

The regular meeting of the Botetourt County Board of Supervisors was held on Tuesday, January 28, 2014, in Room 102 of the Old General District Courthouse in Fincastle, Virginia, beginning at 2:00 P.M.

PRESENT: Members: Dr. Donald L. Scothorn, Chairman
Mr. L. W. Leffel, Jr., Vice-Chairman
Mr. Billy W. Martin, Sr.
Mr. Todd L. Dodson
Mr. John B. Williamson, III

ABSENT: Members: None

Others present at the meeting:

Mr. David Moorman, Deputy County Administrator
Ms. Theresa Fontana, County Attorney
Mrs. Kathleen D. Guzi, County Administrator

The Chairman called the meeting to order at 2:00 P. M.

Dr. Scothorn then introduced the Board's two new members—Mr. Todd Dodson representing the Amsterdam District, and Mr. John Williamson representing the Buchanan District. He thanked Mr. Steve Clinton and Mr. Terry Austin for their previous years of service as the Amsterdam and Buchanan District representatives on the Board of Supervisors.

Dr. Scothorn then asked for a moment of silence and then led the group in reciting the pledge of allegiance.

Mr. Brandon Nicely, Building Official, then recognized Mr. Shane Figgins, the County's Combination Inspector, who recently received the 2013 Public Employee of the Year award from the Roanoke Regional Home Builders Association. Mr. Nicely stated that Mr. Figgins received this award for the excellent work he did assisting the developers and contractors during the construction of the Daleville Town Center.

Dr. Scothorn congratulated Mr. Figgins for receipt of this award and thanked him for his service to the citizens and businesses of Botetourt County. Dr. Scothorn then read the criteria to be nominated for the RRHBA's Public Employee of the Year award which included great communication skills and an ability to work with individuals.

Mr. Williamson noted that the RRHBA is "a hard crowd to please" and this recognition of Mr. Figgins is noteworthy.

Mr. Figgins thanked the Board for their comments.

After discussion, on motion by Mr. Martin, seconded by Mr. Leffel, and carried by the following recorded vote, the Board approved the minutes of the regular meeting held on December 19, 2013, as submitted. (Resolution Number 14-01-10)

AYES: Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: Mr. Williamson, Mr. Dodson

After discussion, on motion by Mr. Williamson, seconded by Mr. Leffel, and carried by the following recorded vote, the Board approved the minutes of the reorganizational meeting held on January 3, 2014, as submitted. (Resolution Number 14-01-11)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on requests for transfers and additional appropriations. Mr. Tony Zerrilla, Director of Finance, stated that there were 2 transfers and 12 pass through appropriations for the Board's consideration this month. He noted that the appropriations were for receipt of tourism support funds and grant monies, fire and rescue operations and receipt of State Fire Program Fund monies, contributions, miscellaneous receipts, and cost reimbursements.

There being no discussion, on motion by Dr. Scothorn, seconded by Mr. Dodson, and carried by the following recorded vote, the Board approved the following transfers and additional appropriations: (Resolution Number 14-01-12)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Transfer \$14,352.90 from the E911 Fund to the County General Fund. This is to recapture E911 operating expenses.

Transfer \$438.63 to Sheriff's Department - Vehicle & Power Equipment Supplies, 100-4031200-6009, from the various departments as follows for vehicle repairs at the County Garage:

| | |
|----------|--|
| \$ 44.64 | Deputy Co. Admin. – Rep. & Maint.–Vehicles, 100-4012121-3312 |
| \$125.57 | Animal Control – Veh. & Power Equip. Supp., 100-4035100-6009 |
| \$ 71.11 | Devel. Svces. – Repair & Maint. – Vehicles, 100-4034000-3312 |
| \$ 41.87 | Emerg. Svces. – Repair & Maint. – Vehicles, 100-4035500-3312 |
| \$ 15.41 | Maintenance – Repair & Maint. – Vehicles, 100-4043000-3312 |
| \$ 3.34 | Parks & Rec. – Veh. & Power Equip. Supp., 100-4071000-6009 |
| \$ 49.04 | Van Program – Repair & Maint. – Vehicles, 100-4071500-3312 |
| \$ 63.68 | Library – Repair & Maint. - Vehicles, 100-4073100-3312 |
| \$ 3.34 | Utilities – Repair & Maint – Vehicles, 502-4041500-3312 |
| \$ 20.63 | Public Works – Repair & Maint. – Vehicles, 100-4040000-3312 |

Additional appropriation in the amount of \$120 to Tourism – Marketing, 100-4081600-5840. These are Blue Ridge Parkway Association co-op advertising funds received from Buchanan Revitalization Partnership.

Additional appropriation in the amount of \$1,000 to Tourism – Professional Services, 100-4081600-3100. These are funds received from Together For Troutville as a contribution toward creating informational panels at the Appalachian Trail on Route 11 in Troutville.

Additional appropriation in the amount of \$7,700.33 to Tourism – Marketing, 100-4081600-5840. This is a grant reimbursement received from the Virginia Tourism Corporation.

Additional appropriation in the amount of \$18,000 to Botetourt Sports Complex – Machinery & Equipment, 100-4071300-8001. This is a sponsorship fee received from Coke as part of a newly signed concession agreement for the Complex. These funds will be applied toward the cost to replace scoreboards.

Additional appropriation in the amount of \$3,928 to Parks & Recreation – Other Operating Supplies, 100-4071000-6014. These are sponsorship and contribution funds that will be applied towards the cost of constructing a Disc Golf Course at Greenfield.

Additional appropriation in the amount of \$300 to Parks & Recreation - Other Operating Supplies, 100-4071000-6014. These are funds from National Alliance for Youth Sports (NAYS) to offset travel expenses to A NAYS conference.

Additional appropriation in the amount of \$78,852 to Volunteer Fire & Rescue – County Volunteer Fire Departments, 100-4032200-5641. These are Fire Program Funds received from the State to be applied toward Volunteer Fire Department expenditures.

Additional appropriation in the amount of \$674.60 to Volunteer Fire & Rescue – Fire Insurance, 100-4032200-5302. These are insurance funds received from Selective Insurance to be passed through to Troutville Volunteer Rescue for damage to apparatus.

Additional appropriation in the amount of \$125 to Emergency Services – Other Operating Supplies, 100-4035500-6014. These are contribution funds made in honor of William Brewbaker.

Additional appropriation in the amount of \$558 to the following Sheriff's Department accounts: \$308 to Firing Range Expenses, 100-4031200-6015, and \$250 to Wages – Overtime, 100-4031200-1200. The former represents funds from the sale of brass and scrap metal from the Range, and the latter is for reimbursement of wages expended.

Additional appropriation in the amount of \$25 to Dispatch – Uniforms & Wearing Apparel, 100-4031700-6011. This represents a reimbursement for uniforms.

Additional appropriation in the amount of \$980.04 to the following Correction & Detention accounts: \$34 to Uniforms & Wearing Apparel (cost reimbursement), 100-4033100-6011, \$496.04 to Professional Services, (medical co-pays), 100-4033100-3100, \$400 to Other Operating Expenses (payment from The Crime Times), 100-4033100-6014, and \$50 to Police Supplies (payment for supplies), 100-4033100-6010.

Consideration was then held on approval of the Accounts Payable and ratification of the Short Accounts Payable List. Mr. Tony Zerrilla, Director of Finance, stated that this month's accounts payable totaled \$820,556.66; \$686,816.04 in General Fund invoices; \$9,556.15 in Debt Service Fund expenditures; and \$124,184.47 in Utility Fund invoices. He noted that this month's short accounts payable totaled \$451,962.34; \$437,649.54 in General Fund expenditures; \$3,055 in Debt Service Fund invoices; and \$11,257.80 in Utility Fund expenditures. He further noted that the Short Accounts Payable included \$275,506 in semi-annual operational support payments to the County's volunteer fire departments and rescue squads.

Mr. Zerrilla stated that this month's large expenditures included \$72,279 to the Botetourt County Health Department as one-half of their FY 14 budget allocation; \$25,634 to the Roanoke Valley/Alleghany Regional Commission for their FY 14 budget allocation, \$34,568 to the Roanoke Regional Partnership for one-half of their FY 14 budget allocation; and \$50,000 to Earth Movers, Inc., for grading work on the new athletic fields at the Botetourt Sports Complex.

There being no discussion, on motion by Mr. Williamson, seconded by Mr. Martin, and carried by the following recorded vote, the Board approved the accounts payable list and ratified the Short Accounts Payable List as submitted. (Resolution Number 14-01-13)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on a cellular co-location agreement with Verizon Wireless on the Greenfield water tank. Mr. David Moorman, Deputy County Administrator, stated that Verizon Wireless (Cellco Partnership) has submitted a proposed agreement for the lease of space on the Greenfield water tank and site for the installation and operation of wireless communications equipment.

He stated that the general lease terms include: twelve antennae attachment locations on a pod on the top of the tank, approximately 482 square feet of ground space; an initial fifteen

year term with two (2) five-year renewal options; a one-time development fee payable to the County in the amount of \$40,000; and monthly rental payments starting at \$2,800 (\$33,600 annually) and increasing 3% per year. Mr. Moorman noted that this lease agreement has been reviewed by the County Attorney, Verizon's legal counsel, and the site consultant, and has been submitted to Verizon for execution.

Mr. Moorman noted that it had been pointed out by Mr. Williamson that the word "property" is used in some sections of the agreement in identifying the location of the area to be leased when it is more appropriate to use "premises." He noted that the final agreement will be amended in this respect.

Mr. Moorman further stated that the communications equipment and antenna will be installed in the same manner as the equipment installed by AT&T in 2011 and Verizon will be using a cable mast installed by AT&T at that time. He noted that a structural analysis has been conducted to ensure the integrity of the water tank to support this additional equipment and the installation plans for this antenna co-location have been reviewed by the Development Services, Public Works, and Utilities office staff.

Mr. Moorman then stated that, as per the Zoning Ordinance, the County is required to obtain a Special Exceptions Permit for the installation of this antenna and equipment on the water tank and site. He noted that the Planning Commission's public hearing on this request was held on January 13 and the request was recommended to the Supervisors for approval. He noted that the Board's hearing on this request is scheduled for 6:00 P. M. today and requested that the Board delay action on this co-location agreement until after the conclusion of this evening's public hearing.

The Board agreed with Mr. Moorman's request to delay action on this matter until after the SEP public hearing scheduled to be heard at 6:00 P. M. today.

Consideration was then held on proposed water and sewer rate adjustments. Mr. David Moorman, Deputy County Administrator, stated that, in November 2013, the Board authorized staff to advertise a public hearing on proposed adjustments to the County's utility rates. He noted that this public hearing was conducted in December, after which, the Board tabled action for up to 90 days to allow for further study by staff on issues raised by the Board.

Mr. Moorman noted that since the December meeting, the County has received a notice from the Western Virginia Water Authority (WVWA) of a 19% increase in the County's sewage treatment costs retroactive to July 1, 2013. He noted that this 19% increase results in approximately \$70,000 in additional treatment expenses per year for the County. Mr. Moorman stated that, as a result of this unanticipated increase, the staff has updated operating expense projection data through FY 19 and reviewed the Utility Department's proposed Capital Improvements Plan (CIP) for possible reductions. He noted that both of these charts were included in the Board's agenda packet.

He stated that the Board may consider eliminating \$200,000 in planned contributions to the Utility Capacity Fund and further delay funding for construction of a utility equipment and maintenance building from FY 15 to FY 16. Mr. Moorman further stated that the work on a new water source for the Greenfield water system is not progressing as quickly as anticipated and staff believes that the Board could defer further investigation and development of new well sources until FY 16.

Mr. Moorman stated that previous expenditure/revenue forecasts resulted in the need to increase total Utility Fund revenues by \$400,000 or 14% per year effective January 1, 2014; followed by a 5% revenue increase in FY 16. He stated that, if the Board endorses the changes as he has proposed, then a Utility Fund revenue increase of 10% is required immediately and another 10% increase would be necessary in FY 16.

Mr. Moorman noted that if this revised utility revenue increase is approved then: the variance in rates paid by customers of different neighborhood systems would decrease from \$1.80 per thousand gallons to \$1.25 per thousand gallons; residential water customers would experience average monthly changes in their water bills of between a \$9.77 decrease and a \$4.29 increase (the previous range was between a \$14.50 decrease and a \$5.44 increase); residential sewer bills for customers who also receive County water service would increase, on average, \$2.85 per month (down from \$3.00); residential sewer-only customers' bills would increase, on average, \$3.35 per month (down from \$5.00); Commercial water bills would increase, on average, \$40.54 per month (down from \$61.05); and commercial sewer bills would increase, on average, \$29.06 per month (down from \$38.29). He then presented the Board with a revised attachment 3 showing the revenues, operating costs, and fund balance amounts if these new rates were implemented. He noted that this revised chart does not alter the overall picture of the Utility Fund or the rate recommendations.

Mr. Moorman noted that, as the revised water/sewer rate adjustments were less than what was originally advertised by the Board, another public hearing is not required to be advertised and held on these rates.

After questioning by Mr. Martin, Mr. Moorman noted that the proposed rate chart included in the Board's packets reflects the reductions discussed in his presentation today. After further questioning by Mr. Martin, Mr. Moorman noted that the reduced rates will necessitate revisions to the CIP which will delay several projects proposed for FY 15 until FY 16. He noted that these project delays are shown on attachments 1 and 2 in the Board's packets.

After questioning by Mr. Williamson, Mr. Tony Zerrilla, Director of Finance, stated that the 19% increase implemented by the WVWA is a three year average calculation of the County's share of operation and maintenance costs at the Roanoke Regional Sewage Treatment Plant. After further questioning by Mr. Williamson regarding the Utility Fund's indebtedness, Mr. Zerrilla stated that the staff will be watching the Utility Fund revenues and expenditures closely and will be pro-active when necessary. He noted that there are debt service covenants through the County's Virginia Resources Authority's loan that the County will have to comply with including stipulations that the Utility Fund's revenues have to be 115% of the Debt Service amount.

After questioning by Mr. Williamson, Mr. Zerrilla stated that the revised rate structure will fund the Utility Fund's expenses in FY 14.

After questioning by Mr. Dodson, Mr. Zerrilla stated that, if the County does not meet the VRA's debt service covenants, then the County will have to take measures to increase water and sewer rates to meet the revenue shortfall within 60 days.

After questioning by Mr. Martin, Mr. Zerrilla stated that, if the Board does not adopt the proposed rates, then "FY 14 will be difficult for the County" financially.

Mr. Martin stated that he is concerned about the impact this rate increase will have on the County's elderly residents. He questioned whether the County could transfer some of the

needed money from the revenues received from the tax increases implemented effective January 2012 into the Utility Fund.

Mrs. Guzi noted that this decision would be the Board's prerogative but the Utility Fund is considered an enterprise fund and the revenues received from water and sewer fees should be at levels that are adequate to cover the operations, maintenance, and capital expenditures of the County's water and sewer system. She noted that the Utility Fund is a self-sufficient fund and the viability of this fund helps to maintain the County's bond rating.

After questioning by Mr. Dodson, Mr. Zerrilla stated that the WVWA is a "totally different entity from Botetourt County" and has a different rate structure and larger revenue base compared to the County. Mr. Zerrilla stated that he believes that the County's utility rates are comparable to those charged by Aqua Virginia and other private water companies operating in the County.

Mr. Moorman noted that the County's proposed water rates are below those charged by Aqua Virginia and other private water companies. He further noted that the proposed sewer rates are lower than the WVWA's rates.

Mr. Williamson stated that these rate increases are reasonable and a staff review of the rates can be conducted in two years to ascertain whether additional adjustments are needed.

Mr. Williamson then made a motion, which was seconded by Mr. Dodson, to adopt the ordinance revising the Botetourt County utility rates and fees as follows.

Resolution Number 14-01-14

By authority of County Code Section 24-141, the Botetourt County Board of Supervisors hereby establishes the following monthly service rates and connection fees for water and sewer service in all County service utility areas, effective February 1, 2014:

WATER & SEWER RATES For all service areas unless otherwise noted below

Residential Rates

| | |
|--------|--|
| Water: | Monthly Service Charge of \$10.00 Consumption Charge of \$5.80/1,000 gallons All over 5,000 gallons an additional \$0.58/1,000 gallons |
| Sewer: | Flat rate of \$31.85 per month (if County water customer) Flat rate of \$32.35 per month (if not a County water customer) |

Commercial Rates

| | |
|--------|--|
| Water: | First 4,000 gallons @ \$52.50 minimum All over 4,000 gallons @ \$5.60/1,000 gallons |
| Sewer: | First 4,000 gallons @ \$58.00 minimum All over 4,000 gallons @ \$5.60/1,000 gallons |

Unmetered Fire Service Rates*

| | |
|---------------------------|----------|
| Less than 4" Fire Service | \$30.00 |
| 4" Fire Service | \$65.00 |
| 6" Fire Service | \$140.00 |
| 8" Fire Service | \$200.00 |
| 10" Fire Service | \$350.00 |
| 12" Fire Service | \$450.00 |

*Botetourt County reserves the right to charge for excessive fire service water consumption at commercial water rates.

WATER RATES Former Daleville Water Company and Williamsburg Court

Residential Rates

| | |
|--------|--|
| Water: | Monthly Service Charge of \$10.00 Consumption Charge of \$6.25/1,000 gallons All over 5,000 gallons an additional \$0.63/1,000 gallons |
|--------|--|

| | |
|---|--|
| WATER RATES Residential Rates Water: | Former HUB and Tinkerview Monthly Service Charge of \$10.00 Consumption Charge of \$5.00/1,000 gallons All over 5,000 gallons an additional \$0.50/1,000 gallons |
| WATER RATES Residential Rates Water: | Former Griffith Park Monthly Service Charge of \$16.00 Consumption Charge of \$6.00/1,000 gallons All over 5,000 gallons an additional \$0.60/1,000 gallons |
| WATER RATES Residential Rates Water: | Former Keswick and Dal-Nita Hills Monthly Service Charge of \$16.00 Consumption Charge of \$6.00/1,000 gallons All over 5,000 gallons an additional \$0.60/1,000 gallons |
| WATER RATES Residential Rates Water: | Former Walnut Manor Monthly Service Charge of \$10.00 Consumption Charge of \$6.00/1,000 gallons All over 5,000 gallons an additional \$0.60/1,000 gallons |

Mr. Martin then stated that he has told his constituents that he would not agree to a tax rate increase unless it was actually necessary.

After questioning by Mr. Martin, Mr. Zerrilla stated that the staff strongly recommends that these utility rate increases be approved at this time. Mr. Zerrilla stated that the revenues from this increase will only be received for 1/3 of the current fiscal year which means less revenue will be received than originally projected to fund operations, maintenance, and needed capital projects.

After further questioning by Mr. Martin, Mr. Moorman noted that approval of the rate increase is the Board's prerogative. He noted that, if the County received more revenue than projected from this increase, then the staff would look at the possibility of not implementing or reducing the proposed FY 16 rate increase.

Mr. Williamson stated that this proposed increase is a "usage fee for the provision of services, not a tax increase."

Mr. Moorman noted that these rate increases are necessary if the Board wants to maintain a self-sufficient utility system that is in good working order.

Mr. Martin noted that he understands that this is a tax increase but he will reluctantly vote for this proposed rate increase.

Mr. Williamson's previous motion was then voted on as follows:

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Mr. Dan Collins, Residency Administrator, and Mr. Kevin Hamm, Maintenance Operations Manager, with the Virginia Department of Transportation, were then present to speak to the Board.

Mr. Collins noted that he normally has a scheduling conflict on the fourth Tuesday and is unable to attend the Supervisors meetings; however, today he is present to introduce himself to the Board's two new members. Mr. Collins stated that VDOT and its staff have an excellent working relationship with the Board and County administration and thanked the Board for their cooperative attitude over the years.

Mr. Collins then presented Mr. Dodson and Mr. Williamson with copies of VDoT's manual for board of supervisors' members which explain VDoT's operations and capabilities. He asked that both Board members contact either himself or Mr. Hamm with questions about the manual.

Mr. Hamm then reviewed VDoT's monthly report with the Board. He noted that three land development projects and six entrance permits were reviewed and/or issued by VDoT in the past month. Regarding Area Headquarter projects, representatives from VDoT's hydraulics division met on site to review the drainage issues on Cartmill's Gap Road (Route 783). He noted that VDoT plans to conduct work on the locations where the stream is leaving the channel in large storm events and washing out the road and will establish ditch lines behind the affected residences to carry water from the natural spring back into the channel.

Regarding the Fringer Trail (Route 645) realignment, Mr. Hamm stated that as all of the paperwork on this project has finally been completed and approved, construction work will begin on this project in the next week or so. He noted that, depending on the weather, it will take 3 – 4 weeks to complete this project.

Mr. Hamm further noted that VDoT has received many calls regarding replacement of stone on gravel roads. He noted that this time of year is not appropriate to place gravel due to having to push snow from the roads. Mr. Hamm stated that VDoT plans to make a concentrated effort to rework and place gravel on these roads once the weather improves in the spring. He further noted that VDoT is also filling potholes when the weather allows.

Regarding traffic engineering study requests, Mr. Hamm noted that he has no updates on the County's previously submitted traffic studies at this time. He noted that their engineering staff is behind in their work on these studies.

Mr. Martin then noted that VDoT does have a good relationship with the Board and their staff are very responsive to the Board's requests. Mr. Martin noted that he appreciates their work for the County and its citizens.

Mr. Williamson noted that the County has had a good relationship with VDoT for many years and questioned if Mr. Fred Altizer, previous Salem Residency and District Administrator, still worked for VDoT.

Mr. Collins noted that Mr. Altizer retired and then came back to VDoT on a couple of projects and has now retired again.

After questioning by Mr. Williamson regarding the deep ditch lines on Trevey Road (Route 638) between Wheatland and Old Hollow roads, Mr. Hamm stated that VDoT maintenance staff worked on the road two weeks ago and plan to do additional work to reestablish the ditch lines along this roadway.

Mr. Williamson then noted that Marion Oaks Drive is a public subdivision road located off of Old Hollow Road (Route 642). He noted that this subdivision was developed in 1998 and there are currently four houses in this development. He asked if there is anything that the County or VDoT can do to have this road taken into the Secondary System.

Mr. Hamm stated that he and the County staff have been working on researching and trying to find solutions to this issue.

Mr. Williamson suggested that Mr. Hamm contact Mr. Ken Rago who lives in this subdivision for further details.

Mr. Dodson stated that he looks forward to working with VDOT. He noted that the Chairman had received a speaker's request from a resident of Route 600 (Little Catawba Creek Road) regarding issues with large trucks using this road.

After questioning by Mr. Dodson on an update on Deerfield Road (Route 760), Mr. Hamm stated that their Eagle Rock maintenance crew has the replacement of two drainage pipes on this road at the top of their repair list. He noted that they will begin this work as soon as weather permits.

Mr. Leffel then noted that he has received calls regarding the muddy condition of Buhrman Road (Route 696). He noted that this road is in need of gravel. Mr. Hamm noted that he will check to make sure that this road is on VDOT's list for placement of gravel.

After questioning by Dr. Scothorn regarding the portion of British Woods Drive (Route 1010) that is currently not in the Secondary System, Mr. Hamm stated that he and County staff have begun review of this roadway to see if it qualifies for inclusion in the Secondary System.

Mrs. Guzi noted that the County will include discussion on this project during this spring's update of the Secondary System Six Year Plan.

Mr. Robert Gregory of Little Catawba Creek Road then spoke regarding large trucks using this road (Route 600). Mr. Gregory stated that he lives in Duffield Estates Subdivision which is located on the Catawba Road portion of this road. Mr. Gregory noted that there has been an increase in industrial-type traffic on this road from two logging operations that are occurring in this area, as well as dump trucks going back and forth between the cement plant and the sand plant in New Castle, trash trucks going from the landfill to the Salem trash transfer station, and cement trucks and other large trucks that use this road to avoid the I-81 scales.

Mr. Gregory stated that a logging truck ran him out of the road today and there have been instances when school buses have been forced off the road as well by these trucks. He noted that there is no posted speed limit on this narrow, country road and he believes an increased police presence is needed to deter speeders. Mr. Gregory stated that there are many driveways and school bus stops on this road which has approximately 200 residences along its 4.5 mile length. He noted that the road is not in a good condition because of the use by numerous large vehicles.

Mr. Hamm noted that VDOT reviewed this road after receiving calls from residents about the increased truck traffic. He noted that there are two firms conducting logging along this road and there are trucks using the road as mentioned by Mr. Gregory. Mr. Hamm stated that, when the road was built, he is not sure that it was meant to handle this type of heavy traffic but the roadway is not in bad shape at this time. He noted that VDOT can conduct a traffic study on the road.

Dr. Scothorn stated that traffic safety along this road is a big issue and requested that VDOT conduct this study.

Mr. Hamm stated that he will check with their traffic engineering staff on this situation.

After questioning by Mr. Dodson, Mr. Hamm stated that the traffic study will look at what type of traffic uses the road, accident data, etc. and their engineers will then make recommendations on possible solutions.

After questioning by Mr. Dodson, Mr. Gregory stated that there have been two occurrences that he knows of where school buses have been driven off of the roadway by large trucks.

Mr. Greg Johnston of Little Catawba Creek Road then stated that he has lived in this area for 20 years. He stated that there have been at least three occurrences in the past few years where a medical helicopter transport has had to respond to accident calls in this area. Mr. Johnston stated that this is an extremely dangerous road which is used by many cement trucks.

Mr. Hamm stated that VDoT is not responsible for traffic enforcement—that is the Sheriff's Department's responsibility.

Mrs. Guzi then noted that at the November Supervisors meeting, VDoT was asked to conduct a traffic study in the area of Catawba Road/Little Catawba Creek Road and asked if the study could be expanded to include the issues discussed today.

Mr. Hamm stated that VDoT does intend to trim the brush along Route 779 to improve the sight distance. He further stated that they have received numerous calls regarding the logging operations on Route 600 and the trucks' tires carrying significant amounts of mud onto the roadway.

Mr. Johnston stated that these large trucks are using Route 600 because there is a small bridge with a weight limit on Route 779 that the vehicles cannot cross.

Mr. Martin suggested that the State Police be contacted to place portable scales on Route 600 to see if the trucks using this road are bypassing the I-81 scales because they are carrying overweight loads.

After questioning by Mr. Williamson, Mr. Hamm stated that he will ask VDoT staff to push this traffic study along but, due to their backlog of work, he is not sure whether a report will be completed by the Board's February regular meeting.

Mr. Williamson suggested that Mr. Hamm provide Mr. Gregory and Mr. Johnston with his contact information so that they can check with him on the status of this study. Mr. Hamm stated that he would do so.

There being no further discussion, Mr. Hamm and Mr. Collins then left the meeting at this time.

Consideration was then held on proposed amendments to the County's Personnel Policy Manual regarding the Virginia Retirement System (VRS) hybrid plan. Mr. David Moorman, Deputy County Administrator, stated that effective January 1, 2014, VRS implemented a new retirement plan for local government employees hired on or after January 1 and who do not have prior credible service in VRS. He noted that this hybrid retirement plan was authorized by the Virginia General Assembly as a means of curbing long-term retirement benefit costs.

Mr. Moorman stated that the two existing VRS retirement plans (Plan 1 and Plan 2) offer benefits that are more "rich" than the hybrid plan but the hybrid plan includes short- and long-term disability benefits. He noted that the County does not offer short-term disability benefits but has a sick leave bank whereby employees may qualify for and receive up to 45 days of paid leave in the event of a health condition once all of their personal vacation/sick leave/compensatory time has been exhausted. He noted that, with the implementation of this hybrid plan, the County's sick leave bank is unnecessary for employees participating in that retirement plan.

Mr. Moorman noted that the County's human resources staff has reviewed the Manual of Personnel Policies for necessary amendments as a result of the hybrid plan's implementation. He noted that amendments to all impacted sections of the Personnel Manual are shown in red in the information included in the Board's information packets. He further noted that these

amendments have been reviewed and approved by the County Attorney. Mr. Moorman noted that, as further details about the hybrid retirement plan become available, County staff anticipates bringing additional Personnel Manual amendments to the Board for consideration in the future.

After questioning by Mr. Williamson regarding the proposed amendment on page 38, Mr. Moorman stated that yes, Family and Medical Leave Act (FMLA) leave does run concurrently with periods of sick leave without pay and short-term disability.

Dr. Scothorn stated that current County employees have a disability retirement plan through the Virginia Retirement System; however, those hired on or as of January 1, 2014, will have short- and long-term disability benefits available. Mr. Moorman stated that this was correct.

After further discussion, Mrs. Mary Blackburn, Human Resources Manager, stated that County employees can retire at 65 with disability benefits or Social Security Administration disability benefits.

After questioning by Mr. Williamson regarding how the disability insurance carrier was chosen, Mr. Moorman stated that in September 2013 the Board considered options for disability coverage for mandated employees by January 1, 2014. He noted that these options included a plan offered by BB&T Insurance Services (The Guardian) and a plan offered by the Virginia Association of Counties Self-Insurance Risk Pool (VACoRP) (The Standard). Mr. Moorman noted that both of these plans offered benefits that were superior to the State's new disability program (Virginia Local Disability Program) which the Board elected in July 2013 to opt-out of participating in. He stated that, after the staff requested proposals for disability coverage, the Board approved the County's participation in The Standard plan in September.

After discussion, Mr. Moorman noted that the County disability insurance coverage can be advertised for bids in the future to ensure that a competitive plan is considered.

There being no further discussion, on a motion by Mr. Williamson, seconded by Mr. Leffel, and carried by the following recorded vote, the Board approved the attached amendments to the County's Manual of Personnel Policies pertaining to the Virginia Retirement System's Hybrid Retirement Plan effective immediately. (Resolution Number 14-01-15)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Mr. Corbin Stone, with Robinson, Farmer, Cox Associates, was then present for a presentation on the County's FY 12-13 audit report. He then provided the Board with revised paper copies of his presentation. Mr. Stone stated that the audit process went very well this year but noted that there were three management comments included in their report regarding some internal control structures that needed to be addressed.

Mr. Stone noted that the County in 2012 again received the Government Finance Officers Association's Certificate of Excellence for their audit report. He noted that this is a national award that the County has received for 7 – 8 years.

Mr. Stone then reviewed the FY 13 audit report. He noted that the County received an unmodified opinion this year on its audit. Mr. Stone stated that the County's June 30, 2013, General Fund balance was \$20,250,000, which included the receipt of \$1.7 million in funds for the sale of the Crawford Mountain cell tower. He noted that the County's unassigned fund

balance as of June 30, 2013, was \$19,808,000 and \$1.6 million of that amount was assigned to the FY 14 budget. Mr. Stone then stated that the County's long-term debt as of June 30 was \$42,209,000 which is \$2 million less than in FY 12.

After questioning by Mr. Williamson, Mr. Stone stated that the Undesignated Fund Balance to debt ratio is less than 50% which is a good situation for the County. He noted that this comparison was shown on the chart on page 2 of his presentation.

Mr. Stone stated that the County's water/sewer (utility) fund had equity of \$13.6 million as of June 30 and this shows that the County is investing into the systems that it owns. He then stated that the County's total debt on June 30 was \$51,420,000. Mr. Stone stated that this amount has steadily decreased from \$73.9 million on June 30, 2006. He noted that the County's debt per capita was \$1,544 in FY 13. Mr. Stone noted that the State average debt per capita (weighted average) is \$2,695 in the most recent year available (June 30, 2011). He stated that the weighted average includes the figures from the larger jurisdictions in the State.

Mr. Stone noted that the chart on page 2 shows the County's debt to Fund Balance ratio; page 3 shows the County's water/sewer enterprise fund amounts from 2006 to 2013; and the graph on page 4 indicates the County's revenue sources by fiscal year. He stated that the County is seeing a good trend in its revenue collections and it is receiving better assessments. Mr. Stone noted that the green line on the graph shows that State aid has continued to decline since 2008 and the revenues from other local taxes have increased slightly. He further noted that the State of Virginia took over the collection of communications taxes from the localities in 2008/09 and forwards a portion of these taxes back to the localities.

Regarding the graph on page 5, Mr. Stone stated that this shows the County's expenditures by fiscal year. He noted that the increase in education expenditures in 2009 was due to carry-over funds for future capital needs. Mr. Stone noted that the increase in public safety expenditures beginning in 2007/08 was due to the opening of the County's new regional jail facility and the increase in 2012 was due to the receipt of a SAFER grant from the federal government. Mr. Stone noted that the County's other expenditures have remained flat over the past 10 years; there are no expenditures "growing out of hand."

Mr. Stone noted that the pie charts on pages 6 and 7 show the revenue percentages from various sources in 2013 and 2004. Mr. Stone stated that these charts show that the percentage of State revenues received by the County has decreased 3% in this time period and local dollars have been used to "fill this void." Mr. Stone then noted that the chart on page 8 indicates the County's tax assessments by tax year from 2003 through 2012. He noted that these assessments are trending upward but explained that the decrease in personal property tax assessments in 2009 was due to the National Automobile Dealers Association (NADA) revising their vehicle assessment methodology.

After questioning by Mr. Williamson regarding the decrease in Machinery and Tools taxes between 2010 and 2011, Mrs. Guzi noted that this was primarily due to the closing of the former Koyo Steering/JTEKT facility in Greenfield.

Mr. Stone noted that the chart on page 9 indicates the school revenue sources. He noted that in 2010 the school system's State aid fell due to the recession but federal monies covered some of the shortfall. Mr. Stone stated that the receipt of federal funds by the schools has been reduced significantly. He noted that State aid for schools is not back up to the levels received in 2009.

After questioning by Mr. Williamson, Mr. Stone stated that the schools have received approximately \$3 million less in State funding over the last few years.

Mr. Stone then noted that pages 10 and 11 of his report list the management comments he mentioned at the start of this presentation. He noted that the Social Services Department is required to report certain expenditure data to the State of Virginia monthly. Mr. Stone noted that the auditors could not reconcile the monthly amounts to actual expenditures for the final six months of the fiscal year. He stated that these differences were minor but the department needs to begin reconciling monthly expenditures with the reports provided by the State.

Mr. Stone stated that he has discussed this matter with the Social Services staff and believes that these issues have been corrected. He further noted that the Social Services Department went through a staff transition during FY 13 and hired new employees who were not aware of all appropriate reporting procedures.

Mr. Stone then noted that pages 12 and 13 of his presentation contain a letter from his firm reviewing their audit findings, difficulties encountered during the audit, disagreements with management, other audit findings/issues, etc. He noted that they had no problems in obtaining any information from the County staff during their data gathering visits; the staff were very helpful.

Mrs. Guzi stated that what makes the audit process go smoothly is the cooperative attitude of the County and School staff. She noted that the County and the auditors have "good people working toward the same goal."

Mr. Williamson then questioned why 100% of the school's retirement and health insurance premiums, which are the responsibility of the employee, are shown as a liability on the audit report.

Mr. Stone stated that, for example, if the average school employee is 35 years old and to insure that person each month costs \$400 but, if they are a 65 year old, then it might cost \$500 per month for health and retirement benefits. He noted that, on the theory that retirees have higher utilization of healthcare benefits than active employees, if the group premium charged to active employees is used for retirees, the premium for active employees is implicitly overstated to subsidize utilization by retirees. This creates an OPEB (Other Post-Employment Benefits) liability.

Mr. Williamson noted that this is theoretical data to have to include it on a balance sheet.

Mr. Stone noted that in 2015, the County will have to include its Virginia Retirement System (VRS) liability figures in the audit report.

There being no further discussion, the Board thanked Mr. Stone for his presentation. He then left the meeting at this time.

Mr. David Givens, Construction Compliance Manager, then gave a presentation on a proposed stormwater management ordinance. Mr. Givens noted that all Virginia localities are required to adopt a Virginia Stormwater Management Program (VSMP) by July 1, 2014, that is consistent with the State's revised stormwater management regulations and the revised General Permit for Discharges of Stormwater from Construction Activities.

Mr. Givens stated that the State's stormwater management program began with the federal Clean Water Act which was adopted in 1972. He noted that these programs instituted the ability to manage the quality and quantity of stormwater runoff. Mr. Givens stated that the Virginia Department of Environmental Quality (DEQ) administers this program at the present

time; however, the administration will be handed down to the localities in July. He stated that the County's Development Services Office will be the local entity responsible for accepting the stormwater management applications and completing the four components of the local VSMP—administration, plan review, inspection, and enforcement.

Mr. Givens noted that, after receiving approval of the application from the County, DEQ will issue the General Permit. He noted that this permit is required for any development project that disturbs at least one acre of ground.

After discussion, Mr. Givens stated that one of these new VSMP provisions requires that the County adopt a local Stormwater Management Ordinance. He noted that DEQ provided a model ordinance and staff, working with the County Attorney, developed a draft ordinance as included in the Board's information packets.

Mr. Givens stated that this draft ordinance contains the minimum requirements from DEQ, it is not proposed to be more restrictive than what is required by DEQ and the proposed permit fees are based on a schedule issued by DEQ. He stated that 28% of these stormwater permit fees collected by the County are required to be paid to DEQ. Mr. Givens also stated that DEQ has an on-line database for the Development Services staff to use in order to complete the permit application process.

After questioning by Mr. Williamson, Mr. Givens stated that DEQ staff will be available for technical assistance if needed during the application/approval process.

After questioning by Mr. Dodson, Mr. Givens noted that the proposed fee structure is a recommendation; however, if the County charges fees that are less than proposed, the County will still have to forward 28% of the recommended State fee structure to DEQ.

After questioning by Mr. Williamson, Mr. Givens stated that it is hoped that the proposed fees will pay for the County's costs of implementing this program.

After further discussion by Mr. Williamson, Mrs. Guzi stated that the staff reviewed these anticipated fee revenues during the FY 15 departmental budget review meetings. She noted that it is estimated that the fees collected will be very close to the expenses generated by the County's implementation of this permitting program. Mr. Williamson noted there may be a "mismatch between costs and revenues."

After questioning by Mr. Williamson, Mrs. Guzi stated that the actual fee amounts will not be included as a part of the ordinance's language and can be administratively amended by the Board from time to time as necessary.

After questioning by Mr. Dodson, Mr. Givens stated that contractors have been directly paying these stormwater permit fees to the State (DEQ) for several years.

After questioning by Mr. Williamson, Mr. Givens noted that the Mountain Castles Soil and Water Conservation District is not involved in this stormwater management program. He noted that oversight of stormwater management issues was previously the responsibility of the Virginia Department of Conservation and Recreation; it was then passed to DEQ, and will be the County's responsibility as of July 1, 2014.

Mrs. Guzi noted that the program's transition to the County's administration has been in development since 2011 and the staff has been working with the Roanoke Regional Home Builders Association since that time to notify the County's builders and contractors of these new permitting procedures. She further noted that there is currently legislation before the Virginia General Assembly to delay the implementation of the localities' oversight of this program until 2015; however, she does not believe that this legislation has much support.

After questioning by Dr. Scothorn, Mr. Givens stated that he is required to submit information to DEQ by May 2014 on the County's actions to implement this program, including a copy of the adopted stormwater management ordinance. Mr. Givens requested that the Board authorize this proposed ordinance for a public hearing at their February or March regular meeting in order for this timeline to be met.

There being no further discussion, on motion by Dr. Scothorn, seconded by Mr. Dodson, and carried by the following recorded vote, the Board authorized staff to advertise a proposed stormwater management ordinance for public hearing at their February 25 regular meeting. (Resolution Number 14-01-16)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

A public hearing was then held on proposed amendments to Chapter 15. Offenses-Miscellaneous, Article II. Noise of the Botetourt County Code. Mrs. Guzi noted that the County Attorney has notified staff that the Noise Ordinance was not in compliance with the provisions of a 2009 Virginia Supreme Court decision that declared the Virginia Beach noise ordinance to be unconstitutionally vague because it used a "reasonable person" standard in determining whether a noise violated the ordinance.

Mrs. Guzi noted that, subsequent to that ruling, some sample ordinances were written based on decibel levels; however, few localities use this standard because of the difficulty in setting those levels and the costs involved. She stated that the County Attorney has recommended language that replaces references to "a reasonable person of normal sensitivities" with objective wording such as "plainly audible." She noted that a revised ordinance was included in the Board's information packets.

After questioning by Mr. Williamson, Theresa Fontana, County Attorney, stated that the Commonwealth's Attorney would prosecute a criminal case filed under the provisions of this ordinance; however, there have been some instances where the County Attorney has prosecuted such cases.

After discussion, it was noted that the proposed definition of a noise or noise disturbance is as follows, "any sound which (a) endangers or injures the safety or health of any person; (b) causes or tends to cause an adverse psychological or physiological effect on any person; or (c) negatively impacts the value of personal or real property."

Mrs. Guzi noted that these amendments as recommended by the County Attorney are based on the 2009 ruling by the Virginia Supreme Court.

After questioning by Mr. Martin, Mrs. Guzi stated that she is unaware of any charges filed under this ordinance in the last two years.

After questioning by Dr. Scothorn, it was noted that there was no one present to speak regarding this matter. The public hearing was then closed.

Mr. Leffel noted that he did receive two telephone calls from citizens regarding this proposed ordinance; specifically the new subsections on page 3: Section 15-54 (10) "Sounds generated by airplanes and trains" and Section 15-54 (9) "Religious or political gatherings and other activities protected by the First Amendment to the United States Constitution." Mr. Leffel stated that one citizen objected to the noise from low-flying airplanes and the other resident objected to outdoor religious gatherings/occurrences that do not occur during usual worship times.

After questioning regarding the removal of Section 15-58. Special provision for habitually barking dogs, Mrs. Guzi noted that this section was deleted and a new subsection under Section 15-57. Excessive noises prohibited was drafted which states, "allowing any animal (except farm animals in agricultural districts) to create noise that is plainly audible at least once per minute for ten consecutive minutes (i) inside the confines of the dwelling unit, house, or apartment of another or (ii) at a distance of 50 feet or more from the animal. This provision shall not apply if the noise is due to harassment of or injury to the animal, or due to a trespass upon the premises where the animal is located."

There being no further discussion, on motion by Mr. Martin, seconded by Mr. Dodson, and carried by the following recorded vote, the Board adopted the following resolution amending Chapter 15. Offenses-Miscellaneous, Article II. Noise of the Botetourt County Code as attached, effectively immediately.

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Resolution 14-01-17

WHEREAS, Botetourt County desires to update its noise ordinance to more precisely describe excessive noise that is prohibited as is required by law; and,

WHEREAS, notice of the intention of the Board of Supervisors to consider said ordinance was published on January 15 and 22, 2014, in The Fincastle Herald, a newspaper published in and having a general circulation in Botetourt County; and,

WHEREAS, the Board of Supervisors has found that the public necessity, convenience, and general welfare deem it proper to do so,

NOW, THEREFORE, BE IT ORDAINED BY THE BOTETOURT COUNTY BOARD OF SUPERVISORS, that Article II. Noise of Chapter 15. Offenses-Miscellaneous, of the Botetourt County Code, is hereby amended and reenacted as attached.

The Chairman then called for a 5 minute break.

The Chairman called the meeting back to order at 3:47 P. M.

Mr. Martin noted that he was notified on Sunday that the Rainbow Forest Lake and dam issue has been resolved between the Homeowner's Association and the Virginia Department of Conservation and Recreation. He noted that the issues with additional right-of-way to improve the spillway have been resolved and the project can proceed.

Mr. Martin stated that construction work will begin later this year and should be completed this fall.

Regarding other items, Mr. Martin then noted that he had received a letter from Mr. Walter Michael of Archway Road requesting a freeze on real estate tax relief for senior citizens who are homeowners and are 65 years old, have owned their home for at least 10 years, tax rates and assessments will be consistent with other property owners, the annual tax amount will be frozen until the senior owners sell the property, and the tax freeze will only apply to the primary residence.

Mr. Martin noted that the Board did revise the qualification requirements for elderly and disabled tax exemptions last year. He noted that some of Mr. Michael's suggestions cannot be implemented by the County. Mr. Martin stated that the County Administrator has also been in

contact with Mr. Michael and is working with him to explain the County's current exemptions to determine whether Mr. Michael qualifies for any tax exemptions.

Dr. Scothorn suggested that, if any Board member or citizen have questions regarding any issues, that they be forwarded to the County Administrator and her staff to obtain the answers.

Mrs. Guzi agreed and noted that the County's elderly and disabled tax exemption ordinance has been in effect for many years and the ordinance's exemption qualifications were adjusted last year to increase the number of County residents eligible for tax relief. She further noted that any amendments to this ordinance's financial qualifications do have budget and revenue implications for the County.

Regarding committee reports, Mr. Dodson then noted that he attended the January meeting of the Parks and Recreation Commission. He noted that the members were informed that the Recreation Department has secured a sponsorship with Dick's Sporting Goods to provide over \$5,000 worth of direct playing equipment and discounts to the County's youth sport participants and coaches during 2014. He further noted that Dick's will dedicate three community purchase days for Botetourt County that will offer a 20% discount coupon towards purchases throughout the store (with a few restrictions) and provide additional 10% coupons for specific playing equipment that will be good throughout the entire year.

Mr. Pete Peters, Director of Parks, Recreation, and Tourism, noted that the County approached Dick's in 2013 with this proposal. He noted that the first Community Purchase Day is set for Saturday, March 15 at Dick's Valley View location.

Mr. Dodson noted that Camp Eagle is also sponsoring the County's youth sports program this year through a \$2,000 scholarship.

Mr. Leffel then noted that he attended last week's Library Board meeting and a couple of budget items were discussed.

A public hearing was then held on the disposition of County property (two well lots) located in Cedar Ridge Subdivision and identified on the Real Property Identification Maps of Botetourt County as Section 101, Parcel 81W and Section 101E(4), Block 3, Parcel 12A. Mr. David Moorman, Deputy County Administrator, stated that the County acquired the Cedar Ridge water system in 2003 which included a well lot and a well/tank lot totaling 1.25 acres. He stated that a few years ago, the system's wells failed, were shut down, and the Cedar Ridge water customers were connected to the Greenfield water system.

Mr. Moorman noted that Mr. Curtis Simmons owns the parcel [Tax Map 101E (4), Block 3, Lot 12] located between the two well lots and has inquired about purchasing these two parcels. He noted that the 2010 assessed value of the parcels including improvements was \$15,000 and was \$12,000 for the property only; however, an informal, updated assessment of the property's value (\$10,000) has been received from Wampler-Eanes Appraisal Group. Mr. Moorman stated that Mr. Simmons has offered to purchase these two lots for \$10,000. Mr. Moorman stated that the County has no further use of these two parcels and recommends their sale to Mr. Simmons in the amount of \$10,000.

After questioning by Mr. Martin, Mr. Moorman noted that the two lots contain a total of 1.25 acres.

Mr. Williamson stated that these lots will become part of the larger parcel as they are located within the boundaries of Mr. Simmons' existing parcel (lot 12). Mr. Moorman noted that this is correct.

After questioning by Mr. Williamson, Mr. Moorman noted that Mr. Simmons contacted the County about purchasing these lots. After further questioning by Mr. Williamson, Mr. Moorman noted that the County incurred no out-of-pocket expenses for the updated appraisal conducted by Wampler-Eanes.

After questioning by the Chairman, it was noted that there was no one else present to speak regarding this matter. The public hearing was then closed.

On motion by Dr. Scothorn, seconded by Mr. Williamson, and carried by the following recorded vote, the Board authorized the sale, as is, of two well lots located in Cedar Ridge Subdivision, identified on the Real Property Identification Maps of Botetourt County as Section 101, Parcel 81W and Section 101E (4), Block 3, Parcel 12A, to Mr. Curtis Simmons in the amount of \$10,000; directed that the sale proceeds be deposited into the County's Utility Fund; and authorized staff to enter into, execute, and affect all necessary instruments regarding this sale upon the review and approval of the County Attorney. (Resolution Number 14-01-18)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

After discussion, on motion by Mr. Leffel, seconded by Mr. Dodson, and carried by the following recorded vote, the Board reappointed Mr. Gary Cronise to the Building Code Board of Appeals for a four year term to expire on March 17, 2018. (Resolution Number 14-01-19)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

After discussion, on motion by Mr. Williamson, seconded by Mr. Martin, and carried by the following recorded vote, the Board recommended that the Circuit Court Judge reappoint Mr. Steve Kidd as the Buchanan District representative on the Board of Zoning Appeals for a five year term to expire on March 31, 2019. (Resolution Number 14-01-20)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on a request from the Eagle Rock Baptist Church Trustees to vacate a portion of a 16½' undeveloped alley and create a new lot line to the center of the alley located 165' northeast of the Branch Road (Route 742)/Second Street (Route 43) intersection and identified on the Real Property Identification Maps of Botetourt County as Section 27A (3), Parcels 10 - 11, 11A, 12, and 19A - 21A. Mr. Wade Burkholder, County Planning Manager/Zoning Administrator, stated that, after holding a public hearing at their November 26, 2013, meeting, the Board tabled consideration of this request for up to 60 days to allow representatives of the church and Pineapple Properties, LLC, to try to reach an agreement on access to lot 13.

Mr. Burkholder noted that, at the request of Mr. Wayne Adkins of Pineapple Properties, Mr. Shawn Crist, Erosion and Sediment Control Administrator, met on site with Mr. Adkins and members of the church to discuss possible options to improving the alleyway's access to the rear yards of those lots adjoining the alley. He noted that Mr. Crist recommended that the slope be left in its current grassy condition as any runoff problems in this area would be increased if the alley were graveled or paved.

Mr. Burkholder then stated that, since the on-site meeting, County staff has contacted both parties to ascertain if any agreement has been reached. He noted that there has been no response to these attempts and staff is not aware of any access agreement that has been reached at this time.

Mr. Burkholder noted that the Planning Commission, at their November 13, 2013, meeting unanimously recommended denial of this alleyway vacation request due to the loss of access to the Pineapple Properties' lot and the loss of driveway access to lots 14 and 15. He noted that representatives from both sides of this issue were present at today's meeting.

Dr. Scothorn stated that the grade on this alleyway is between 14.5% and 17.5%. Dr. Scothorn noted that he recently visited the site with Mr. Leffel and it appears that the alley is being used on one end and not on the other.

After questioning by Mr. Williamson, Mr. Burkholder stated that only the portion of the alleyway located on the church's property (approximately 16½' X 130') is being requested to be vacated.

Mr. Dodson noted that the church has used a portion of the alley as a paved parking lot since the late 1960's and questioned why the church is only now requesting this easement's vacation.

Mr. Robert Simpson of Mount Moriah Road then spoke to the Board representing the Eagle Rock Baptist Church Trustees. Mr. Simpson stated that a member of the church was approached approximately 1½ months before the application to vacate this portion of the alley was submitted to the County. He noted that the individual requested permission to use a portion of land across the rear of the church's property to access Lot 13. Mr. Simpson stated that the church did not know that the alleyway existed prior to this request. He further noted that at one time the church owned the house and lot now owned by Pineapple Properties.

Mr. Simpson stated that there was some confusion at the Planning Commission meeting and it was mentioned that the church wanted to close the entire length of the alley. He noted that this is not correct—the church only wants to vacate the portion of the alleyway that is located on their property.

Mr. Simpson stated that the slope on the Branch Road (Route 742) end of the alley is a concern. Mr. Simpson stated that he does not believe that graveling this alley will work as the gravel will be compressed into the topsoil.

Dr. Scothorn questioned if the church was willing to provide access across the church's property so Mr. Adkins' could have a way to reach the rear of his property.

Mr. Simpson stated that the church is willing to allow Mr. Adkins the use of up to two parking spaces in the church's parking lot located adjacent to the Adkins property. He noted that there is a gate in the chain link fence at this location which allows access to the Adkins' property. Mr. Simpson stated that Mr. Adkins accepted this offer at one time and then changed his mind.

After questioning by Mr. Dodson, Mr. Simpson stated that he sent a letter to Mr. Adkins with this proposed on December 29 and Mr. Adkins contacted him “before Christmas” regarding the installation of ballast stone on the alleyway and requested a written understanding of what the church would agree to. Mr. Simpson noted that the church had a verbal agreement with the property’s previous owners that they could use two of the church’s parking spaces for their personal vehicles except during large church events. Mr. Simpson stated that the slope on the Branch Road end of the alley is not conducive for use by vehicles.

After questioning by Mr. Williamson regarding the reported confusion at the Planning Commission meeting regarding closure of the entire length of the alley, Mr. Burkholder stated that the Commission was “doing its due diligence” in this situation. He noted that the request was to vacate a portion of the alley but discussion was also held on the impact of closing the entire alley on the adjoining properties. Mr. Burkholder stated that the Commission did understand that the church’s request was only to vacate a portion of the alley.

Mr. Wayne Adkins of Pineapple Properties then spoke on this matter. Mr. Adkins noted that he lives on Main Street in Buchanan. Mr. Adkins stated that this is not a complicated situation. He noted that the petitioner (the church) has to demonstrate that closing this portion of the alley will not cause an inconvenience or irreparable damage to the owner of any lot on the plat. Mr. Adkins then presented the Board with copies of the State Code sections regarding such vacation requests.

Ms. Theresa Fontana, County Attorney, noted that there is an appeal process if this vacation is approved. She noted that, if the Supervisors approve the alleyway’s vacation, Mr. Adkins could appeal the Board’s action to the Circuit Court.

Mr. Adkins noted that the Planning Commission unanimously recommended denial of this vacation request.

After questioning by Mr. Williamson, Ms. Fontana stated that on appeal of the Board’s decision, the burden is on Mr. Adkins, not the Board of Supervisors, to show that he was irreparably damaged by the closure of this portion of the alleyway. Mr. Williamson noted that the standard in this interpretation is whether “irreparable damage” will be caused to Mr. Adkins if this portion of the alleyway is closed.

Mr. Adkins noted that he does not think that he has heard anything in either the Planning Commission’s or Supervisors’ proceedings on this matter from the petitioner that refutes that closing this alley would cause irreparable damage to his property. Mr. Adkins requested that the Board honor the Planning Commission’s recommendation on this matter and deny this request.

Mr. Adkins stated that he purchased this property three years ago and researched the property’s background, access points, and when the alley was created and opened. He noted that in the property’s deed, the alley was referred to as a boundary and access. Mr. Adkins noted that the State Code is clear regarding an appeal of this issue and he wants to ensure that the Board is cognizant of the Code’s provisions.

After discussion, Mr. Adkins stated that the reasons for vacating this alley have all been refuted. Mr. Adkins stated that he does not plan to use the alley for 4-wheeler access to his property but he will use the alley at times as a large, moving truck-type vehicle cannot access the property if the alley is unavailable.

Mr. Adkins noted that runoff is a very serious situation particularly on this property and the more impermeable surfaces in this area the more runoff there will be. He further noted that

“356” stone which is approximately 2” in size could be placed on the alleyway’s surface and over time the stone would be compressed into the ground. He noted that grass would grow up between the stones which would help to control runoff from the slope.

Mr. Adkins then asked for the Board’s support of the Planning Commission’s recommendation of denial of this request.

After questioning by Mr. Williamson, Mr. Adkins stated that he is representing that he would be irreparably damaged if this portion of the alley is closed. Mr. Adkins stated that he can access the rear of his property from the alley’s Church Street entrance; however, there is a wall along a portion of the alley which would not allow large trucks or trailers to be able to turn around.

After questioning by Mr. Leffel, Mr. Adkins stated that he does not know how the large propane tank was originally placed on the rear of the lot. Mr. Leffel noted that there has been no traffic access from the church’s portion of the alley since 1968.

Mr. Adkins refuted this statement and noted that he has used the alley approximately 8 – 10 times during his renovation work on this structure for such things as the delivery of appliances.

After questioning by Dr. Scothorn, Mr. Adkins noted that the larger vehicles making deliveries to the rear of his property drove straight through the alley; therefore, they did not have to try to turn their vehicles around in this tight space.

Mr. Adkins noted that the church has said that they did not know about the alley’s existence but it is shown on the recorded plat of this area.

After questioning by Mr. Leffel, Mr. Adkins stated that this situation did not arise 2½ years ago when he purchase the property because he has had several medical conditions over the past few years which delayed the house’s renovation. Mr. Adkins noted that the house has been on the market for a year.

Mr. Leffel then suggested that Mr. Adkins could pursue obtaining approval from the Highway Department to allow parking on Route 43 (Second Street) in front of the house.

Mr. Adkins stated that “this is not the issue; the issue is getting trucks in and out of the back of this property.” Mr. Adkins further stated that the church’s parking proposal was very vague and the future owner of the home would have to find a location to park their vehicles when the church is having a special event.

After questioning by Mr. Dodson, Mr. Adkins noted that, as he mentioned at the Board’s November meeting, he has a letter in his files from a realtor who stated that there were two serious inquiries about the property but the potential purchasers had issues with parking and the alley access to the rear of the property. Mr. Adkins noted that he would need a couple of minutes to find the letter in his files.

After questioning by Mr. Dodson, Mr. Simpson noted that the church had an agreement with Mr. Adkins at one point regarding the use of two parking spaces in the church’s side lot but Mr. Adkins later rescinded this agreement.

Mr. Bob Fridley of Malvern Road in Roanoke noted that at the Planning Commission meeting it was noted that the owners of parcels 14 and 15 use a driveway entrance from the Church Street end of the alley.

Mr. Fridley stated that when he was a child and lived in Eagle Rock the area’s kids used to sleigh down the hill located behind the church. Mr. Fridley noted that, to his knowledge, no one has used the section of alley located behind the church for 70 years. He noted that there is

“right much involved” in this matter and the church would like to see the portion of the alley located behind the church closed. Mr. Fridley stated that access to the rear of these lots is possible from the Church Street (Route 43) end of the alley.

Mr. Fridley noted that when the propane truck is making deliveries to this residence it pulls into the church’s parking lot to access the tank at the rear of the parcel. Mr. Fridley asked that the Board approve the church’s request to close this portion of the alley.

After questioning by Dr. Scothorn, Mr. Fridley noted that he recalled there being five separate owners of this residence in 60+ years: Burgess, the church, Fisher, Mitchell, and Adkins. Dr. Scothorn noted that there does not appear to have been any problems with the use of the alley during this long period of time.

After questioning by Dr. Scothorn, Mr. Adkins stated that he has not been able to find the realtor’s letter in the files he brought to the Board meeting today but it does exist.

After questioning by Mr. Adkins, Ms. Fontana noted that the law of adverse possession does not apply in this case.

Mr. Leffel noted that it seems to him that “we are talking about irreparable harm” but “in his mind he sees bad things happening to the church” and the homeowners across the road if this alley remains open due to potential increased runoff.

After questioning by Dr. Scothorn, Mr. Leffel stated that he does not know if the properties located across Second Street currently have runoff problems but he believes that there will be increased runoff from the alley area and the church property if the alley is left open. Mr. Leffel stated that he does not think that it would be a penalty to vacate this alley; the property owners would still have access from the Church Street end of the alley. Mr. Leffel noted that it is in the best interests of those most involved to close this portion of the alley.

After questioning by Mr. Dodson, Mr. Simpson noted that the other property owners along this alley were present at the Planning Commission’s November meeting. Mr. Simpson noted that their concerns were that the entire alley would be closed and, when they were told that this would not be the case, they had no further objections to the church’s request. Mr. Simpson noted that this request has no affect on the other property owners along the alley.

Mr. Simpson further noted that there was some confusion on the actual location of the alley and the church hired Mr. Chris McMurry, Certified Land Surveyor, to research the deeds and survey the alley.

Mr. Williamson noted that the only issue regarding the closure of this portion of the alley would be whether a box-type truck could access the rear of Mr. Adkins property from the Church Street end of the alley.

Mr. Adkins then presented the Board with photographs of his personal SUV accessing the rear of the property via the alley. He noted that approximately ½ of the alley cannot be used by a truck due to a storage building having been constructed on the alley and a chain-link fence at the rear of the properties. Mr. Adkins noted that he tried to turn a vehicle around in the alley while pulling a 16’ trailer and could not do so.

Mr. Adkins noted that the best management practice in erosion and sediment control are to “leave it alone” or use stone on the alley. He noted that other localities have used this method for run-off control.

After further discussion, on motion by Mr. Leffel, seconded by Dr. Scothorn, and carried by the following recorded vote, the Board approved the request from the Eagle Rock Baptist Church Trustees to vacate a portion of an unimproved platted alley consisting of 0.049 acres

abutting and between property owned by the Eagle Rock Baptist Church identified on the Real Property Identification Maps of Botetourt County as Section 27A (3), Parcels 19A – 21A and Section 27A (3) Parcels 11 – 12, finding that the applicant has satisfactorily demonstrated that no “owner of any lot shown on the plat will be irreparably damaged” by the vacation of the alley and that no inconvenience will result to any individual or to the public from permanently vacating, discontinuing and closing such public right-of-way (paper alley) and vacating said interior lot lines, the proposed vacation will have little to no adverse effects upon the community or other properties in the vicinity of the proposed paper alley and that the proposal serves the public necessity, convenience, general welfare, and demonstrates good zoning practice, and adopted the following ordinance, effective immediately.

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Resolution Number 14-01-21

WHEREAS, the Trustees of the Eagle Rock Baptist Church, in accordance with Virginia Code Section 15.2-2272(2), have requested that the County of Botetourt vacate a 16½' by 130' portion of a public right-of-way known as an alley between Branch Road (Route 742) and Second Street (Route 43) and more specifically described and depicted on Exhibit A attached hereto; and,

WHEREAS, the County has complied with Section 15.2-2006 of the Code of Virginia, 1950, as amended, by duly publishing notice of a public hearing to consider the request and held a public hearing on November 26, 2013, at which all interested parties were afforded an opportunity to be heard; and,

WHEREAS, the County finds that no public inconvenience will result nor shall any lot owner shown on the plat be irreparably damaged from vacating this right-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE BOTETOURT COUNTY BOARD OF SUPERVISORS THAT, the request of the Trustees of the Eagle Rock Baptist Church is granted and the public right-of-way described herein is hereby discontinued and vacated and the property shall become a part of the abutting parcels, subject to the rights of the owners of any public utility installations, if any, as set forth in Virginia Code Section 15.2-2274.

The Chairman then gave Mr. Paul Hatam of Cloverdale an opportunity to speak.

Mr. Hatam of Downing Street then spoke regarding schools and taxes. He noted that in the past the Board has discussed constructing a new Blue Ridge elementary school. Mr. Hatam suggested that the Board talk to Sheriff Sprinkle about the possibility of adding additional square footage to the building for use as a possible community center for the elderly or a satellite location for the Sheriff's Department.

Mr. Hatam noted that Eagle Rock has a community center, and Rainbow Forest has a community center and this additional space could be a gathering place for kids. Mr. Hatam stated that he is concerned about the tightening of monies for the school budget. Mr. Hatam noted that “you can only continue to cut back and try to be conservative to a certain amount.”

Mr. Hatam noted that he respects Mr. Martin's comments earlier today about not imposing any additional taxes on elderly citizens; however, the Board's ultimate responsibility besides the elderly is to the County's children now and in the future. He noted that “it is a matter of civic responsibility” and “we need to start paying the piper.”

After discussion, Mr. Hatam stated that in order to serve on the Board, the members have to be elected and part of that responsibility is raising taxes when needed. Mr. Hatam

noted that “if we maintain the status quo, we lose ground; we need to excel and get the kids to do better” in school.

Mr. Hatam noted that Botetourt County is the 15th largest county in the State. He noted that consolidating schools is not the answer in such a large locality. Mr. Hatam stated that he appreciates the Board’s fiscal responsibility and thanked them for the opportunity to speak.

There being no further discussion, on motion by Mr. Martin, seconded by Mr. Dodson, and carried by the following recorded vote, the meeting was then adjourned for dinner at 4:55 P. M. (Resolution Number 14-01-22)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

The Chairman called the meeting back to order at 5:58 P. M.

A public hearing was then held on a request in the Amsterdam Magisterial District, from Botetourt County for a Special Exception Permit to Chapter 25. Zoning of the Botetourt County Code, Section 25-441(b)(2) Existing Towers and Structures, with possible conditions, in an Industrial M-2 Use District within an 682.9260-acre tract at Botetourt Center at Greenfield to add telecommunications antennas to a height greater than 15’ on an existing water tank, accessed via an unimproved road on the north side of International Parkway (Route 839), approximately 1.6 miles west of the intersection with Roanoke Road (U. S. Route 220), identified on the Real Property Identification Maps of Botetourt County as Section 88, Parcel 20.

It was noted that the Planning Commission had recommended approval of this request.

After questioning by Mr. Williamson, Mr. David Moorman, Deputy County Administrator, stated that the premises on which the antenna’s equipment shelter would be located is the cleared area around the water tank. Mr. Moorman noted that the antenna will be located on mounting brackets that currently exist on the AT&T tower structure on the top of the water tank.

Mr. Moorman stated that the top of the water tank is 96’ above ground level (AGL), the existing AT&T antenna array is 109’ AGL, and the proposed Verizon array will be 119’ AGL and consist of 12 new antennas.

After further discussion, Mr. Moorman noted that the Planning Commission members had questioned if a structural analysis of the tank had been completed to determine if the tank could hold the antennas’ weight. He noted that this report had been completed.

Mr. Moorman then noted that Ms. Clare Novak, a consultant with Verizon, and Mr. Jason Pruitt, Verizon’s legal counsel, were also present at the meeting to answer any questions.

After questioning by Mr. Williamson, Mr. Jeff Busby, Associate Planner, stated that the County is applying for this SEP as owner of the property and the water tank.

After questioning by Mr. Dodson, Mr. Moorman noted that the structural analysis did not calculate how much additional capacity the water tank would have; it only stated that the additional equipment would be adequately supported.

After questioning by Dr. Scothorn, Mr. Moorman noted that there would be some heavy equipment on this site during construction of the antenna and the equipment shelter site.

Ms. Novak noted that there would be trucks used to bring in the equipment shelter and the antenna materials/equipment and then monthly visits by Verizon staff to check the site and the equipment's operation.

After questioning by Mr. Williamson, it was noted that this would be a 4G antenna signal system.

After questioning by Dr. Scothorn, Mr. Moorman noted that the County has not pre-selected a back-up site for a Cell-On-Wheels in the event its use is necessary due to painting or maintenance of the water tank, but a few years ago there were a number of additional locations identified for potential telecommunications sites within Greenfield by the County's telecommunications consultant.

Dr. Scothorn noted that approximately two years ago the County discussed whether telephone and electric poles and other sites could be used by telecommunications companies to place their antennas.

After questioning by Dr. Scothorn, it was noted that there was no one else present to speak regarding this request. The public hearing was then closed.

On motion by Dr. Scothorn, seconded by Mr. Martin, and carried by the following recorded vote, the Board approved a request in the Amsterdam Magisterial District from Botetourt County for a Special Exception Permit to Chapter 25. Zoning of the Botetourt County Code, Section 25-441(b)(2) Existing Towers and Structures, in an Industrial M-2 Use District within an 682.9260-acre tract at Botetourt Center at Greenfield to add telecommunications antennas to a height greater than 15' on an existing water tank, accessed via an unimproved road on the north side of International Parkway (Route 839), approximately 1.6 miles west of the intersection with Roanoke Road (U. S. Route 220), identified on the Real Property Identification Maps of Botetourt County as Section 88, Parcel 20. (Resolution Number 14-01-23)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Mr. Moorman then reminded the Board that, as they have now approved the Special Exceptions Permit for this site, they also need to consider approval of the cellular co-location agreement between the County and Verizon for the Greenfield water tank site as discussed earlier today.

There being no discussion, on motion by Mr. Williamson, and carried by the following recorded vote, the Board authorized County staff to execute a lease agreement with Verizon Wireless (Cellco Partnership) for the installation of wireless communications equipment on the Greenfield water tank and site in substantive conformance with the lease form previously received, with the replacement of the word "property" with "premises" where necessary in identifying the location of the area to be leased, and conditioned upon receiving a duly executed agreement from Verizon Wireless. (Resolution Number 14-01-24)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

A public hearing was then held on a request in the Valley Magisterial District from Ronald W. and Judy P. Robertson, Trustees, to rezone from a Business B-2 Use District, with

proffered conditions, to an Agricultural A-1 Use District, with possible proffered conditions, to maintain an existing residential structure on a 2.73-acre lot located at 389 Arrington Lane (State Route 849), Roanoke, 0.07 miles north of the intersection with Read Mountain Road (State Route 654), identified on the Real Property Identification Maps of Botetourt County as Section 107, Parcel 215.

It was noted that the Planning Commission had recommended approval of this request.

Mr. Wade Burkholder, Planning Manager/Zoning Administrator, stated that in 1999 this property was rezoned to a Business B-2 Use District for the expansion of the Summerfield Village development located on Alternate 220. He noted that the negotiations for this property fell through which left the Robertsons with a residential use on a business-zoned property. Mr. Burkholder noted that the Robertsons have continued to reside in this house since 1992.

Mr. Burkholder noted that the Robertsons applied for a building permit a few months ago and it was found that the property's zoning (B-2) did not allow residential uses. He stated that after reviewing several options, today's rezoning request was determined to be the "cleanest route" for the applicant to go through if they want to sell the property in the future.

Mr. Burkholder stated that the Planning Commission vote on this request was three in favor, one against, and one abstention. He then reviewed the maps and plats submitted with this application and noted that parcels 107-215 (Robertsons) and 215A (Philpotts) were both rezoned to business use in 1999 but this portion of the Summerfield Village development did not occur.

After questioning by Mr. Dodson, Mr. Burkholder stated that Parcel 215A is also zoned for business and is currently being used for residential purposes as well.

Mrs. Judy Robertson, applicant, stated that she and her husband originally rezoned this property because they thought that their land would be purchased for use in the Summerfield Village development. Mrs. Robertson stated that these negotiations fell through and their property remains zoned for business uses. Mrs. Robertson noted that they applied for a building permit to remodel their basement and were told that their property's zoning was not in compliance with its current use and would need to be rezoned.

After questioning by Dr. Scothorn, Mrs. Robertson stated that the developers involved in the Summerfield Village project handled the rezoning paperwork for their property. Mrs. Robertson noted that she does not recall signing any paperwork on that rezoning request.

After questioning by Dr. Scothorn, it was noted that there was no one else present to speak regarding this request. The public hearing was then closed.

After questioning by Mr. Dodson, Dr. Scothorn noted that Mrs. Robertson's brother lives in the house on lot 215A which is also zoned Business B-2. He noted that Mr. Philpott was also present at this meeting.

Mr. Williamson stated that he believes that this situation "is one of those areas where you can interpret the Zoning Ordinance in different ways." He noted that regarding non-conforming uses, the ordinance says that a property owner can build out within the existing space, retain their non-conforming status, and keep the property's existing zoning designation. Mr. Williamson stated that he would like to see these sections of the ordinance clarified regarding property that is legally being used but goes through the rezoning process and the previous use continue to be allowed as a non-conforming use.

After discussion, on motion by Mr. Williamson, seconded by Dr. Scothorn, and carried by the following recorded vote, the Board denied the request in the Valley Magisterial District from

Ronald W. and Judy P. Robertson, Trustees, to rezone from a Business B-2 Use District to an Agricultural A-1 Use District to maintain an existing residential structure on a 2.73-acre lot located at 389 Arrington Lane (State Route 849), Roanoke, 0.07 miles north of the intersection with Read Mountain Road (State Route 654), identified on the Real Property Identification Maps of Botetourt County as Section 107, Parcel 215, after determining that, as the property owner did not renovate/build out the dwelling from its existing footprint, the Business B-2 zoning should be retained. (Resolution Number 14-01-25)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

After discussion, Mrs. Guzi noted that the staff members present understand the intentions of the Board to clarify the provisions of the non-conforming regulations in the Zoning Ordinance and they will review the statutes and draft amendments to be considered by the Planning Commission and Board of Supervisors in the future.

On motion by Mr. Williamson, seconded by Dr. Scothorn, and carried by the following recorded vote, the Board directed the staff to review the Zoning Ordinance to clarify the provisions regarding non-conforming uses. (Resolution Number 14-01-26)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

A public hearing was then held on a request in the Blue Ridge Magisterial District from David A. Wade (Abdul Nahibkhil, t/a Blue Ridge Auto Sales, Lessee) for an amendment to the proffered conditions for a used car sales lot previously approved by the Board of Supervisors on May 28, 2013, to allow for a maximum of thirty-two (32), instead of the previously approved eighteen (18) used vehicles, on a 1.237 acre parcel zoned Business B-3 Use District located at 587 Blue Ridge Boulevard (U. S. Route 460), less than one-tenth of a mile southwest of its intersection with Coyner Springs Road (State Route 660), identified on the Real Property Identification Maps of Botetourt County as Section 108, Parcel 154.

It was noted that the Planning Commission had recommended conditional approval of this request.

Mr. Jeff Busby, Associate Planner, stated that the applicant is requesting permission to allow up to 32 vehicles to be placed on this 1.237 acre parcel instead of the 18 vehicle limit approved by the Board in May 2013. He noted that County staff conducted a site visit prior to today's Supervisors meeting to ascertain the number of vehicles on the lot and to review several signs that were not in compliance with the Zoning Ordinance. Mr. Busby noted that there were 27 vehicles on the property including some that were on display behind the office building.

Mr. Busby noted that the violations of the Sign Ordinance included some window signs, flashing lights, and lights attached to the fence. Mr. Busby noted that an amended staff background report had been drafted with a summary of some of the areas that were not in compliance during the site visit. He stated that, since the Planning Commission's meeting, the applicant has also proffered a third condition as follows, "There shall be no parking, loading, or unloading of used vehicle inventory from the U. S. 460 right-of-way."

Mr. Busby then requested that the Board either accept the three new/revised proffers, any combination thereof, or modify the submitted conditions as necessary.

He stated that there have been a few compliance issues on this property since the Board's May 2013 approval regarding vehicles in excess of the 18 permitted. Mr. Busby noted that he understands that Mr. Nahibkhill had intended to lease a second business property in Roanoke in order to remove some of the vehicles from this parcel; however, the arrangement fell through in September 2013 which necessitated the vehicles being returned to the Blue Ridge property. Mr. Busby stated that Mr. Nahibkhill will supposedly be leasing another property as of February 1.

After questioning by Dr. Scothorn, Mr. Busby stated that, even when Mr. Nahibkhill had 27 vehicles on this property, there remained a lot of space on the parcel.

Dr. Scothorn noted that he visited the property on Sunday and there were 22 vehicles on the front portion of the lot. He noted that there appears to be a lot room on the property when a person is standing on the parcel.

Mr. Busby noted that the County does not have a limit on the number of vehicles that can be parked on a used car sales lot. Mr. Busby further noted that Mr. Nahibkhill conducts an internet car sales business and he does not believe that many drop-in customers visit the property.

Mr. Williamson stated that he would propose that the Board table this request for 30 days to allow Mr. Nahibkhill's new property lease to become effective so that some of these vehicles can be relocated to the new site.

After discussion, Mr. Burkholder stated that there has been willingness from the applicant verbally to correct these compliance issues. He stated that the Board does have the option of tabling this request for 30 days as it will give the staff more time to work with the applicant to bring this site into compliance with the Zoning Ordinance.

After questioning by Mr. Dodson, Mr. Burkholder stated that the site has had a history of non-compliance with the Zoning Ordinance's provisions since the summer of 2013.

Mr. Abdul Nahibkhill of Blue Ridge Boulevard, Roanoke, then spoke to the Board regarding this request. Mr. Nahibkhill apologized for his absence at the Planning Commission meeting.

Mr. Nahibkhill stated that he will have the non-conforming signs removed from the site by this evening or tomorrow morning. Regarding the increased number (32) of vehicles on the property, Mr. Nahibkhill stated there is a dirt area at the rear of the property which can accommodate 10 vehicles. He noted that, when an internet buyer of one of his vehicles stops by the property to look over and possibly test drive the vehicle, it usually takes 10 minutes to fill in the necessary paperwork to complete the sale.

Mr. Nahibkhill noted that he has also found another sales lot in Bedford County approximately 4 miles from this site on which to open a second business location. Mr. Nahibkhill stated that 32 is the maximum number of vehicles that he will allow on the Blue Ridge property.

Dr. Scothorn noted that prior to May 2013 this property was limited to a maximum of 12 vehicles, then Mr. Wade and Mr. Nahibkhill requested and received approval of a change in proffered conditions to increase this number to a maximum of 18, and now the site has been "reworked" so there is room to locate more vehicles (32).

Mr. Nahibkhill stated that he has made approximately \$15,000 in improvements to the lot since May 2013.

Mr. Martin stated that in May 2013 he asked Mr. Nahibkhil if a maximum of 18 vehicles would be enough on-site inventory for this business and was told the answer was “yes” and now Mr. Nahibkhil is requesting permission to have up to 32 vehicles on this property. He questioned if 32 vehicles will now be enough on this site.

Mr. Nahibkhil stated that 32 will be the maximum number of vehicles on the property.

After questioning by Mr. Martin regarding sign ordinance violations, Mr. Nahibkhil stated that all of the non-compliant signs will be removed by tomorrow morning and he plans to install a business sign that complies with the Zoning Ordinance’s provisions. After further questioning by Mr. Martin, Mr. Nahibkhil noted that he will have the site in compliance with the sign ordinance’s provisions by noon tomorrow.

Mr. Martin then noted that he has no objections to approving this request at today’s meeting.

Mr. David Wade of Wade’s Circle in Coyner Springs, property owner/applicant, stated that he has done everything he can to make the property presentable and his word is what had made his business successful over the years.

Dr. Scothorn stated that if Mr. Nahibkhil is not abiding by the County’s regulations, then the County staff will bring their concerns to Mr. Wade. He noted that, as landowner, it is Mr. Wade’s responsibility to ensure that his tenant is in compliance with the Zoning Ordinance’s provisions.

Mr. Wade stated that there is room on the property for this use and this site has been well-kept since Mr. Nahibkhil began leasing the property last year. Mr. Wade stated that he “wants everything to be right.”

After questioning by Mr. Leffel and Dr. Scothorn regarding continued issues with non-compliance, Ms. Theresa Fontana, County Attorney, stated that the Zoning Ordinance includes procedures for enforcement and penalties for violations and noted that the process of taking the matter to court to force the landowner to comply can take some time.

Mrs. Guzi noted that the staff tries to avoid filing injunctions with the court on violations and the staff is encouraged to work with property owners in these instances to bring their properties into compliance.

After questioning by Mr. Dodson, Mr. Burkholder stated that two official non-compliance notices have been sent from his office to Mr. Wade regarding the Zoning Ordinance violations on this property.

Mr. Wade noted that he received one notice last spring and one notice in September.

After questioning by Dr. Scothorn, it was noted that there was no one else present to speak regarding this request. The public hearing was then closed.

Mr. Martin noted that Mr. Burkholder had stated that two violation notices have been sent to the property’s owner and questioned if the property was brought into compliance after the owner’s receipt of these notices.

Mr. Burkholder stated that the non-compliance issues listed in the first notice were corrected and today’s public hearing to amend the proffered conditions is a result of the applicants’ receipt of the second notice of violation.

Mr. Dodson stated that he does not want to see any business leave the County but they should have to comply with the County’s ordinances.

Mr. Martin noted that he believes that a maximum of 32 vehicles is a reasonable number for this property.

Mr. Dodson stated that his concern is that there has been a history of non-compliance associated with this property.

Mr. Williamson then proposed delaying this request for 30 days and, if the applicant is in compliance with all County ordinances and has no more than 32 vehicles on the lot, he would be willing to consider approving this request at that time.

Mr. Leffel noted that he would also be in favor of tabling this request for up to 30 days to allow Mr. Nahibkhil time to bring the property into compliance with the County Code.

Mr. Nahibkhil noted that one-half of the vehicles on the lot will be removed from the property within a couple of days as they have been sold. Mr. Nahibkhil asked that the Board consider approving his request for a maximum of 32 vehicles to be placed on this property and he will be in compliance with the County's sign and lighting ordinances by tomorrow.

Mr. Martin noted that he is willing to table this request until the Board's February meeting.

Mr. Dodson noted that in September the Board approved a request to allow a maximum of 18 vehicles on this lot and Mr. Nahibkhil has not been in compliance with those amended proffered conditions since that time.

There being no further discussion, on motion by Mr. Martin, seconded by Mr. Williamson, and carried by the following recorded vote, the Board tabled the request in the Blue Ridge Magisterial District from David A. Wade (Abdul Nahibkhil, t/a Blue Ridge Auto Sales, Lessee) for an amendment to the proffered conditions for a used car sales lot previously approved by the Board of Supervisors on May 28, 2013, to allow for a maximum of thirty-two (32), instead of the previously approved eighteen (18) used vehicles, on a 1.237 acre parcel zoned Business B-3 Use District located at 587 Blue Ridge Boulevard (U. S. Route 460), less than one-tenth of a mile southwest of its intersection with Coyner Springs Road (State Route 660), identified on the Real Property Identification Maps of Botetourt County as Section 108, Parcel 154, for 30 days to allow the applicant to bring the property into compliance with current Zoning Ordinance provisions regarding signage and lighting. (Resolution Number 14-01-27)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

There being no further discussion, on motion by Mr. Martin, seconded by Mr. Dodson, and carried by the following recorded vote, the Board adjourned the meeting at 6:48 P. M. (Resolution Number 14-01-28)

AYES: Mr. Williamson, Mr. Dodson, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None