

**BOARD OF SUPERVISORS  
REGULAR MEETING  
MARCH 8, 2005**

At the regular meeting of the Board of Supervisors of Floyd County, Virginia, held on Tuesday, March 8, 2005 at 8:30 a.m., in the Board Room of the County Administration Building, thereof;

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

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

The Opening Prayer was led by Chairman Ingram.

Chairman Ingram led in the Pledge of Allegiance.

Mrs. Deronda Thomas, Treasurer, appeared before the Board. She presented the invested cash and cash in office as of March 8, 2005.

Mrs. Morris presented the balance sheet and revenue/expenditure summary as of February 28, 2005. She reported with 67% of the budget year complete, General Fund revenue collections are at 71.8% and General Fund expenditures are at 78.9%.

Mr. Wendell Peters, Clerk of Circuit Court, appeared before the Board. He reported on several items:

- first of all, appreciate support, in the form of a letter, from the Board, at the last meeting concerning House and Senate bills for the Clerks Office;
- presented an information sheet outlining all the different services provided by his office and the numbers of each provided. He highlighted, for example, deed recordation, which had been steadily increasing, but 2005 shows a 19% decrease to date;
- Received letter from Auditor of Public Accounts indicating the audit for the office is complete. There is some talk across the State about changing to independent auditors. There are mixed feelings from the Clerks as to which way to go. It does take six weeks to complete the audit at a large cost.

Mr. Gordon Hannett, Commonwealth's Attorney, next appeared before the Board. His

report included the following:

- Greenbox situation - Sheriff's Office has been very diligent in enforcement of the ordinance and are making great progress - I even brought charges myself against a person I witnessed at a site on Route 8 dumping illegally;
- Budget issue - my office is part of the Regional Drug Task Force. From my work, we are eligible to receive funds that come from drug cases. We are required to expend these funds for law enforcement purposes. We have collected over \$3000 over the last several years. I plan to use around \$2000 of that to purchase laptop holders for the Sheriff's Department vehicles.
- Myra Grim has accepted a full-time position with the County. Her last day in my office will be March 18. I understand that I am not required to advertise for the part-time position in my office, so I am speaking personally with several individuals.
- The Sheriff and I are still working on getting another trooper for the County, we only have four at this time. We had another one scheduled to come to Floyd last year, but then she was placed in another County.

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

Mr. Daniel Bender - Little River District - I am a cattle/livestock producer. We have a growing coyote problem in the County. Until this past year, I had not had any problems, but other producers have had problems. Some have lost as many as nine head/year. I am sure there are other types of producers, such as sheep producers, that are losing livestock. Feel the County/State should look at means to control the coyote problem. We cannot eradicate them but we can control them and learn to live with them. I had a Federal trapper on my property yesterday, he said funds have run out for this program. There may be more available in January of 2006. The livestock business is a tremendous revenue source for the County and local businesses. As professional cattlemen, we spend a tremendous amount of money to raise quality cattle. Would like the Board of Supervisors to give it some thought and see how you can approach the situation, within the law.

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

The minutes of February 5, February 8, February 17 and March 2, 2005 were presented to the Board for review.

On a motion of Supervisor Whitlock, seconded by Supervisor Boothe, and unanimously carried, it was resolved to approve the minutes of February 5, February 17 and March 2, 2005 as presented.

Supervisor Boothe - aye  
Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - aye  
Supervisor Ingram - aye

February 8, 2005 minutes - Supervisor Whitlock commented that page 14 indicates his positive vote on a motion, when he was not present at the meeting. I do support the intent of the motion but I was not present for the vote.

On a motion of Supervisor Whitlock, seconded by Supervisor Boothe, and carried, it was resolved to approve the minutes of February 8, 2005 as amended.

Supervisor Boothe - aye  
Supervisor Belcher - aye  
Supervisor Whitlock - abstain - not present for entire meeting  
Supervisor Gerald - aye  
Supervisor Ingram - aye

The monthly disbursements, and additional expenses, were presented to the Board for review and consideration. Discussion and questions followed.

On a motion of Supervisor Belcher, seconded by Supervisor Whitlock, and carried, it was resolved to approve the monthly disbursements, plus additions, as presented.

Supervisor Boothe - absent for vote  
Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - aye  
Supervisor Ingram - aye

Agenda Item 10a - Subdivision plats as approved by Agent for February 2005 - Mr. Nester reported that 50 new lots were created during the month.

Agenda Item 10b - Appointment to New River/Mount Rogers Workforce Investment Board - business representative. Mr. Nester reported that Mr. Jack Wall had tendered his resignation from this Board.

On a motion of Supervisor Belcher, seconded by Supervisor Boothe, and unanimously carried, it was resolved to authorize the County Administrator to advertise for the business representative position on the New River/Mount Rogers Workforce Investment Board.

Supervisor Boothe - aye  
Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - aye  
Supervisor Ingram - aye

Mr. Bob Beasley, Resident Highway Engineer, next appeared before the Board. He reported on the following:

- 6-year primary road plan public hearing will be held on April 19, 2005 by video conference. Will provide details as available as to time and place.

Have spoken with the traffic engineer in Salem concerning striping of secondary roads. He indicated that a contract has been awarded and that all eligible secondary roads will receive striping this summer.

Supervisor Boothe - appreciate all the work being done.

- Route 735 - potholes need attention.
- Route 864 - very bad potholes.

Supervisor Belcher - Route 727, next to Route 221, some very bad spots;

- dirt roads have lots of potholes;
- Route 807 - needs repair.

Supervisor Whitlock - if edges of roads could be worked down, the water problem wouldn't be so bad. Also cleaning out the side ditches would help.

- I have the same issues as others with potholes and needed repairs;
- Starbuck Road - is getting a wet weather spring in the middle of the road - need some signage there indicating the problem;
- Route 679 - near Archie McAlexander's house between Camp Creek and Route 672 - there is a high bank with narrow pavement, some heavy stone has been put in but it is giving way and the pavement is cracking. Would like for you to look at it.
- Will trimming continue when weather breaks? Mr. Beasley indicated that it would, hope to do some also with our own crews.

Supervisor Gerald - Route 619 - potholes are getting worse.

- Snow fences - are they still put up? Mr. Beasley indicated they are not put up to the extent that they once were, permission has to be obtained from the landowner and it takes a tremendous amount of labor to install and take them down.
- Appreciate all the work you are doing.

Supervisor Ingram - have the same concerns as other Board members - secondary roads will need maintenance when weather allows.

Agenda Item 10c - Funding request - New River Valley Development Corporation. Mr. Nester recommended, after research, to not fund the request at this time. Have mis-apprehension as to how they got into this situation. Issues need to be dealt with on a planning basis, and not on an emergency basis. As more information becomes available, we may need to re-visit the issue. The loan can probably be restructured. As we go through the budget process, we may receive more information. The Board of Supervisors concurred with the recommendation to remove the item from the agenda.

Agenda Item 10d - Schedule for setting real estate rates for second half payments due June 5, 2005. Mr. Nester reminded the Board that a decision needs to be made soon as to a tax rate so preparation of tax tickets can begin to meet the deadlines.

Agenda Item 10e - Tourism enhancement project request from Carroll County - \$5000 for Blue Ridge Plateau Regional Visitor Center. Mrs. Lydeana Martin reported that this proposed center is near the Farmers Market at the I-77 intersection outside Hillsville. There is also a craft center component of the plan. The \$5000 request from Floyd and other localities will be used toward the cost of erection of a blue sign on I-77 indicating the visitor center. Our tourism materials can be placed at the center as part of the proposal. After discussion, it was the consensus of the Board to indicate their interest in the project, but to research long-term costs such as sign maintenance, fees for placing brochures, etc. and the County's responsibility in these areas.

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

- February 14, 2005 School Board meeting highlights presented;
- Draft 2005-2006 school calendar with ten built-in snow days;
- Enrollment report for February 2005 with 2075 students;
- Staff development activities in the math area;
- List of textbooks for 2005 adoption;
- Request for supplemental appropriation in the amount of \$201,665.83 for State school construction funds carried over from last year;
- Met with four of the five contractors on Friday to close out school construction accounts.

On a motion of Supervisor Belcher, seconded by Supervisor Gerald, and unanimously carried, it was resolved to approve a supplemental appropriation in the amount of \$201,665.83 to the FY05 school budget, carry-over school construction funds.

Supervisor Boothe - aye  
Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - aye  
Supervisor Ingram - aye

The Board recessed for lunch at Check Elementary School.

Mr. James Cornwell, County Attorney, next appeared before the Board.

Agenda Item 7f(I)- Report-subdivision requirement that survey accompany every building permit. Mrs. Martin and Mr. Jim Whitten, Building Official, also joined the Board for discussion on this matter. Mr. Cornwell reported that this requirement is part of the Subdivision Ordinance as was adopted by the Board. Staff wanted to assure that the Board realized the extent of this requirement and that it will be enforced, in case calls start coming their way. Extensive discussion followed on the requirement and its implications. Consensus of the Board was to leave the requirement as written. Staff will work together to ensure a smooth transition to the new requirement.

Agenda Item 7f(ii) - Ordinance to allow deputies to perform law enforcement duties

outside regular employment. Mr. Cornwell reported that Section 15.2-1712 of the Code of Virginia allows the outside employment of deputies. The Board questioned Mr. Cornwell as to liability that might be incurred when officers are working other places with Floyd County uniforms, vehicles, etc. Mr. Cornwell replied that they are a police officer 24/7/365, in or out of uniform, so the liability is the same no matter where they are or what they are doing. He will check with the Town of Narrows and Giles County, who both allow the off-duty employment, to see what kind of contracts they may have, such as with Virginia Tech. He stated that he knew in the Virginia Tech ball game instances, that the deputies will hold someone in temporary custody and a Tech officer will make the actual arrest. An agreement will have to be made between the two entities. Mr. Cornwell will research the matter further and report back to the Board.

In discussion of the coyote issue raised at the Public Comment time, Mr. Cornwell was directed to research options on how the situation could be handled, and report back to the Board.

At 3:00 p.m., Chairman Ingram called for the Public Hearing on the Proposed New River Valley Hazard Mitigation Plan.

County Administrator Nester read the call for the public hearing.

Mr. Shawn Utt, Planner with the New River Valley Planning District Commission, appeared before the Board to give a brief outline of the proposed plan.

Mr. Utt - I understand that Lydeana has provided you with a summary page. The beauty of that is that Floyd County's projects are really focused in on one page. The other 208 pages of the plan are just a little fluff. This a very useful tool for needed data. I'll give you a background of the plan itself. In June of 2002, the Planning District Commission created a committee composed of locality representatives to start on this Hazard Mitigation Plan. We had a series of public meetings which varied with agenda, whether it was wildfires, drought, floods, and the result of that is this plan. The need for the plan comes from FEMA and originally they had a regulation that basically stated if you didn't have a hazard mitigation plan adopted by November of 2003, then you basically wouldn't be eligible for FEMA money. We got a one year reprieve on that because there was so much work to be done to create it. In November of 2004, FEMA gave the New River Valley a six-month additional delay, so April 30, 2005 is our drop dead date. So I'm doing the barn-storming, doing the public hearings, hoping the minutes will be approved next month and I can get a copy of them and the resolutions to go in the back of this, to submit to FEMA for all fifteen localities. The main part for Floyd County is focusing on water resources, whether that's public water or drought mitigation work. There's a hope that drought will be looked at on even ground, even footing with wildfires and flooding and such. And basically we are trying to get the County's foot into the door with FEMA to make sure that if something ever happens again, we'll have a plan of action. Some of the projects that we identified are: 1) the water resource study which is the study that really looks at where the water comes from, where is it going, and how can we make the best use of it; 2) communication equipment, interoperability with surrounding areas; 3) development of a drought mitigation contingency plan; 4) additional water resources and reserves; 5) GIS data; 6) additional dry fire hydrants. All of this really just

focuses around the need for water planning and drought planning in the County.

Mr. Utt also presented a proposed resolution for the Board's consideration to accompany the plan to FEMA.

The Chairman called for comments from the audience concerning the proposed mitigation plan.

After no comments from the audience, the Chairman declared the public hearing closed.

Questions from the Board as to updating of the plan, how often, etc. Mr. Utt commented that as each locality's comprehensive plan is updated, the information would be transferred over to the hazard mitigation plan to keep it current.

On a motion of Supervisor Belcher, seconded by Supervisor Whitlock, and unanimously carried, it was resolved to adopt the resolution, as presented, concerning the New River Valley Hazard Mitigation Plan, dated December 2004 (Document File Number \_\_\_\_\_).

Supervisor Boothe - aye  
Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - aye  
Supervisor Ingram - aye

At 3:12 p.m., the Chairman called for the Public Hearing on proposed amendments to Section 46-101 of the Floyd County Code, Division 3, Exemption for the Elderly and Disabled.

The County Administrator read the call for the public hearing.

Mr. Cornwell - these changes would bring the County's ordinance into conformity with State law as it relates to the issue of whether the exemption of real estate taxation for the elderly and disabled applied also to manufactured homes, as well as simply real estate. Our present ordinance is not clear as to the provision for manufactured homes. And also we changed the language which is inconsistent with the Code, because it addresses mobile homes. So the change would add the words "and manufactured homes" to the section involving the intent, and it would delete "mobile home" from the ordinance and replace it with the words "manufactured home" and it would change some of the language in Section 46-105 to make it clear that if you were the owner of a manufactured home, and you otherwise qualified, you could get the tax break that is given to the elderly and disabled even if you didn't own the real estate upon which the manufactured home is situated. So it doesn't change anything else, it simply makes it clear that manufactured homes have the same status as real estate for the purpose of the exemption of real estate taxation for the elderly and disabled.

Supervisor Boothe - part of that is a change of the opinion of the Attorney General's office too, isn't it?

Mr. Cornwell - yes it is.

Supervisor Boothe - basically, a lot of this started with a constituent of mine. I went to Jim and George and they, with what we had, didn't think the gentlemen would qualify. I went back to that person and told him he needed to write his State legislators, so he wrote the Governor's office which kicked it over to the Attorney General's office, and the Attorney General's office at first said no.

Mr. Cornwell - actually the Department of Taxation, Mr. Tom Morrelli, said no, in order for the manufactured home to qualify, it actually had to be situate on real estate owned by the same owner. And we said well, we didn't know if we could agree with that but we wanted that opinion in writing. And then he called back and said that he had re-read it and he changed his mind that it could stand alone. And that's when we brought it to the Board to change our ordinance to make sure that it agreed. Our ordinance as it is presently written, has language in it which would give that tax break to manufactured homes. And we've so opined to the Commissioner of Revenue and Treasurer and hopefully they are interpreting our ordinance in accordance with that opinion. These changes are simply to make it clear that it is included. Coupled with the fact that we need to delete the words "mobile homes" from the ordinance because that's clearly not covered by the statute.

The Chairman called for comments from the audience concerning the proposed amendments as presented.

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

Supervisor Whitlock - we changed the limits on this didn't we?

Mr. Cornwell - I used the language from your current ordinance.

Supervisor Whitlock - but we changed the limits when we did the reassessment. Are the limits we have in there..

Mr. Cornwell - I used the limits that was in your codification, I assumed that was your current ordinance.

Supervisor Boothe - what he's saying, with the reassessment, the land values and values of the property have gone up.

Mr. Cornwell - this ordinance doesn't address that, all this ordinance does is concerning manufactured homes and mobile homes. If you wish to do that, it would be separate.

Supervisor Boothe - number 5 on the back page - it talks about the land not to exceed one acre. Is that one acre out of the Code?

Mr. Cornwell - out of the Code of Virginia?

Supervisor Boothe - the only reason I asked, in the Subdivision Ordinance, we talk about two acres. We do various things.

Mr. Cornwell - but that is different. You are excluding this from their net financial worth, the one acre, for the purpose of determining whether they are eligible or not.

Supervisor Ingram - we're saying, all that they are going to look at is the manufactured home and one acre, it may sit on five acres, or ten. Is that what you are saying?

Mr. Cornwell - yes.

Supervisor Belcher - actually they are not looking at that, they are excluding it. They are not counting the manufactured home or the one acre it sits on. Anything above that, over \$55,000, is qualified.

Mr. Cornwell - right. And no, its not in the Code. It appears you could exceed 25 acres if it is non-income producing. No, I'm sorry, I stand to be corrected, I read the wrong paragraph, its 10 acres.

Supervisor Boothe - basically they are excluding the home and one acre.

Mr. Cornwell - from valuation for the purpose of determining whether or not you have the qualifications. So if you have a manufactured home that worth \$20,000, that would not apply to determine whether you have \$55,000 net worth. If I had a five acre parcel of real estate, and I add a \$120,000 home on it, and the five acres of real estate were worth \$50,000/acre, you would exclude the house, you would exclude the one acre on which the house is situated, but the four acres worth \$50,000 each would put me over the \$55,000 net worth and I would not qualify.

Supervisor Boothe - so the \$150,000 house sitting on three and one-third acres, that one acre that the house sits on and the house is out of it. As long as you meet the other criteria, the rest might qualify. I'm showing you a problem with the system.

On a motion of Supervisor Boothe, seconded by Supervisor Belcher, and unanimously carried, it was resolved to adopt the amendments to Section 46-101 of the Floyd County Code, Division 3, Exemption for the Elderly and Disabled, as presented (Document File Number ).

Supervisor Boothe - aye  
Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - aye  
Supervisor Ingram - aye

Mrs. Martin next gave an update on the Crooked Road project. She commented that a November visit is already scheduled for two tour buses from Ireland. Numerous presentations are being provided at travel shows. Any information requests received from the visitors guide will be forwarded to the particular Counties for further information to be sent. VDoT has expressed safety concerns about the waysides so we will continue to work on that issue.

Supervisor Belcher left the meeting at 3:40 p.m.

On a motion of Supervisor Whitlock, seconded by Supervisor Gerald, and carried, it was resolved to go into closed session under Section 2.2-3711, Paragraph A.1, discussion of specific personnel; and Paragraph A.7, consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel.

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

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

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

On a motion of Supervisor Gerald, seconded by Supervisor Whitlock, and carried, it was resolved to adopt the following certification 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 and legal matters in accordance with Section 2.2-3711, Paragraph A.1 and A.7 of the Virginia Freedom of Information Act;

WHEREAS, Section 2.2-3712 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 Boothe - aye  
Supervisor Belcher - absent  
Supervisor Whitlock - aye  
Supervisor Gerald - aye  
Supervisor Ingram - aye

This Certification Resolution was adopted.

The request from the Town of Floyd for County staff assistance in their Community Development Block Grant application was next discussed.

On a motion of Supervisor Boothe, seconded by Supervisor Gerald, and carried, it was resolved to direct the County Administrator to respond to the Town of Floyd setting forth the County's regrets in declining participation of the County Planner in the Town grant application process.

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

On a motion of Supervisor Boothe, seconded by Supervisor Gerald, and carried, it was resolved to adjourn to Wednesday, March 16, 2005 at 6:00 p.m.

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