

The regular meeting of the Botetourt County Board of Supervisors was held on Tuesday, November 25, 2014, in Rooms 226-228 of the Greenfield Education and Training Center in Daleville, Virginia, beginning at 2:00 P. M.

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

ABSENT: Members: None

Others present at the meeting:

Mr. David Moorman, Deputy County Administrator
Mrs. Kathleen D. Guzi, County Administrator
Mrs. Elizabeth Dillon, County Attorney

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

He noted that the Board conducted strategic planning sessions this past weekend and received a significant amount of background information on the County and its activities that they will use at a follow up session in early December.

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

On motion by Mr. Williamson, seconded by Mr. Dodson, and carried by the following recorded vote, the Board approved the minutes of the regular meeting held on October 28, 2014, as submitted. (Resolution Number 14-11-01)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on approval of additional appropriations. Mr. Tony Zerrilla, Director of Finance, stated that there were five pass-through appropriations for the Board's consideration this month. He noted that they were for receipt of donations and reimbursement of costs.

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 additional appropriations. (Resolution Number 14-11-02)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Additional appropriation in the amount of \$10,000 to CIP – Marion Oaks Roadway Improvement Project, 100-4094402. This appropriates funds for this project transferred last month from the Utility Operating Fund to the General Fund.

Additional appropriation in the amount of \$4,647.69 to Library – Telecommunications, 100-4073100-5230. These are annual monies received through the E-Rate Program Fund which distributes a return to schools and libraries regarding phone and internet services.

Additional appropriation in the amount of \$400 to Parks & Recreation – Education & Recreation Supplies, 100-4071000-6013. These are monies received from Dick's Sporting Goods for the purchase of youth sports equipment.

Additional appropriation in the amount of \$2,860.00 to Sports Complex – Agricultural Supplies, 100-4071300-6003. This is a reimbursement from Piedmont Virginia Amateur National Tournament for turface drying material that was used during the A.S.A. (Amateur Softball Association) tournament.

Additional appropriation in the amount of \$777 to Maintenance – Maintenance Service Contracts – ETC, 100-4043000-3321. These are funds received from Virginia Western Community College for quarterly reimbursement of County custodial salaries for classroom set-up at Greenfield ETC.

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 \$1,001,930.83; \$856,574.86 in General Fund expenditures; \$9,056.12 in Debt Service Fund invoices; and \$136,299.85 in Utility Fund expenditures. He noted that this month's short accounts payable totaled \$289,375.68; \$279,737.40 in General Fund invoices; \$3,055 in Debt Service Fund expenditures; and \$6,583.28 in Utility Fund invoices.

Mr. Zerrilla stated that this month's large expenditures included \$185,196 to Haley Ford and Sheehy Auto Stores for seven new Sheriff's deputy vehicles; \$38,743 to Blue Ridge Behavioral Healthcare for their FY 15 budget allocation; \$35,933 to Aquaturf for the installation of an irrigation system on the new Sports Complex ballfields; and \$28,000 to Tread Real Estate Corporation.

Mrs. Guzi noted that a few years ago the County provided an incentive package, with a performance agreement, that included both gifting and selling small parcels of land in EastPark Commerce Center to Tread Corporation for a proposed facility expansion project. She noted that the company never proceeded with the expansion and, in compliance with the performance agreement, Tread was required to give back the parcel that was received from the County and to sell the second parcel back to the County at the same amount that it had been sold to Tread. She noted that this \$28,000 payment is included on today's accounts payable list.

After questioning by Mr. Williamson, Mrs. Guzi stated that the \$28,000 amount to be paid is the same as the original discounted purchase price.

Mr. Zerrilla further stated that another large expenditure on this month's Accounts Payable was \$49,787 to the Western Virginia Water Authority for the County's portion of costs for the Roanoke Regional Sewage Treatment Plant upgrade project.

There being no further discussion, on motion by Dr. Scothorn, seconded by Mr. Dodson, 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 14-11-03)

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

NAYS: None

ABSENT: None

ABSTAINING: None

After questioning by Dr. Scothorn, Mrs. Guzi requested that consideration of the Dynax America performance agreement be delayed until after the Closed Session so that a clarification of the agreement can be discussed with the Board.

Consideration was then held on a request to advertise for a public hearing on proposed amendments to Chapter 1. General Provisions of the Botetourt County Code to implement an electronic summons fee. Mrs. Guzi stated that Section 17.1-279.1 of the Code of Virginia gives localities the authority to assess a \$5.00 fee for each criminal or traffic case in the General

District and Circuit Courts with the collected funds to be used for the implementation and maintenance of an electronic summons system in the Sheriff's Department.

Mrs. Guzi stated that she has discussed the implementation of this proposed fee with both the District and Circuit Court Clerks and the Sheriff. She noted that there are no immediate plans for the County to implement the e-summons system; however, the County wants to be prepared to begin assessing this fee so that the monies can be collected. She noted that these fees can only be used to fund software, hardware, and associated equipment costs for the implementation and maintenance of the e-summons system which includes the installation of computers in the deputies' vehicles.

Mrs. Guzi further stated that there has been some discussion at the State level about mandating that Sheriff's deputies have computers installed in their vehicles.

After questioning by Mr. Williamson, Mrs. Guzi stated that these fees will be allocated to a separate revenue account in the Treasurer's Office.

After questioning by Mr. Dodson, Mrs. Guzi stated that the County currently does not have an electronic summons system.

There being no further discussion, on motion by Mr. Martin, seconded by Mr. Williamson, and carried by the following recorded vote, the Board directed staff to advertise for a public hearing at the December regular meeting on proposed amendments to Chapter 1. General Provisions of the Botetourt County Code to implement an electronic summons fee. (Resolution Number 14-11-04)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on a six month waiver of the tobacco surcharge included the employee health plan. Mr. David Moorman, Deputy County Administrator, stated that, at their October regular meeting, the Board approved several contracts for employee group health insurance plans effective December 1, 2014. He noted that included in the Board's action was the initiation of a 25% tobacco use surcharge; however, based on the staff's recommendation, the Board delayed implementation of the surcharge for three months to allow employees an opportunity to quit using tobacco and thereby avoid paying the fee.

Mr. Moorman stated that, subsequent to the Board's October meeting, the County Attorney has determined that a six month waiver is necessary to fulfill the Board's intent which, if approved, would result in the surcharge not being collected until May 2015.

After questioning by Mr. Dodson regarding the legal review of this surcharge, Mr. Moorman stated that the surcharge was reviewed by the County Attorney, the County's insurance advisor, and our employee health insurance provider's (MedCost) legal personnel and all agreed that the surcharge was permitted under the federal Affordable Care Act.

Mr. Dodson stated that he has been provided with information by County employees questioning how the County is implementing the surcharge.

After questioning by Mr. Williamson, Mr. Moorman stated that the County's surcharge is 25% of the health insurance rate paid by the employee based on the plan coverage that they have, e.g., employee only, employee and spouse, employee and family, etc. Mr. Moorman again stated this surcharge was implemented based on the advice the County received from our insurance consultant, MedCost's legal personnel, and the County Attorney.

Mr. Dodson then provided information on regulations governing how to implement a tobacco use surcharge and asked the County Attorney to review the materials.

After discussion, on motion by Dr. Scothorn, seconded by Mr. Dodson, and carried by the following recorded vote, the Board authorized the implementation of a tobacco surcharge as a part of the County employee's health plan effective December 1, 2014, with the surcharge to be waived for employees then enrolled in the County's health plan for a period of six months, pending further legal review. (Resolution Number 14-11-05)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on a water line extension request for the Cottages at SteepleChase. Mr. David Moorman, Deputy County Administrator, stated that the County has received a request from Integrity Engineering, on behalf of Overbay Construction Company and with the consent and agreement of Aqua Virginia, for approval of a water service extension from Aqua Virginia's Mountain View Water System to the Cottages of SteepleChase subdivision. He noted that this subdivision is located off of Read Mountain Road (Route 654) near Alternate U.S. Route 220.

Mr. Moorman stated that, as per Section 15.2-2149 of the Code of Virginia, approval is required by the Board for this water line extension. He noted that all infrastructure involved with this water line extension must be constructed in accordance with the standards contained in Section 24-163 through 24-165 and 24-167 of the County Code.

He stated that there are no plans for a County water service extension to this subdivision and Aqua Virginia has represented that it has the source capacity to serve the subdivision and the proposed water lines will be adequate to serve the proposed 55 connections. Mr. Moorman stated that the staff is recommending approval of this request. He further noted that Mr. Chris McMurry, Certified Land Surveyor representing Overbay Construction Company, is present to answer any questions regarding this matter.

After questioning by Mr. Williamson, Mr. Moorman noted that the plat for this subdivision has been reviewed and approved by County staff and the Planning Commission and recorded in the Circuit Court Clerk's Office.

There being no further discussion, on motion by Mr. Williamson, seconded by Dr. Scothorn, and carried by the following recorded vote, the Board authorized the extension of water service from Aqua Virginia, Inc. (Mountain View Water System) to 55 lots within the Cottages of Steeplechase subdivision (Tax Map # 107-234 and 107-234C) located on State Route 654 (Read Mountain Road), as detailed in a letter from Integrity Engineering dated October 31, 2014, and subject to compliance with Botetourt County requirements for construction standards in Sections 24-163 through 24-165 and 24-167 of the Water, Sewers, and Sewage Disposal Ordinance of the Botetourt County Code, and conditioned that the subdivision is located within the certificated service area of Aqua Virginia, Inc.'s Mountain View Water System as approved by the State Corporation Commission as of this date. (Resolution Number 14-11-06)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on acceptance of water/sewer infrastructure at Daleville Town Center. Mr. David Moorman, Deputy County Administrator, stated that all developers are required to deed their water and sewer systems to the County upon completion of construction as per the County Code. He stated that Daleville Town Center has completed construction of water and sewer infrastructure for their apartments and road extensions for Shenandoah Avenue and Broad Street as shown in the agenda item. He noted that Daleville Town Center is requesting that the County take ownership and maintain the infrastructure and that the County accept the associated utility easements.

Mr. Moorman stated that the County has conducted a physical survey of the infrastructure and has found it acceptable and the system has passed the required tests, results of which have been provided to the County. He noted that copies of the final plat, an engineer's letter stating that the system was constructed according to the approved plans and specifications, and a copy of the record drawings have been provided to the County. Mr. Moorman further noted that the deed of easement has also been reviewed by the County Attorney.

Mr. Moorman requested that the Board accept this water and sewer infrastructure and easements and authorize the County Administrator to sign said deed on the County's behalf.

There being no discussion, on motion by Mr. Williamson, seconded by Mr. Dodson, and carried by the following recorded vote, the Board accepted the water and sewer infrastructure and easements for Shenandoah Avenue, Broad Street, and Daleville Town Center apartments, and authorized the County Administrator to sign said deed of easement on the County's behalf. (Resolution Number 14-11-07)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on the site location for the construction of a shell building in Botetourt Center at Greenfield

Mr. Jay Brenchick, Economic Development Manager, stated that earlier this year, the Greater Roanoke Valley Development Foundation (GRVDF) issued a Request for Proposals (RFP) to all local governments who were members in the Roanoke Regional Partnership (Partnership) for a public-private shell building project. He noted that the County submitted a proposal for the 100,000 square foot shell building to be constructed on the pad-ready site in Botetourt Center at Greenfield. Mr. Brenchick stated that the County's proposal was accepted by the Foundation.

He noted that the Foundation is working in conjunction with the Partnership on this project and the Partnership hired Engineering Concepts, Inc. (ECI), to provide architectural and engineering services for the specific site location as well as the shell building's design.

Mr. Brenchick stated that the Board recently rezoned the Planned Office Park (POP) section of Greenfield to a Research and Advanced Manufacturing (RAM) Use District. He noted that this has opened up additional sites to market for manufacturing and, in order to increase the marketability of Greenfield and the opportunities to satisfy VDOT's Industrial Access Road grant program requirements, staff is proposing that the shell building be located on a portion of previously zoned POP property which is identified as Site C on the map included in the Board's information packets. He noted that this site is located across International Parkway from the pad-ready site.

Mr. Brenchick stated that this would allow the County to have a 100,000 square foot shell building and a construction-ready pad site for up to a 175,000 square foot building which would be expandable to a 610,000 square foot building.

After discussion, Mr. Brenchick stated that the County has also been participating in American Electric Power Company's (AEP) site certification program for the pad-ready site. He noted that this site has met the requirements to be marketed by AEP at trade shows, in print, etc., which will increase the marketability of this site.

Mr. Brenchick then stated that the County has obtained an estimate of approximately \$330,000 to grade Site C. He noted that \$100,000 in funding is available in the FY 2014-2015 CIP Industrial Sites budget and there is also \$1,000,000 available in the General Fund Balance for future economic development projects.

Mr. Williamson then noted that Dr. Scothorn and Mrs. Guzi represent the County on the Partnership's Board and he is the organization's past Chair. After discussion by Mr. Williamson, Mrs. Dillon stated that she did not see a conflict of interest by these individuals regarding a decision on this item.

After questioning by Mr. Williamson, Mr. Brenchick stated that the estimated cost to construct the shell building is \$3.5 million. He noted that the Foundation is putting up a portion of the funding and will borrow the remaining monies. Mrs. Guzi noted that the Foundation will pay the interest on this loan until the building is sold.

Dr. Scothorn stated that he believes that this is a good economic development opportunity for the County.

Mr. Martin stated that the Board has been considering this matter for some time and economic development has been discussed during the recent strategic planning and economic development work sessions. He agrees with Dr. Scothorn's comments that this shell building will be a good asset for the County.

After questioning by Mr. Dodson, Mr. Brenchick stated that \$330,000 will be used to grade the site. After further questioning, Mr. Brenchick stated that utilities are available along the Site C property line. Mr. Brenchick further noted that it was estimated that it would cost between \$500,000 and \$1 million to grade Site A.

There being no further discussion, on motion by Mr. Martin, seconded by Mr. Dodson, and carried by the following recorded vote, the Board authorized the staff to utilize \$100,000 in CIP funds and a portion (approximately \$220,000) from the economic development portion of the General Fund Balance to prepare Site C in Botetourt Center at Greenfield for the construction of a shell building by the Greater Roanoke Valley Development Foundation. (Resolution Number 14-11-08)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Mr. Kevin Hamm, Maintenance Operations Manager with the Virginia Department of Transportation, was then present to speak to the Board.

Mr. Hamm stated that the public information session on the Exit 150 improvement project was held at Lord Botetourt High School on November 20 and it was estimated that over 200 citizens attended this meeting.

Mr. Dodson stated that he thinks that the County/VDoT meeting held last Monday with the Exit 150 business owners went very well.

Mr. Hamm stated that the truck stops facility has been closed for over a week and there were a couple of signage issues which created some traffic congestion at the interchange. He noted that demolition of the facilities on the former truck stop property will begin in the spring of 2015.

Regarding the Route 672/779 intersection improvement project, Mr. Hamm stated that work is at a standstill. After questioning by Mr. Dodson, Mr. Hamm stated that there is a large amount of hard rock beneath the roadway which the contractor has not been able to bore through. He noted that VDoT is in negotiations with the contractor on how to resolve this situation; however, at this time VDoT does not know when this project will be completed.

After further questioning by Mr. Dodson, Mr. Hamm stated that discussions with the contractor have included the cost to proceed and contractor proposals to revise the project design in order to deal with the rock issue. He noted that the rock is causing problems as the contractor cannot secure the temporary fill material for the bridge abutments.

Mr. Hamm stated that the project to replace two bridges over Glade Creek on Webster Road should be finished in late December. He noted that utility issues have delayed the project's completion. Regarding land development projects and land use permits, Mr. Hamm noted that VDoT is reviewing a project in Hollymeade Subdivision and the Cottages at Steeple-Chase street plan and has issued seven utility, private entrance, special use and roadside memorial sign requests in the past month.

Mr. Hamm stated that the updates to the Route 779 and the Route 658/607 tractor trailer restrictions were switched in the report included in the Board's information packet. He noted that the Route 658/607 truck restriction is finalized and the signs are in place on Route 607. Mr. Hamm further noted that the signs on Route 658 are on order as the signs that were slated for Route 658 were used for an emergency truck restriction on Route 606 (Blue Ridge Turnpike). He further noted that the Route 779 (Valley Road) truck restriction project should have the Public Comment signs placed by the middle of December for a 30 day public comment period.

After questioning by Dr. Scothorn, Mr. Hamm stated that these signs will include a telephone number for interested citizens to call to find out further information about the proposed through-truck restriction or to provide comments. He noted that citizens will be allowed 30 days to make their comments.

After discussion, Mr. Hamm noted that these signs have been posted on Route 607 but the signs on Route 658 had to be reordered. Mr. Hamm noted that this was due to an emergency through-truck restriction declaration being made by VDoT on Route 606 between Fincastle and Route 11 and the signs that were originally to be posted on Route 658 were used on Route 606. Mr. Hamm stated that VDoT did this as a result of problems which occurred with the new one-way street system in Fincastle. He stated that trucks from Route 11 to Fincastle now have to make a very tight left-hand turn from Hancock Street onto Back Street to reach U. S. Route 220. He noted that VDoT is conducting a final review of Route 606 and will submit their report to Richmond for a final decision. Mr. Hamm further noted that this emergency declaration bypassed the Supervisors' need to participate in this project.

After discussion, Mr. Hamm stated that their review may result in this portion of Route 606 being restricted to all through-truck traffic, not just through tractor trailers. He noted that this restriction would prohibit trucks of over 7,500 pounds gross weight from traveling this section of roadway except for trucks that have deliveries along the route.

Mr. Williamson stated that a tractor trailer restriction on this section of Route 606 is a good idea but he is not sure about a full through-truck restriction being implemented. He then

gave an example of a propane gas truck making a delivery at a site on Route 11 and then using Route 606 to access another delivery site off of Blacksburg Road.

Mr. Hamm stated that VDoT is still studying this area to determine what types of trucks should be restricted from using this narrow, curving roadway.

Mr. Dodson noted that a truck length restriction might be a good idea for this roadway.

Mr. Hamm noted that that aspect is a part of their study parameters.

Mr. Williamson then noted that there is a short deceleration lane off of Route 460 west-bound onto Mountain Pass Road and questioned if this lane could be extended.

Mr. Hamm stated that VDoT's traffic engineering staff reviewed all of the deceleration lanes on Route 460 when the school zone signalization was upgraded near Colonial Elementary last year. He noted that improvements to the Mountain Pass Road decel lane were included on a list for improvement; however, VDoT will need to determine how to fund this project.

After further questioning by Mr. Williamson, Mr. Hamm stated that he believes that funds were set aside to conduct an engineering study of the section of I-81 between Arcadia and Buchanan; however, he will research this further and report back to the Board.

After discussion by Mr. Dodson, Mr. Hamm stated that he is not personally involved in the Exit 150 project, but will do whatever he can to help if the Board members have questions or concerns.

Dr. Scothorn noted that he recently discussed the Exit 150 project with some Troutville residents and VDoT representatives have agreed to meet with those citizens to discuss the impact of the project on their businesses and travel through this area. He noted that many citizens have never used a roundabout and are anxious about one being constructed as a part of this project. He also requested that VDoT keep the Town officials updated on the project.

After questioning by Mr. Dodson, Mr. Hamm stated that once the bid has been awarded on the Exit 150 project, VDoT will be able to obtain more specific information from the contractor on his work schedule which can be provided to the County, the Town, and other interested citizens/businesses at a possible informational meeting in the spring.

The Board then thanked Mr. Hamm for his update.

Mr. Williamson then noted that Buchanan's new Town Manager was present at today's meeting.

After questioning by Mr. Williamson, Ms. Mary Zirkle stated that she began work at the Town on October 1. Ms. Zirkle stated that she appreciates the work that the Board and the County do for the Town and she looks forward to working with the Board in the future.

Consideration was then held on resolutions requesting the acceptance of Marketplace Drive and Market Ridge Lane in Orchard Marketplace into the Secondary System of Highways. Mr. Jeff Busby, County Planner, stated that all of the procedures and requirements to have these two streets built to VDoT's standards have been met by the developer and these roadways and drainage structures are eligible for acceptance into the Secondary System for maintenance. He asked that the Board adopt both street acceptance resolutions included in their information packets.

After questioning by Mr. Williamson, Mr. Busby stated that VDoT sets a maintenance bond amount for these types of projects and the County retains the bond for one year after acceptance by VDoT in the event that any maintenance items occur.

On motion by Mr. Williamson, seconded by Mr. Dodson, and carried by the following recorded vote, the Board adopted the following resolutions requesting the acceptance of Marketplace Drive in Orchard Marketplace, Phase 1, and Market Ridge Lane in Orchard Marketplace, Phase 2, into the Secondary System of Highways.

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

NAYS: None

ABSENT: None

ABSTAINING: None

Resolution Number 14-11-09

WHEREAS, the street, Marketplace Drive in Orchard Marketplace, Phase 1, described on the attached Additions Form AM-4.3, fully incorporated herein by reference, is shown on a plat recorded in the Clerk's Office of the Circuit Court of Botetourt County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board that the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on January 11, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of Botetourt County that this Board requests the Virginia Department of Transportation to add the street described on the attached Additions AM-4.3 to the secondary system of state highways, pursuant to Section 33.2-705, Code of Virginia, and the Department's Street Subdivision Requirements; and

BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Resolution Number 14-11-10

WHEREAS, the streets, a portion of Market Ridge Lane in Orchard Marketplace, Phase 2, described on the attached Additions Form AM-4.3, fully incorporated herein by reference, is shown on a plat recorded in the Clerk's Office of the Circuit Court of Botetourt County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board that the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on January 11, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of Botetourt County that this Board requests the Virginia Department of Transportation to add the street described on the attached Additions AM-4.3 to the secondary system of state highways, pursuant to Section 33.2-705, Code of Virginia, and the Department's Street Subdivision Requirements; and

BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Consideration was then held on a request from AEP/Branch Highways for a variance to the County's Noise Ordinance provisions for their Cloverdale substation project. Mr. George Porter, AEP's Outreach Specialist, stated that at their September regular meeting the Board

approved a Noise Ordinance variance request for AEP and Branch Highways to conduct nighttime construction and hauling work on the Cloverdale Extra-High Voltage Transmission project. He noted that this variance was for the period from September 29 through November 21.

Mr. Porter stated that he is present today to request an extension to their variance to allow this nighttime work to continue through December 27, 2014.

Mr. Jeremy Flynn, Branch Highway's Project Manager, then stated that the project is moving along nicely and he estimates that they have approximately 38,000 cubic yards of fill material remaining to be moved out of the total 210,000 cubic yards of material needed for this project. He noted that they have also conducted some "light" daytime hauling as they do not want to cause traffic congestion problems on Route 11 by having a large amount of dump trucks on this roadway during daylight hours.

Mr. Flynn stated that he estimates that they will need approximately 11 additional days to move material from the borrow site; however, they are requesting a variance through December 27 to account for unpredictable weather-related delays. He noted that they have a day by day schedule now and they are on track as "things are looking good" at this time.

After questioning by Mr. Williamson, Mr. Flynn stated that they have extra time built into this schedule "just in case" a lengthy period of bad weather sets in.

Dr. Scothorn stated that he appreciates the efforts by Branch Highways to keep Route 11 in a good condition during this hauling work.

Mr. Porter stated that AEP has not received any citizen complaints regarding this project since October 8. He noted that Mr. Flynn and Branch Highways have gone "above and beyond" in trying to work with the residents to keep the noise down and Route 11 clear of mud and debris. Mr. Porter noted that, if today's variance request is approved, AEP will send out a notice to the surrounding residents about the continuation of the nighttime work through December 27. He further noted that they should finish blasting rock on the substation property in the next couple of weeks.

After questioning by Dr. Scothorn, Mrs. Guzi and Sheriff Sprinkle stated that they have not received any complaints regarding this project since early October.

After questioning by Mr. Williamson, Mr. Porter stated that AEP is in the process of talking to affected landowners and acquiring easements for the 500 kV line upgrade between Cloverdale and Lexington. He noted that work on this project should begin in the second quarter of 2015.

There being no further discussion, on motion by Mr. Dodson, seconded by Dr. Scothorn, and carried by the following recorded vote, the Board approved a variance to the Botetourt County Noise Ordinance for American Electric Power Company/ Branch Highways to conduct proposed night work regarding the Cloverdale Extra High Voltage Transmission project for the period from November 21, 2014 through December 27, 2014, due to the fact that the Board finds that the proposed night work will not endanger the public health, safety, or welfare of its citizens and will result in significantly reducing truck traffic on the portion of U. S. Route 11 between the borrow site and the 765 kV yard during daylight hours. (Resolution Number 14-11-11)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on participation in building and financing a 42 mile fiber network with the Roanoke Valley Broadband Authority. Mr. Rodney Gray, Manager of Technology Services, stated that the Roanoke Valley Broadband Task Force was formed in 2011 and Botetourt County became a member. He noted that the Task Force developed a series of recommendations including the creation of a regional broadband authority which would serve as the vehicle “to implement objectives that will expand the infrastructure of broadband throughout the region while making it easier for existing broadband projects to deploy their technology” and the construction of a 42 mile open-access fiber network. Mr. Gray noted that this proposed 42 mile network was shown in green on the map included in the Board’s information packets.

Mr. Gray noted that the cities of Roanoke and Salem have agreed to proceed with this open-access broadband project and Roanoke County is continuing to study whether to fund this proposal.

Mr. Gray stated that County staff also conducted research on this issue and determined that the County currently has an open market fiber optic pipe that was installed a few years ago by Mid-Atlantic Broadband Cooperative. He noted that this line extends from Bonsack to Fin-castle along the Alternate U. S. Route 220 and Route 220 corridors and then travels west into Craig County. Mr. Gray stated that this line “mirrors” a majority of the objectives of the first phase of the Broadband Authority’s recommended route in Botetourt County.

Mr. Gray then stated that this line is available to any internet services providers (ISPs) that can be contracted by a business or businesses in the County. He then presented the Board with a copy of a confidential map showing the service areas of those ISPs operating in the County. He noted that this map is considered proprietary information and one of the ISP providers asked that it not be made public.

Mr. Gray stated that the staff is recommending that the County not participate in the Broadband Authority’s 42 mile fiber network project at this time. He noted that the County should move forward in alternate directions with Mid-Atlantic Broadband to market the existing fiber lines located in the County.

After discussion, Mr. Gray stated that any available ISP can be contracted by a County business to provide internet services through the existing fiber optic lines.

After questioning by Mr. Williamson, Mr. Gray stated that portions of the fiber lines are live and portions are dark. After further questioning by Mr. Williamson, Mr. Gray stated that Lumos has their own fiber lines; however, for example, a company located in Greenfield could contract with Lumos or another ISP on the Mid-Atlantic Broadband fiber line to receive broadband service.

After further questioning by Mr. Williamson, Mr. Gray stated that Mid-Atlantic Broadband is a non-profit company. After discussion, Mr. Gray stated that, as part of the Mid-Atlantic Broadband project, an internet node site was located in EastPark Commerce Center. He noted that this site is a primary entry point for ISPs that want to provide service in the County.

Mr. Martin noted that the Board has previously discussed how important broadband service is to the County’s economic development efforts.

Mr. Gray stated that the County currently has four ISPs and any other ISPs can contract to use Mid-Atlantic Broadband’s fiber line. He noted that to have four providers available in the County is very beneficial and these companies are willing to share their fiber optic infrastructure.

Mrs. Guzi stated that the staff knows that this is not the total solution for broadband service in the County and there remains a lot of additional work to be done. She noted that we need to leverage additional resources and other broadband/internet options are being discussed

for the northern end of the County. Mrs. Guzi stated that the staff agrees that now is not the time for the County to participate in the 42 mile fiber network project.

There being no further discussion, on motion by Mr. Williamson, seconded by Mr. Martin, and carried by the following recorded vote, the Board agreed with the staff recommendation that the County not participate in building the initial 42 mile network of open access fiber that is being considered by the Roanoke Valley Broadband Authority at this time. (Resolution Number 14-11-12)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on various appointments.

Regarding the appointment of a member to the Industrial Development Authority to replace Mr. Ed Baker, Mr. Dodson requested that the Board defer action on this appointment at this time. The Board concurred with Mr. Dodson's request.

On motion by Mr. Leffel, seconded by Mr. Williamson, and carried by the following recorded vote, the Board appointed Mrs. Amy Baker to a full four-year term as the Fincastle District representative on the Library Board of Trustees for a term to expire on December 31, 2018. (Resolution Number 14-11-13)

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

NAYS: None

ABSENT: None

ABSTAINING: None

The Chairman then called for a 10 minute break.

The Chairman called the meeting back to order at 3:13 P. M.

After discussion, on motion by Mr. Martin, seconded by Mr. Leffel, and carried by the following recorded vote, the Board reappointed Mr. Sam Foster as the Blue Ridge District representative on the Planning Commission for a four year term to expire on January 1, 2019. (Resolution Number 14-11-14)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Dr. Scothorn then stated that the Board had asked that the County Attorney present a report on the Noise Ordinance but noted that three County citizens had requested permission to speak on this issue. Dr. Scothorn stated that each citizen would be permitted to speak for three minutes.

Mrs. Carrie Thompson of Country Club Road stated that she thinks that the current Noise Ordinance, especially the "General Prohibition" section is too broad. She noted that the ordinance as written restricts everyday activities including kids playing, gardening, mowing, etc., and she doesn't believe that the ordinance was intended to restrict citizens' second amendment right to target practice and hunt.

Mrs. Thompson stated that she could see where some citizens could take advantage of this ordinance's language but Botetourt County is still rural and its residents have been hunting and shooting since 1770.

Mrs. Thompson stated that she researched similar noise-related provisions from other area jurisdictions. She noted that Amherst County's ordinance only bans four types of noises and there are exemptions to the ordinance allowed. Mrs. Thompson further noted that Roanoke County has 10 exemptions including "lawful firearm discharges." She stated that none of these counties ban noise in general around the clock. Mrs. Thompson stated that she supports this ordinance but believes it needs to be edited especially regarding the noises prohibited between 11PM and 7AM.

Ms. Toni Weaver of Old Rail Road in Eagle Rock then requested that the "General Prohibitions" section be reviewed as it is excessive and provides too much control over individual's rights. She noted that the current language would prohibit stereos, chainsaws, lawn mowing, and other outside activities. Ms. Weaver stated that the Board should consider the people who are causing the noise as they could be enjoying what they have or doing chores outside. She stated that, if someone is excessively making noise, the something should be done about the situation.

Mr. Benjamin Ogburn of Rainbow Forest Subdivision then stated that he is in favor of the Noise Ordinance. He noted that guns are very loud. He noted that the ordinance says that noises that continue for 10 minutes or longer are considered violations. Mr. Ogburn questioned if an individual makes a noise for 9 minutes and 59 seconds is it considered ok and not in violation of the ordinance. He also questioned, if someone shoots a gun for 10 minutes, when can they begin shooting again. Mr. Ogburn questioned if the noise can only occur 10 minutes of every hour, 10 minutes a day, or some other period of time. He noted that this aspect needs to be clarified.

Mr. Ogburn stated that the Board should have a meeting where everyone has an opportunity to speak about the Noise Ordinance's provisions. Mr. Ogburn also noted that he does not understand why someone has to practice shooting--they are either good at shooting or they are not.

Dr. Scothorn then stated that the Board asked at the October regular meeting for a report from the County Attorney on the background of the County's Noise Ordinance and a compilation of data from the Sheriff's Department on the number of calls/complaints received.

Mrs. Dillon stated that the County first enacted a Noise Ordinance similar to what is currently in effect in 1990 which did include "General Prohibition" language. She noted that the ordinance in effect prior to 1990 was less detailed.

Mrs. Dillon then read the "General Prohibition" section as follows, "In addition to the specific prohibitions contained in this article, no person shall make, continue, or cause to be made, continued, or permitted any noise disturbance within the county. She noted that "noise disturbance" was defined as, "...any sound which (a) endangers or injures the safety or health of any person; (b) annoys or disturbs a reasonable person of normal sensitivities; or (c) endangers or injures personnel or real property." She noted that this ordinance defined a noise disturbance in terms of impacting "a reasonable person of normal sensitivities."

Mrs. Dillon stated that in 2009 the Supreme Court of Virginia ruled that this language was too vague to be considered constitutional. Mrs. Dillon stated that the Virginia Local Government Attorneys Association, Inc., appointed a task force to make recommendations to local governments on appropriate ordinance language to comply with the Supreme Court's

ruling. She noted that the LGA recommended two options: either use decibel levels or the “plainly audible” standard. She noted that earlier this year the Board approved Noise Ordinance amendments containing the “plainly audible” language which is an objective standard.

Mrs. Dillon then read the current “General Prohibition” section as follows, “In addition to the specific prohibitions contained in this article, no person shall make, continue, or cause to be made, continued, or permitted any noise disturbance wherein the sound is plainly audible at a distance of fifty (50) feet or more from the property boundary line of the lot containing the source of the sound, or, where dwelling units adjoin, where the sound is plainly audible through partitions common to two (2) dwelling units within a building.”

She stated that the terms “noise” and “noise disturbance” are defined to mean, “...any sound which (a) endangers or injures the safety or health of any person; (b) causes or intends to cause an adverse psychological or physiological effect on any person; or (c) negatively impacts the value of personal or real property.” She noted that the term “plainly audible” is defined to mean “...any sound that can be detected by a person using his or her unaided hearing faculties.”

Mrs. Dillon stated that it is her understanding that the Sheriff’s deputies use the “General Prohibition” language when they respond to noise complaints. She noted that, once on site, the deputies evaluate the complaint, determine if they can hear the noise in question, and once they locate the person making the noise, they ask that individual to reduce the noise level. She noted that typically the person who is making the noise has either stopped by the time the deputies arrive at their property or they comply with the deputy’s request which “is the end of the situation.”

Mrs. Dillon stated that data from the Sheriff’s Computer-Aided Dispatch software indicated that there were 1,120 calls received by the Sheriff’s Department regarding noise since 2002. She noted that 17 citations were issued by the deputies and 11 warrants or misdemeanor warrants were obtained by citizens in the past 12 years. She noted that there were no citations or warrants issued in 2014.

Mrs. Dillon stated that she also reviewed the “General Prohibition” section in other localities’ Noise Ordinances. She stated that Roanoke County does not have this section in their ordinance, Roanoke City has a “General Prohibition” section but it does not include a distance from an adjoining property line, Salem, Montgomery County, and Hanover County have this section, Bedford County’s Noise Ordinance is similar to Roanoke County’s language and does not have the “General Prohibition” language, and Albemarle County has a general prohibition using decibel levels over ambient noise. She further noted that some other localities in this area use decibel levels.

Dr. Scothorn thanked Mrs. Dillon for her report. He then noted that Botetourt County had been rural for a very long time and people can still enjoy hunting and shooting in the County. Dr. Scothorn then made a motion that the County Attorney draft a new Noise Ordinance exemption under Section 15-54. Exemptions from article of the County Code stating that the lawful discharge of firearms is permitted and advertise the proposed amendment for a public hearing.

It was noted that there was no second to Dr. Scothorn’s motion.

Mr. Williamson then stated that the Board members were told at this past weekend’s strategic planning sessions that 95% of the County is either zoned for agricultural or forest conservation use and the remaining 5% is either zoned commercial, industrial, or residential.

He questioned if language could be drafted to cross-reference the property's land use and this type of Noise Ordinance exemption.

Mrs. Dillon stated that she can research this issue further but noted that there are State limits on localities regarding the restriction of firearms.

Mr. Williamson stated that, if the firearm exemption as suggested by Dr. Scothorn is approved, then the Sheriff's deputies could be responding to calls regarding noise caused by firearms at 8AM on a Sunday in residential subdivisions. He noted that, if this exemption is approved, the County has excluded this as a noise disturbance.

Dr. Scothorn noted that, as he mentioned last month, enforcement of the Noise Ordinance's "General Prohibition" is a large part common sense, safety, and communication between neighbors.

Mr. Martin stated that he does not have any problem with having a public hearing on this matter but he thinks the Board would have some problems. Mr. Martin suggested that the Board form a task force or a committee consisting of citizens, Board members, and Sheriff's Department staff to review the current Noise Ordinance to see if some improvements/revisions can be made that are agreeable to both sides in this issue.

After questioning by Mr. Dodson, Mrs. Dillon stated that, other than a few minor changes, the only differences between the County's Noise Ordinance prior to 2014 and the current language is the "plainly audible" versus "reasonable person" distinction which was necessitated by the 2009 Supreme Court ruling.

Mrs. Guzi stated that the basic premise that the County has used in enforcing its Noise Ordinance since 1990 is the "General Prohibition" section. She noted that the staff can do further research to determine if this revised language is still relevant and whether the Board wants to amend this section or other portions of the ordinance. Mrs. Guzi stated that this ordinance is a means for the Sheriff's Department to provide peace in the community and have neighbors working with neighbors. Mrs. Guzi stated that if the revised ordinance is working and, it appears that it is as no summonses/warrants have been issued this year, then the language should remain as is.

Mrs. Dillon stated that a public hearing must be held before any amendments to an ordinance can be considered for approval.

Mrs. Guzi suggested that the Board direct the staff to conduct additional research on this matter and report back to the Board on proposed amendments before scheduling a public hearing. She noted that this will give the Board a chance to review and provide input on the proposed language before a public hearing is advertised.

Mr. Martin stated that the citizens that he has talked to on this issue feel that there needs to be some revisions to the Noise Ordinance. Mr. Martin then made a motion to create a task force to review the County's Noise Ordinance and bring back recommendations to the Board on proposed amendments.

Mr. Martin noted that the citizens have real concerns on this issue and possibly the task force members can come to an agreement on the ordinance's wording. He stated that the current language does not take common sense into consideration.

It was noted that there was no second to Mr. Martin's motion.

Mr. Martin stated that he could delay his motion until the Board receives a report from the staff on this ordinance.

Mr. Leffel stated that he would prefer that the Board allow staff to review this ordinance and bring back a report to the Board for their consideration.

Mr. Martin then withdrew his earlier motion.

After discussion by Mr. Dodson, Mr. Leffel noted that Sunday hunting is now legal on private property in Virginia and questioned where and how the Board would limit this legal activity under any Noise Ordinance provisions.

Mr. Williamson stated that he is agreeable to referring this matter back to the staff including a review of the zoning aspect of this issue. Mr. Williamson further stated that he has a concern that the Board "is trying to fix something that we have already fixed three times this year." He noted that the Sheriff has done a good job for 25 years in balancing these types of noise complaint situations. He then suggested that the staff, County Attorney, and the Sheriff conduct a further review of the Noise Ordinance provisions regarding discharging of firearms.

The Board concurred with Mr. Williamson's suggestion.

Mr. Williamson then stated that he had received a call from Mr. Rupert Cutler regarding the William Preston Memorial to be built on the Greenfield Education and Training Center property. Mr. Williamson stated that the Sons of the American Revolution have obtained approximately \$60,000 in donations toward the memorial's construction as of this time.

Mr. Williamson stated that due to funding concerns Mr. Cutler is recommending that the memorial be built in two phases with the first phase to include the grading and in-ground portion of the memorial at an estimated cost of \$70,000, with the second phase to include the walls and other aspects of the memorial.

Mr. Williamson noted that Mr. Cutler has requested an appointment with County staff to discuss the phasing of this project so work can proceed as soon as possible.

After questioning by Dr. Scothorn, Mr. Williamson stated that it has taken the Sons of the American Revolution quite a long time to raise \$60,000 for this project. He also asked staff to review the Memorandum of Understanding between the SAR and the County to see if the document needs to be revised to incorporate the phasing of this project.

On motion by Dr. Scothorn, seconded by Mr. Williamson, and carried by the following recorded vote, the Board went into Closed Session at 3:48 P. M. to discuss or consider the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; and consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected as per Section 2.2-3711A (3) and (6) of the Code of Virginia of 1950, as amended. (Resolution Number 14-11-15)

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

NAYS: None

ABSENT: None

ABSTAINING: None

The Chairman called the meeting back to order at 6:00 P. M.

On motion by Mr. Dodson, seconded by Mr. Williamson, and carried by the following recorded vote, the Board returned to regular session from Closed Session and adopted the following resolution by roll-call vote. (Resolution Number 14-11-16)

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

NAYS: None

ABSENT: None

ABSTAINING: None

BE IT RESOLVED, that to the best of the Board members' knowledge only public business matters lawfully exempt from open meeting requirements and only such matters as were identified in the motion to go into Closed Session were heard, discussed or considered during the Closed Session.

Mrs. Guzi then stated that earlier today the Board approved a \$28,000 payment to Tread Real Estate Corporation for property located in EastPark Commerce Center. She noted that Tread received a total of 3.74 acres from the County several years ago as part of an incentive package for the proposed expansion of their facility. She noted that Tread has decided not to proceed with the expansion and, as per their Performance Agreement with the County, Tread is required to return 0.392 acres to the County. Mrs. Guzi asked that the Board approve a deed of transfer between the County and Tread for this property and authorize the County Administrator to sign the document on the Board's behalf.

On motion by Mr. Williamson, seconded by Mr. Martin, and carried by the following recorded vote, the Board accepted the deed of transfer between the County and Tread Real Estate Corporation for a 0.392 acre parcel (Lot 9-A-1) and a 3.740 acre parcel (Lot 9-A-2) located in EastPark Commerce Center and authorized the County Administrator to sign the deed on the County's behalf. (Resolution Number 14-11-17)

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

NAYS: None

ABSENT: None

ABSTAINING: None

Mrs. Guzi then requested the Board's approval of a performance agreement between the County and Dynax America Corporation for the expansion of their facility in EastPark Commerce Center. She noted that last month Virginia Governor Terry McAuliffe announced Dynax's \$32.6 million expansion project and the creation of 75 new jobs while on a trade mission to Japan.

Mrs. Guzi stated that the Board is required to approve a performance agreement with Dynax for this project in order to secure \$225,000 in Governor's Opportunity Funds. She noted that the agreement includes incentives for employment and equipment/building improvements and a provision that Dynax pays back the funds if the investment and employment provisions are not met by February 1, 2018.

On motion by Mr. Williamson, seconded by Dr. Scothorn, and carried by the following recorded vote, the Board approved a performance agreement between the County and Dynax America Corporation for the expansion of their facility in EastPark Commerce Center and authorized the County Administrator to sign the agreement on the Board's behalf. (Resolution Number 14-11-18)

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

NAYS: None

ABSENT: None

ABSTAINING: None

A public hearing was then held on a request in the Blue Ridge Magisterial District from Dynax America Corporation and Murray Cider Company, Inc., to rezone a 4.390-acre portion of a 20.148-acre parcel owned by Dynax America Corporation from an Industrial (M-2) District to an Agricultural (A-1) District and a 3.326-acre portion of a 88.326-acre tract owned by Murray Cider, Inc. from an Agricultural (A-1) Use District to an Industrial (M-2) District, with possible

proffered conditions, for the purpose of a future boundary line adjustment and expansion of the existing Dynax America Corporation facility; request the removal of proffered conditions and special exception conditions related to the subject parcels; and request to vacate and relocate several portions of 20 ft. wide and 40 ft. wide drainage and public utility easements as shown on the plats recorded in the Botetourt County Office of the Clerk of the Circuit Court in Plat Book 18, Page 175 and Plat Book 17, Page 72. The properties are located at 568 EastPark Drive (State Route 1499) Roanoke, VA 24019 and 103 Murray Farm Road, Roanoke, VA 24019, approximately 0.23 miles southeast of the EastPark Drive (State Route 1499) and Cloverdale Road (Alternate U. S. Route 220) intersection, identified on the Real Property Identification Maps of Botetourt County as Section 108, Parcels 140 and 140C and Section 108(13), Parcel 7.

It was noted that the Planning Commission had recommended conditional approval of these requests.

Mr. Jeff Busby, County Planner, stated that there was no opposition to these requests at the Planning Commission meeting. He noted that Mr. Sheldon Bower with Parker Design Group, Mr. Marty Shrewsbury, Dynax's Safety Operations Director, and Mr. Marvin Cline, Dynax's Executive Director of Finance, were present to speak regarding these requests.

Mr. Busby noted that Dynax will swap 4.39 acres of its property with 3.326 acres currently owned by Murray Cider Company to allow Dynax to expand its facility in EastPark Commerce Center. He further noted that this land swap will also entail a future boundary line adjustment between the two entities. Mr. Busby stated that this request also includes the vacation and relocation of portions of drainage and public utility easements on the property. He noted that there are no utilities or drainage structures located in these easements at this time.

Mr. Busby noted that Murray Cider Company has only one condition attached to its property regarding a private airport runway and this condition will be transferred to the new 4.39 acre parcel that the Murray family is receiving from Dynax.

After questioning by Mr. Williamson, Mr. Busby stated that he does not believe that the Murrays have used the runway for many years.

After discussion, Mr. Busby noted that no new conditions were created regarding this request; only the existing conditions on each property will be transferred to the newly rezoned and swapped parcels.

Mr. Busby stated that there will be a large amount of cut and fill required during construction of Dynax's 144,000 square foot building expansion. He noted that the expansion will also include the creation of over 200 additional parking spaces as the company will be hiring 75 new employees and invest \$32.6 million in building and equipment. Mr. Busby noted that Dynax intends to combine all of their parcels into one lot which will be owned by Dynax. He noted that Dynax currently employs approximately 600 people.

Mr. Busby then stated that the 4.39 acres that Dynax is giving to the Murrays will allow the Murrays to have direct road frontage onto Alternate U. S. Route 220.

After questioning by Mr. Williamson, Mr. Cline stated that, after the 2008-2009 recession, Dynax's employment was reduced to approximately 300.

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

On motion by Mr. Martin, seconded by Dr. Scothorn, and carried by the following recorded vote, the Board approved the request in the Blue Ridge Magisterial District from Dynax America Corporation and Murray Cider Company, Inc., to rezone a 4.390-acre portion of a 20.148-acre parcel owned by Dynax America Corporation from an Industrial (M-2) District to an

Agricultural (A-1) District and a 3.326-acre portion of a 88.326-acre tract owned by Murray Cider, Inc. from an Agricultural (A-1) Use District to an Industrial (M-2) District, for the purpose of a future boundary line adjustment and expansion of the existing Dynax America Corporation facility and approved the removal of proffered conditions and special exception conditions related to the subject parcels on properties located at 568 EastPark Drive (State Route 1499) Roanoke, VA 24019 and 103 Murray Farm Road, Roanoke, VA 24019, approximately 0.23 miles southeast of the EastPark Drive (State Route 1499) and Cloverdale Road (Alternate U. S. Route 220) intersection, identified on the Real Property Identification Maps of Botetourt County as Section 108, Parcels 140 and 140C and Section 108(13), Parcel 7 with the following conditions: (Resolution Number 14-11-19)

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

NAYS: None

ABSENT: None

ABSTAINING: None

1. In reference to the 4.390-acre portion of Tax Map # 108-140C rezoned to Agricultural A-1 and combined with Tax Map # 108-140 (property of Murray Cider Company, Inc.), the "*Eastpark Commerce Center (East Valley Development Park) Phase III Declaration of Proffered Conditions*" as recorded in Deed Book 508, Page 116 in the Clerk's Office of the Circuit Court of Botetourt County, Virginia, will be completely removed from the subject 4.390-acre portion. In reference to the same 4.390-acre portion, the following conditions, which were associated with a Special Exception Permit for a private airport on the existing parcel were proffered:

- I. This private airport will be used exclusively by Mr. Murray for his personal, non-commercial use.
- II. Mr. Murray will be allowed to store his own airplanes (a maximum of two (2) airplanes) on the property.
- III. There will be no flying at the airport before 12:01 P. M. on Sundays.

2. In reference to the 3.326-acre portion of Tax Map # 108-140 to be rezoned to Industrial M-2 and combined with Tax Map # 108-140C and 108(13)7 (properties of Dynax America Corporation), the following Special Exception Permit Conditions for the private airport were removed from the subject 3.326-acre portion:

- I. This private airport will be used exclusively by Mr. Murray for his personal, non-commercial use.
- II. Mr. Murray will be allowed to store his own airplanes (a maximum of two (2) airplanes) on the property.
- III. There will be no flying at the airport before 12:01 P. M. on Sundays.

3. In reference to the 3.326-acre portion of Tax Map # 108-140 to be rezoned to Industrial M-2 and combined with Tax Map # 108-140C and 108(13)7 (properties of Dynax America Corporation), this acreage will be bound by any and all protective covenants and restrictions and proffered conditions for the 3.326-acre portion in effect to date for EastPark Phase I and EastPark Phase II.

On motion by Mr. Martin, seconded by Mr. Dodson, and carried by the following recorded vote, the Board approved a request in the Blue Ridge Magisterial District from Dynax America Corporation and Murray Cider Company, Inc., to vacate and relocate several portions of 20 ft. wide and 40 ft. wide drainage and public utility easements as shown on the plat entitled, "Dynax America Corporation & Murray Cider Company, Inc." dated October 22, 2014, and on plats recorded in the Botetourt County Office of the Clerk of the Circuit Court in Plat Book 18, Page 175 and Plat Book 17, Page 72, on properties located at 568 EastPark Drive (State Route 1499) Roanoke, VA 24019 and 103 Murray Farm Road, Roanoke, VA 24019, approximately 0.23 miles southeast of the EastPark Drive (State Route 1499) and Cloverdale Road (Alternate

U. S. Route 220) intersection, identified on the Real Property Identification Maps of Botetourt County as Section 108, Parcels 140 and 140C and Section 108(13), Parcel 7. (Resolution Number 14-11-20)

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

NAYS: None

ABSENT: None

ABSTAINING: None

A public hearing was then held on proposed text amendments to Article VI Definitions, Section 25-601. Definitions, of the Botetourt County Zoning Ordinance, to include the following: “Special events facility - A place, structure, or other facility used for the assembly of or intention of attracting people for cultural, ceremonial, or celebratory purposes for which there is a leasing fee. Such assembly includes, but is not limited to, anniversary and birthday celebrations, reunions, weddings and receptions. This definition does not include private parties or private functions that do not meet the above stated criteria. Special events are considered an accessory use to farm wineries, breweries, bed and breakfast homestays, bed and breakfast inns, commercial recreational uses, rural resorts, churches, civic clubs, country clubs, golf courses, property owned by Botetourt County, and institutional uses. Special events facilities do not apply to music or entertainment festivals as defined by Chapter 3, Article IV, Outdoor Musical or Entertainment Festivals of the Botetourt County Code.” and to permit use of same in Section 25-73. Uses permissible by special exception in the Agricultural (A-1) District; and Section 25-93. Uses permissible by special exception in the Forest Conservation (FC) District.

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

Mr. Jeff Busby, County Planner, stated that over the past year the County had received citizen calls regarding special events facilities. He noted that, as the Zoning Ordinance did not contain provisions regarding such uses, County Planner Nicole Pendleton researched other localities’ ordinances for appropriate language pertaining to such uses. He noted that Mrs. Pendleton drafted this definition and customized it to be compatible with the Botetourt County Code.

Mr. Busby stated that this proposed use is associated more with the Agricultural and Forest Conservation use districts. He noted that the commercial districts have separate language for these types of accessory uses.

After questioning by Mr. Williamson, Mr. Busby stated that the existing language in the business/commercial use districts will cover these types of events as they are considered accessory uses. He noted that these types of requests will be reviewed on a case-by-case basis.

Mr. Williamson noted that he is concerned that citizens would have an “additional zoning hurdle” to comply with if this proposed language is approved.

After questioning by Mr. Dodson regarding churches who rent out their facilities for non-church events, Mr. Busby stated that the Zoning Administrator does have discretion under the provisions of the Zoning Ordinance to consider such types of events as accessory uses.

After discussion, Mr. Williamson requested that staff research this matter further to see if the Board would be creating a compliance issue if this text amendment is adopted.

Mrs. Dillon, County Attorney, stated that she does not believe that there is any intent to limit those businesses that are currently providing these types of events as accessory uses with this proposed language.

After questioning by Mr. Dodson regarding the VFW Lodge, Mr. Busby noted that the staff is aware that this organization rents out their facility for non-member events. He further noted that the staff also expects churches and civic clubs to host special events at their facilities as well as they are not limited to the use of the facilities by church or civic group members only.

Mr. Busby noted that accessory uses are allowed by right in commercial districts.

Mr. Dodson stated that he does not want to implement another layer of bureaucracy with the approval of this text amendment.

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

On motion by Mr. Williamson, seconded by Mr. Dodson, and carried by the following recorded vote, the Board approved the following amendment to Article VI Definitions, Section 25-601. Definitions of the Botetourt County Zoning Ordinance to add "Special events facility," and to permit the use of special events facilities in Section 25-73. Uses permissible by special exception in the Agricultural (A-1) District; and Section 25-93. Uses permissible by special exception in the Forest Conservation (FC) District. (Resolution Number 14-11-21)

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

NAYS: None

ABSENT: None

ABSTAINING: None

BOTETOURT COUNTY CODE

Chapter 25

ZONING

* * *

ARTICLE II. DISTRICT REGULATIONS GENERALLY

* * *

DIVISION 1. AGRICULTURAL DISTRICT A-1

Section 25-73. Uses permissible by special exception.

(1) through (50) (same)

(51) Special events facility

(51) through (54) renumber to (52) through (55)

* * *

DIVISION 2. FOREST CONSERVATION DISTRICT FC

Section 25-93. Uses permissible by special exception.

(1) through (19) (same)

(20) Special events facility

(20) through (28) renumber to (21) through (29)

* * *

ARTICLE VI DEFINITIONS

* * *

Section 25-601. Definitions.

Add "*Special events facility*: A place, structure, or other facility used for the assembly of or intention of attracting people for cultural, ceremonial, or celebratory purposes for which there is a leasing fee. Such assembly includes, but is not limited to, anniversary and birthday celebrations, reunions, weddings and receptions. This definition does not include private parties or private functions that do not meet the above stated criteria. Special events are considered an accessory use to farm wineries, breweries, bed and breakfast homestays, bed and breakfast inns, commercial recreational uses, rural resorts, churches, civic clubs, country clubs, golf courses, property owned by Botetourt

County, and institutional uses. Special events facilities do not apply to music or entertainment festivals as defined by Chapter 3, Article IV, Outdoor Musical or Entertainment Festivals of the Botetourt County Code.”

A public hearing was then held on a request in the Buchanan Magisterial District from Michael A. and Donna R. Cox for a special exception permit for a special events facility, with possible conditions, in the Agricultural (A-1) District, located at 528 Back Creek Lane, Buchanan, approximately 0.56 miles southeast of the Lithia Road (State Route 640)/Back Creek Lane (State Route 646) intersection, identified on the Real Property Identification Maps of Botetourt County as Section 77, Parcel 47.

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

Mr. Jeff Busby, County Planner, stated that Mr. and Mrs. Cox, who were present at this meeting, are proposing a special events facility on this 3.97 acre parcel that would be available to rent for events such as weddings, reunions, etc. He noted that Planning Commission included one condition with this request (“The number of guests shall be limited to two hundred (200) per event, due to the condition and narrowness of Back Creek Lane.”) He noted that this condition was implemented as the Commission members did not believe that the conditions of Back Creek Road (narrow and gravel) were ideal to handle traffic associated with large events.

Mr. Busby noted that the Coxes would like to use their property for weddings, reunions, and other outdoor event rentals. He noted that the applicants plan to construct a 2,400 square foot pole barn and have a 12’ X 24’ space for a changing area for brides, grooms, etc. Mr. Busby further noted that a new gravel driveway will be constructed across the stream which bisects this parcel to reach the pole barn. He noted that portable toilets, small flood lights, and dusk to dawn lights will be placed in the event area and parking for up to 100 guests will be located between the pole barn and the changing facility. Mr. Busby noted that this parcel will have an individual well and septic system.

Mr. Busby stated that the Coxes will not provide catering or alcohol for these types of events, no events will be permitted to continue after 11 PM, and no music will be allowed after 10 PM in compliance with the County’s Noise Ordinance.

After discussion, Mr. Busby stated that the Comprehensive Plan indicates that this area should be used for agricultural uses.

Mr. Busby noted that VDoT’s most recent traffic count data indicates that 80 vehicles per day use Back Creek Lane. Mr. Busby further noted that Fire and EMS Chief Jeff Beckner reviewed this area and suggested that trees and brush along Back Creek Lane be cleared to allow better access to this property by emergency vehicles. Mr. Busby noted that VDoT would have to approve any brush/tree work conducted in their rights-of-way.

Mr. Busby noted that Mr. Ed McCoy, who lives across the street from the Cox property, spoke at the Planning Commission meeting regarding this request and stated that he thought this proposal would be a positive use for the area.

Mr. Busby stated that a portion of the property is located in the 100 year floodplain.

After questioning by Mr. Dodson, Mr. Busby stated that the applicants will have to comply with certain federal regulations as they will not be able to restrict the flow of the small creek that divides this property when constructing the driveway to access the special events structure. Mr. Busby further stated that any structures constructed in the flood plain are required to be elevated and constructed of floodproof materials.

Mr. Williamson stated that as the proposed structure will be an open pole barn there should be limited impact on the flood plain.

Mr. Busby noted that the proposed stream crossing will have to be reviewed by an engineer to ensure that the flow of the flood water is not restricted.

After questioning by Dr. Scothorn, Mr. Busby stated that Chief Beckner was only concerned about the trees and brush along Back Creek Lane which could impede large fire or rescue apparatus from reaching the Cox property in the event of an emergency.

After questioning by Mr. Williamson, Mrs. Cox noted that the Buchanan Fire and Rescue Departments are located approximately three miles from her property.

Mr. Busby noted that there will be staff at each event controlling traffic and ensuring that the events run smoothly and safely.

Mr. Williamson noted that the applicants have offered several "expressions of intent" as to what they propose to do regarding this request but only one condition limiting the number of guests at each event was included with the Planning Commission's recommendation. Mr. Williamson further noted that the previously mentioned deadlines for the stopping of music (10PM) and the ending time for the events (11PM) have not been submitted as conditions on this request; however, he would imagine that these items would be regulated under the provisions of the Noise Ordinance.

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.

There being no further discussion, on motion by Mr. Williamson, seconded by Mr. Martin, and carried by the following recorded vote, the Board approved the request in the Buchanan Magisterial District from Michael A. and Donna R. Cox for a Special Exception Permit for a special events facility in the Agricultural (A-1) District, located at 528 Back Creek Lane, Buchanan, approximately 0.56 miles southeast of the Lithia Road (State Route 640)/Back Creek Lane (State Route 646) intersection, identified on the Real Property Identification Maps of Botetourt County as Section 77, Parcel 47, with the following condition: (Resolution Number 14-11-22)

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

NAYS: None

ABSENT: None

ABSTAINING: None

1. The number of guests shall be limited to two hundred (200) per event, due to the condition and narrowness of Back Creek Lane.

There being no further discussion, on motion by Mr. Martin, seconded by Mr. Williamson, and carried by the following recorded vote, the meeting was continued at 6:35 P. M. until 12:00 noon on Friday, December 5, 2014, in the Madison Room at the Natural Bridge Hotel for strategic planning sessions. (Resolution Number 14-11-23)

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

NAYS: None

ABSENT: None

ABSTAINING: None