pratt.

Voting no: None.

  
\_\_\_\_\_  
Joseph L. Sheffey, Chairman

  
\_\_\_\_\_  
Peter M. Huber, County Administrator