

VIRGINIA: At a regular meeting of the Tazewell County Board of Supervisors held February 2, 2010 – 6:00 p.m. in the Tazewell County Board of Supervisors meeting room, 108 East Main Street, Tazewell, Virginia 24651

PRESENT: Seth R. White, Chairman
Dave R. Anderson, Vice-Chairman
D. Michael Hymes, Member
John Absher, Member
Jim Campbell, Member
James H. Spencer, III – County Administrator
C. Eric Young, County Attorney
Patricia Green, Assistant County Administrator
Ruth Groseclose, Administrative Assistant
Members of the Press: Bluefield Daily Telegraph;
Clinch Valley News/Richlands News Press; Bristol Herald Courier;
Tazewell County Free Press; WVVA TV

ABSENT: None

The Chairman, Seth R. White, called the regular meeting to order and presided with all members in attendance.

A moment of silence was held in remembrance of Tazewell County Sheriff Deputy Thomas Reid who died from an apparent heart attack Monday Feb. 1, 2010 while serving as bailiff for the Tazewell County General District Court.

Invocation was then given by Supervisor Anderson, which was followed by the pledge of allegiance to the United States flag.

The Chairman welcomed all those in attendance and proceeded with the agenda format.

AGENDA APPROVED AS AMENDED

Upon motion of Supervisor Anderson, seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the February 2, 2010 agenda format as amended. Amendments included the deletion of “project scopes” from the executive/closed session as well as adding one additional personnel matter/TCBOS appointee to the executive/closed session; and further, other persons would be called to the executive/closed session if needed.

MINUTES APPROVED AS WRITTEN

Upon motion of Supervisor Anderson, seconded by Supervisor Campbell and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the January 5, 2010 Board of Supervisors meeting minutes as written, and further upon motion of Supervisor Anderson, seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the January 12, 2010 meeting minutes as written.

EXECUTIVE/ CLOSED SESSION

Upon motion of Supervisor Hymes, seconded by Supervisor Anderson and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby enters into an Executive/Closed Session, pursuant to Virginia Code, Section 2.2-3711:

- A-1 Personnel matter involving law enforcement personnel
- A-7 Legal matter involving investigation of charitable status of entity funded by the County
- A-5 Two (2) Prospective Industry concerning a prospective business or industry where no previous announcement has been made regarding locating or expanding its facilities in the community involving the Bluestone, Project 012710 TV; Project 020910 Peoria

- A-3 One (1) Property Acquisition involving Tannersville
- A-1 Personnel - Two (2) Personnel matters involving BOS appointees
- A-7 Legal/litigation matter involving Covington Road – Eastern District
- A-7 Legal matter involving Town of Tazewell payments to PSA

RETURN FROM THE EXECUTIVE/CLOSED SESSION

Upon motion of Supervisor Hymes, seconded by Supervisor Anderson, adopted by a vote of 5 to 0, with all members present, and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby returns from the Executive/Closed Meeting with Supervisor Anderson reading the following certification:

CERTIFICATION OF EXECUTIVE SESSION

WHEREAS, the Tazewell County Board of Supervisors has convened an executive/closed meeting on this date pursuant to an affirmative vote and in accordance with The Virginia Freedom of Information Act; and

WHEREAS, 2.2-3712 of the Code of Virginia requires a certification by the Tazewell County Board of Supervisors that such executive/closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Tazewell County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) that only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive/closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Tazewell County Board of Supervisors.

Ayes – Supervisor Absher, Campbell, Hymes, White and Anderson

Nays – None

Absent – None

Absent from meeting – None

CONSENT CALENDAR APPROVED

Upon motion of Supervisor Hymes, seconded by Supervisor Absher and adopted by a vote of 4 to 0, with Supervisor Campbell abstaining from the vote, with all members present voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the following items as CONSENT CALENDAR. Supervisor Campbell abstained from the vote because the Virginia DMV employs him. One (1) item on the consent calendar authorizes DMV grant monies to the Sheriff's Department.

The County Administrator is hereby authorized and directed to issue said warrants in accordance with this action and which said warrants will be converted to negotiable checks by the Treasurer of Tazewell County, Virginia:

APPROVAL OF WARRANTS AS PAID**Payroll**

Ordered that Warrant Nos. 131146 through 131229, and direct deposits totaling \$199,729.28 from the General, Landfill Enterprise, and 911 Funds, covering payroll for the various County agencies, for the period ending December 31, 2009, be approved.

Ordered that Warrant Nos. 131231 through 131313 and direct deposits totaling \$204,884.93 from the General, Landfill Enterprise, and 911 Funds, covering payroll for the various County agencies, for the period ending January 15, be approved.

Accounts Payable/Payroll Deductions

Ordered that Warrant Nos. 446384 through 446517, for \$597,768.05 from the General, Landfill Enterprise, Capital Outlay, Law Library and 911 Funds, covering operating expenses for the various County agencies for the month of December 2009, be approved.

Ordered that Warrant Nos. 446519 through 446536, for \$145,484.93 from the General, Landfill Enterprise, and 911 Funds, covering payroll deductions for the various County agencies for the period ending December 31, 2009, be approved

Ordered that Warrant Nos. 446538 through 446690, for \$1,695,910.24 from the General, Landfill Enterprise, Capital Outlay, Law Library and 911 Funds, covering operating expenses for the various County agencies for the month of January 2010, be approved.

Ordered that Warrant Nos. 446692 through 446710 for \$148,424.24 from the General, Landfill Enterprise, and 911 Funds, covering payroll deductions for the various County agencies for the period ending January 15, 2010, be approved.

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Ordered that Warrant Nos. 801420 through 801429 for \$194,926.13 from the General, Landfill Enterprise, Capital Outlay, Law Library, and 911 funds, covering operating expenses for the month of December 2009, be approved.

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- Coyote Claims – totaling \$2650.00 (53 claims@ \$50.00)
 - \$500.00 to William Daugherty, 1089 Plywood Rd. Grundy, VA 24614 for 10 coyotes killed on January 1 to January 19, 2010 with rifle and trap.
 - \$100.00 to Greg Childress, 170 Sweetbrier Lane, Tazewell, VA 24651 for 2 coyotes killed on January 7, 2010 with a rifle.
 - \$100.00 to John Keene, Jr. PO Box 1360, Cedar Bluff, VA 24609 for 2 coyotes killed on December 15, 2009 with a rifle.
 - \$100.00 to John Keene, Jr. PO Box 1360, Cedar Bluff, VA 24609 for 2 coyotes killed on December 23, 2009 with a rifle.
 - \$350.00 to John Keen, PO Box 15, Pounding Mill, VA 24637 for 7 coyotes killed on December 15, 2009 with a rifle.
 - \$50.00 to Michael Davis, 762 Freestone Valley Road, Broadford, Virginia 24316 for 1 coyote killed on January 15, 2010 with a rifle.
 - \$50.00 to Rodney Whited, PO Box 456, Pounding Mill, Virginia 24637 for 1 coyote killed with a rifle on January 2, 2010.
 - \$50.00 to Douglas Boothe, Rt. 1, Box 328 A3, Bluefield, VA 24605 for 1 coyote killed with a gun on January 8, 2010
 - \$50.00 to Kevin Kinder, 2026 Swinging Bridge Ln. Tannersville, VA 24377 for 1 coyote killed with a rifle on December 26, 2009

- \$50.00 to Travis Bandy, 231 Gillespie Rd. Pounding Mill, VA 24637 for 1 coyote killed with a trap on January 11, 2010
- \$50.00 to Travis Bandy, 231 Gillespie Rd. Pounding Mill, VA 24637 for 1 coyote killed with a trap on December 21, 2009
- \$50.00 to William Bandy, 231 Gillespie Rd. Pounding Mill, VA 24637 for 1 coyote killed on January 13, 2010 with a trap
- \$50.00 to Ray Howell, 1477 Rosenbaum Rd. Bluefield, VA 24605 for 1 coyote killed on December 3, 2009 with a snare
- \$100.00 to Ray Howell, 1477 Rosenbaum Rd. Bluefield, VA 24605 for 2 coyote killed on December 26, 2009 with a snare
- \$50.00 to Ray Howell, 1477 Rosenbaum Rd. Bluefield, VA 24605 for 1 coyote killed on January 11, 2010 with a snare
- \$50.00 to Danny Murray, 5664 Pounding Mill Branch Rd. Pounding Mill, VA 24637 for 1 coyote killed on January 13, 2010 with a rifle.
- \$50.00 to Roger Bell, PO Box 702, Pocahontas, VA 24635 for 1 coyote killed with a gun on January 19, 2010 with a gun
- \$50.00 to George Brown, 5595 Dry Fork Road, Cedar Bluff, VA 24609 for 1 coyote killed with a trap on December 29, 2009 with a trap
- \$50.00 to George Brown, 5595 Dry Fork Road, Cedar Bluff, VA 24609 for 1 coyote killed with a trap on January 16, 2010 with a trap
- \$100.00 to Alfred Webb, 244 Beechwood Lane, Tazewell, VA 24651 for 2 coyotes killed with rifle on November 21, 2009 with a rifle
- \$50.00 to Jack Howery, Jr. 230 Ferndale St. Cedar Bluff, VA 24609 for 1 coyote killed with a rifle on January 14, 2010 with a rifle
- \$100.00 to Jacquelynn Davis, 3378 Blackwell Lane, Tannersville, VA 24377 for 2 coyote killed on January 21, 2010 with a rifle
- \$50.00 to Jack Harman, 6440 Sinking Waters Road, Bandy, VA 24602 for 1 coyote killed on January 24, 2010 with a snare
- \$50.00 to Clinton Bell, Rt. 1, Box 350, Tazewell, VA 24651 for 1 coyote killed on January 25, 2010 with a snare

- \$400.00 to Clinton Bell, 1987 Cove Road, Tazewell, VA 24651 for 8 coyotes killed on January 15, 2010 with a snare
- Library transfers – transferred the following amounts from 91050-7041 Contingent Grant Resource Accounts to the Library Accounts as donations:
 - \$2000 to Acct. 7301-6012 – Cruise Foundation donation
 - \$100 to Acct. 7301-6012 – Mrs. E. R. Gillespie donation
 - \$200 to Acct. 7301-6012 – Jeffersonville Woman’s Club donation
- Southern District Funds – Approved \$500.00 each to Cub Scouts Pack 93; Troop 93, and Crew 93
- Sheriff’s Dept. – Approved a DMV Grant \$5000.00 from 91050-7041 Contingent Grant Resource Accounts to Account No. 31020-1150 Compensation Account (Selective Enforcement Grant)

REPORT OF ACTION AS A RESULT OF THE EXECUTIVE CLOSED MEETING:

TOWN OF TAZEWELL –

PSA WATER BILL

Upon motion of Supervisor Campbell, seconded by Supervisor Absher with Supervisor Hymes voting nay, and which motion passed by a vote of 4 to 1, the Tazewell County Board of Supervisors hereby apply Revenue Sharing funds allocated to the Town of Tazewell, Virginia, pursuant to the Department of Transportation’s Revenue Sharing Agreement, to the Tazewell County Public Service Authority (PSA) to pay the Town of Tazewell’s past-due water bill. This action is subject to legal review & approval.

CITIZEN COMMENTS

➤ Dr. Mark Estep, President of SVCC, thanked the Board of Supervisors for supporting the community college. He said the college was at the best of times and at the worst of times, i.e. enrollment up, but resources down by 20%. Dr. Estep reiterated that the college was doing more with less and requested that the Board of Supervisors continue to remember SVCC in the upcoming budget process. He then highlighted the new programs on-line and activities at the college, e.g. Construction Academy with six modules, HVAC system, electrical, etc. One module will be brought online once a semester over a course of a couple of years. All

modules carry a national certification. Two other programs will be available as well, Energy Audit Certification and the Digital Bridge Academy- 24/7 hour on-line advising/consulting program for students. In closing, Dr. Estep mentioned the Career Pathways programs scheduled for Feb. 10 and Feb. 11 at the King Community Center. The program is designed to help students in businesses and industries most important to our area. It is collaboration among the public school system, local county government, local businesses and the community college.

‣ Joe Robinson, Pleasant Valley Estates questioned the right-of-way issues on Pleasant Valley Estates. He requested that the County start from the bottom of the road, and place drainpipes for VDOT specifications. Chairman White stated that the right-of-way issues, to his knowledge, have been resolved. He also reiterated that it would take over \$1,000,000 to get the road into the state system. Chairman White expressed empathy to Mr. Robinson when residents were sold a “bill-of-goods” when buying lots in Pleasant Valley Estates expressing that the Board could do nothing about it. He stated further that the present Board of Supervisors could not keep promises that others made to property owners.

‣ Mr. & Mrs. Perry Johnson, did not appear to address a road matter on Harbor Street located in Green Acres.

‣ Barry Wiley, III- Mercer County Airport Authority – read a letter from the Mercer County Airport, signed by Charles Peters, Chairman, stating that the Mercer County Airport Authority supports the proposed Ridgeline Ordinance, “it is the Authority’s position that erection of wind turbines in the locations indicated will adversely affect the safety of our pilots and their passengers. A planned instrument approach to the runway 5 end will be in jeopardy if the turbines are constructed at the proposed locations. Failure of this instrument approach, along with difficult access and safety concerns of our pilots, could have a negative impact on the long term viability of the Airport and Mercer County as a whole.” Mr. Wiley further stated that the Mercer County Airport is an economic tool to Tazewell County and that the Airport is used as a diversion airport for businesses in Tazewell County. He requested, on behalf of the Mercer County Airport, that the Board of Supervisors support and approve the Ridgeline Ordinance.

‣ Don Harris, Mayor, Bluefield, Virginia – requested that the Board of Supervisors support and approve the proposed Ridgeline Ordinance. He also praised the latest trip to Richmond stating that he felt the Legislative Meeting was one of the most successful yet. With

regard to the Ridgeline Ordinance, he stated that he and several county and town officials visited the Mount Storm, WV wind turbine site, noting that the Mount Storm site was located on top of a mountain and people living in the valley's could not see the turbines. He also reiterated that the Mount Storm project was built on a level area that had been stripped mined and very few homes occupied the area. Mr. Harris mentioned the Town of Bluefield's recently adopted ordinance similar to Tazewell County's proposed ridgeline ordinance. He said public meetings were held with the majority of citizens vastly in favor of a ridgeline protection ordinance for the Town of Bluefield. He duly requested that the County listen to the citizens of Tazewell County, who have majority voiced support of the ordinance as proposed for Tazewell County.

CITIZEN COMMENTS UNSCHEDULED

Chairman White then called for citizen comments unscheduled from the floor.

The following people spoke:

- ▶ Linda Short, Shorts Gap, Virginia – urged the citizens of Tazewell County to voice their opposition to the increase in AEP rates. She reiterated that families are suffering and cannot continue to pay the high electric bills.
- ▶ Mike Shott, spoke in reference to the Tall Structure Ordinance stating that over the past 15 years he has been involved with a company that developed 50 communication towers, mainly cellular towers, all of which would have been required to comply with the ordinance as proposed this evening. He said the tall structure ordinance was not anything new, and that companies have found ways to build the structures to comply with the ordinances and to the wishes of Counties and its people. He said the clear majority of the people speaking on the subject this evening were in unanimously in support of the ordinance and duly requested that the Board of Supervisors unanimously support and approve the ordinance.
- ▶ Tom B. Childress, Box 391, 207 Peel Chestnut Rd. Pocahontas, Virginia 24635 – gave a sequence of events leading up to the discussion tonight on the subject of the proposed Tall Structure Ordinance. He said a member of the Planning Commission, Bill Gillespie brought the subject up approximately five (5) years ago but some County staff advised the Board of Supervisors that they did not consider it a problem and the discussion died. Then following a three (3) year period and with continued devotion of previous and present members of the Planning Commission, the present County Attorney and the County Engineer developed an ordinance and brought a draft ordinance to the table approximately one (1) year ago. He said the

subject of windmills in Tazewell County brought lots of protest and a steering committee was established to evaluate the ordinance and subsequently a study was performed with regard to the economic impacts of such an ordinance. Mr. Childress requested that the Board of Supervisors have the “intestinal fortitude and the political courage” to vote for and approve this ordinance. He said there are certain places in Tazewell County that windmills should not be and stated that the economic study indicates that there are only marginal benefits with regard to the construction of such a project in Tazewell County.

‣ Amy Flick, 246 East Water St. Pocahontas, Virginia 24635 – requested that the Board of Supervisors vote right and approve the Proposed Ordinance to Regulate Construction of Tall Structures on Certain Ridgelines in Tazewell County, Virginia – Her personal involvement includes witnessing tourists impressions of the County’s beautiful mountains and scenery and to place wind-turbines on East River Mt. and Burkes Garden would destroy the County’s natural beauty.

‣ Pete Belcher, 334 Clearfork Road/Gratton, Tazewell, Virginia 24651 – mentioned the County’s budget shortfalls and noted that he made a request to have public water brought to a house he owns in Gratton and was denied because people in the neighborhood did not want County water. He also mentioned a concern of non-maintenance roads that have mailboxes in Fairview Heights. He said that postal route roads should be maintained by the state. He said he was a “doer” and the writ of mandamus he had served today could be amended.

‣ Dahmon Ball, Raven, Virginia – spoke of the 1400 letters received by the County Administrator’s office since the last public hearing with regard to the Tall Structure ordinance. He also cited census figures/population for Tazewell County ages 18 and older. His calculations showed only 4 percent of people in Tazewell County responding either for or against the proposed ridgeline ordinance and 96 percent that did not respond. He said that he could not tell the Board how the 96 percent would respond, but could say that the 96 percent did not respond against the ordinance; thereby 33,624 people in Tazewell County did not respond against the windmills. Mr. Ball said with the statistics as presented there were no grounds for the ordinance to be approved.

‣ Zane Dale Christian, Bluefield, Virginia - stated he was speaking on a

business standpoint and requested that the Board consider the windmill project as such. He said the Board of Supervisors have the financial responsible as elected representatives of Tazewell County to protect the citizens over the long haul and requested that the Board study the figures on pages 26 and 31 of the Economic Impact Study from Springsted. He said the figures tell the facts and duly requested that the Board of Supervisors vote in support of the proposed Tall Structure/Ridgeline Ordinance.

**ORDINANCE TO REGULATE CONSTRUCTION OF TALL
STRUCTURES ON CERTAIN RIDGELINES IN TAZEWELL COUNTY, VIRGINIA**

Supervisor Anderson moved to adopt an “Ordinance to Regulate Construction of Tall Structures on Certain Ridgelines in Tazewell County, Virginia.” Supervisor Campbell seconded the foregoing.

Supervisor Anderson - stated the he felt that each member of the Board of Supervisors would like to comment on the proposed ordinance. He said he had been consistent and pro-business since the beginning, and it had been a long 15-month process.

Supervisor Anderson said his decision was not an easy one, and stated that he felt that the Board had a moral responsibility to protect certain areas of our County. He thanked Tom Childress for his explanation of events leading up to today and thanked Dahmon Ball for the information he provided as well as all the letters received on the subject. Supervisor Anderson said he could not go against the will of the people and said that he had weighed all pros and cons, as well as the need for diversification. He mentioned the need for zoning in Tazewell County, stating that Tazewell County is one of only seven (7) counties in the State that does not have zoning. He said if the County had zoning, the windmill controversy would not be taking place. In closing, he said he had over \$100,000 in his district funds and he had spoken to Delegate Annie B. Stark and is willing to work with the landowners with respect to the ridgelines. He mentioned the possibility of a conservatory for an ATV or a Recreation Trail. Supervisor Anderson said he has to support the proposed ordinance.

Statement of Supervisor Hymes (written comments/verbatim)

“I appreciate the many testimonies provided by the citizens of Tazewell County, Wind energy professionals and other interested parties. I wanted to base my decision on the best information

possible. Last summer, the Board decided that more study and data was needed in order to make an informed decision.

We held two public hearings so the citizens of Tazewell County could voice their opinion, give their testimony, and provide relevant data. We heard testimony from the impact on bats to the financial impact possibilities of used and worn-out wind energy machines. The majority of public input was against the installation of Tall Structures on East River Mountain and the Burkes Garden Rim.

Budgetary issues must always be considered when evaluating any economic development particularly in a time of economic distress. This project is touted as a \$6 - \$10 million dollar revenue source to Tazewell County over a period of twenty years. While this is a substantial sum of money and would allow our county to hedge against a potential property tax increase there remain unanswered questions regarding the impact on near-by real estate and other property value. After thorough review, I am convinced that the “Tall Structures” could do undue harm to our environment, our economy and our future economic possibilities without an assurance of best value, best use and best outcome. The proposed “Tall Structure” construction carries with them too much public controversy and too little public revenue for the potential consequence of their existence. Therefore, my vote is to support the Tazewell County “Tall Structure Ordinance”

I thank each person who took the time to help me make this decision.”

Supervisor Campbell – said that he did everything possible in terms of research, but the \$6,000,000 over a 20-year period was roughly, what the county pays the school system now. As a representative of Tazewell County, he said he has to be for the people not against them and used the National Health Care issue as an example. Supervisor Campbell agreed with Supervisor Anderson’s concept of a potential conservatory and said he would do everything he could to seek state funding to assist with such a project. In closing, he said the he would vote in favor of the ordinance.

Supervisor Absher - stated that he visited Mt. Storm’s wind project with Supervisor Campbell and thought of the wind-turbine project as innovation and future development for Tazewell County. Although he realizes the public’s voice has spoken, he continues to have a hard time telling the property owners what to do with their land and feels the government has too much control with forced issues such as cap and trade and health care issues. He said the he would have to vote no on the ordinance.

Supervisor White - thanked everyone for all the emails, letters, phone calls and all their interest and passion in the proposed wind turbine project. He shared his opposition to cap & trade and the “Obama care” and stated that he was for coal industry and expressed concern that people thought the wind-energy project would displace coal jobs. He said this was un-true and stated that in our area; we have to be supporters of coal. Supervisor White stated that he was glad the Board of Supervisors took their time and researched the proposed ordinance and even though some had different opinions, some for, some against in all districts. He said the Springsted Study did not show one factor that was important - property owner investment from the wind project. He said property owners had a chance to do something with their land that was never granted to them before, to make money off their property. In closing, he said he hoped in the end that everyone could walk out of this, not as adversaries, but as friends and neighbors.

Supervisor Hymes reiterated the ordinance as proposed does not prohibit wind turbines in Tazewell County, only on East River Mt and on the brim of Burkes Garden Mountain. He said this was not a no-turbine situation and that wind turbines could be placed on other ridgelines with this ordinance.

Now, Supervisor Anderson called for a roll call vote to adopt a proposed Ordinance to Regulate Construction of Tall Structures on Certain Ridgelines in Tazewell County, Virginia. The following roll call vote is hereby recorded and which motion passed by a vote of 3 to 2 adopting “AN ORDINANCE TO REGULATE CONSTRUCTION OF TALL STRUCTURES ON CERTAIN RIDGELINES IN TAZEWELL COUNTY, VIRGINIA, and with Supervisors White and Absher voting nay:

Supervisor Anderson – Aye Supervisor Hymes – Aye Supervisor Campbell – Aye
Supervisor Absher – Nay and Supervisor White – Nay

AN ORDINANCE TO REGULATE CONSTRUCTION OF TALL STRUCTURES ON CERTAIN RIDGELINES IN TAZEWELL COUNTY, VIRGINIA

WHEREAS, the Board desires to protect the scenic beauty of the County’s Ridgelines;

WHEREAS, the Board finds that the County’s ridgelines are a great resource to the county’s economic development because the majestic views they provide attract tourism and encourage residential development in the County;

WHEREAS, Section 15.2-2295.1 of the Code of Virginia (1950) as amended, permits localities to regulate construction of tall structures on ridgelines;

WHEREAS, Section 15.2-2280(2) of the Code of Virginia (1950) as amended, permits localities to regulate the height of buildings and structures in the County;

NOW THEREFORE, be it ORDAINED, pursuant to Sections 15.2-2295.1 and 15.2-2280 *et seq* of the Code of Virginia (1950) as amended, that Chapter 15 of the County Code hereby is amended to include the following ordinance as Section 110 *et seq* thereof:

15-110 Regulation of Mountain Ridge Construction

Certain Mountain Ridgelines identified in the County’s comprehensive plan shall be protected by limiting construction of tall buildings and structures that may obstruct the views of their crests or endanger the persons or property of residents located below those ridgelines. Additional areas surrounding the ridgelines shall be included in the protected areas to prohibit excessively tall buildings or structures that, though not built on the ridgeline, would extend to a height such that they nevertheless would endanger protected mountain ridgelines.

15-111 Definitions.

As used in this chapter, unless the context requires a different meaning:

"Construction" means the building, alteration, repair, or improvement of any building or structure.

"Crest" means the uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.

“Dwelling” means a structure suitable for immediate human habitation including power, water, food and furniture.

“Elevation” means elevation measured from sea level.

“Height” means the vertical distance from the base on the ground to the utmost vertical extension of the structure.

“Protected mountain ridgeline area” means areas above 3200 feet in elevation on property designated on the protected mountain ridgeline area map.

"Protected mountain ridge" means a ridge within the protected mountain area shown on the protected mountain area map with (i) an elevation of 3,200 feet or more and (ii) an elevation of 500 feet or more above the elevation of an adjacent valley floor.

"Ridgeline" or "Ridge" means the elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.

"Tall buildings or structures" means any building, structure or unit within a multi-unit building with a vertical height of more than forty feet measured from the top of the natural finished grade of the crest or the natural finished grade of the high side of the slope of a ridge to the uppermost point of the building, structure or unit. "Tall buildings or structures" do not include (i) water, radio, telecommunications or television towers or any equipment for the transmission of electricity, telephone or cable television; (ii) structures of a relatively slender nature and minor vertical projections of a parent building, including, but not limited to, chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills; or (iii) any building or structure designated as a historic landmark, building or structure by the United States or by the Board of Historic Resources; or any device designed to generate less than 250 Kilowatts of electric power for a single residence.

15-112 *Protected Mountain Ridgeline Area Map*

A map of the County's Protected Mountain Ridgeline Areas hereby is adopted and incorporated into this ordinance by reference. The County Building Inspectors Office shall maintain said map, showing Protected Mountain Ridgeline Areas within the County and shall maintain a list of property parcel numbers where any part of the parcel is located in a protected mountain ridgeline area identified on the map.

15-113 *Regulation of Certain Buildings or Structures*

Certain Buildings or structures built on property located within the protected mountain ridgeline area shall be regulated, in addition to any building codes or other ordinances, as follows:

- A. No tall building or structure over forty feet (40') in height may be built on a protected mountain ridgeline on property located within the protected mountain ridgeline area without a variance.
- B. No tall building or structure over one hundred and twenty feet (120') in height may be built on a base set at an elevation of more than 3,200 feet on any property located in a protected mountain ridgeline area without a variance.
- C. No tall building or structure over one hundred and twenty (120') feet in height may be built at an elevation of more than 3,200 feet on any property located in a protected mountain ridgeline area unless it is located a distance of more than three times its height from a dwelling or the owner's property boundary. The proposed structure may nevertheless be built within a distance of less than three times its height of the property owner's boundary line, provided the affected adjacent property owner signs a waiver. The set back requirement contained herein, however, may not be waived with respect to a dwelling.
- D. No tall building or structure over one hundred and twenty (120') feet in height may be built at an elevation of more than 3200 feet on any property located in a protected mountain ridgeline area, unless the applicant agrees in writing to remove such building or structure when it ceases to function, functions in an unintended manner due to malfunction or lack of maintenance such that it threatens public health and safety or

becomes defaced and provides bond, letter of credit, corporate guarantee, or other reasonable security to provide for the expense of removal under such circumstances.

(1) Should the Ordinance Administrator determine that such circumstances exists he shall provide the property owner notice by certified mail. If the property owner does not respond within thirty (30) days, or if the property owner's response is inadequate, or is inaccurate, the Ordinance Administrator may proceed in accordance with 15.2-906 of the Code of Virginia as may be amended and in accordance with the County's nuisance procedures.

(2) The amount of any security required hereunder for removal of such buildings or structures shall be reviewed every five years to determine whether the amount of such security remains sufficient to fund such removal. Should the Ordinance Administrator deem the amount of such security to be insufficient, he may require such additional security as is necessary to fulfill the purpose of this part D. Such review and request for additional security may be appealed as herein provided.

- E. Nothing in this ordinance shall prevent a property owner from erecting a structure on his property for generation of electricity, for personal use. Such structure may not be erected for non-agricultural, commercial use. The landowner must notify the Ordinance Administrator in writing of his intent to build such structure. No bonding shall be required for removal of such structure. The property owner must remove the structure when it ceases to function as herein required. No permit application fee shall be charged to such property owner.
- F. No tall building or structure may be built on a protected mountain ridgeline on property located within the protected mountain ridgeline area, unless the proposed building or structure plan (i) provides for sewerage, water, and drainage facilities, adequate for the building or structure proposed, including, but not limited to, facilities for drinking water and the adequate supply of water for fire protection and (ii) provides for compliance with all applicable Erosion and Sediment Control Laws.

15-114 Permitting Procedure

- A. No Tall Building or structure may be built in a protected ridgeline area without a permit issued by the Ordinance Administrator or the Board of Appeals.
- B. The Board of Supervisors shall, by resolution, designate and appoint an Ordinance Administrator who may grant or deny permits as provided herein.

15-115 Construction Permitting

No tall building or structure shall be constructed in the Protected Mountain Ridgeline Area without a permit issued by the Administrator. Applications for permits shall be submitted to the County Engineer who shall forward the same to the Ordinance Administrator.

- A. *Permit Approval*- the Ordinance Administrator shall, within ten days of submission of an application, (1) determine whether the proposed building or structure is within the jurisdiction of this ordinance and (2) whether the proposed building or structure would be permitted by this ordinance.

1. If the building or structure as proposed is not within the jurisdiction of this ordinance the Ordinance Administrator shall provide a certificate to the applicant advising that the structure is not within the jurisdiction of this ordinance and advising the building inspector that such construction is not regulated by the ordinance
 2. If the proposed tall building or structure is within the jurisdiction of this ordinance, the Ordinance Administrator shall, notify the applicant in writing and advise him that the application is either approved or that it is not approved. If the application is denied the notice shall state the reasons for the denial.
- B. Any notice given pursuant to this section shall advise the applicant of their right to request a variance from or to appeal to the Board of Appeals and include the date, location and approximate time when the application for variance or for an appeal must be submitted to the Administrator. Such notice to the applicant shall be in writing delivered by Certified Mail. Failure to provide the applicant notice or any defect in notice shall be remedied by tolling the time in which the applicant may request a variance or an appeal until proper notice is given.
- C. *Application Fees* The Administrator may charge a fee for analysis of an application. Such fee shall not exceed Fifty Dollars (\$50.00) for structures less than one hundred and twenty feet (120') tall, Three Hundred Dollars (\$300.00) for structures less than two hundred forty feet (240') tall. The fee for structures more than two hundred forty feet (240') tall shall be no less than Six Hundred Dollars (\$600.00).

15-116 Building Permits Not To Be Issued

The Building inspector's office shall not issue a permit for construction of any tall building or structure on any parcel where any part of such parcel is located on a protected mountain ridgeline area without a letter of authorization from the Ordinance Administrator or Appeals Board. The building inspector may accept applications for such approval and forward the same to the County Engineer .

15-117 Effect of Ordinance

Nothing in this ordinance shall be deemed to repeal, replace, pre-empt or otherwise displace any other authority the County may already have under existing ordinances to zone or regulate mountain ridgelines or specific structures.

15-118 Board of Appeals

There is, hereby, established a Board of Appeals (BA) that shall consist of five members, who shall be appointed by the Tazewell County Circuit Court. Composition and terms of office of the BA shall be as set forth in Section 15.2-2308 of the Code of Virginia (1950), as amended.

15-119 Powers and Duties

- A. The BA shall have the power and duty to hear and decide appeals from any written order, requirement, decision, or determination made by the administrator in the administration or enforcement of this ordinance, or any other ordinance for which the Board of

Supervisors may assign such authority. No such appeal shall be heard except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia, as amended.

- B. The BA shall have the power and duty to authorize upon appeal or original application in specific cases a variance from the terms of this ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship. No such variance shall be granted unless the spirit of the ordinance shall be observed and substantial justice done. To legally grant a variance, the BA must be presented evidence and make a finding that:
- a. A property owner acquired the property in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of the property at the time of the adoption of this ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the property, the strict application of this ordinance would effectively prohibit, or unreasonably restrict the use of the property, or;
 - b. Due to the condition, situation, or development of immediately adjacent property, the strict application of this ordinance would effectively prohibit, or unreasonably restrict the use of the property, or;
 - c. That the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
- C. All variances granted must be in harmony with the intended spirit and purpose of this ordinance. Specifically, the BA must find that the strict application of the ordinance would produce undue hardship. This hardship must not be shared by other similarly situated properties and in the same vicinity. The BA must find that the granting of the variance will not be of substantial detriment to adjacent property and that the character of the area will not be changed by the granting of the variance.

Finally, the BA must not grant a variance unless it finds that the condition or situation of the property is not so general or recurring a nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to this ordinance.

- D. No variance request shall be evaluated by the BA until after notice and hearing as set forth in Section 15.2-2204 of the Code of Virginia, as amended. In addition, notice of application for a variance shall be posted on the property.
- E. In granting a variance, the BA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

- F. In deciding whether to grant a variance the BA shall consider a finding of public interest issued by the Planning Commission, should the Commission transmit such finding to the BA prior to the hearing date.
- G. The BA shall have the power and duty to hear and decide appeals from any written decision of the administrator. No such appeal shall be heard except after notice and hearing as set forth in Section 15.2-2204 of the Code of Virginia, as amended.
- H. The BA shall have the power and duty to hear and decide applications for interpretation of the official map where the administrator believes there is uncertainty as to the location of a boundary. No such determination shall be made except after notice and hearing as set forth in Section 15.2-2204 of the Code of Virginia, as amended. Any property owner affected by a determination of the location of the boundary must be notified by first class mail prior to any such determination. After notice and hearing the BA may interpret the map in such a way to carry out the intent and purpose of this ordinance, however the BA shall not have the power to change substantially the locations of the area boundaries as established by this ordinance. This authority of the BA to determine the location of boundaries shall not be construed as the power to substantively redefine the area boundary.

15-120-Variances In Certain Areas

In considering granting variances the BA shall determine whether such proposed building or structure would be contrary to the public interest. In determining the public interest the BA shall:

1. In areas designated as “A” on the protected mountain ridgeline area map, presume any tall buildings or structures more than forty feet (40’) in height proposed to be built on a protected mountain ridgeline to be contrary to public interest and contrary to the intent of this ordinance.
2. In areas designated as “B” on the protected mountain ridgeline area map, presume tall buildings or structures more than one hundred and twenty feet (120’) in height to be against public interest and contrary to the intent of this ordinance.
3. In areas designated as “C” on the protected mountain ridgeline area map, presume tall buildings or structures more than two hundred and forty feet (240’) in height to be against public interest and contrary to the intent of this ordinance.
4. In areas designated as “D” on the protected mountain ridgeline area map, presume no particular height should be deemed contrary to public interest; however, the Board shall give great weight to a finding of public interest by the Tazewell County Planning Commission if submitted by the Commission prior to the hearing.

15.1-121 Applications for Variances

Applications for variances may be made by any property owner, tenant, government official, department, or board or bureau of the county. All applications shall be submitted to the administrator in accordance with By-Laws adopted by the BA. All applications and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the BA who shall place the application on the agenda to be acted upon by the BA within ninety (90) days of the filing of the application. No such application shall be

heard except after notice and hearing as set forth in Section 15.2-2204 of the Code of Virginia, as amended. The administrator shall transmit notice of the variance application to the Planning Commission, which may send a recommendation reflecting a finding of public interest to the BA and may appear as a party at the hearing.

15-122 Applications for Appeals

Appeals to the BA may be taken by any person aggrieved or by any officer, department, board, or bureau of the county affected by any decision of the administrator, or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this ordinance. Appeals must be made within thirty (30) days after the entry of the decision appealed from by filing with the administrator, a notice of appeal, specifying the grounds thereof. The administrator shall forthwith transmit to the BA all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the administrator certifies to the BA that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such cases, proceedings shall not be stayed unless a restraining order is granted by the BA, or by a court of record, on application and on notice to the administrator and for good cause shown.

15-123 Procedures for Variances and Appeal

- A. The BA shall fix a reasonable time for the hearing of an appeal, give public notice thereof, as well as due notice to all parties of interest, and decide the same within ninety (90) days of the filing of the appeal. In exercising its power, the BA may reverse or affirm, wholly or partly, or may modify an order, requirement, decision, or determination appealed from.
- B. The concurring vote of the majority of the BA shall be necessary to reverse any order, decision, requirement, or determination of an administrative officer, or to decide in favor of the applicant on any matter upon which the BA is required to pass under the terms of this ordinance, or to effect any variance from this ordinance.
- C. The BA shall keep minutes of its proceedings and other official actions which shall be filed in the office of the administrator. All records shall be public records. The chairman of the BA, or in his absence, the acting chairman, may administer oaths, and compel the attendance of witnesses.

15-124 *Certiorari* to Review Decision of BA

- A. Any person jointly or separately aggrieved by any decision of the BA, or any taxpayer or any officer, department, board or bureau of the county, may present to the Tazewell County Circuit Court a petition specifying the grounds on which aggrieved. This petition must be filed within thirty (30) days of the BA's decision.

- B. Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the BA and shall prescribe therein the time within which a return thereto must be made and served upon the relater's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the BA and on due cause shown, grant a restraining order.
- C. The BA shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds appealed from and shall be verified.
- D. If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct, and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.
- E. Costs shall not be allowed against the BA, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the BA is affirmed, and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.

15-125 Enforcement

- A. The administrator shall have responsibility for enforcing the provisions of this ordinance, and may, as necessary, solicit the assistance of other local and state officials and agencies with this enforcement.
- B. Violators of the provisions of this ordinance shall be notified in writing of observed violations. The administrator shall state, in the written notice, the nature of the violation, the date that the violation was observed, and the remedy or remedies necessary to correct the violation. A reasonable time period will be established for the correction of the violation.
- C. If the administrator is not able to obtain compliance with these provisions, civil and or criminal procedures may be initiated in accordance with criminal and or civil law and procedures. Such Actions may include a suit for injunctive and other equitable relief.

15-126 Penalties

Pursuant to Section 15.2-2286 (5) of the Code of Virginia, as amended, any violation of any provision of this ordinance shall be a misdemeanor punishable by a fine of not less than \$10.00 nor more than \$1000.00.

15-127 Civil Penalties

- A. Any owner of a building or premises where a violation of any provisions of this ordinance has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be punishable by a civil penalty.
- B. Any violation of the provisions of this ordinance shall be subject to a civil penalty in an amount and timing not to exceed that below set forth:
- a. Each day during which a violation is found to exist shall be a separate offense. However, the same violation arising from the same operative set of facts may be charged not more than once in a ten (10) day period, and the total civil penalties from a series of such violations arising from the same set of operative facts shall not exceed five thousand dollars (\$5,000.00)
 - b. The issuance of a civil penalty for a particular violation of this ordinance pursuant to this section shall be *in lieu* of criminal sanctions except when such violation results in injury to any person or persons. However, where a violator persists in violating the ordinance for more than ten days after an award of the maximum civil penalty, such violation shall be deemed a separate offence then punishable by criminal penalty.
- C. The administrator, or the administrator's designee, may issue a civil summons for a violation. Any person summoned or issued a ticket for a violation may make an appearance in person or in writing by mail to the County Administrator prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offence charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- D. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. A finding of liability shall not be deemed a criminal conviction for any purpose.

IT IS SO ORDAINED this the 2nd day of February 2010.

RECORDED VOTE: 3 to 2

MEMBERS PRESENT: Absher, Campbell, Hymes, White and Anderson
MEMBERS ABSENT: None (0)
AYES: Three (3) Anderson, Campbell, Hymes
NAYES: Two (2) White, Absher

ABSTENTIONS: None (0)

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RECESS CALLED

The Chairman called for a recess of five (5) minutes, after which the meeting was duly reconvened.

APPOINTMENTS**Disability Services Board**

One northwestern district appointment to the Disability Services Board was deferred to the March 2010 regular meeting.

Northern District, DSB - Patricia Green, Assistant County Administrator, confirmed that Mr. Bill Stone accepted his reappointed to the Disability Services Board.

Library Board

Upon motion of Supervisor Hymes, seconded by Supervisor Anderson and adopted by a vote of 5 to 0, with all members present voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby reappoints Karel Ryan, PO Box 299, Tazewell, Virginia 24651 as a member of the Tazewell County Library Board of Trustees, with at term effective February 1, 2010 and expiring January 31, 2014 (four (4) - year term).

Upon motion of Supervisor Absher, seconded by Supervisor Campbell and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby reappoints Bill Wimmer to the Tazewell County Library Board of Trustees, with a term effective February 1, 2010 and expiring January 31, 2014 (four (4) -year term).

Public Service Authority (PSA)

Upon motion of Supervisor Hymes, seconded by Supervisor Anderson and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby appoints Seth R. White, 183 Terry Drive, Richlands, VA 24641 with at term commencing immediately and expiring December 31, 2013 (four (4) year term). Mr. White noted for the record, his willingness to serve only a 90-day term as a member of the Tazewell County PSA.

Supervisor White moved with Supervisor Absher seconding to rescind the January 5, 2010 appointment of Joel McClanahan as a member of the Tazewell County PSA, with all members present voting in favor thereof and no one against. Mr. McClanahan did not accept the appointment.

Census 2010 – Redistricting Committee

Census 2010 – Redistricting Appointments were deferred to the March 2010 meeting.

Patricia Green, Assistant County Administrator, reiterated the importance of being counted during the upcoming 2010 Census in order for federal funding to be where it should be. Each household will receive a census package sometime in March and it is very important that the forms be completed and returned. Census packages for counting can also be picked up and dropped off in a box that will be placed at the County Courthouse.

EMERGENCY SERVICES COMMITTEE AND TOURISM COMMITTEE

Upon motion of Supervisor Campbell, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approve the following resolution:

“Persons appointed to serve on the Emergency Services Committee and the Tazewell County Tourism Committee shall serve at the will and pleasure of the Board of Supervisors for a term no longer than two (2) years. Persons appointed may be reappointed for successive terms, and persons already serving on Ad Hoc Committees longer than the term set forth above may continue to serve until July 2010 or until their successor has been appointed.” A list of committees relevant to this action will be presented to the Board at the March 2010 regular meeting.

TAZEWELL COUNTY COUNCIL – LEGISLATIVE MEETING UPDATE

Each Supervisor stated they were pleased with the recent Tazewell County Council – Legislative Meeting in Richmond. Board members felt the meeting was very informative and beneficial, with Supervisor Anderson reiterating the budget shortfalls and tough year ahead. With regard to the budget woes, Supervisor Campbell requested a complete list of expenses incurred by the County with regard to the Legislative Meeting. Supervisor Anderson praised

Sam Wolford for his presentation while in Richmond and thanked other county staff for facilitating the Reception on Thursday evening.

Chairman White requested that the County receive more accurate information with regard to VDOT's upcoming budget shortfall. The Board recommended that Conrad Hill and Ken Brittle, VDOT officials, as well as town representatives attend the March 2, 2010 meeting to update the Board with regard to VDOT budget matters.

RESOLUTIONS ADOPTED

Upon motions made, seconded and duly passed unanimously, the Tazewell County Board of Supervisors hereby approves the following resolutions with copies of same on file in the office of the County Administrator, 108 East Main Street, Tazewell, Virginia 24651, and with said copies as approved incorporated herein by reference:

- A. Resolution Opposing HR 2454 (The American Clean Energy and Security Act)
- B. Resolution Supporting Virginia Gas & Oil Act Amendments
- C. Resolution Opposing SB 564 – Bill to amend and reenact 45.1-238 of the Code of VA, relating to coal surface
- D. Resolution Opposing proposed reductions in per diem funding for local or regional jails from \$8.00 to \$4.00 per day.
- E. Resolution supporting SRRA – Spearhead Trails

STATE CORPORATION COMMISSION RESOLUTION

Supervisor Anderson requested that the proposed resolution in support of selecting State Corporation Commission Members by Popular Election be faxed to Delegate Annie B. Crockett-Stark for review and further requested that she work with Attorney Shea Cook on the proposed language. Attorney Shea Cook was present and requested that every county in Southwest Virginia support and adopt the resolution.

COAL & GAS SEVERANCE TAXES

Shea Cook, Attorney requested that the County make sure the gas and coal taxes are identified and collected properly by the County as well as natural gas taxes. The Chairman requested that the County Attorney report on this matter at the next meeting.

HOME MONITORING PROGRAM

The Chairman requested that Chris Thompson, CVCA, Inc. attend the March 2, 2010 meeting to give the Board an update on pre-trial and Home Electronic Monitoring activities. There is a potential for budgetary savings with regard to these programs.

VIRGINIA ECONOMIC BRIDGE, INC.

The County Administrator gave an update on the Virginia Economic Bridge, Inc. and requested that the budget committee possibly consider their budget request for FY10-11. Mr. Spencer stated that there are many programs and services they provide that could have a direct impact on Tazewell County and the surrounding region.

HARRIS DRAINAGE ISSUE /HALES BOTTOM

The County Administrator reported that he and Supervisor Campbell as well as Gary Earp, County Engineer would look at the Harris drainage problem in question located in Hales Bottom in Falls Mills. The area is swampy in nature and a French drain along the roadway is proposed to try to get the water out.

**MAYNARD L. GARDNER, INC.
EQUIPMENT AND OPERATORS
(MAINTENANCE CONTRACT)**

Upon motion of Supervisor Hymes, seconded by Supervisor Anderson and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby accepts and awards the FY2010 Maintenance Contract for Equipment and Operators to Gardner, Inc. PO Box 111, Vansant, VA 24656 to perform various projects throughout Tazewell County, Virginia on an as needed basis. The bid as submitted shall include the hourly rate for each piece of equipment (including fuel) as well as its operator, mobilization to and from the site, and supervision. The terms of the contract will be for 12 months. The terms of the contract shall be for twelve (12) months, effective immediately.

1. S/ A Dump Truck W/Operator	50.00 per hour
2. Tandem Dump Truck W/Operator	70.00 per hour
3. EX-160 Trac-hoe W/Operator	90.00 per hour
4. EX-160 Trac-hoe W/4,000lb. Breaker	135.00 per hour
5. 4X4 Pickup Truck W/Operator	32.50 per hour
6. Chain Saw 16" to 20" Blade W/Operator	35.00 per hour
7. Foreman	28.00 per hour
8. Skilled Laborer	16.00 per hour
9. Unskilled Laborer	14.00 per hour
10. 4X4 Backhoe 16'	55.00 per hour
11. Vibratory Roller 15,000lb. W/Operator	40.00 per hour

TOURISM ZONES –

Supervisor Hymes requested a list of incentives for Tourism Zones as well as those who may already have incentives.

CALEB HOLLOW ROAD (KATHY AND DOUG COOPER)

Supervisor Absher requested that the County Engineer, Gary Earp go with him to meet the Coopers with regard to a Caleb Hollow Road matter. The County Attorney stated that he would call Supervisor Absher and discuss the road situation.

ATV TRAILS MEETING FEB. 14 AT P.H.S

Supervisor Campbell announced an ATV Trails Meeting at PHS on February 13, 2010 at 6:30 p.m. at Pocahontas High School.

QUARTERLY EXPENSE REPORT ON INTERNET

Supervisor Campbell questioned the status of the quarterly expense report that was requested to be placed on the County's Website. The Assistant County Administrator stated that she was working on the report as well as the format with Supervisor Hymes.

PROPERTY MAINTENANCE CODE

Supervisor White requested that the County Attorney keep the Board of Supervisors apprised of the various property maintenance code issues with regard to corrections/notices/violations, etc.

OTHER MATTERS

Supervisor Anderson handed out copies of the State Corporation Commission – AEP letters/forms that citizens could fill out and submit in opposition to the increase. Copies will be on file in the office of the County Administrator for dissemination to the public.

Supervisor Campbell questioned the tentative date to meet jointly with the School Board with regard to budget matters.

Supervisor Campbell questioned the possible vacation of Dove Lane located in North Tazewell, Virginia. The County Attorney is required to notify property owners of the Board's intent to vacate the road.

\$500.00 FROM NORTHERN DISTRICT FUNDS**TO RESCUE 945 TO ASSIST WITH INCREASED UTILITY RATES**

Upon motion of Supervisor Campbell, seconded by Supervisor Absher and adopted by a vote of 5 to 0, with all members present voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby approves the amount of \$500.00 from the Northern District Funds, payable to Rescue 945, PO 217, Boissevain, VA 24606 to assist with increased utility rates. The County Administrator is hereby authorized and directed to issue said warrant in accordance with this action and which said warrant will be converted to negotiable check by the Treasurer of Tazewell County, Virginia 24651.

EMPLOYEE PERFORMANCE**EVALUATION REINSTATED**

Upon motion of Supervisor Campbell, seconded by Supervisor Hymes and adopted by a vote of 4 to 0, with Supervisor Absher absent from the vote, with all members present voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby reinstates the yearly Employee Performance Evaluation for Tazewell County Employees.

A copy of the County Personnel Policy will be sent to Supervisors Absher and Supervisor Campbell.

OTHER CONCERNS

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Supervisor Hymes questioned the ownership of the Thompson Valley Community Center. There are some parking lot paving issues that need to be addressed.

Supervisor Hymes announced that the County Administrator and Sam Wolford would accompany him on Feb. 3 2010 to attend a meeting in Tannersville on the subject of water and Internet services.

Supervisor Hymes requested that County employees be retrained on the heart defibrulators and make certain the defibrulators are in working order, batteries replaced, and to place one defibrulator in all County buildings. A report on this subject will be made at the March 2, 2010 Board of Supervisors meeting.

As a result of the papers served this date, Supervisor Hymes requested that the County Attorney investigate the Belcher suit/ATF issue.

**RESOLUTION TO BE DRAFTED IN MEMORY OF
THE LATE DEPUTY TOM REID**

Upon motion of Supervisor Campbell, seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby authorizes and directs that a resolution be drafted and presented to the family in memory of the late Deputy Tom Reid.

ADJOURN

Now, there being no further business to be transacted and upon motion of Supervisor White, seconded by Supervisor Hymes and adopted by a vote of 5 to 0, with all members present and voting in favor thereof and no one against the same, the Tazewell County Board of Supervisors hereby adjourns this meeting.

The next regular meeting is scheduled for March 2, 2010 at 6:00 p.m.

Seth R. White, Chairman

By: rg

10:23 p.m. – Adjourn