

BOARD OF SUPERVISORS MEETING

December 4, 2006

The regular meeting of the Campbell County Board of Supervisors was held on the 4th day of December 2006 in the Board of Supervisors meeting room of the Walter J. Haberer Building, Rustburg, Virginia. The members present were:

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| Eddie Gunter, Jr., Chairman, Presiding | Concord Election District |
| Rick Boyer | Sunburst Election District |
| Calvin P. Carter | Altavista Election District |
| Charles W. Falwell | Timberlake Election District |
| Hugh T. Pendleton, Jr. | Rustburg Election District |
| J. D. Puckett | Brookneal Election District |
| Hugh W. Rosser | Seneca Election District |

R. David Laurrell, County Administrator
Clifton M. Tweedy, Deputy County Administrator
David W. Shreve, County Attorney

The meeting was called to order at 7:00 p.m., and Supervisor Carter gave the invocation.

// APPROVAL OF MINUTES

On motion of Supervisor Puckett, it was resolved the Board of Supervisors dispenses with the reading and approves the minutes of the October 20, 2006 planning retreat as presented.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett
Nay: None
Abstain: Rosser

On motion of Supervisor Carter, it was resolved the Board of Supervisors dispenses with the reading and approves the minutes of the November 6, 2006 regular meeting as presented.

The vote was: Aye: Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None
Abstain: Boyer

// PUBLIC HEARING – RELOCATE MOUNTAIN LAKE ROAD FOR AIRPORT EAST PROJECT

The first public hearing was opened at 7:02 p.m. and was advertised to consider a resolution authorizing the condemnation of a right of way currently known as Mountain Lake Road and provide an alternate access for ingress and egress from U. S. Highway 29 to all having an interest in the use of Mountain Lake Road.

J. Michael Davidson, Director of Economic Development, advised that at the meeting on November 20, 2006 the Board following a closed meeting authorized staff to hold a public hearing to close portions of Mountain Lake Road to allow the Airport East Development to move forward. The Airport East Development would consist of a hotel complex and retail development in the area between Route 29 and the Norfolk & Southern railroad tracks as well as approximately 200 acres of land on the east side of the railroad tracks. A master plan was displayed but was subject to change as the project was developed. Mr. Davidson was first contacted by Daly Seven who wanted to build a hotel complex on Route 29 in close proximity to the stoplight at the Lynchburg Regional Airport. Shortly after that he learned of plans by Liberty University to extend the existing Liberty Mountain Drive located inside the city limits with a bridge over the Norfolk & Southern railroad, coming out onto the Hartless property behind the Airport Chevron eventually connecting with Mountain Lake Road and using Mountain Lake Road as the access point to Route 29. To avoid another stoplight on Route 29, a key component of the Airport East Project was to insure the new access road aligns with the existing stoplight on Route 29 at the Lynchburg Regional Airport intersection. The Board authorized staff to work

with the parties involved in this project on location of the access road in accordance with the Route 29 Corridor Overlay plan.

A number of meetings were conducted with Liberty University, Daly Seven and A. B. Burton Properties over several months to develop a regional project. The preferred location for the access road was from the airport stoplight on Route 29 straight across the railroad tracks and then turning to connect to Liberty Mountain Drive. Since Liberty University was and is funding the majority of the costs of the railroad bridge and the majority of the costs of road construction, County staff asked the invited parties to reach an agreement with Liberty on the location of the road and let the County know the outcome. Staff had informed the parties that the County's main focus and concern was to insure this new access road would align with the existing stoplight. A short time later staff was informed by Liberty that an agreement with all the parties could not be reached and that Liberty was going back to its original conceptual plan and would work with the Daly Seven, Hartless and the County to align the road with the existing stoplight instead of Mountain Lake Road. This alignment has been agreed to by Liberty, Daly and Hartless, and a final agreement was nearing completion and must be signed by the end of this week to meet the timeline of the Daly Seven hotel project. Daly Seven was an integral part of the process by allowing right of way across their property to align the new road to the existing stoplight. Daly Seven has imposed a deadline to signing the agreement or they would have to revert to their previous plans to build their hotel that would interfere with the alignment of the road straight across from the stoplight. Their original plan required the gating of Mountain Lake Road and the construction of the hotel units on what was Bennie's Mobile Homes lot. If the original parties desire to revive the initial conceptual alignment of the road, they must come to terms with Liberty and sign a contract no later than Friday, December 8th.

Once the bridge was built across the railroad, Norfolk & Southern would require closing the existing at-grade crossing on Mountain Lake Road. This would provide an access road to the new bridge for the residents who live on the east side of the railroad tracks.

Staff recommended the Board hold a public hearing regarding acquisition of portions of Mountain Lake Road to relocate the roadway to intersect at the existing airport traffic signal. Pending comments received from the public, staff recommends the Board authorize the County to move forward with property appraisals, good faith offers as determined appropriate, and adopt a resolution authorizing condemnation proceedings if necessary to provide the right of way for a new access road for the Airport East Development.

Chairman Gunter questioned again the access for the residents that use Mountain Lake Road. Mr. Davidson assured the Board that access to Route 29 would be provided and because it would be a signalized intersection, the access would be safer and easier for the residents.

Chairman Gunter called for comments in favor of the proposed resolution authorizing condemnation of Mountain Lake Road.

Doug Dalton, accompanied by Jimmy Ferguson, spoke on behalf of A. B. Burton properties. About a year ago they were approached by the County and Daly Seven to accommodate closing Mountain Lake Road, and they agreed earlier this year that they would at no cost to the County or to Daly Seven give whatever right of way was needed through A. B. Burton properties to provide the families that live on Mountain Lake Road temporary access until the permanent road and bridge structure were built. Subsequent to that, they were informed by the County that Liberty University wanted to develop its large tract of property for a future endowment source of funds for the university. At that time A. B. Burton properties started meeting with the County and Liberty to discuss placing the road and the bridge in the preferred location which was straight across the railroad at a 90 degree angle to U. S. 29 tying in with the airport stoplight. A. B. Burton properties agreed to share the construction costs of the proposed bridge to the extent there was a shortfall and donate any right of way necessary to Liberty University to give them access from the railroad bridge through A. B. Burton properties to their property. They also agreed to share in the costs of the proposed road along the donated right of way, and agreed that Liberty could place any excess construction material on A. B. Burton properties. Mr. Dalton indicated they even offered to move the material at no cost to Liberty to provide them additional savings.

Continuing, Mr. Dalton indicated that A. B. Burton properties was not insisting that VDOT take in the future road, but was asking the road be built to VDOT standards. They supported both the Daly Seven development and the Liberty University project realizing the importance of both to the County. A. B. Burton properties had no immediate plans for its property except to construct a small office building. They have made a commitment to several Supervisors and were prepared to commit to Liberty University that they would not compete with their commercial retail development for a period of time. However, he was concerned about the residents on Mountain Lake Road and asked how would the adjoining property owners including A. B. Burton properties have access to the future road and bridge. Who would maintain the new road and bridge? They supported condemning the road between Route 29 and the railroad and leaving the remainder of the property alone until there was a universal agreement of specific details that addressed everyone's concerns. They were prepared to make equity contributions to support the two proposed projects.

Chairman Gunter asked if it was going to be possible to have an agreement in place by Friday, December 8th? Mr. Dalton understood the Friday deadline was needed by Daly Seven so they would be assured they could build their hotels without the daily whistle of the trains going through the crossing. A. B. Burton properties was supportive and believed the remaining details could be worked out by Friday. Administrator Laurell advised the attorneys would be reviewing the agreement on Thursday and it needed to be signed by Friday if the closure of Mountain Lake Road could be completed by mid-March. After that there were several transfers of property including the condemnation proceedings that would have to take place so that Daly Seven could start construction by March 2007.

Mr. Dalton asked if the agreement was signed, could A. B. Burton properties be protected so that in the years to come they could either use a road across Liberty's property to access the Liberty bridge or build a bridge at the preferred location today at some point in the future under similar terms that the County has provided for Liberty? Administrator Laurell said yes to that question and believed the agreement addresses the access from the eastern side of Mountain Lake Road up to the intersection with the extension of Liberty Mountain Drive and running parallel to the railroad tracks and would require right-of-way donation across both A. B. Burton and Liberty properties. David Shreve, County Attorney, added the way the agreement is currently drafted the people that live east of the railroad tracks would have temporary access along the road that currently leads to George Street, and the residents would be guaranteed access to the bridge that Liberty proposes. The new road parallel to the railroad tracks would be a public road. In answer to Mr. Dalton's question, Administrator Laurell advised Liberty University intends to give right of way to allow adjoining property owners the ability to build a road to access the new bridge at no cost to Liberty. Liberty agreed to develop the access to the same conditions as the existing Mountain Lake Drive.

Administrator Laurell believed the preferred route on the bridge was straight across from the airport stoplight and the only thing between Route 29 and that now was the property purchased by Daly Seven between the railroad tracks and the back portion of where they were going to construct the hotels. The property is about 100 feet deep, and A. B. Burton properties would need to negotiate with Daly Seven for them to sell A. B. Burton properties the right of way to go straight through. Administrator Laurell indicated he would include that request with the County's negotiations with the Daly's if Mr. Dalton would like. It was his understanding Daly Seven was willing to do that at the same price they sold the County the right of way for the other portion of the road. Mr. Dalton believed that Daly Seven was willing to donate the right of way at one time. Administrator Laurell believed Daly Seven was not willing to do that now. The County had no money in the road or the bridge, and the County was purchasing the right of way from Daly Seven and donating adjacent property to them in exchange for them aligning their hotel complex with the airport stoplight. Liberty is providing the remainder of the funding for the railroad bridge and the new road, and it was really in Liberty's and A. B. Burton properties best interest to work out an arrangement that would be beneficial to both. The County would be willing to facilitate a meeting to work out the details of the agreement. Mr. Dalton indicated they were willing to accommodate Daly Seven so that their aspect of the agreement could be signed, but he was not sure the details of the universal agreement could be worked out by Friday. Mr. Dalton reminded the County that A. B. Burton properties had agreed to design and build the road and the bridge and have it open to the public, subject to liquidated damages if they fail to do so, at the same time the hotels were opened, and the railroad crossing needed to be closed. Mr. Shreve added the Daly's needed an agreement that assured them that Liberty would

be building a bridge on the southern end, and this would be the primary objective of the agreement signed on Friday. The remainder of the details could be worked out in the future.

Mr. Shreve stated the condemnation of a portion of Mountain Lake Road was important to the project. Mr. Dalton indicated they supported condemning that portion of the road from Route 29 to the railroad so long as the needs of the residents were addressed.

Supervisor Carter asked Mr. Dalton about any plans to construct a second access road on Route 29. Except for constructing an office building, Mr. Dalton indicated they have no other master plan for the A. B. Burton properties. However, as VDOT and the County have pointed out there were two existing crossovers between the railroad bridge and Sheetz, and they were willing to close both of the existing crossovers and consolidate into one crossover to have a boulevard through the property hopefully to connect to the bridge either directly across from the stoplight or being allowed to tie on further down. Mr. Dalton asked the Board to protect their opportunity to do that as the agreements were developed.

Linda Wright, 385 Mountain Lake Road, lives on the east side of the railroad tracks and was not clear on the access they would be provided.

Administrator Laurrell explained that the plan was to keep the railroad crossing open until the hotels were completed. Their access would stay the same except that when you were on the Route 29 side of the railroad tracks instead of going straight through you would bear to the left and come out at a signal. When the bridge was built, the residents would have access to Liberty Mountain Drive making a left hand turn across the bridge. There might be a short period where temporary access needed to be provided via George Street if the new bridge was not complete by the time the crossing was closed.

Sheila Mays, 445 Mountain Lake Road, lives at the very end. She was concerned how she would be able to cross the new road to go back to the stoplight with all the traffic and how her parents who lived on the other side of the tracks would be able to cross the road with all the traffic that would come from the Liberty development. Mrs. Mays also asked where children would catch the school bus and where the mailboxes would be located. Lastly, she felt the property owners along Mountain Lake Road should have been given notice of the condemnation proceedings.

Administrator Laurrell agreed Mrs. Mays had a valid point as there were no plans for additional stoplights. The road would have traffic coming from the shopping center and the student housing at the back of the property. Mrs. Mays would be making a left hand turn crossing one lane of traffic. Another option would be to go right onto George Street and around to Russell Woods Drive and come out in front of Sheetz. As to Mrs. Mays' other concern, Liberty Mountain Drive and Mountain Lake Road would become public roads and that should make it safer for children to meet the school bus and mailboxes could be placed closer to the homes. On Mrs. Mays' comment on notice, Mr. Shreve explained that in a rezoning adjacent property owners were required to be notified, but in a condemnation, a public notice was required to be published in the newspaper for two consecutive weeks. Administrator Laurrell added that if the Board decides to move forward, the property owners would be receiving a notice. Supervisor Boyer believed Mrs. Mays had a good point about the written notification and suggested adjacent property owners be notified in future condemnation proceedings.

While waiting for the last speaker, Administrator Laurrell asked permission to read one part of the draft agreement that would address some of Mr. Dalton's concerns. *Liberty agrees to provide when the bridge is complete permanent access rights to the bridge for the residents along Mountain Lake Road.* Administrator Laurrell indicated that could be amended to include a publicly dedicated right of way adjacent and parallel to the railroad tracks.

Ray Booth, consultant with English Construction, has been a part of all the negotiations from the beginning. He pointed out the right of way that Daly Seven would provide along the back of their property making a 90 degree turn and running parallel to the railroad was needed whether the bridge was built or not. He advised that Jerry Falwell Sr. made a commitment to Mr. Hartless before he passed away that he would provide access back to the Hartless property. Therefore, the right of way being discussed was needed even if the bridge was not built to provide access to the Hartless property. The only thing that has kept that from happening was

that Gaetano's Restaurant was purchased by Liberty, and the money the County is giving Daly Seven is allowing them to buy the Gaetano property from Liberty to have room for the right of way to make the turn. Liberty had some estimates made to determine which route was the least expensive. They determined it was the same cost to cross the railroad at an angle or go straight across and then go down to their property. If the cost was basically the same either way, he was perplexed how Liberty could turn down ½ of the cost of the bridge and ½ cost of the road that they offered. Liberty turned them down saying they would rather build the road and bridge the way they wanted. Mr. Booth encouraged Liberty to accept their offer and to keep the right of way that is being talked about to build a service road to open up the Hartless property.

Hearing no further comments, the public hearing was closed at 7:50 p.m.

On motion of Supervisor Falwell, it was resolved the Board of Supervisors authorizes staff to move forward with property appraisals and good faith offers as determined appropriate related to the Airport East Project, and adopts the following resolution:

RESOLUTION

Whereas, that area of Campbell County along the U.S Route 29 corridor beginning at the Lynchburg City Limits and Wards Ferry Road south through the U.S. Routes 29 and 460 interchange is designated in the Campbell County Comprehensive Plan for medium to high density commercial development; and

Whereas, in accordance with the Comprehensive Plan Ward's Crossing West is in the process of development and there is now proposed for a large tract of land fronting of the north bound lane of U.S. Highway 29 directly across from the Lynchburg Regional Airport more commercial development to consist of, at a minimum, a new hotel complex and housing for students of Liberty University as well as other retail and associated high density commercial uses; and

Whereas, existing traffic counts on U.S. Highway 29 at the interchange with U.S Highway 460 are already extremely heavy and additional stop lights or other signalization at or near the interchange would clearly present and inconvenience and danger to the users of that highway; and

Whereas, the only current access to the northbound lane of U.S. Highway 29 from the property under development is through a way locally known as Mountain Lake Drive; and

Whereas, using Mountain Lake Drive, a way which is neither in the state primary, secondary or tertiary system of state highways nor a dedicated way to Campbell County would necessitate the placement of an additional stoplight on the northbound lane of U.S Highway 29; and

Whereas, the developers involved that agreed to construct improvements to the intersection and stoplight at the Lynchburg Regional Airport as well as provide a bridge over the Norfolk Southern Railway and construct a road for ingress and egress to and from their property if Mountain Lake Drive can be closed and alternate temporary and permanent access is provided to those having the current right to the use of Mountain Lake Road; and

Whereas, the state of title to Mountain Lake Road is unclear, the road being first shown on a 1929 plat as a reservation and never having been dedicated to public use and there being certain individuals who may have prescriptive rights to the use of that road; and

Whereas, the Campbell County Board of Supervisors wishes to ensure that at all times the rights of those having the use of Mountain Lake Road are protected through the provision of both temporary and permanent access to U.S. Highway 29; and

Whereas, the Campbell County Board of Supervisors is vested with the authority to acquire title to Mountain Lake Drive through the exercise of the power of eminent domain; and

Whereas, the Campbell County Board of Supervisors now declares it necessary for the orderly growth and development of the area as well as the protection of the public health and safety to ensure adequate and safe ingress to and egress from the property in question to acquire all rights in and to Mountain Lake Drive and take whatever other actions may be necessary to protect the

rights of those now having such rights to ingress to and egress from their properties and U.S. Highway 29.

NOW, THEREFORE, BE IT RESOLVED that the County Attorney is hereby directed in accordance with the provisions of Chapter 19 of Title 15.2 and Title 25.1 of the Virginia Code, the Board of Supervisors having declared the same to be for a public purpose, to take the following actions on its behalf:

1. Take any and all actions necessary, including instituting condemnation proceedings, to acquire the fee simple title to the way locally know as Mountain Lake Drive; and
2. Take any and all actions necessary to facilitate the upgrade of the intersection and stoplight at the Lynchburg Regional Airport to serve the properties located adjacent to the northbound lane of U.S. Highway 29 between the U.S. Highways 29 and 460 interchange and the existing Norfolk Southern Railway bridge.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

// PUBLIC HEARING – AIRPORT DEVELOPMENT AREA MASTER PLAN

The next public hearing was opened on 7:56 p.m. to consider a recommendation from the Campbell County Planning Commission as to the proposed addition of Appendix A “Airport Development Area Master Plan” to Chapter 4 “Land Use” of the “Campbell County Comprehensive Plan 2003-2018.” The Master Plan was consistent with the land use goals and objectives contained in the Comprehensive Plan, would become a part of the Plan upon approval by the Board of Supervisors and would provide a framework for future land use decisions in the Airport Development Area. The Master Plan would cover the area between Airport Road, U. S. Highway Route 460 Bypass, and the City of Lynchburg/Campbell County boundary zoned Business-General Commercial.

Paul Harvey, Director of Community Development, clarified that this property was on the other side of Route 29 and Route 460. The cooperative agreement entered into by the City of Lynchburg and Campbell County called for the County to amend its comprehensive plan for this area. The County agreed to study that area in more detail and come back with an amendment to the comprehensive plan. The additional planning reinforced the existing concept that this area be developed as commercial property. The proposed amendment to the comprehensive plan was shared with the City of Lynchburg, VDOT, other County agencies and the property owners. All of the comments received were positive and relatively minor in nature. The final draft was recommended for adoption by the Planning Commission on a vote of 6-0. Referring to a drawing of the development area, the primary feature provides for a road that would extend from the existing Wards Crossing West shopping center first to Leesville Road with an additional connection to Airport Road in the future. He expected the property to develop in ten years or less.

No one spoke in favor of or in opposition to the proposed addition of Appendix A to the comprehensive plan. The public hearing was closed at 7:58 p.m.

On motion of Supervisor Carter, it was resolved the Board of Supervisors adopts Appendix A “Airport Development Area Master Plan” to Chapter 4 “Land Use” of the “Campbell County Comprehensive Plan 2003-2018.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

// PUBLIC HEARING – REQUEST BY ROBERT HARTLESS, REZONE 1.68 ACRES ON LEESVILLE ROAD

The next public hearing was opened at 7:58 p.m. on:

07-00598 Request by Robert E. Hartless, Agent for property owned by Kaye M. Hartless to rezone 1.68 ± acres from B-GC,C, Business-General Commercial, Conditional to

B-HC, Business-Heavy Commercial for construction of individual storage warehouse units (“mini-storage units”). Property is located on the north side of Leesville Road (Route 682) approximately 100 feet west of its intersection with Constitution Lane (Route 9077) in the Sunburst Election District.

Mr. Harvey indicated the property was currently vacant, partially wooded and accessed from Leesville Road (Route 682). The construction of individual storage units would have a relatively minor impact on the daily traffic flow, and a new commercial entrance must be approved by VDOT. Comments from the Project Evaluation Committee were that (1) the ordinance requires a buffer where the proposed business abuts residential property, and (2) the Fire Marshall advised of the required turning radii around the buildings. No utilities would be needed. The Comprehensive Plan indicates the front portion of the property was located in an area designated for medium to high-density commercial growth, and the rear portion was located in an area designated for medium to high-density residential growth. The Planning Commission by a vote of 6-0 recommended approval of the request with the understanding the owner would finalize proffers before the Board meeting. This was done, and a copy of the proffers was provided to the Board prior to commencement of the public hearing. The proffers were identical to the proffers provided by a previous owner from a rezoning in 1999.

Chairman Gunter called for comments in favor of the rezoning request.

Robert Hartless was representing his mother, Kaye M. Hartless. They currently have two other storage unit facilities, one just down the road from the property being discussed and one on Wards Road. The previous rezoning for this property was B-1, but during the rezoning changes, it was changed to B-GC which limited storage unit facilities. He asked the Board to approve the rezoning request that would include the proffers already adopted for this property.

Chairman Gunter called for comments in opposition of the rezoning request.

Vernon Miles owns an adjoining parcel. While he was not opposed to the storage facilities, he addressed an issue raised at the Planning Commission meeting that there were a lot of other storage building facilities around Lynchburg and there was a chance this property could be used for something else in the future. He noted the other Hartless properties were well kept, and he did not want his comments to question the Hartless’ integrity. There were some uses allowed in B-GC zoning such as an automobile repair shop that he would not like next to his property where he plans to place office buildings.

Hearing no further comments, the public hearing was closed at 8:08 p.m.

Chairman Gunter asked Mr. Harvey if he would comment on Mr. Miles’ concern. Mr. Harvey stated that Mr. Miles had a valid point. Some uses were proffered out of the proposed request, but there were many in B-HC,C that were not and there was always the potential that Mr. Hartless or a future property owner might pursue another use should the property not be used for a storage facility.

Supervisor Boyer indicated this was in his District just down the road from another storage facility operated by Mr. Hartless. That facility was well kept and clean. He offered the following motion to approve the rezoning request.

On motion of Supervisor Boyer, it was resolved the Board of Supervisors accepts the recommendation of the Campbell County Planning Commission and citing good zoning practice **APPROVES** Request #07-00598 by Robert E. Hartless, Agent for property owned by Kaye M. Hartless to rezone 1.68 ± acres from B-GC,C, Business-General Commercial, Conditional to B-HC, Business-Heavy Commercial for construction of individual storage warehouse units (“mini-storage units”) on property located on the north side of Leesville Road (Route 682) approximately 100 feet west of its intersection with Constitution Lane (Route 9077) in the Sunburst Election District; and the landowner hereby proffers to exclude the following uses of the above-referenced property, as part of the above-referenced rezoning request:

- A) Alcoholic establishments.
- B) Bowling, skating, billiards or other similar indoor recreational establishments.
- C) Veterinarian hospitals, clinics or kennels.

- D) Building materials establishments with outside storage under cover.
- E) Crematoriums.
- F) Dying or cleaning works.
- G) Hotels or motels.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

// PUBLIC HEARING – REQUEST BY STACY COMPTON, REZONE 646 ACRES ON JOHNSON MOUNTAIN ROAD

The next public hearing was opened at 8:10 p.m. on:

07-00591 Request by Stacy M. Compton, Agent for Edgewood Land Development Company, LLC, Owner to rezone 646 ± acres from A-1, Agricultural to R-1/R-SF, Residential-Single Family for development of a multi-lot single-family residential subdivision. Property is located on the north side of Johnson Creek Road (Route 695), approximately 2 miles west of its intersection with Johnson Mountain Road (Route 626) in the Altavista Election District.

Mr. Harvey reviewed the zoning report indicating the property was currently vacant and wooded with varied topography becoming relatively steep along Johnson Mountain. The applicant has indicated a desire to request R-1 zoning for most of the property now, to come back for a second rezoning of additional property to R-1, and then a third request to rezone a portion of the property back to A-1 once the equestrian portion of the property has been identified. Part of the site was in Bedford County, and a similar application would be made before the Bedford County Board of Supervisors.

The Project Evaluation Committee reviewed the request on October 12th and several issues were reviewed. Access to the property is from Johnson Creek Road (Route 695) that currently has a daily traffic count of 250 vehicles for the 4.80 mile segment between Leesville Road to Johnson Mountain Road (Route 626). The rezoning request would have a significant impact on the daily traffic flow. VDOT estimates an additional 3100 vehicle trips per day as a result of the development which would necessitate improvements to the road. It was unclear at this point what the needed improvements would be, but VDOT has indicated some road widening would be appropriate. The Fire Marshall would require three entrances to the subdivision. Currently there is one proposed from Johnson Creek Road which would be the main entrance and is state maintained. There is an alternative entrance from Johnson Mountain Road which would be by an easement and not eligible to be state maintained. VDOT has indicated the second entrance would not meet their requirements for sight distance, but they would allow it as an auxiliary emergency type entrance provided it is gated. The third entrance would be from Camping Springs Road that has not been in the state system since the late 1960's. It is a 30 foot right of way, and VDOT would require a 50 foot right of way. The applicant was willing to pursue the 50 foot right of way provided they could get the needed right of way from the other property owners. If they could not, they would pursue having VDOT take the road in under the rural rustic road program.

As to utilities, the developer has indicated that either individual septic systems would be provided for each lot or a private sewage system would be used. The developer has indicated the willingness to provide public water if the Board also approves that under Chapter 18, extension of utility lines. No utility lines were proposed at this time, so individual wells would have to be used.

The Board was provided the latest version of the proffers as well as a revised drawing. The current proffers indicate there would be no more than 360 dwelling units constructed on the property down from 400 discussed at the Planning Commission meeting.

The Comprehensive Plan designates this area as rural so extending a public water line into a rural area would be inconsistent with the current plan. The added traffic and population density were also inconsistent with the rural designation. The Planning Commission by a vote of 5-2 citing good zoning practice recommended approval of the request with the proffered conditions dated November 22, 2006.

In answer to Chairman Gunter's question, the closest R-1 property would be approximately four (4) miles from the center of the property. Mr. Harvey indicated this was a complicated request as extension of a water line has not been resolved that would give the Board an idea of the density of the development nor was it known what Bedford County would decide.

As the entrances to the development would be on the Campbell County side, a question was raised about school bus pickup. Mr. Harvey responded the children would go to Campbell County or Bedford County schools depending on which side they lived on, and the Bedford County school buses would have to enter on the Campbell County side and travel to the Bedford County side to pick up children and then double back.

Supervisor Boyer asked an additional question regarding installation of a public water line. Mr. Harvey advised the closest point to hook up to the existing public water line would be about 2.5 miles.

Chairman Gunter called for comments in favor of the proposed rezoning.

Tim Reynolds, engineer with Reynolds-Clark, Gretna, Virginia, was representing the developer, Stacy Compton of Edgewood Land Development Company. Because Mr. Harvey had provided a thorough report, his presentation would be brief. Mr. Reynolds reviewed revised proffers dated December 1, 2006 highlighting the first proffer that no more than 360 dwelling units would be constructed on the total 1216 acres (491 acres was in Bedford County). This would provide an average density of one lot per 3.4 acres. In proffer #2 the applicant would provide 50 acres to be maintained for equestrian area, and when this area was more defined, a subsequent request would be made to rezone the property back to A-1. The additional proffers provide that all roads would be paved to VDOT standards, the removal of timber would be limited and dwellings would be a minimum of 1400 square feet. Because they wanted to be consistent with the Comprehensive Plan, proffer #6 reads that "if desired by the County . . . applicant shall construct a 12" waterline from the existing water treatment plant to the intersection of Leesville Road and Johnson Mountain Road and an 8" waterline along Johnson Mountain Road and Johnson Creek Road to the entrance of the development at the expense of the applicant within a period of three years after the approval of the rezoning, said waterline to be transferred to the CCUSA upon completion."

Administrator Laurrell interrupted to advise the Board could not accept proffer #6 because it was a cash proffer for offsite improvements. If the applicant wishes to provide a waterline, a revised proffer would need to be submitted prior to the end of the public hearing.

Proffer #7 indicates that all waterlines would be constructed to CCUSA standards and specifications. The remaining three proffers indicated that all lots would meet Health Department standards for a private sewage disposal system on each lot, or at the developer's discretion, a central sewage system or systems within the development would be built; all lots within the subdivision would be a minimum of 1.0 acre in size and have a minimum of 125 feet of road frontage; and applicant would prohibit all terrain vehicles from the multi-purpose trails in the development.

Continuing, Mr. Reynolds explained the concept of Stone Ridge at Johnson Mountain. This would be an active lifestyle community with an equestrian element and would be marketed to the 45-60 age groups. There would be a club house, pool, fitness center, tennis courts, a measured walking track, baseball/softball fields, several lakes and horseback riding trails. Much of the community would be surrounded by a 100' wooded buffer which would include trails. Approximately 50 acres would be for a common horse pasture with a common stable and riding ring. As previously stated, the lots would be a minimum of one (1) acre with some as large as seven (7) acres. There would be at least 200 acres of undeveloped open space. Mr. Reynolds added this development would be built in phases with an estimated 40 to 50 lots sold each year taking 10 to 12 years before ultimate build out.

In conclusion, Mr. Reynolds compared what the project would look like if the A-1 zoning was maintained, and what it would look like if rezoned R-1 with all the restrictions and proffers. He believed a restricted R-1 zoning was the better alternative because the density would average

the same as in A-1, and more open space could be maintained. Public water would not be provided in A-1.

Mr. Shreve acknowledged that John Eller, attorney for Edgewood Land Development, has presented for the record a revised proffer #6 that states the applicant shall provide public water into the subdivision.

In answer to a question by Supervisor Carter regarding Camping Springs Road, Mr. Reynolds indicated that road was a prescriptive right of way that was open to the public. Mr. Eller added this road was a state maintained road until 1936 and then discontinued, but not abandoned. It is still a public right of way.

Chairman Gunter called for comments in opposition to the proposed rezoning.

Raymond Hensley, 3001 Johnson Creek Road, Evington, was not against progress, but was concerned if the rezoning was approved, it would increase traffic. There would be some bad curves that would hinder safety in the area, especially for school buses. He believed much of the land on the mountain would not perk. Mr. Hensley enjoys living in a rural area and having a subdivision with one acre lots was a concern. He was concerned about water runoff. The design plan calls for the hiking/riding trails to be on the perimeters of the property, and he would prefer those be on the interior of the property to protect his privacy.

Jean Even, 2645 Johnson Creek Road, Evington, just moved to the area from Wyoming and is building a home near her parents. She was concerned about the watershed. She has talked with a forester about replanting her property that was cleared for her home to maintain the rural nature of the area and to provide trees for future generations. The proposed subdivision would have yards on steep inclines that would be hard to maintain. She was opposed to rezoning the property and wanted to maintain the agricultural areas of the County.

James R. Fortune, 2645 Johnson Creek Road, Evington, agreed with Mr. Hensley and was also concerned about the steep inclines of the lots. When there is a heavy rain, everything would slide downhill. Because of the stony nature of the property, he doubted much of the subdivision would perk. Mr. Fortune indicated there is already a lot of ATV traffic on the mountain, and he did not see how the developer would stop that.

Charles Mattox lives on Tardy Mountain Road and supported maintaining the rural nature of this area. He would consider the proposal an example of spot zoning, and he and his neighbors would request the Board deny the request. If approved, the Board would be giving the developer permission to form non-conforming lots. Mr. Mattox could not see any compelling reason to approve the rezoning.

Roger Keese, 2839 Leesville Road, lives to the south of this property. He and his family own about 3,000 acres. The aerial view was very beautiful, and they would like to keep it that way. He and his family currently have three homes on 3,000 acres. Mr. Keese urged the Board to deny the rezoning request.

Ron Hensley, 2603 Johnson Mountain Road, Evington, was speaking on behalf of friends and neighbors on the other side of the mountain. He asked the Board to carefully consider this request reminding the Board that this was a rural area. If the request was approved, it would forever change the area. Mr. Hensley also pointed out the current roads were only marginal at best, and he could not even imagine how the roads would be able to handle ten times the amount of traffic. He was opposed to rezoning the property and asked the Board to consider the wishes of the current residents.

Bernard Lane, 482 Johnson Mountain Road, was concerned about the potential runoff from the mountain into Mill Creek and would affect those that swim and the fish. He also has a small lake that catches some of the runoff.

Nancy Tucker, Box 113, Lynch Station, indicated that her property joins Camping Springs Road. She was concerned that people would use that road instead of the main entrance into the subdivision. There were generations of farmers in that area, and she would like to

maintain the rural nature and the local farmers. Mrs. Tucker was also concerned about the amount of traffic the subdivision would generate.

Chairman Gunter asked everyone present that was opposed to the rezoning request to please stand. Approximately 25 people stood.

Hearing no further comments, the public hearing was closed at 9:13 p.m.

Supervisor Carter believed this was a no win situation, but he felt that rezoning to R-1 and including the proffers would give the County some control of the property. The proposed water line would be beneficial to everyone in that area. Central Virginia was experiencing a movement era. Another large subdivision, Runaway Bay, was in his area and the additional people in the area have revived the community. The topography in Runaway Bay was similar, and the residents have managed to build some very beautiful homes on extremely steep property. The developer would still be able to develop the property if it remained A-1, but he believed rezoning to R-1 would be better for everyone. He offered the following motion to approve the rezoning request.

On motion of Supervisor Carter, it was resolved the Board of Supervisors accepts the recommendation of the Campbell County Planning Commission and citing good zoning practice **APPROVES** Request #07-00591 by Stacy M. Compton, Agent for Edgewood Land Development Company, LLC, Owner to rezone 646 ± acres from A-1, Agricultural to R-1/R-SF, Residential-Single Family for development of a multi-lot single-family residential subdivision on property located on the north side of Johnson Creek Road (Route 695), approximately 2 miles west of its intersection with Johnson Mountain Road (Route 626) in the Altavista Election District; and the landowner hereby proffers the following, as part of the above-referenced rezoning request:

1. There will be no more than 360 dwelling units constructed on the property encompassed in the Stone Ridge at Johnson Mountain Development which is comprised of approximately 726 acres in Campbell County and 491 acres in Bedford County. It is the intent of this proffer to maintain the average density over the entire 1216 acres of the development at approximately one dwelling unit per three acres of gross area though actual lot sizes will vary from 1 to approximately 7 acres.
2. Applicant proffers 50 acres to be maintained as an equestrian area to be a part of the Stone Ridge at Johnson Mountain project. The equestrian area must be zoned A-1 to allow agricultural uses and would normally be reserved from Applicant's request to rezone to R-1. However, the precise location of the equestrian area cannot yet be established, and therefore Applicant requests that the entire area within the project boundary be rezoned to R-1 at the present time pending establishment of a metes and bounds description of the equestrian area. Not later than six months from the date hereof, Applicant shall file an application to rezone the equestrian area to A-1 so that agricultural uses can take place including the keeping and training of horses.
3. Applicant will build asphalt roads in the subdivision meeting VDOT requirements for acceptance into the Virginia Secondary Highway System. The current Route 627 leading from Johnson Creek Road into the property is a 30 foot prescriptive right of way which was discontinued by VDOT in 1964 and is not currently maintained by VDOT. Applicant will strive to obtain necessary additional right of way to meet the 50 foot standard and if said right of way is obtained, will construct an asphalt road on the Route 627 right of way meeting VDOT specifications. If the necessary right of way is unobtainable applicant agrees to construct an asphalt road on the existing 30 foot right of way and to provide for its maintenance through the Stone Ridge Property Owner's Association.
4. Applicant shall restrict the removal of hardwood timber from the subdivision by means of restrictive covenants requiring approval of cutting of trees by an Architectural Review Committee established by the developer. Exception: some of the common areas may have to be cleared to create pasture for the planned equestrian areas.

5. Applicant will require by restrictive covenants a minimum enclosed, heated living space on all dwellings of 1400 square feet and all dwellings and designs will be subject to review by the Architectural Review Committee.
6. Applicant shall provide public water within the subdivision and applicant shall construct a 12" waterline from the existing water treatment plant to the intersection of Leesville Road and Johnson Mountain Road and an 8" waterline along Johnson Creek Road to the entrance of the development from the closest extension of the CCUSA waterline to the development at the expense of the applicant within a period of three years after the approval of the rezoning, said waterline to be transferred to the CCUSA upon completion. A letter of credit or bond for 125% of the total cost of construction will be posted prior to the recordation of any subdivision plat.
7. All waterlines constructed within the development will be constructed to CCUSA standards and specifications.
8. All platted lots shall meet Health Department standards for a private sewage disposal system to be created on each lot or, in the alternative, developer may, in its discretion, build a central sewage system or systems for the development or parts thereof.
9. All lots within the proposed subdivision will be a minimum of 1.0 acre (43,560 sf) in size. All lots within the proposed subdivision will have a minimum of 125' of frontage along a VDOT approved and maintained roadway.
10. Applicant will prohibit all terrain vehicles from the multi-purpose trails in the development and the multi-purpose trails will be unlighted.

Supervisor Rosser has always been for progress and what was best for Campbell County. Looking at the Comprehensive Plan, this was strictly agricultural land, and the residents of that area appreciate where they live. He was opposed to spot zoning and would not be able to support the motion.

Supervisor Pendleton was very familiar with the area having grown up in the Evington area. He has gone to look at the property and was surprised that in 50 or so years, the area had changed very little. It was definitely a rural, agricultural area. In light of the Comprehensive Plan, he offered a substitute motion to deny the rezoning request.

On substitute motion of Supervisor Pendleton, it was resolved the Board of Supervisors citing good zoning practice **DENIES** Request #07-00591 by Stacy M. Compton, Agent for Edgewood Land Development Company, LLC, Owner to rezone 646 ± acres from A-1, Agricultural to R-1/R-SF, Residential-Single Family for development of a multi-lot single-family residential subdivision on property located on the north side of Johnson Creek Road (Route 695), approximately 2 miles west of its intersection with Johnson Mountain Road (Route 626) in the Altavista Election District.

In answer to a question by Supervisor Carter, Mr. Shreve advised that spot zoning was any zoning not consistent with the Comprehensive Plan regardless of the size.

Supervisor Falwell looked at this project from a long-range perspective and what may be best for the residents in the area. He was convinced the property would be developed, and he wanted to be able to look back and have something the County would be proud of. Would it be a well planned community or houses on three acre lots that would not be planned?

Supervisor Boyer pointed out that regardless of what the Board decided, the applicant owned the property and by right could subdivide the land into three acre tracts and place modular units. He was sympathetic with the residents, but he realized that regardless of the decision made at that meeting, the community was going to change. If the rezoning was approved to R-1, the County would at least have some controls over the development. He would support Supervisor Carter's motion.

The vote on the substitution motion to deny the rezoning request was:

The vote was: Aye: Gunter, Pendleton, Puckett, Rosser
Nay: Boyer, Carter, Falwell

The substitution motion passed; therefore no vote on the original motion was taken.

// PUBLIC HEARING – RIGHT OF WAY VACATION – THIRD BROAD STREET

The next public hearing was opened at 9:35 p.m. to consider vacating an unopened roadway designated on a plat of the Town of Leesville known as “Third Broad Street.” Mr. Harvey explained that in the early 1800’s Leesville was originally laid out as a town with roads and alleyways. The subject property was approximately three hundred sixty five feet in length and runs through the property currently owned by Leesville United Methodist Church. The vacation would enable the church to consolidate several small parcels of property into one larger tract to facilitate future expansion. The Planning Commission by a vote of 7-0 recommended approval at their meeting on November 27, 2006.

No one spoke in favor of or in opposition to the vacation request. The public hearing was closed at 9:37 p.m.

Supervisor Carter attends the Leesville United Methodist Church and offered the following motion:

On motion of Supervisor Carter, it was resolved the Board of Supervisors adopts the following Ordinance of Vacation:

Ordinance of Vacation

[Vacation of Unopened Roadway (*Portion of “Third Broad Street” containing 0.416 Acre*) through Property of Leesville United Methodist Church; Vacation of Interior Lot Lines and Integration of 0.416 Acre Vacated Unopened Roadway to Create Lot of 1.799 Acres]

WHEREAS, a plat entitled “Town of Leesville – Major Jesse Leftwich Plat,” dated January 7, 1933, by Fred Kabler, was recorded in Plat Book 5, page 94, in the Clerk’s Office of the Circuit Court of Campbell County, Virginia;

WHEREAS, said plat showed certain portions of the premises set apart for streets, alleys, or other public uses which, by recordation of the approved plat, were transferred in fee simple to the County of Campbell in accordance with VA. CODE ANN. Sec. 15.2-2265 or its predecessor statute;

WHEREAS, among such certain portions of the platted premises so transferred in fee simple to the County of Campbell was that certain roadway denominated upon said plat as “Third Broad Street” running north-south between and abutting Lot 24A on the west and Lots 24 and 30 on the east, on the south side of Bedford Highway (now State Route #43) and on the north side of “Second Alley” as shown on the aforesaid plat, and being more particularly described as “0.416 Acres within platted roadway – not open” on a plat entitled “Plat for Leesville United Methodist Church,” dated September 21, 2005, by John D. Jacobs, which plat is to be incorporated as a part of this Ordinance of Vacation and recorded in the aforesaid Clerk’s Office;

WHEREAS, the aforesaid Lot 24A (Tax Parcel #81C-1-B-24A), Lot 24 (Tax Parcel #81C-1-B-24), and Lot 30 (Tax Parcel #81C-1-B-30) are all owned by the Trustees for Leesville United Methodist Church;

WHEREAS, the above-described portion of Third Broad Street as shown upon the aforesaid plats has never been opened, but the described portion of Third Broad Street runs through the property of Leesville United Methodist Church;

WHEREAS, it is the desire of the Trustees of Leesville United Methodist Church to request the Board of Supervisors for the County of Campbell, Virginia, to vacate the above-described portion of Third Broad Street as shown upon the aforesaid plat entitled “Town of

Leesville – Major Jesse Leftwich Plat,” dated January 7, 1933, by Fred Kabler, recorded in Plat Book 5, page 94 in the aforesaid Clerk’s Office, by Ordinance of Vacation in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2272 and Sec. 21-43 of the Campbell County Code of 1988;

WHEREAS, the effect of such vacation shall be to vest fee simple title to the centerline of such unopened roadway so vacated in the owners of abutting lots, free and clear of any rights of the public or other owners of lots shown on the aforesaid plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein, in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2274 and Sec. 21-45 of the Campbell County Code of 1988, such that the 0.416 acre contained within said vacated unopened roadway shall become part of the property of Leesville United Methodist Church;

WHEREAS, it is the further desire of the Trustees of Leesville United Methodist Church to request that the interior lot lines among Lots 24A, 24 and 30 as shown on the aforesaid “Plat for Leesville United Methodist Church” dated September 21, 2005, by John D. Jacobs, be vacated so as to incorporate the area encompassed by the above-described lots and the 0.416 acre gained by vacation of the described portion of Third Broad Street to create one lot containing a total of 1.799 acres, in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2275 and Sec. 21-46 of the Campbell County Code of 1988;

WHEREAS, there are no easements or utility rights-of-way located along any of the interior lot lines to be vacated that would be affected by the vacation of the interior lot lines;

NOW, THEREFORE, BE IT ORDAINED, that in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2272 and Sec. 21-43 of the Campbell County Code of 1988, that portion of the plat entitled “Town of Leesville – Major Jesse Leftwich Plat,” dated January 7, 1933, by Fred Kabler, recorded in Plat Book 5, page 94, in the Clerk’s Office of the Circuit Court of Campbell County, Virginia, showing that certain roadway denominated upon said plat as “Third Broad Street” running north-south between and abutting Lot 24A on the west and Lots 24 and 30 on the east, on the south side of Bedford Highway (now State Route #43) and on the north side of “Second Alley,” and containing 0.416 Acres according to a subsequent plat, **shall be, and the same hereby is, vacated**, a public hearing thereon having been duly advertised in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2204;

BE IT FURTHER ORDAINED, that a certified copy of this Ordinance of Vacation shall be recorded after the expiration of thirty (30) days from the date hereof, unless appealed to the Circuit Court for the County of Campbell, Virginia and thereafter if this Ordinance of Vacation is affirmed by said Court, in the Clerk’s Office of the Circuit Court of Campbell County, Virginia.

BE IT FURTHER ORDAINED, that in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2274 and Sec. 21-45 of the Campbell County Code of 1988, the recordation of this Ordinance of Vacation as required in the preceding paragraph shall operate to destroy the force and effect of *that portion* of the plat entitled “Town of Leesville – Major Jesse Leftwich Plat,” dated January 7, 1933, by Fred Kabler, recorded in Plat Book 5, page 94 in the aforesaid Clerk’s Office, as described above and so vacated and to vest fee simple title to the centerline of the above-described vacated unopened roadway, containing 0.416 acre according to the aforesaid “Plat for Leesville United Methodist Church,” dated September 21, 2005, by John D. Jacobs, in the owners of abutting lots owned by the Trustees of Leesville United Methodist Church, free and clear of any rights of the public or other owners of lots shown on the aforesaid plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein.

BE IT FURTHER ORDAINED, that the interior lot lines among the above-described Lots 24A, 24 and 30 as shown on the aforesaid “Plat for Leesville United Methodist Church” be vacated so as to incorporate the area encompassed by the above-described lots and the 0.416 acre gained by vacation of the described portion of Third Broad Street to create one lot containing a total of 1.799 acres, in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2275 and Sec. 21-46 of the Campbell County Code of 1988;

BE IT FURTHER ORDAINED, that the aforesaid “Plat for Leesville United Methodist Church,” dated September 21, 2005, by John D. Jacobs, is hereby incorporated by reference as a part of this Ordinance of Vacation, and the same shall, upon satisfaction of any other requirements of VA. CODE ANN. Sec. 15.2-2275 and Sec. 21-46 of the Campbell County Code of 1988, be recorded in the Clerk’s Office of the Circuit Court of Campbell County, Virginia;

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

// PUBLIC HEARING – RIGHT OF WAY VACATION – RAINBOW FOREST SUBDIVISION

The next public hearing was opened at 9:39 p.m. on a request to vacate an unopened roadway between lots 3 and 5 of Block 2, Section 1 of Rainbow Forest Subdivision. Mr. Harvey indicated the subject property was approximately two hundred feet in length. It could have provided a connection between Rainbow Forest Drive and Yellowstone Drive, but such a connection was never constructed although it was shown when Yellowstone Drive was platted with Section G of the Powhatan Cox subdivision. The area in question was developed in the 1960’s and the right of way no longer appears necessary since it has gone unused for that period of time. If the vacation was approved, half of the property would go to lot 3 and the other half to lot 5.

Chairman Gunter called for comments in favor of or in opposition to the request for vacation.

Hiram Smith, 166 Yellowstone Drive, thanked the Board for the piece of property and thanks to Supervisor Falwell for having the tree cleaned up.

Don Gordon lives on the other side of the vacant property and he too thanked the Board for cleaning up the property. He was appreciative of the property as it now gives both parcels access to the backyards.

The public hearing was closed at 9:43 p.m.

On motion of Supervisor Falwell, it was resolved the Board of Supervisors adopts the following Ordinance of Vacation:

Ordinance of Vacation

[Unopened Access Road in Section 1, Rainbow Forest Subdivision]

WHEREAS, an approved plat entitled “Plat of Section 1, Rainbow Forest Subdivision, Brookville Magisterial District, Campbell County, Virginia,” dated August 16, 1961, by Adrian Overstreet, was recorded in Plat Book 16, page 125, in the Clerk’s Office of the Circuit Court of Campbell County, Virginia;

WHEREAS, said plat showed certain portions of the premises set apart for streets, alleys, or other public uses which, by recordation of the approved plat, were transferred in fee simple to the County of Campbell in accordance with VA. CODE ANN. Sec. 15.2-2265 or its predecessor statute;

WHEREAS, among such certain portions of the platted premises so transferred in fee simple to the County of Campbell was that certain property denominated upon said plat as “Access Road” lying between Lot 3 and Lot 5, Block 2, Section 1, Rainbow Forest Subdivision, and being more particularly described as an unopened access road fronting on Rainbow Forest Drive and located at the terminus of Yellowstone Drive.

WHEREAS, said “Access Road” has never been opened, the Rainbow Forest Subdivision is fully developed such that there is no further need for the proposed access road inasmuch as the lots in that block of the subdivision front on and have access via Rainbow Forest Drive, and there is no need for access from Rainbow Forest Drive to Yellowstone Drive;

WHEREAS, it is the desire of the County of Campbell, acting by and through its Board of Supervisors, to vacate that portion of the aforementioned plat showing said unopened access road by Ordinance of Vacation in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2272 and Sec. 21-43 of the Campbell County Code of 1988;

WHEREAS, the effect of such vacation shall be to vest fee simple title to the centerline of such unopened access road so vacated in the owners of abutting Lot 3 and Lot 5, Block 2, Section 1, Rainbow Forest Subdivision, free and clear of any rights of the public or other owners of lots shown on the aforesaid plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein, in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2274 and Sec. 21-45 of the Campbell County Code of 1988;

NOW, THEREFORE, BE IT ORDAINED, that in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2272 and Sec. 21-43 of the Campbell County Code of 1988, that portion of the plat entitled "Plat of Section 1, Rainbow Forest Subdivision, Brookville Magisterial District, Campbell County, Virginia," dated August 16, 1961, by Adrian Overstreet, recorded in Plat Book 16, page 125, in the Clerk's Office of the Circuit Court of Campbell County, Virginia, showing an "Access Road" lying between Lot 3 and Lot 5, Block 2, Section 1, Rainbow Forest Subdivision, and being more particularly described as an unopened access road lying between Lot 3 and Lot 5, Block 2, Section 1, Rainbow Forest Subdivision, fronting on Rainbow Forest Drive, and located at the terminus of Yellowstone Drive, **shall be, and the same hereby is, vacated**, a public hearing thereon having been duly advertised in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2204;

BE IT FURTHER ORDAINED, that a certified copy of this Ordinance of Vacation shall be recorded after the expiration of thirty (30) days from the date hereof, unless appealed to the Circuit Court for the County of Campbell, Virginia and thereafter if this Ordinance of Vacation is affirmed by said Court, in the Clerk's Office of the Circuit Court of Campbell County, Virginia.

BE IT FURTHER ORDAINED, that in accordance with the provisions of VA. CODE ANN. Sec. 15.2-2274 and Sec. 21-45 of the Campbell County Code of 1988, the recordation of this Ordinance of Vacation as required in the preceding paragraph shall operate to destroy the force and effect of *that portion* of the plat so described above and so vacated and to vest fee simple title to the centerline of such vacated unopened access road in the owners of abutting Lot 3 and Lot 5, Block 2, Section 1, Rainbow Forest Subdivision, free and clear of any rights of the public or other owners of lots shown on the aforesaid plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

// PUBLIC HEARING – COUNTY CODE UPDATE

The last public hearing was opened at 9:44 p.m. on a number of mandated and discretionary changes to the County Code. These were reviewed with the Board at the November 6th meeting. Staff recommended the Board adopt the changes as well as two additional amendments, one in Chapter 21 pertaining to a centralized on-site sewage treatment system and Chapter 22, Landfill Area Overlay Zone. The public hearing was held on those two changes on October 2, 2006.

Chairman Gunter called for comments in favor of or in opposition to the proposed amendments.

Gerald W. Hornal, 407 Riverview Lane, Concord, Virginia, supported the amendment to allow a recreational vehicle to be used as a temporary residence while constructing your home. It would be beneficial to a citizen to protect materials and equipment and save money during construction.

Dawn M. Floyd owns property on Riverview Lane and also supports the amendment to allow a recreational vehicle to be used as a temporary residence during construction of a home. Two advantages were security of building materials and being close by during construction.

George Floyd owns property at 233 Riverview Lane, also spoke in favor of the amendment concerning recreational vehicles.

James Booker, 4278 East Ferry Road, spoke in favor of the dog confinement period. A group of the local hunters worked with Animal Control to work out an ordinance that would satisfy everyone.

Butch Royal, 134 Royal Ridge Circle, referred to the proposed landfill overlay district. He felt the Board was asking the neighbors surrounding the landfill to provide a buffer. Usually it was the property owner that provides the buffer.

Hearing no further comments, the public hearing was closed at 9:50 p.m.

On motion of Supervisor Puckett, it was resolved the Board of Supervisors adopts amendments to the Campbell County Code as advertised for the December 4, 2006 meeting excluding the reference to a lot size in Section 21-23.1, and adopts Sec. 21-17.5, standards for optional centralized on-site sewage treatment system in developments of ten or more dwelling units, and Secs. 22-16.2 and 22-16.3 to create a landfill overlay district.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

// APPROVAL OF CONTRACT WITH MRG CONSULTING LLC

The Board previously agreed to hire MRG Consulting LLC (Bill Gillespie) to negotiate with several property owners near the intersection of Calohan Road and Wards Road to improve traffic flow. A contract for the work was executed, and Mr. Gillespie was working with the parties to find a resolution and would bring back a report on the negotiations in the near future. A supplemental appropriation in the amount of \$7,500 was presented for approval.

On motion of Supervisor Pendleton, it was resolved the Board of Supervisors approves a contract with MRG Consulting LLC and approves a transfer of appropriation in the General Fund, deleting \$7,500 from Budget Set Aside and appropriating the same to Engineering & Architectural Service, to cover the scope of engineering services pertaining to the impact of potential new development along Calohan Road in the vicinity of its intersection with Route 29 (Wards Road).

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

// FINANCE AND BUDGET CONSENT AGENDA

On motion of Supervisor Puckett, it was resolved the Board of Supervisors approves the following under the Finance and Budget Consent Agenda:

Appropriations –

1. General Fund, Non Departmental, deleting \$23,562 from COMP & Fringe Benefit Increases, Management Services, deleting \$16,000 from COMP – Senior Accountant, Information Technology, deleting \$5,455 from COMP – Programmers, and Recreation, deleting \$10,000 from COMP – Program Manager, and appropriating to Management Services, \$23,500 to COMP – Finance Accounting Specialist, Information Technology, \$4,350 to COMP – Integration Specialist, and \$1,105 to COMP – Systems Engineer, Central Purchasing, \$1,900 to COMP – Administrative Aide, EMS Services, \$432 to COMP – Deputy Director and \$9,300 to COMP – Administrative Aide, Recreation, \$10,000 to COMP – Director and \$100 to COMP – Office Manager, Community Development, \$3,530 to COMP – Code Enforcement Officer and E-911 Fund, \$800 to

COMP – Deputy Director, to transfer budget for various compensation line items to cover probationary period increases, higher starting salaries, or budget line item corrections;

2. General Fund, Public Assistance Services, deleting \$2,975 from VIEW Services and appropriating the same to Capital Improvements, Social Services, Vehicles, to transfer funds to offset the cost of a new vehicle that is to be purchased from additional revenue from federal funds;
3. General Fund, Non-Departmental, deleting \$1,000 from Budget Set Aside and appropriating the same to Accounting Services, Accounting Services – Auditing, additional work not included in audit contract for new state reporting requirements relating to the new communications taxes (one time charge);
4. General Fund, Clerk of Circuit Court, appropriating \$70,123 to Technology; and raises estimated revenue, Technology Trust Fees, by \$70,123, funding from Compensation Board for technology including PC and scanner upgrades, records indexing, records management maintenance, licensing fees to provide secure remote access to land records and SRA maintenance;
5. Capital Improvements Fund, Social Services, appropriating \$10,200 to Vehicles; and raises estimated revenue, Social Services Vehicles, by \$10,200, additional federal funds received;
6. General Fund, Highway Enforcers Grant, appropriating \$18,248 to Comp – Overtime, \$1,396 to Employer Cost – FICA and \$356 to Workers Comp; and raises estimated revenue, Highway Enforcers Grant, by \$20,000, federal pass thru state DMV grant called Highway Enforcers requiring 20% in-kind match of \$4,000;
7. School Operating Fund, At Risk 4 Year Olds, appropriating \$106,243 to Comp At Risk Teachers, \$26,589 to Comp At Risk Aides, \$8,632 to Employer Cost FICA, \$15,927 to Employer Cost VRS, \$7,781 to Employer Cost Health Ins, \$1,128 to Employer Cost Group Life, \$30,215 to Other Costs, \$46,702 to Materials & Supplies, \$41,941 to Capital Outlay, and \$12,777 to Parental Involvement, and deleting \$70,262 from Purchased Services; and increases revenue, At Risk 4 Year Olds, by \$227,673, to match revised budget due to increase in student enrollment and revised per student allocation;
8. General Fund, Clerk of Circuit Court, deleting \$24,200 from Other Professional Services, and lowers estimated revenue, Technology Trust Fees, by \$24,200, to deappropriate technology funds from the Compensation Board originally estimated and included in the wrong line item; and
9. General Fund, Highway Enforcers Grant, deleting \$11.85 from Comp – Overtime, \$73.04 from Employer Cost – FICA and \$30.71 from Workers Comp; and lowers estimated revenue, highway Enforcers Grant, by \$43.96 and lowers the Undesignated Fund Balance by \$71.64, to deappropriate funds not expended from the FY06 Highway Enforcers Grant;

County Attorney Invoices –

Approves payment to the County Attorney in the amount of \$11,805.40 for services rendered; and

On – Call HVAC Maintenance –

Approves Moore’s Electrical & Mechanical Construction, Inc. as the top ranked firm and authorizes staff to finalize the contract for On-Call HVAC Maintenance beginning January 1, 2007.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

// APPOINTMENTS

Three appointments were made at this meeting.

Social Services Board

On motion of Supervisor Boyer, it was resolved the Board of Supervisors appoints Gloria Rogers, 431 Sherbrooke Drive, Lynchburg, Virginia 24502, to fulfill an unexpired term until June 30, 2009 on the Social Services Board from the Sunburst Election District.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

Campbell County Utilities and Service Authority

On motion of Supervisor Boyer, it was resolved the Board of Supervisors appoints Dan Richardson, 456 Briar Cliff Circle, Lynchburg, Virginia 24502, to a three-year term until December 31, 2009 on the Campbell County Utilities and Service Authority from the Sunburst Election District.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

Economic Development Commission

On motion of Supervisor Carter, it was resolved the Board of Supervisors appoints Gary Cantwell, 1536 Mount Airy Road, Lynch Station, Virginia 24571, to a four-year term until December 31, 2010 as an at-large member on the Economic Development Commission.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

// MATTERS FROM THE BOARD

- National Technical Systems (NTS) has withdrawn its request for a modification to the current court order as discussed at the November 20, 2006 meeting.
- The VML/VACo has gone on record opposing the rate increase by Appalachian Power Company. The County is expecting a 30% rate increase.
- Update on Application by Nutri-Blend to modify its permit request to spread biosolids – the Board was provided with the preliminary report of Brian Stokes, E & S Program Manager, a letter from Nutri-Blend withdrawing three fields totaling 5.3 acres, a listing of the tracts by parcel number, excerpt from biosolids regulations on the standard buffer zones and temporary storage of sludge, Nutri-Blend buffer maps, and maps produced by GIS for several Board members. Staff plans to forward a letter to Nutri-Blend next week to include the Board's comments, a request to extend the comment period, and that the Department of Health conduct a public information meeting. Administrator Laurrell noted that the letter will include a comment that not all of the property owners signed an agreement to receive biosolids, but the agreements were signed by the parties leasing property. Supervisor Pendleton offered a motion to authorize staff to proceed with the letter.

On motion of Supervisor Pendleton, it was resolved the Board of Supervisors directs staff to forward a letter to the Department of Health concerning a request by Nutri-Blend to modify its permit in Campbell County to spread biosolids on an additional 3145.5 acres to include (1) a request for an extension of the public comment period, (2) a request that the Department of Health conduct a public information meeting for citizens to provide comments directly, (3) a comment that an agreement to receive biosolids signed by all property owners was not included in the permit modification request and (4) all other comments received from the Board of Supervisors.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser

Nay: None

- Congratulations to Aubrey Cheatham, Director of Public Safety, for completing requirements for certification in the Advanced Professional Series of Emergency Management.
- Scott Reiter has been named Unit Director of the Virginia Cooperative Extension office in Rustburg.

// CLOSED MEETING

On motion of Supervisor Boyer, it was resolved the Board of Supervisors enters into a closed meeting at 10:03 p.m. for discussion of a prospective business or industry in the Brookneal area, in accordance with §2.2-3711 (A) (5) of the Code of Virginia of 1950, as amended; and for discussion of several public nuisances, in accordance with §2.2-3711 (A) (7) of the Code of Virginia, as amended.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett, Rosser
Nay: None

// The Campbell County Board of Supervisors entered into a closed meeting on this 4th day of December, 2006 at 10:03 p.m. for discussion of a prospective business or industry in the Brookneal area, in accordance with §2.2-3711 (A) (5) of the Code of Virginia of 1950, as amended; and for discussion of several public nuisances, in accordance with §2.2-3711 (A) (7) of the Code of Virginia, as amended.

Supervisor Rosser left the closed meeting at 10:08 p.m.

// On motion of Supervisor Boyer, it was resolved the meeting return to open session at 10:15 p.m.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett
Nay: None
Absent: Rosser

// On motion of Supervisor Pendleton, the following resolution was adopted:

CERTIFICATE OF CLOSED MEETING

WHEREAS, the Campbell County Board of Supervisors had convened a closed meeting on the 4th day of December, 2006 pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, §2.2-3711 of the Code of Virginia requires a certification by the Campbell County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Campbell County Board of Supervisors hereby certifies that, to the best of each member's 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 the motion convening the closed meeting were heard, discussed or considered by the Campbell County Board of Supervisors.

The roll call vote was: Aye: Boyer
Aye: Carter
Aye: Falwell
Aye: Gunter
Aye: Pendleton
Aye: Puckett
Nay: None
Absent During Meeting: Rosser
Absent During Vote: Rosser

// ACTIONS FOLLOWING CLOSED MEETING

On motion of Supervisor Carter, it was resolved the Board of Supervisors directs the County Attorney to institute legal proceedings to abate public nuisances on the following properties:

| | | |
|-------------------------|------------------------|--------------------|
| Brenda Collins | 163 Dog Trail | Concord District |
| Betty Douglas | 1023 Lambs Church Road | Brookneal District |
| Robin Irby, Sharon Hall | 4581 Lawyers Road | Altavista District |
| Earl & Rachel Logwood | 245 Evington Road | Altavista District |
| Mabel Pillow Torrence | 418 Pauls Road | Rustburg District |

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett

Nay: None

Absent: Rosser

// ADJOURNMENT

On motion of Supervisor Pendleton, the meeting was adjourned at 10:19 p.m.

The vote was: Aye: Boyer, Carter, Falwell, Gunter, Pendleton, Puckett

Nay: None

Absent: Rosser

EDDIE GUNTER, JR., CHAIRMAN

Approved: _____