

**BOARD OF SUPERVISORS
REGULAR MEETING
MARCH 13, 2001**

At the regular meeting of the Board of Supervisors of Floyd County, Virginia, held on Tuesday, March 13, 2001, at 8:30 a.m. in the Board Room of the Floyd County Administrative Building, thereof;

PRESENT: David W. Ingram, Chairman; Diane B. Belcher, J. Fred Gerald, Kerry W. Whitlock, Board Members; George W. Nester, County Administrator; Terri W. Morris, Assistant County Administrator.

ABSENT: Kirby Harris, Vice Chairman (entered the meeting at 7:00 p.m.).

The Chairman called the meeting to order at 8:30 a.m. with the reading of the handicapping statement.

Chairman Ingram led the Board in the Opening Prayer.

Chairman Ingram led the Board in the Pledge of Allegiance.

Mrs. Deronda Thomas, Treasurer, next appeared before the Board. She presented the Invested Cash as of March 13, 2001; the Trial Balance as of January 31, 2001; and the Revenue/Expenditure Summary as of January 31, 2001. She reported that County decal sales are going well. 13,500 vehicle and 1100 trailer decals were sold last year, and they expect to go over that number this year.

The minutes of February 13, 2001 were presented to the Board for approval.

On a motion of Supervisor Whitlock, seconded by Supervisor Gerald, and carried, the minutes of February 13, 2001 were approved as presented.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

The monthly disbursements were presented to the Board for approval. A list of additional disbursements was also presented to the Board for their review. Questions and discussion followed.

On a motion of Supervisor Belcher, seconded by Supervisor Whitlock, and carried, it was resolved to approve the monthly disbursements, and additions, as presented, with the exception of the dog claim in the amount of \$57.00.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

The quarterly appropriations resolution was presented to the Board for their consideration.

On a motion of Supervisor Whitlock, seconded by Supervisor Gerald, and carried, it was resolved to adopt the quarterly appropriation resolution as presented (Document File Number).

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

Agenda Item 8a - Subdivision plats as approved by Agent for February 2001 - for the Board's information.

Agenda Item 8b - Appointments (2) to the Floyd - Floyd County Recreation Authority. Mr. Nester reported that four responses had been received from the advertisement for letters of interest.

On a motion of Supervisor Belcher, seconded by Supervisor Whitlock, and carried, it was resolved to authorize the County Administrator to set up times at the Board's regular meeting on April 10, 2001, for interviews of the four candidates for the two Recreation Authority vacancies.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

Agenda Item 8c - Appointment to Workforce Investment Board to replace Dan Ryan. Mr. Nester commented that this appointment is for a business representative. Consensus of the

Board was to defer the matter until Supervisor Harris is present, since he was working on this matter.

Agenda Item 8d - Resolution to Adopt the Member Agreement to Join the Virginia Association of Counties (VACo) Group Self Insurance Risk Pool. Mr. Nester reported that three responses were received to the County's recent advertisement for insurance. This coverage includes liability, automobile, buildings, inland marine, crime, boiler and machinery, electronic equipment, and an umbrella policy. The low bid, in the amount of \$29,746, was received from the VACo Group Self Insurance Risk Pool. Staff recommendation is to accept the bid from VACo.

On a motion of Supervisor Whitlock, seconded by Supervisor Belcher, and carried, it was resolved to accept the bid from the Virginia Association of Counties Group Self Insurance Risk Pool for the County's insurance.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

On a motion of Supervisor Gerald, seconded by Supervisor Whitlock, and carried, it was resolved to adopt the Resolution for Member Agreement to Join the Virginia Association of Counties (VACo) Group Self Insurance Risk Pool (Document File Number).

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

At 9:00 a.m., the Chairman called for the Public Comment Period.

Mr. J. C. Holden - There are three things that concern me. 1) I don't think we have a naive Board of Supervisors, but we have a lot of problems in the County. The fellow who we bought our property from did not follow the Subdivision Ordinance. It has been four months since I brought this to your attention, and you turned it over to the County Attorney to investigate. We have not heard anything. Is it the intention of the Board of Supervisors to enforce the subdivision laws? What is the situation now? Since this happened with me, and with the cold weather, it gave me time to go to the Clerk's Office and check out deeds on record. Since 1978, the subdivision laws have not been obeyed. According to the Ordinance, a piece of land is not to go up for sale until it is approved by the County Agent. The realtors put it up for sale, they know what the laws are. The Attorneys know that there is a subdivision law and that they should not send it over to be recorded without a survey. The Clerk should know it also, that it has to have a plat before it is recorded. Since 1978, this has been going on. Something has to be done. Do you, the Board of Supervisors, have any idea what kind of Pandora's Box has been

opened up in your negligence? It should be done all or nothing. Ignorance of the law is not an excuse that stands up in court. We started with a piece of property that we do not know where the survey is, the markers have been moved. The Commonwealth's Attorney says he can't enforce the laws. Our fences have been cut, our posts have been moved, he still can't enforce the laws. There is a problem there. It seems to me that the only way you can know if land is being subdivided, is when someone voluntarily brings a plat in. If nobody goes out and stops it, they will continue if it is only voluntary compliance. 2) There is another Pandora's Box that is even larger than this one. There have been a lot of complaints filed about my use of my property. I have been visited by everyone from DEQ to the dog catcher, anywhere from 4-15 times, for every kind of violation you can think of. My wife and I rode one day, from Copper Hill Church of the Brethren, to Floyd, and we counted 78 violations of the same things they said I had violated, that was just on Route 221. Even with the subdivision laws and all these other laws, the citizens are not aware. I don't think even the Board of Supervisors are aware of the violations. We counted four violations on Mr. Ingram's property, such as building too close to the road, set-back from the right-of-way, etc. Harris & Baker Furniture, just outside of Town, is 15' from the road. If we have ordinances, such as the Subdivision Ordinance, they must be enforced and if they were, I would not be in the situation I am in now. The person I bought my property from, divided 75 acres, did a survey, sold me and another man the same piece of property, he re-bought the property, had 8' right-of-ways, all violations. If we have ordinances, some way has to be established to inform the public, and don't selectively enforce. I will start filing a complaint on every one I find in the Clerk's Office. That is not a threat, but it is not fair to enforce the laws on me and not everyone else.

Mr. Bill Hobbs - I am here to sing the praises of two people that you appointed to the Rec Board and whose terms have recently expired. There are a variety of reasons that people get themselves appointed to boards: some seek appointment because the title "Board Member" will look good on their resume. Others see board membership as a political stepping stone. Still others get themselves on a board to serve the agenda of only one or two people. As a citizen, I am happy to report to you that none of these examples apply to Diane Belcher and Kenny Gardner. Both of these Rec Board appointees had the bright idea that their mission was to serve the people of the community. They had the bright idea that the recreation department should be "user friendly". They had the bright idea that the people who pay for rec services, through fees and taxes, should be treated with respect. They have both worked to achieve these aims. Much remains to be accomplished by the rec board. Some improvements have recently been made and others are being discussed by a special committee of sitting rec board members. But, make no mistake about it - it was Diane Belcher and Kenny Gardner who oiled the rusted hinges and opened that long-closed door to let in some much needed fresh air.

Dr. Daniel Porter - I would like to comment on the status of the Recreation Authority. I would like to express my gratitude to the Board of Supervisors for their responsibility and listening to a citizen request for change. All of which hinged on citizen participation, which is very important. Some concerns do remain. There seems to be a revolving door on Board members. Good people are put on the Board, then come off at the end of their term. There have been five changes in the Board Chair in the last year. With changes occurring so fast, it is hard

to accomplish what needs to be done. That says a lot about the organization itself. As far as the financial health of the organization, I would give it a D-. The programs that people ask for, don't happen. There have been repeated calls for a dog obedience training class, which would also address other problems we have in the County, have been ignored. There have been requests for a soccer program, especially of interest to our large population of Mexican/American farm workers, have been ignored. The programs of basketball, softball and football are easy to manage, but do not have large revenue streams, and do not appeal to the majority of the County citizens. Some children cannot participate because of the high costs. We need more community involvement. We have had meetings and the Board listens to our suggestions, and think they are good ones, but they get way-laid with other issues. They are in agreement, but do not follow up on the ideas and make them materialize. There are a lot of conflicts going on. You should look at the February minutes and see what the conflicts are between the administration and management. Also, with the conflicts and pending litigation with a citizen makes it hard to focus on needs of the community. I would like to request that the Board of Supervisors have discussion about establishment of a Floyd County Department of Parks and Recreation. This would bring the organization under one management, where the experience is needed. We need financial health in this organization - the budget is borderline every year. Without your support they would not make it. Local government support and program participation are the only ways to increase the revenue. Other Counties have lots of programs that bring in revenue. We feel a County based program would really respect the needs of the entire citizenry to a greater extent. We suggest that you keep the current Recreation Board as a citizen advisory committee. There seems to be a clear difference between a County based organization and an Authority. We are putting together data about how the population is increasing but participation in the programs is going down.

After no further comments, the Chairman declared the Public Comment Period closed.

Mr. Garland Nester, Animal Control Officer, next appeared before the Board. He presented a dog claim in the amount of \$57 for a lamb killed on February 5, 2001. The lamb weighed approximately 50 pounds and was five months old. A dog was picked up that fit the description, but it had no tags or identification. \$1.15/lb was the price the same gentleman had received two days before for a lamb at market.

On a motion of Supervisor Belcher, seconded by Supervisor Gerald, and carried, it was resolved to approve payment in the amount of \$57 to Mr. James Cobb for a lamb killed by a dog, and add same to the bills to be paid.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

Agenda Item 8e - Proposed Subdivision Ordinance - set workshop date for review. It was the consensus of the Board to defer the matter for discussion with the County Attorney later

in the day.

Agenda Item 8f - Appropriation - \$35,000 - County's share of purchase of bleachers for the School Board. Mr. Nester reminded the Board, that per their action of October 23, 2000, that \$35,000 had been promised for a share of the bleachers. The action had been made because of safety and liability concerns, but an appropriation had not been made at that time.

On a motion of Supervisor Gerald, seconded by Supervisor Belcher, and carried, it was resolved to approve an appropriation of \$35,000 to the School Board's FY01 budget, from Contingency, for the purchase of bleachers at Floyd County High School.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

Agenda Item 8g - Budget Committee - School Board Request. Mr. Nester reminded the Board that a committee of two Board of Supervisors members and two School Board members, with respective staffs, meet each year to discuss budget needs, and then report back to the respective boards. Chairman Ingram appointed a committee of himself and Supervisor Belcher to meet with the School Board committee.

Agenda Item 8h - Report on requests from Humane Society. Mr. Nester reported that he had met with the County's two Animal Control Officers to discuss the requests from the Humane Society. They agreed on the following: 1) The Society's request to have the shelter open on Saturdays and Sundays. Do not think it is practical because someone has to be present because of the closed landfill regulations. The transfer station is open on Saturdays from 8:00 - 11:30 a.m., so the Society's volunteers could be at the Pound then. The office will be closed because of the euthanasia system, telephone calls needing to be routed to the Sheriff's Office, and confidential records. The facility could be open to show the animals only. A waiver would need to be signed for release of liability. They also could not handle any of the animals because of the liability issues. 2) Have requested that VDOT install a directional sign to the shelter on Route 8, per the Society's request. 3) Request for Animal Friendly tag fees to come back to the fund for neutering/spaying. Reported that \$135 was received last year from this program with the provision that it be used for this type of program. We had already contracted with a local vet for this program. The County receives \$15/tag for this program.

Mr. Junior Goad, Resident Highway Engineer, and Mr. Bob Beasley, Assistant Resident Highway Engineer, next appeared before the Board.

Mr. Goad reported that the request for Revenue Sharing funds needs to be in to the State by March 30. Discussion followed on the possibilities for these funds. The roads that will be paved this year, either with revenue sharing funds, or maintenance funds, are: Routes 661, 654, 665, 610, 730 722, 750, 729, 600 and 603. Possibilities for next year's revenue sharing funds

are: Route 653 - 6 miles, 729, 615 (from Route 637 to Parkway), 681, and 799. Mr. Goad reported that the fund may be done on a percentage basis this year, so the Board may want to request more than they actually want, which can be dropped later if the full amount is received.

Consensus of the Board was to request revenue sharing funds in the amount of \$200,000, paving 6 miles of Route 653, and Route 681, as far as the money will go.

Supervisor Gerald - I appreciate the speed study on Route 622. Will there be warning signs put up?

Mr. Goad - yes, just as soon as we can.

Supervisor Gerald - Route 757 - improvements are going slow, and with the weather, it has made a mud hole which people cannot get through. They are concerned because the improvements seem to have stopped.

Mr. Goad - it is because of the weather. We will start again as soon as we can.

Supervisor Gerald - the people want to know if the improvements could be extended down to the next curve.

Mr. Goad - yes, we are planning to widen it.

Supervisor Gerald - Mr. Randall Quesenberry is building a fence at the Route 751/619 intersection. It looks like he is very close to, or on, the State right-of-way. Could this be checked before he gets any further with his building?

Mr. Goad - we would have to tell him to move it if it is on our right-of-way. We will go and check it out. If the road is paved, we have a 40' right-of-way.

On a motion of Supervisor Whitlock, seconded by Supervisor Belcher, and carried, it was resolved to authorize the County Administrator to write the State Department of Transportation requesting \$200,000 in the Revenue Sharing Program for secondary road improvements, and authorize the Chairman to sign said letter for request of funds.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

Supervisor Belcher - I appreciate the road side work. It looks a lot better.

Mr. Goad - we need to do a lot more of the brush cutting work. I did go back and check the site you mentioned and we got them to come back and work on it more.

Supervisor Belcher - Route 799 - patching - if this 3/4 mile site could be leveled up, it would really help.

Mr. Goad - we will check it.

Supervisor Whitlock - appreciate the bush hogging work, just keep pushing along with it. It is a safety issue also because of the limbs hitting bus windows.

Agenda Item 8i - Report on Board of Equalization. Mr. Nester reported that training has been completed for the Board of Equalization members. Hearing dates have been set for April 16, 20 and 24, and additional dates will be set if needed.

Agenda Item 8j - Report on status of redistricting. Mr. Nester reported that Anderson & Associates will be working with the County through our ArcView program. This program will identify areas that need attention, and will identify possible changes in demographics. Downloading of the census data will begin this Saturday morning by staff.

Chairman Ingram also reminded the Board that an alternate voting site for the Little River District needs to be found. The Board needs to keep this in mind.

Agenda Item 8k - Selection of One Stop Center for Work Force Investment Act. Mr. Nester reported that we are required to identify an agency to deal with this Act. The Virginia Employment Commission and Goodwill Industries are both requesting to be selected for endorsement. They both served in this capacity last year. Staff recommends that a letter be written that both agencies have done a good job, and it would be hard for the County to recommend one over another. A neutral letter could be written and they could compete through the proposal process, which would be determined by a committee of Chief Local Government Officials.

On a motion of Supervisor Gerald, seconded by Supervisor Whitlock, and carried, it was resolved to authorize the County Administrator to write a neutral letter of endorsement for both Goodwill Industries and the Virginia Employment Commission for selection as a One Stop Center for the Workforce Investment Act Program.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

Agenda Item 8l - Subdivision Approval - Franklin Pike Mini Farms. Mr. Nester reported that the Planning Commission approved this subdivision at their March 6, 2001 meeting. The site has 147.4 acres, 17 tracts, and is in the Little River Magisterial District. Tracts 1-11 are located on Franklin Pike, and tracts 12-17 are located on Cannaday's Gap Road.

On a motion of Supervisor Gerald, seconded by Supervisor Whitlock, and carried, it was resolved to approve the Franklin Pike Mini Farms subdivision as presented.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

Mr. Nester next presented a proposed resolution from the New River Valley Criminal Justice Services Board for the Board's consideration. In explanation of the background of this request, Mr. Nester reported that our juvenile offenders currently go to the New River Valley Juvenile Detention Center in Christiansburg. We are not a member of the Center, and pay a higher rate than members. They consistently run out of room, which causes our juveniles to be housed at facilities all over the State. The Regional Jail Board has been discussing the construction of a juvenile center on site next to the jail. The laws have changed that a juvenile center can be on-site with a regional jail as long as the inmate population is separated. The administration of both centers could be handled together. If a locality wants to have a juvenile center on their own, it is entirely at the locality's expense, with no State funds. Staff recommends that this is a prudent route for the County to study.

Supervisor Whitlock commented that the recommended appointment to this new committee should be either the Regional Jail Board member or alternate. The committee itself will be large because it will consist of Judges, Sheriffs, Commonwealth's Attorneys, etc.

On a motion of Supervisor Belcher, seconded by Supervisor Whitlock, and carried, it was resolved to adopt the Joint Resolution Providing for the Implementation of the Comprehensive Community Corrections Act and the Pretrial Services Act and Establishment of the New River Valley Criminal Justice Services Board (NRVCJSB) (Document File Number).

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

Mr. Nester reported that an invitation had been received from the New River Valley Visitors Alliance for two Board members to attend a scoping mission on March 26, 2001 at New River Community College, from 10:00 a.m. - 4:00 p.m. This mission will attempt to get all localities, who are doing tourism activities, together with one agency to coordinate all activities. Supervisor Belcher volunteered to attend the meeting.

Discussion followed on the Joint Resolution just adopted, that designation of the appointees from Floyd County were not included in the motion.

On a motion of Supervisor Belcher, seconded by Supervisor Whitlock, and carried, it was resolved to rescind the motion adopting the Joint Resolution Providing for the Implementation of the Comprehensive Community Corrections Act and the Pretrial Services Act and Establishment of the New River Valley Criminal Justice Services Board (NRVCJSB).

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - abstain
Supervisor Ingram - aye

Dr. Terry Arbogast, School Superintendent, next appeared before the Board. He reported on several items:

- Presented copy of the enrollment report for February 2001, 1961 students. The projected enrollment for the year end is 1963.

- Presented copy of the adopted school calendar for 2001-2002. Was approved by the School Board at their meeting yesterday.

- Presented copy of School Board meeting highlights report. April 16 and 17 will be additional holidays for students if no more days are missed for snow.

- The School Board took action to pursue acquisition of the W. G. Underwood, Sr. property.

- The School Board has not worked further on the proposed 2002 budget because of the uncertainty of the State figures. They have set a meeting for April 2 to discuss further.

The Board recessed for lunch.

Mr. James Cornwell, County Attorney, next appeared before the Board. He reported on several items:

Agenda Item 7fi) - Mutual Aid Agreement with surrounding localities - Still have not received comments from all localities - still waiting on Carroll, Roanoke and Patrick Counties.

Agenda Item 7fii) - Report on sale of properties with delinquent taxes. Have taken the top 22 parcels with the most taxes owed the County. Title examination reports have been done. The Treasurer is negotiating on one piece of property that is owned by 7-8 people. Next step is to run an advertisement advising people that suits will be filed if payment is not received within 30 days. The sale will be done about 6 months after filing of suit. The firm itself conducts the sale so there is no auctioneering fee. We will have available, on the day of the sale, the title insurance if the buyer wishes to purchase it. Once the property is sold, closing date is established and sent to the Judge for approval. We keep track of expenses so if someone wants

to pay it off, they must pay expenses also. After the sale, all costs are paid off, any funds left, the property owner can claim. The County will receive the left-over funds after two years if not claimed.

Agenda Item 7fiii) - Report on establishment of meals tax/transient occupancy tax. Mr. Cornwell reported that both taxes had been researched. On the transient occupancy tax, there is a 2% maximum that can be collected. The proprietor collects the tax for the County and files a monthly report along with the collection. The cost of doing it may not be worth the work.

Mr. Nester commented that the Chamber of Commerce wanted to do this study, and if the tax was adopted, that any extra funds be used to hire someone to promote tourism. We calculated that the tax would bring in around \$8000/year, and probably would not be practical.

Meals Tax - Mr. Cornwell reported that this tax has to be voted in by a referendum. It would cover all foods and beverages except vending machines, nursing homes, etc.

Mr. Nester - revenue collection was estimated to be about \$30,000, but we do not feel a referendum would pass.

Mr. Cornwell - if the Town has a meals tax, the County cannot adopt one.

Agenda Item 7fiv) - Adoption of Virginia Public Procurement Act/Abolish County Purchasing Ordinance/Small Purchase Policy. The Act was adopted by the County many years ago, but has not been updated over the years like the State Act. If the State Act is adopted, every time it is updated, you are immediately in compliance. A Small Purchase Policy can be adopted by the Board to authorize the County Administrator, as Purchasing Agent, to approve any purchases under \$30,000. He can have a policy himself as far as amounts for written bids, telephone bids, etc.

Mr. Nester presented a draft Small Purchase Policy for the Board's consideration. After discussion, it was the consensus of the Board for the County Attorney to edit the policy, especially to delete the statement of "over \$30,000", and add the requirement that each department will obtain a purchase order before actual purchase is made.

On a motion of Supervisor Gerald, seconded by Supervisor Whitlock, and carried, it was resolved to authorize the County Administrator to advertise for a public hearing on April 10, 2001 at 3:00 p.m., in the Board Room of the Floyd County Administrative Offices, to abolish the Ordinance known as "Ordinance Establishing Purchasing Policies for Floyd County".

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

Agenda Item 7fv) - Subdivision Ordinance re-draft. Mr. Cornwell presented a copy of the ordinance re-draft for the Board's consideration. He commented that a copy has also been sent to Mr. David Rundgren at the New River Valley Planning District Commission for his review. Consensus of the Board was to set a workshop date later in the evening.

On a motion of Supervisor Gerald, seconded by Supervisor Belcher, and carried, it was resolved to go into closed session under Section 2.1-344, paragraph 1, discussion of personnel matters; paragraph 3, discussion of acquisition of real property for public purposes or the disposition of government owned property where public discussion would jeopardize the County's bargaining or negotiating position; paragraph 7, consultation with legal counsel regarding specific legal matters that require legal advice.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

On a motion of Supervisor Belcher, seconded by Supervisor Whitlock, and carried, it was resolved to come out of closed session.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

On a motion of Supervisor Belcher, seconded by Supervisor Gerald, and carried, it was resolved to adopt the following resolution:

CERTIFICATION RESOLUTION
CLOSED MEETING

WHEREAS, this Board convened in a closed meeting on this date pursuant to an affirmative recorded vote on the motion to close the meeting to discuss personnel, property, legal matters, in accordance with Section 2.1-344, paragraphs 1, 3, 7 of the Virginia Freedom of Information Act;

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies; and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting to which this certification applies.

Before a vote is taken on this resolution, is there any member who believes that there was a departure from the requirements of number (1) or number (2)? If so, identify yourself and state the substance of the matter and why in your judgement it was a departure.

Hearing no statement, I call the question.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

This Certification Resolution was adopted.

Discussion followed on the procedure for tonight's public comment and public hearing times. Discussion centered on a procedure for time limits for comments.

On a motion of Supervisor Belcher, seconded by Supervisor Whitlock, and carried, it was resolved to set a four minute time limit, per citizen, at each public comment or public hearing time held by the Board of Supervisors.

Supervisor Gerald - aye
Supervisor Harris - absent
Supervisor Belcher - aye
Supervisor Whitlock - aye
Supervisor Ingram - aye

The Board recessed until the 7:00 p.m. Public Comment Period.

Supervisor Harris entered the meeting at 7:00 p.m.

At 7:00 p.m., the Chairman called for the Public Comment Period.

Mr. Charles Richards - I live in the Copper Hill area. I would like to talk about the proposed Subdivision Ordinance that was received from the New River Valley Planning District Commission. I was wondering what the status of that was and was wondering if the Subdivision Ordinance that is already in place is being enforced? Do you have any input on that?

Chairman Ingram explained how the Public Comment Period works, that comments are taken, but that there is not discussion between the Board and speakers. Any Board member or the County Administrator will be glad to answer questions later

After no further comments from the audience, the Chairman declared the Public Comment Period closed.

The Chairman next called for the Public Hearing on the Proposed Abandonment of 0.05 miles of State Secondary Route 649, which is now discontinued.

The County Administrator read the resolution for the call of the meeting, which also served as the notice to the landowners and was posted at the site.

The Chairman declared the Public Hearing open for comments.

Mr. Samuel Morris - I live in the area where the land is already discontinued. The reason that we want this done is because of a safety concern. There are people that park at the end of the road, and with the curve there, it is a hazardous place. Gilbert Peters, an adjacent landowner, could get water to his cattle easier with this abandonment.

Mr. J. C. Holden - I don't think with all that I have to present that I can do it in your four minute time limit. To begin with, this first piece of property was abandoned in 1989. I talked to George Nester about this. Do you have a copy of the map and proposed abandonment site? I have a copy of the abandonment that was done in 1989 by the Board of Supervisors, and a copy of the letter from Mr. Oscar Mabry of VDOT. It states that this section was abandoned on June 8, 1989, and shows a description of the abandonment. 1.25 miles West of Route 221 to 1.03 miles, which goes past where you are proposing to abandon. That part has already been abandoned in 1989. The section that Gilbert Peters says he needs to get water to his cattle was sold to me in 1985 by Ted Birkeland. The part goes down to Ben Williams land, and completely cuts Gilbert Peters out of the picture altogether. The last thing is that there were two subdivisions of land here and the Ordinance was not complied with. People have been observed moving our survey markers and no one can determine where the lines are. VDOT measured it last week. If you go 1.03 miles, you are at Richard Conner's driveway and you are back on State property. As I understand it, the property, if abandoned, goes back to the adjacent property owner. VDOT told me that the land belongs to the County and you let the State use it. These are some of the reasons that we don't want it abandoned. And the only car that is parked in the driveway is Mr. Morris', looks like he should move it if it is a hazard. The County cannot abandon this with stipulations, if you abandon it, it goes to the property owner. You cannot abandon it with stipulations, and I don't want it. It is supposed to go to me, but I don't want it.

Mrs. Linda Morris - Mr. Holden made comments about the land being abandoned in 1985, he bought the property in 1984 from Ted Birkeland. There is no way he purchased the land in 1985.

After no further comments from the audience, the Chairman declared the Public Hearing closed.

The Board recessed until the 7:30 p.m. public hearing.

At 7:30 p.m., the Chairman called for the public hearing on the proposed ordinance known as "Ordinance for the Control of Noise in Floyd County".

The County Administrator read the call for the public hearing.

The Chairman declared the Public Hearing open for comments.

Mr. J. C. Holden - the one thing that I can say about the ordinance is that we definitely need it. I can't help but think that the 2nd paragraph where it says "creation of noise and disturbance, regardless of sound level, by chain saws, automobiles, motorcycles, or three-wheel or four-wheel motorbikes, barking dogs and other like noises. In the event of barking dogs the owner or custodian of such dogs at the place where such noise and disturbance arises shall be held liable therefor" is a very general statement. How can you put this in an Ordinance? You are in violation if you start up these types of things, and there is no time limit. In the nest of idiots where I live, they would have the Sheriff's Office there all the time. I agree with the ordinance especially in the area where you can't disturb a church service. We have had our church disturbed by motorbikes on the drive beside of us. But there still seems to be something missing from the Ordinance.

Mr. Charles Richards - There is a sign out front on your building that says to grow is to prosper, but I'm not sure we want to grow. I mentioned this when I was up here before on the other ordinance, and this ordinance is the same thing, how will it be enforced? Can you cut your fire wood with a chainsaw, or you start your auto, are you in violation? You put chains on your car in bad weather and go on the asphalt, are you in violation? Who decides if you are in violation or not? If an ambulance went by with its siren going, that would be a violation, but it would be stupid that it was wrong. This is arbitrary. Noise is different things to different people. Floyd County is rural and by definition, there is going to be noise that goes along with that. Most people want to do the best they can, have industry and jobs, and leave something for their children. Will this apply to industry that runs a 2nd shift and has noise? It could be anything that makes some noise. It looks like to me that this would be prohibited under the ordinance also. If you don't enforce the same things on everyone, it would be unfair.

Mr. Leon Caldwell - I think you really need this ordinance, but a time is the thing. School buses start up and run, if they can't, how will the kids get to school and how will people go to work? I get up at 6:00 a.m. and go to work. The time frame is very important. Milkers - will they have to pick up milk in the middle of the day? Cows bawling - will their owners be arrested? Who will enforce this and how could it possibly be enforced?

Mrs. Linda Morris - There seems to be a lot of confusion over this ordinance and the time schedule. I feel, and I'm sure everyone else here does, that this ordinance would apply at night when you are sleeping, or late when you are trying to get the kids to bed. Dairy farmers, school buses, etc., this is petty and ridiculous. We are in agreement that the ordinance is needed, and it would not apply to legitimate things, it would apply to the middle of the night unnecessary things.

Mr. Steven Wade - Under Section 2.2 - creation of noise. I think this needs to be

stricken. It is too vague. Between the hours of 11:00 p.m. - 7:00 a.m., this is common courtesy to your neighbors to not make noise. Item #2 needs to be taken out. I am in the logging business, and chain saws bother me, but we try to keep them muffled. I am afraid that this would run our Sheriff's Office to death. The people would come and complain and have the cops running all around the County. OSHA regulations apply to me in my business, as far as my chain saws. My log truck is equipped with the standard equipment, standard mufflers, and even though the muffler costs \$700, I have it on there. I would like to see this section stricken. In item #4, the issue with in excess of 55 dba - is that when you reach the sound barrier and you lose your hearing? If so, the noise is harming someone. Who wants to be 80 years old and deaf? I would like to see that addressed. Other than that, like Mr. Holden stated, it is very important not to disturb church services. At my church, there is a guy who lives beside it that cranks up his diesel truck every Sunday at 10:30 a.m. and lets it run. That is a good part of the ordinance.

After no further comments from the audience, the Chairman declared the Public Hearing closed.

Agenda Item 8c - Appointment to Workforce Investment Act Board to replace Dan Ryan. Supervisor Harris asked that the matter be deferred to next month since he had not been able to make contact with the prospect he had in mind.

Agenda Item 8m - New River Criminal Justice Services Board. Mr. Nester read the letter explaining the situation requesting establishment of a new committee to oversee what the Criminal Justice Services Board had been doing, along with new responsibilities and duties, such as establishment of a new juvenile detention center.

On a motion of Supervisor Gerald, seconded by Supervisor Belcher, and carried, it was resolved to designate Supervisor Kerry Whitlock as representative to the New River Valley Criminal Justice Services Board, and to adopt the resolution known as "Joint Resolution Providing for the Implementation of the Comprehensive Community Corrections Act and the Pretrial Services Act and Establishment of the New River Valley Criminal Justice Services Board (NRVCJSB) (Document File Number _____).

Supervisor Gerald - aye
Supervisor Harris - aye
Supervisor Belcher - aye
Supervisor Whitlock - abstain
Supervisor Ingram - aye

Agenda Item 8e - Workshop for discussion on proposed Subdivision Ordinance. Consensus of the Board was to have the workshop in conjunction with the Special Meeting that will be set for another matter in the next couple of weeks.

Discussion followed on the Route 649 abandonment request.

Supervisor Harris - I am not in favor of this abandonment being done tonight. It seems

that there are other problems and issues that need to be worked out before we consider this.

Supervisor Whitlock - I am not in favor of doing anything tonight either. I think we need to get more information on the matter. I also think we need to have more discussion on the noise ordinance from the comments that we heard tonight.

Supervisor Harris - maybe Mr. Cornwell could explain the highlights of the ordinance again to us and for the benefit of the citizens here.

Mr. Cornwell - the proposed ordinance came about because the present ordinance was declared too vague to be enforced. We have gone through 3-4 drafts. Basically, #1 outlines the charge of the ordinance. #2 outlines the prohibited acts - music, chain saws, autos, motorcycles, three or four-wheel bikes, barking dogs. #3 outlines that the noise will not be allowed near schools, churches, courts in session, or hospitals. #4 gives the time frame from 11:00 p.m. - 7:00 a.m. that the noise is not allowed if in excess of 55 dbA's from a distance of 50 feet. This will require the purchase of a sound meter to determine the level. Paragraph #3 defines the penalties, which is a fine only. I heard the comments made tonight and don't disagree entirely with them, but we are defining the noise and time frame.

Supervisor Harris - we also have Disturbing the Peace laws, which are State laws. If your neighbor used a chain saw every night on your property line, wouldn't that be disturbing the peace?

Mr. Cornwell - it is an opinion more than a standard that we have in our noise ordinance. This would give us more standards. The Commonwealth's Attorney, who reviewed this ordinance, said it was acceptable to him. This is more about disturbing your neighbor than disturbing the peace.

Supervisor Belcher - it is hard to govern.

Mr. Cornwell - and hard to enforce. What is noise to one person is not to another.

Supervisor Belcher - what can we do to #2 to make it more specific?

Mr. Cornwell - you could take it out and use the language of #4. Items #1 and #2 could be combined.

Supervisor Ingram - I am in one of those livelihoods that makes noise. But I don't want to disturb anyone. Logging, farming, etc. sometimes do have extra noise, but they are providing jobs and making a living for someone. I don't think we need to make the ordinance too restrictive on industry either - whatever kind it is. Most have some type of noise related to them. #4 takes care of a lot with the 11:00 p.m. - 7:00 a.m. time frame. I have a problem with having an ordinance when I don't know how loud 55 dbA's is at 50'.

Supervisor Whitlock - I think we need to look at it some more and investigate it further. With ear protection, I think 29 dbA is the highest you can go. The decibel meter prices range from \$200 and up. We were looking at the 55 dbA at 50' being a good average. If you are inside it won't be as loud and irritating.

Supervisor Ingram (to Mr. Cornwell) - could barking dogs be added to #1 and delete #2?

Mr. Cornwell - we can combine #1 and #2.

Consensus of the Board was for the County Attorney to edit the ordinance and bring it back to the Board meeting next month. Also consensus of the Board for the County Administrator to try to borrow a meter so levels can be checked.

Supervisor Harris - we are not trying to have an officer carry this in his car and go up and down the road listening for noise.

Supervisor Whitlock - the ordinance is not intended for harassment, it is meant for unnecessary noise that continues on and on.

On a motion of Supervisor Harris, seconded by Supervisor Gerald, and unanimously carried, it was resolved to adjourn.

Supervisor Gerald - aye

Supervisor Harris - aye

Supervisor Belcher - aye

Supervisor Whitlock - aye

Supervisor Ingram - aye