

**BOARD OF SUPERVISORS
REGULAR MEETING
September 8, 2009**

At the regular meeting of the Board of Supervisors of Floyd County, Virginia, held on Tuesday, September 8, 2009 at 8:30 a.m. in the Board Room of the County Administration Building, thereof;

PRESENT: David W. Ingram, Chairman; Jerry W. Boothe, Vice Chairman; Virgel H. Allen, William R. Gardner, Jr., J. Fred Gerald, Board Members; Daniel J. Campbell, 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 Supervisor Gerald.

Chairman Ingram led in the Pledge of Allegiance.

Mrs. Mary Turman, Treasurer, appeared before the Board. She presented the invested cash and cash in office report as of September 8, 2009. She commented that DMV stops on delinquent accounts have begun and collections are being made.

Mrs. Morris presented the balance sheet and revenue/expenditure summary as of August 31, 2009. She also presented a year end cash flow report for the Board's information. She reported that at 17% through the fiscal year, General Fund revenue collections are at 6% and expenses at 19%, which is normal for this time of year. The auditors have completed their field work and a draft audit should be received by mid to late October.

The minutes of August 11, 2009 were presented to the Board for review and approval.

On a motion of Supervisor Boothe, seconded by Supervisor Gardner, and unanimously carried, it was resolved to approve the minutes of August 11, 2009 as presented.

Supervisor Gardner – aye
Supervisor Allen – aye
Supervisor Gerald – aye
Supervisor Boothe – aye
Supervisor Ingram – aye

Mr. Wendell Peters, Clerk of Court, appeared before the Board. He reported: One thing that I wanted you to be aware of. The Feds have mandated certain restrictions on our office as far as passports. As a result, as of September 30, we intend to discontinue accepting applications for passports. I regret it, I think it will be a hardship on the people of Floyd County. The nearest place to get a passport now will be the post offices in Christiansburg or Roanoke. They are now requiring us to submit everything by certified mail, where the cost is anywhere from \$5.65 up.

When we first got the information, we thought we could pass the cost along to the consumer. Now we got a letter that we could not add it to the cost so we don't have any choice. That would be more than my total postage budget for the entire year. I'm not by myself, I brought along a copy of an ad from the Circuit Court in Radford and I understand other offices are doing the same. I do intend to run a press release in the next week. Hopefully, if anyone needs one in the immediate future, they can get it before September 30.

No reports this month from the Sheriff or Commonwealth's Attorney.

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

On a motion of Supervisor Allen, seconded by Supervisor Boothe, and unanimously carried, it was resolved to approve the monthly disbursements and additions, as presented.

Supervisor Gardner – aye
Supervisor Allen – aye
Supervisor Gerald – aye
Supervisor Boothe – aye
Supervisor Ingram – aye

Agenda Item 11a – Subdivision plats as approved by Agent for August 2009. Mr. Campbell reported that 114 total lots vs. 96 last year, have been divided. 123 lots were divided in 2007. Agricultural subdivisions have decreased, while family divisions have remained steady. Acreage is low compared to the previous year.

Agenda Item 11b – Appointment – Floyd County Social Services Board, 4 year term, Indian Valley District. Defer for discussion later in the day.

Agenda Item 11c – Appointment – Montgomery-Floyd Regional Library Board, unexpired term to end June 2012. Defer for discussion later in the day.

Agenda Item 11d – Appointment – Service Provider, Comprehensive Services Management Team, 4 year term – Dr. Betty Etzler eligible for reappointment.

On a motion of Supervisor Boothe, seconded by Supervisor Gerald, and unanimously carried, it was resolved to reappoint Dr. Betty Etzler as the Service Provider Representative to the Comprehensive Services Management Team for a four year term.

Supervisor Gardner – aye
Supervisor Allen – aye
Supervisor Gerald – aye
Supervisor Boothe – aye
Supervisor Ingram – aye

Agenda Item 11e – Proposed Resolution – Recognizing September 17-23, 2009 as Constitution Week.

On a motion of Supervisor Gerald, seconded by Supervisor Allen, and unanimously carried, it was resolved to adopt the Resolution Recognizing September 17-23, 2009 as Constitution Week (Document File Number).

Supervisor Gardner – aye
Supervisor Allen – aye
Supervisor Gerald – aye
Supervisor Boothe – aye
Supervisor Ingram – aye

Agenda Item 11f – Request for abandonment of section of State Secondary Route 642. Discussion followed on information needed, further research, possibility of obtaining a survey, easements for other people, etc. The Board deferred the matter for discussion later in the day with the County Attorney.

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

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

Mr. Sherrell Thompson, Recycling Coordinator, next appeared before the Board. He reported that there is no known vendor that will take clear glass. Montgomery County will take the glass for the County, but at a rate of \$32/ton, which is the same fee that would be paid for disposal through the transfer station. Cycle Systems was taking the clear glass, but they are sitting on about 40 tons themselves, and quit taking it over a year ago. There are two roll-off containers full now at the Recycling Center. After considerable discussion by the Board and Mr. Thompson, it was the consensus of the Board to dispose of the stored amounts through Montgomery County and research other options for further discussion next month.

Mrs. Korene Thompson, Town Manager, had no report this month.

Agenda Item 11g – Discussion with Planning Commission on Comprehensive Plan. Mr. Campbell reported that the Commission will be meeting on Tuesday, September 15, 2009 at 7:00 p.m. if the Board would like to meet with them. They are seeking input from the Board at the beginning stage of the Comprehensive Plan update. Consensus of the Board was to meet with them at the noted time.

Mr. Carl Ayers, Social Services Director, next appeared before the Board. He reported:

- Overall applications up 17.3% compared to last year;
- Food stamp applications up 20.7% compared to last year;
- Medicaid applications up 3.5% compared to last year;
- TANF applications up 36.4% compared to last year;
- Overall applications have doubled since 2002 – food stamp applications have tripled since 2002;
- Cooling program applications were 24.2% higher than last year;

- State budget cuts will be released later in the day by the Governor. He had said earlier that furlough days would not be included in the cuts, but now they are a possibility;
- Fuel Program - \$5.1 billion in Federal budget last year, this year it is \$3.2 billion. We do not know what this reduced appropriation will do to us. We process all applications and then divide the appropriation evenly between all applicants;
- The only two local programs that may get eliminated or reduced through State budget cuts are the Indigent Burial Program (General Relief) and the Companion Program.

Agenda Items 11b and 11c – Consensus of the Board was for staff to schedule interviews for the October meeting.

Mr. Kenny Bartlett, EMS Operations Manager, next appeared before the Board. He reported:

- Response unit had 49 calls for the month, with 6 transported with the volunteers;
- Unit had 35 calls for a total of 84 calls for the month;
- Had 3 calls to the nursing home with a year-to-date total of 56.

Mrs. Myra Grim, EMS Administrative Clerk, presented her monthly report and noted that deposits are picking back up from last month.

Mr. Don Johnson, Floyd County Rescue, reported 52 calls for the month for the volunteers, with 6 vehicle accidents, 3 assaults, 29 medical, 2 not listed, 2 other. 54% were treated/transported, 6% treated/transferred care, 15% refused, 4% no treatment, 17% cancelled, 2% N/A. He reported that the 2009 EMT class began September 1 with 17 enrolled. Two members are taking the EMT Intermediate class and two members are enrolled in the Paramedic program. The Rescue Squad Association will hold their annual meeting later in the month at Virginia Beach with several local members attending.

Mr. Ford Wirt, Emergency Services Coordinator, appeared before the Board. He presented status photographs on the Regional Jail construction and reported that the project is still on schedule and under budget. The activity report indicated 39 Floyd County inmates this month, with 38 last month. He invited the Board to a BBQ luncheon/tour of the facility on Friday, September 11, 2009 at 11:30 a.m.

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

- Presented copy of School Board meeting highlights for the Board's information;
- Reported that School Board meeting was moved to next Wednesday because of Advanced Ed folks coming for a 2-3 day study. They will be spending Monday and Tuesday, all day both days, at the five schools. Wednesday half-day will be spent writing their report which they will give to me that afternoon and give to the School Board at their 3:00 p.m. meeting. This report will show how we've done with the Advanced Ed accreditation. We feel good about it; feel sure they will make recommendations for improvement which we always welcome.
- 25 school systems have all their schools meeting AYP, we were one of them. Of the 25, only 21 have the division make AYP, we were also one of them. I tell people we need to

brag when we can because we never know year to year how it will be. We have been successful and feel good about it. This is the State/Federal AYP report that shows you by school, by subgroup, the division and each individual school scores. We'll continue to work hard toward meeting that goal every year.

- Presented copy of year end financial report in the format required by the State. We've already given you a copy in our usual format but wanted to share this with you also.
- Enrollment report from first day of school – September 8, enrollment was 2081. Projected enrollment was 2100. Also presented copy of enrollment report by school and individual classes.

Supervisor Allen questioned if an Assistant Principal had been hired at Floyd Elementary because of reaching over 500 children?

Dr. Arbogast – no, we have believed, for some time, that an Administrator can only be effective with a certain size school. With the number of staff people in that school, we have talked for years on looking to hire an Assistant Principal. We have just never been able to get the funding at the right time. So this year, with the stimulus money, we were able to take those funds since they had to be used in the area of improving instruction, to hire people, and we believe that that school, and the importance of having an assistant there, was good. That school last year, did not make AYP. That was another way to document the use of the stimulus funds and the Federal grant money, to hire that position.

Supervisor Allen – will that money be ongoing?

Dr. Arbogast – we have it, for what we believe, is two years. After two years, we'll see how we can assess the financial part of it, whether the grant money we get will continue to support the position, whether we can make up the stimulus money, all that is an unknown. There will be other positions that we've hired with the understanding that is short-term with stimulus funds. When the stimulus funds are gone, there is no guarantee that they will be able to be continued. But that doesn't mean you don't do for the short-term, because it helps us short-term. We hired two additional reading teachers, one special education teacher, all with the understanding that there is no guarantee of continued funding. When that happens, you remember there are three pots to this money. There is the pot we got when we got our budget from the State this year, then the pot from Title I, and the pot from IDEA, which is the special education population. We got the first pot to support the lack of State dollars when we got our appropriation from the General Assembly in the spring, all but \$800,000. That is still stimulus money, but that came from one pot. Title I Federal dollars, which is the reading initiative money, they had stimulus money which they gave all the schools, which we got about \$200,000, only for Title I schools and only for Title I services, only for reading. IDEA, Special Education money, for special education only. You get so many dollars and have two years to spend it. We tried to put it back in the classrooms with staffing. We also used some of the money to support this position that you're talking about.

Supervisor Boothe – at one time though, in the No Child Left Behind Act, they were talking about a school's size. If you had a certain number of students, they were talking about including it as a requirement, a cut-off line of 400-500.

Dr. Arbogast – that was not included.

Supervisor Allen – I have a concern from a grandparent. He was concerned about the outside bathrooms at Check and Willis. They needed some work.

Dr. Arbogast – we have just re-done the entire bathroom at Check. We did a new roof, new partitions, painted, doors, cleaned all the fixtures, it has all been re-done. I do not know about any issues at Willis.

Supervisor Allen – I think it was a matter of signs at Willis, he didn't know which one to use.

Supervisor Gerald – when I was at the VACo Education Steering Committee meeting at Richmond, they were talking about elimination of SOL testing.

Dr. Arbogast – I have not heard anything about it. We've heard that rumor for the last eight years but it has never come true.

Supervisor Allen – are the kids watching the President's speech today?

Dr. Arbogast – each school and each classroom have been given the opportunity, they make the decision at the classroom level. That was the directive we received from the Department of Education. Parents can opt their children out if they want. We will record it, if classrooms want to watch it at a later time, since it is being broadcast at lunchtime, which makes it difficult for the teachers.

The Board recessed for lunch.

Mr. Bob Beasley, VDoT Residency Administrator, next appeared before the Board. He reported work by crews in the last month patching potholes on Routes 750, 787, 726; machining wash boarded roads; mowing of secondary roads to be completed by September 15; hauling of crush/run; taking care of complaints; brush cut at Route 622/787 intersection; Route 610 pipe cleaned out and ditch cleaned out.

Supervisor Boothe – appreciate work on stop sign – would recommend all stops signs at that height to help with sight distance; hope ditch problems can be taken care of on North Locust Street and Route 810.

Supervisor Gardner – appreciate mowing.

Supervisor Allen – nothing to report.

Supervisor Gerald – appreciate mowing and everything else.

Supervisor Ingram – thanks for the mowing especially, which is high on my priority list, especially with school starting. Normal maintenance items need attention as time allows.

Mr. Beasley – it seems that we have a rash of pipe failures that we are working on as we can.

Supervisor Ingram – Route 653 curve – do you have any further information?

Mr. Beasley – I came through there after the wreck, the scooter lost control and hit one of the chevrons. We do not have curve ahead warning signs, Salem will do a study and hopefully they will go up soon.

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

On a motion of Supervisor Gardner, seconded by Supervisor Boothe, and unanimously carried, it was resolved to go into closed session under Section 2.2-3711, Paragraph A.1, discussion, consideration, or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees, or employees of any public body; Paragraph A.3, discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

- Supervisor Gardner – aye
- Supervisor Allen – aye
- Supervisor Gerald – aye
- Supervisor Boothe – aye
- Supervisor Ingram – aye

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

- Supervisor Gardner – aye
- Supervisor Allen – aye
- Supervisor Gerald – aye
- Supervisor Boothe – aye
- Supervisor Ingram – aye

On a motion of Supervisor Boothe, seconded by Supervisor Allen, and unanimously 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 property, in accordance with Section 2.2-3711, Paragraph A.1 and A.3, 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 judgment it was a departure.

Hearing no statement, I call the question.

Supervisor Gardner – aye
Supervisor Allen – aye
Supervisor Gerald – aye
Supervisor Boothe – aye
Supervisor Ingram – aye

This Certification Resolution was adopted.

At 3:00 p.m., the Chairman called for the Public Hearing on the Proposed Ordinance Authorizing the Exercise of Joint Powers Under An Agreement Between the Counties of Bland, Carroll, Floyd, Giles, Grayson, Montgomery, Pulaski, Smyth, Washington and Wythe, and the Cities of Bristol, Galax and Radford, Virginia.

The County Administrator read the call for the Public Hearing.

Mr. Cornwell gave a brief synopsis of the proposed ordinance – As you may be aware, the Workforce Investment Act of 1998 results in a considerable amount of funds passing down to the Commonwealth of Virginia from the Federal government for local workforce training and other services. That money is then sent down from the State to different entities that are created pursuant to the Workforce Investment Act. Since 2000, the jurisdictions named in the ordinance have been operating under a Charter Chief Local Elected Officials Agreement for the conduct of that investment. It consists of what is called a CLEO, or Chief Elected Officials Organization and a WIB, Workforce Investment Board. There has been a relationship between the two that has been very successful in obtaining funds and transferring funds for workforce investment throughout this area. The program in itself has been a very good one for the citizens of Floyd County and the other counties. We looked at the situation at the request of the CLEO because there were some concerns about how the relationship between the CLEO and WIB were working and exactly what the CLEO was. So in response to that, we have prepared at the request of CLEO, a new agreement called the New River/Mount Rogers Workforce Investment Consortium

Agreement, in which we actually create an entity under the joint powers of the Code of Virginia. It is designated as the New River/Mount Rogers Workforce Investment Consortium and Virginia's Area 2 Local Workforce Investment Area. By creating this agreement and entity, it will better designate the powers that this consortium will have and designate powers of each board, and the relationship between the two. It will also provide protection and the abilities of both of these entities to more responsibly carry on their functions and duties. One of the issues is that the State, although it does provide the funds, it has no regulations on this. We're trying to plug in some of those gaps and come up with an operating format for these two entities to be legal entities, not that they were doing anything illegal before, but an entity to carry on these functions. It is creating a body in simple terms.

Mr. Campbell – all of the other jurisdictions noted are being asked at this time to enact the ordinance as we have that references the agreement between everyone.

Mr. Cornwell – that's correct.

The Chairman called for comments from the audience.

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

Supervisor Boothe – our current representatives, basically they would not automatically transfer, we would need to make new appointments?

Mr. Cornwell – yes, once the agreement is adopted by all the jurisdictions and signed off on, you'll make the appointments. CLEO makes appointments to WIB, but the plan is that all existing people will be reappointed.

Supervisor Boothe – I don't see anything in here about the terms.

Mr. Cornwell – the agreement says that each jurisdiction can designate the term, in Section 2. The appointment has to be a member of the governing body or its chief appointed official. A person can no longer serve if they are not a member of the governing body. So each jurisdiction can name a term of 1, 2, 3 or 4 years, whatever you're comfortable with. We tried to keep as much of the original documents as we could that were pertinent. Another safeguard that we included dealt with voting rights, that we have to have a particular amount of people from both Mount Rogers or New River Planning Districts so one district can't sway the vote one way or another, particular issuance of debt, transfer of property, grants or other contracts which require local matching funding, hiring/discharging the executive director, and designation of a fiscal agent. There is currently no mechanism in place to get liability insurance and we need to get that done once all jurisdictions adopt this ordinance.

On a motion of Supervisor Boothe, seconded by Supervisor Allen, and unanimously carried, it was resolved to adopt the ordinance as presented, entitled Ordinance Authorizing the Exercise of Joint Powers Under An Agreement Between the Counties of Bland, Carroll, Floyd, Giles, Grayson, Montgomery, Pulaski, Smyth, Washington and Wythe, and the Cities of Bristol, Galax and Radford, Virginia (Document File Number).

Supervisor Gardner – aye
Supervisor Allen – aye
Supervisor Gerald – aye
Supervisor Boothe – aye
Supervisor Ingram – aye

At 3:15 p.m., the Chairman called for the Public Hearing on a Funding Application to USDA, Rural Development for proposed police equipment project.

The County Administrator read the call for the public hearing. He commented: the project is \$23,650 of which this applicant's amount is \$8277, that's what is being applied for through Rural Development. The application has been submitted. The listing of items to be purchased, if approved, was noted as 13 bulletproof vests, 10 digital cameras, and 2 Toughbook or vehicle laptop computers. Statutorily, the Board of Supervisors or the local governing body has to have a public hearing on an application to Rural Development.

The Chairman called for comments from the audience.

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

On a motion of Supervisor Boothe, seconded by Supervisor Gardner, and unanimously carried, it was resolved to authorize execution of any required documents to USDA, Rural Development for the proposed police equipment project, as presented.

Supervisor Gardner – aye
Supervisor Allen – aye
Supervisor Gerald – aye
Supervisor Boothe – aye
Supervisor Ingram – aye

On a motion of Supervisor Boothe, seconded by Supervisor Gardner, and carried, it was resolved to amend the agenda to include discussion from Mr. Carl Ayers on the proposed State budget cuts.

Supervisor Gardner – aye
Supervisor Allen – aye
Supervisor Gerald – nay
Supervisor Boothe – aye
Supervisor Ingram – aye

Mr. Ayers noted the following highlights from the Governor's press release on the proposed State budget cuts:

- \$1.353 billion in reductions, \$283 million to be taken from the Rainy Day fund;
- No tax increases;
- No reductions in K-12 funding depending on Federal Stimulus funding continuation;
- Limited use of fee increases;
- No new debt;
- 3% in local aid reductions;

- 7.7% reduction to higher education facilities;
- Medicaid eligibility services – increase in Medicaid match rate from 60% to 62%;
- Loss of 929 State positions which includes 593 additional layoffs;
- 1 day furlough for all State employees without pay;
- Deferral of retirement employer benefits – rates will be changed in the next biennium;
- Closing correctional facilities in Brunswick and Botetourt and the Natural Bridge Juvenile facility;
- Reduced funding to Children’s Advocacy Centers;
- CSA – no changes because of reduced spending by localities;
- Elimination of 100 mental retardation waiver slots with a 1000 State-wide waiting list;
- Companion Program – 10% reduction;
- Other Purchased Services - \$400,000 cut (supplement to Companion Program);
- Elimination of Stipend Program – gets students into DSS studies and work field;
- Reducing courier service from 5 days to 2 days which will increase postage costs;
- Reorganization of DSS Central office staff – should not affect local office.

Mr. Jim Cornwell, County Attorney, came back before the Board.

Agenda Item 11f – Discussion of abandonment request for State Secondary Route 642. Chairman Ingram commented that past requests have been done in a particular way, Board briefly discussed that the procedure may need to be reviewed and changed. Also, if the procedure is changed at this point, would this particular request come under the old or new procedure?

Mr. Cornwell commented that it would be at the Board’s discretion.

Discussion followed on options for a new procedure – requestor being more involved in the process such as providing information, survey, sharing costs, etc.

After considerable discussion, it was the consensus of the Board for the County Attorney and County Administrator to draft procedures for the Board’s review/discussion next month. Staff was asked to notify the requestor that the procedure is under review and also to notify VDoT that this request was received.

Supervisor Allen questioned if an estimate had been obtained for the door in Social Services to be handicapped accessible?

Mr. Campbell reported that a buzzer type system to alert DSS staff to open the door for a customer could be installed for around \$150. An automatic type door would run around \$3682. Consensus of the Board was to proceed with the buzzer system installation – if it does not work, other options will be considered.

The Board recessed until 7:00 p.m.

At 7:00 p.m., the Chairman called for the Public Hearing on Proposed Repeal of the Ordinance Known as Ordinance to Prohibit Hunting Near Primary and Secondary Highways.

The County Administrator read the call for the Public Hearing.

Mr. Cornwell – your current ordinance prohibits hunting within 100 yards of any primary or secondary highway. The repeal of this ordinance would not supersede the regulations of the Department of Game and Inland Fisheries, which prohibit the shooting of wildlife from a vehicle from or across a public road. That remains illegal under their regulations.

The Chairman called for comments from the audience.

Mr. Joe Montague, Little River District – I happen to live on a piece of property that the only private border is a 500' border, rest is the Parkway. So I don't have quite the same problem that the rest of you have. Except that the varmints that bother you also bother me because the Park Service raises them and releases them. The only way they can get rid of them is to transport them. My principle concern is if you repeal this ordinance, there has to be some way that people can shoot what they intend to shoot and have very little chance to shoot what they don't intend to shoot. We have had several accidents in the last ten years that make this a consideration. Our Animal Control Officer shot a neighbor when he was trying to shoot a cow, that's a little hard to do if you're paying attention. Another hunter went out with a group to hunt, departed from the group for a short time, and ended up with a bullet in his chest. Fortunately, it went in his rib cage and came out the other side and he's still preaching at his church. These are the kinds of things that we have to be careful of and its more important now since the County is building up. I used to be able to come to Town, my home is 10 miles away, and count the houses on Franklin Pike on two hands. Now I need 6-10 hands to count them. These houses are close to the road. Anything that affects the roads affects the people and these homes. I discussed this with Jerry a couple of weeks ago and forgot to point out that there should be a difference between hunting and varmint shooting. You can hunt with a shotgun, but you're allowed to hunt with a solid shot. Most people use 23 caliber which is quite a whollop when you shoot with that caliber. Varmints can be done with a scatter gun, a shotgun; you could catch the shot in your hand. There is a difference between what you shoot with. If you have to shoot with a scatter gun, that's a different problem. Since you can use solid shot, there should be some regulation to keep them away from highways and people, but the two go together.

Mr. John Howell, Burks Fork District – Would like for us to rescind this ordinance. We have so many wildlife problems now, especially deer. When we can't shoot from our yards, we have a problem.

Mr. Larry Ramsey, Little River District – I have 25 acres, with about 2400' of road frontage. If you take 300' along the road, it eliminates hunting on most of that land. If you took the normal County road and you took 300' on each side, that's 600'. For every 70' of roadway, you're eliminating an acre of hunting. In a mile you've eliminated 72 acres of hunting. I agree with him, we all have deer and groundhog problems. I just feel like if you're in a tree stand 200' from the road, you should be able to shoot a deer if it comes in there. Most people in the State can do this. All the Counties around us have no restrictions except Franklin County; you can't

shoot from the right-of-way of the road. The same thing with groundhogs, if you see one digging another hole up in your barn, and it is 250' from the road, you should be able to shoot it. We all have to be careful with firearms and pay attention to what we're doing. I think it is very unreasonable, the 100 yard rule.

Mr. Charles Conner, Courthouse District – 100 yards from the road, a lot of people couldn't even hunt on their own property with that rule. I have three gardens that are beside the road, groundhogs eat so much in some years and I can't legally kill them. I think this rule is unfair for people who have gardens and things like that. Deer come in the gardens and eat them up. I think it needs to be changed because other Counties around us don't have this rule and I would like to see it changed.

Mr. Montague – Supervisor Boothe pointed out that hunters are required to pass a safety course. This doesn't apply to the ordinary household. So it makes a difference in who is doing the shooting. You ought to try to fix it like I said in the beginning of my talk, if we don't do as much as we can to prevent people from shooting what they don't intend to shoot. Stay away from people and houses which go together.

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

Supervisor Boothe – (to Mr. Cornwell) – you found no cases where the yardage was reduced.

Mr. Cornwell – right, the statute says while the hunting is within or on 100 yards. You could make an argument that you could make it 50 yards but I don't suggest it.

Supervisor Gardner – one more time, could you explain the difference in what we have and the Department of Game and Inland Fisheries regulations.

Mr. Cornwell – the Game and Inland Fisheries rules say that you can't shoot from or across a public road. We say you cannot hunt with a firearm within 100 yards of a primary or secondary highway.

Supervisor Boothe – nothing addresses target practice. You could set up right beside the road and target practice seven days a week. It is allowable on Sunday where hunting is not.

Mr. Cornwell – target practice is not hunting or a violation of our ordinance or State law. As far as I can tell from the State regulations, it only affects the taking of animals. One of their regulations says discharge of a firearm or archery tackle in or across the right-of-way of any public road. That's listed under their regulations under Unlawful Methods. An unlawful method in my mind means an unlawful method of taking game. Their definition is very broad. Whereas our statute in the ordinance only talks about firearms. We can't control hunting, only the firearms. Regardless of what we do, you can't affect the State regulations. Some of the ordinances that other jurisdictions have adopted, like the gentleman talked about, that you can't

hunt from a public highway. I think that was probably adopted before the State law, which now includes it.

Supervisor Boothe – at the time this was adopted, it was instituted to help stop hunting from the road. We still have some of that. Anybody that has owned property for any length of time can remember that. People stopping on the road and shooting from the road into people's yards.

Mr. Cornwell – where I am from, down East, a lot of that happened because hunters follow the dogs. When the dogs turn, they jump out of their trucks and hunt from the road.

Supervisor Boothe – if we repeal this ordinance, the State regulations still kick in.

On a motion of Supervisor Boothe, seconded by Supervisor Allen, and carried, it was resolved to adopt the ordinance to repeal the previous ordinance known as “Ordinance to Prohibit Hunting Near Primary and Secondary Highways”.

Supervisor Gerald commented that he was against this from the beginning because I'm concerned about public safety. I think if we repeal this, it is just another way of putting the safety of the public in danger. I think if we keep this ordinance, it is another way of keeping the general public safe. That's my opinion. The definition of hunting is rather ambiguous. The impression I got is you can hunt with a gun but you can't shoot it.

Mr. Cornwell – the State Code says that you can't discharge a firearm within the public right-of-way.

Supervisor Gerald – you can hunt but you can't discharge a firearm. Doesn't make sense to me. My main concern is the public safety and that's why I'm against it 100%.

Supervisor Gardner – nay
Supervisor Allen – aye
Supervisor Gerald – nay
Supervisor Boothe – aye
Supervisor Ingram – aye

On a motion of Supervisor Allen, seconded by Supervisor Gerald, and unanimously carried, it was resolved to adjourn to Tuesday, September 15, 2009 at 7:00 p.m. to meet with the Floyd – Floyd County Planning Commission.

Supervisor Gardner – aye
Supervisor Allen – aye
Supervisor Gerald – aye
Supervisor Boothe – aye
Supervisor Ingram - aye