

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 8th DAY OF SEPTEMBER 2008, AT 5:30 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Annette S. Perkins	-Chair
	Doug Marrs	-Vice Chair
	Mary W. Biggs	-Supervisors
	William H. Brown (arrived 5:40 pm)	
	Gary D. Creed	
	John A. Muffo	
	James D. Politis	
	B. Clayton Goodman, III	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahan	-County Attorney
	Steve Sandy	-Planning Director
	Angie Hill	-Financial & Management Services Director
	Marc Magruder	-Budget Manager
	Ruth L. Richey	-Public Information Officer
	Vickie L. Swinney	-Secretary, Board of Supervisors

CALL TO ORDER

The Chair called the meeting to order.

ADD TO AGENDA-ADDENDUM

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously, the Addendum dated September 8, 2008 was added to the agenda as follows:

- Section 2.2-3711 (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of 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
2. Courthouse Property

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	William H. Brown
James D. Politis		
Mary W. Biggs		
Doug Marrs		
Gary D. Creed		
Annette S. Perkins		

INTO CLOSED MEETING

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711

- (7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel
 - 1. Norfolk Southern Intermodal Facility
 - 2. Boundary Adjustment – Town of Blacksburg
- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of 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
 - 1. Prices Fork Elementary School Site
 - 2. Courthouse Property
- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
 - 1. Agency on Aging
 - 2. Juvenile Detention Commission
 - 3. Office on Youth Advisory Board
 - 4. Towing Advisory Board
 - 5. Personnel

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	William H. Brown
Doug MARR		
Mary W. Biggs		
James D. Politis		
John A. Muffo		
Annette S. Perkins		

Supervisor Brown arrived at 5:40 p.m.

OUT OF CLOSED MEETING – 7:30 p.m.

On a motion by William H. Brown, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
Doug MARR	
Mary W. Biggs	
James D. Politis	
John A. Muffo	
Gary D. Creed	
Annette S. Perkins	

CERTIFICATION OF CLOSED MEETING

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

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

VOTE

AYES

Doug Marrs
Mary W. Biggs
James D. Politis
John A. Muffo
Gary D. Creed
William H. Brown
Annette S. Perkins

NAYS

None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

INVOCATION

A Moment of Silence was lead by Chair Perkins.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

DELEGATION - Removed from the Agenda

The following delegation was removed from the agenda, Mr. Clarke could not attend the meeting:

Virginia Department of Transportation

David Clarke, VDOT Residency Administrator, update on road issues/concerns in Montgomery County.

PUBLIC ADDRESS SESSION

Beverly Walters, New River Valley CARES, expressed her appreciation to the Board of Supervisors for their support of the FY 09 budget.

Roger Lewis was puzzled as to why the Board of Supervisors has not requested the Attorney General's opinion on the State's decision to use public funds for the construction of an intermodal facility. He believes that court action by the Board will affect the entire state, not just Montgomery County. He urged the Board to reconsider their decision to file a lawsuit and request an opinion from the Attorney General.

Douglas White thanked the Board for posting information on the County's web-site regarding the workforce housing project on Harding Avenue. Mr. White asked that any information the Board receives on this project be shared with the public. He believes that the request for a boundary line adjustment from the County is premature and should wait until a road study is actually completed, not just analyzed. He reported that Community Housing Partners has not yet submitted an application for a HUD Grant yet and the condition of the Windsor Hill pump station is unknown. Mr. White expressed concerns that if the boundary adjustment was approved there are no guarantees that the Town of Blacksburg will place any restrictions on the rezoning of the property.

James Blair addressed concerns about the proposed workforce development project on Harding Avenue. Mr. Blair stated the community is disappointed that they have not been kept in the loop. There seems to be plenty of closed meeting discussion among both the Board of Supervisors and Blacksburg Town Council but no community meetings are being held. He stated the residents are nervous about what is going on.

Dr. Hara Miser expressed continued opposition to the Harding Ave. Workforce Housing Project. Dr. Miser submitted an additional thirty (30) signatures to the 200 signatures on the petition opposing a boundary line adjustment and rezoning on the property along Harding Avenue.

Bijaya Miser expressed continued opposition to the Harding Ave. Workforce Housing Project. Ms. Miser asked the Board if a neighborhood delegation was possible and how to go about the process. She also questioned the closed meeting procedures and why the Town of Blacksburg and the County are discussing this project in closed meetings.

Supervisor Muffo commented that the Board of Supervisors has not had any closed door meeting with the Blacksburg Town Council. He stated that if residents have been given the impression that meetings are taking place between the two bodies, this is not true.

Martha Orwick expressed appreciation to the Board for their support in opposing the proposed Intermodal Facility in Elliston. Ms. Orwick commended their courage and urged the Board to stand their ground.

There being no further speakers, the public address session was closed.

CONSENT AGENDA

On a motion by Mary W. Biggs, seconded by Doug Marris and carried unanimously, the Consent Agenda dated September 8, 2008 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
James D. Politis	
John A. Muffo	
Gary D. Creed	
William H. Brown	
Doug Marris	
Annette S. Perkins	

Approval of Minutes

On a motion by Mary W. Biggs, seconded by Doug Marris and carried unanimously, the minutes dated June 23, 2008 were approved.

A-FY-09-21 COMMONWEALTH'S ATTORNEY

On a motion by Mary W. Biggs, seconded by Doug Marris and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia, that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2009 for the function and in the amount as follows:

220 Commonwealth's Attorney \$2,908

The source of the funds for the foregoing appropriation is as follows:

Revenue Account
419104 Confiscations \$2,908

Said resolution appropriates monies received in the Forfeited Asset Sharing Program from the Department of Criminal Justice Services.

A-FY-09-22
MONTGOMERY MUSEUM
AND LYRIC THEATRE GRANT

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2009, for the function and in the amount as follows:

911	Montgomery Museum Grant	\$2,500
	Lyric Grant	<u>\$2,500</u>
	Total	\$5,000

The source of the funds for the foregoing appropriation is as follows:

Revenue Account:
24401 State Grants \$5,000

Said resolution appropriates a Local Government Challenge Grant through the Virginia Commission for the Arts received for the Montgomery Museum and Lyric Theatre.

R-FY-09-28
RESOLUTION AMENDING THE
BOARD OF SUPERVISORS MEETING DATES IN
NOVEMBER AND DECEMBER 2008

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby schedules its first meeting in November on **Wednesday, November 12, 2008**.

BE IT FURTHER RESOLVED, The Board of Supervisors hereby schedules its first meeting in December on **Monday, December 15, 2008** and cancels its seconded meeting due to the holidays.

OLD BUSINESS

ORD-FY-09-05
AN ORDINANCE VACATING AND RELOCATING A PORTION
OF AN EXISTING UTILITY EASEMENT AND
A PORTION OF THE LOT LINES FOR LOT 3 AND LOT 7
IN THE COLD MOUNTAIN SUBDIVISION, PHASE TWO
WHICH IS OF RECORD IN PLAT BOOK 27 AT PAGES 197-199
IN THE MONTGOMERY COUNTY CIRCUIT COURT CLERK'S OFFICE

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

WHEREAS, Howard Wakely Phillips and Robert Sean Phillips, the owners of Lot 3 and Lot 7 in the Cold Mountain Subdivision, Phase II, recorded in Plat Book 27 at Pages 197-199 in the Montgomery County Circuit Court Clerk's Office have requested the Montgomery County Board of Supervisors to vacate and relocate a portion of an existing utility easement and a portion of the lot line for Lot 3 and Lot 7 as shown more particularly on the plat entitled "Plat of Major Subdivision and Boundary Line Adjustment Prepared For Howard Wakely Phillips & Robert Sean Phillips Being Tax Parcels 89-(A)-12A & 12C Along Cold Mountain Road, Riner Magisterial District, Montgomery County, Virginia", dated January 10, 2008, plat prepared by Gay and Neel, Inc.; and

WHEREAS, Section 15.2-2272 of the Code of Virginia, as amended, provides that the Board of Supervisors may vacate a portion of a plat after sale of a lot by Ordinance; and

WHEREAS, A duly advertised public hearing on this Ordinance was held by the Board of Supervisors on August 25, 2008.

NOW THEREFORE BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors in accordance with Section 15.2-2272 of the Code of Virginia as amended hereby authorizes the vacation and relocation of a portion of a public utility easement and a portion of the lot line between Lots 3 and Lot 7 in Cold Mountain Subdivision Phase II, recorded in Plat Book 27 at pages 197-199, shown more particularly on the plat entitled "Plat of Major Subdivision and Boundary Line Adjustment Prepared for Howard Wakely Phillips and Robert Sean Phillips Being Tax Parcels 89-(A)-12A & 12C Along Cold Mountain Road, Riner Magisterial District, Montgomery County, Virginia", dated January 10, 2008, plat prepared by Gay and Neel, Inc.

BE IT FURTHER ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby authorizes the Chair to sign the plat for recordation conditioned upon all other applicable requirements being met.

This Ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Gary D. Creed	
William H. Brown	
Doug Marrs	
Mary W. Biggs	
James D. Politis	
Annette S. Perkins	

ORD-FY-09-06
AN ORDINANCE VACATING AN UNIMPROVED PORTION OF LUPINE LANE
AND AN UNIMPROVED PORTION OF AN UNNAMED RIGHT OF WAY
AND VACATE LOTS 10 THRU 20, AND LOTS 28 THRU 37
AND VACATE CERTAIN PUBLIC UTILITY AND PUBLIC DRAINAGE EASEMENTS
ALL LOCATED IN SECTION IV OF THE ROLLING HILLS SUBDIVISION
RECORDED IN PLAT BOOK 8, PAGE 23
IN THE MONTGOMERY COUNTY CIRCUIT COURT CLERK'S OFFICE

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, Riverbend Water Company has requested the Montgomery County Board of Supervisors to vacate an unimproved portion of Lupine Lane and an unimproved portion of an unnamed right-of-way and vacate Lots 10 thru 20 and Lots 28 thru 37 and vacate certain public utility and public drainage easements all located in Section IV of the Rolling Hills Subdivision recorded in Plat Book 8, page 23 in the Montgomery County Circuit Court Clerk's Office as shown more particularly on the Plat entitled "Boundary Line Vacation Lots 10 thru 20 and Lots

28 thru 37 Rolling Hills Subdivision, Section IV and Vacation of an Unimproved Portion of Lupine Lane and a Portion of an Unimproved Street, Riner Magisterial District, Montgomery County, Virginia” dated June 10, 2008, plat prepared by Mathews and Henegar, Inc. (the “Plat”); and

WHEREAS, Section 15.2-2272 of the Code of Virginia, as amended, provides that the Board of Supervisors may vacate a portion of a plat after sale of a lot by Ordinance; and

WHEREAS, A duly advertised public hearing on this Ordinance was held by the Board of Supervisors on August 25, 2008.

NOW THEREFORE BE IT ORDAINED, By the Board or Supervisors of the County of Montgomery, Virginia that the Board of Supervisors in accordance with Section 15.2-2272 of the Code of Virginia, as amended, hereby authorizes the vacation of an unimproved portion of Lupine Lane and an unimproved portion of an unnamed right-of-way and the vacation of Lots 10 thru 20 and Lots 28 thru 37 and the vacation of certain public utility and public drainage easements all located in Section IV of the Rolling Hills Subdivision recorded in Plat Book 8, page 23 in the Montgomery

County Circuit Court Clerk’s Office as shown more particularly on the plat entitled “Boundary Line Vacation Lots 10 thru 20 and Lots 28 thru 37 Rolling Hills Subdivision, Section IV and Vacation of an Unimproved Portion of Lupine Lane and a Portion of an Unimproved Street, Riner Magisterial District, Montgomery County, Virginia” dated June 10, 2008, plat prepared by Mathews and Henegar, Inc.

BE IT FURTHER ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby authorizes the Chair to sign the respective plat for recordation.

This Ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
William H. Brown	
John A. Muffo	
Mary W. Biggs	
James D. Politis	
Doug Marrs	
Annette S. Perkins	

R-FY-09-29
SPECIAL USE PERMIT
SANDRA GAIL JORDAN (AGENT: CELLERE FOR CST)
FOR THE PURPOSE OF ALLOWING A
165 FOOT TELECOMMUNICATIONS TOWER
IN THE SHAWSVILLE MAGISTERIAL DISTRICT
PARCEL ID # 026123, TAX MAP NUMBERS 83-A-27, 27D

On a motion by John A. Muffo, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Sandra Gail Jordan (Agent: Cellere for CST) request for a Special Use Permit (SUP) on 29.5 acres in an Agriculture (A-1) zoning district to allow a 165 foot tall telecommunications tower is hereby **approved** with the following conditions:

1. Tower shall not exceed a total overall height of 165 feet inclusive of the proposed lightening rod with a ground elevation of 1,545 ft. Tower shall not have lighting unless required by the FAA. Tower shall have a base diameter not to exceed 60 inches and a top diameter of 30 inches.

2. Site development shall be in substantial conformance with the plans entitled, "AT&T VA-00- 200A Alleghany, ± 477 Alleghany Springs Road", prepared by Wilcox Professional Services, dated June 3, 2008 and received by Montgomery County on June 24, 2008.
3. Tower shall be of a "monopole stealth design" where all antennae shall be flush mounted (distance between face of pole and outer face of antennas not to exceed 12 inches) on the structure. Tower shall be painted brown (Wooden Cabin or similar). All wiring and cables shall be located inside the pole structure.
4. Engineering plans signed and sealed by a licensed engineer in the State of Virginia shall be submitted to and approved by the Building Official prior to issuance of a building permit.
5. No platforms or dishes shall be permitted on the structure above the tree line.
6. Tower shall meet all regulations found in Section 10-48(6) of the Montgomery County Zoning Ordinance.
7. Backup generator, if applicable, shall not be fueled by any liquid fuel source.
8. Owner/agent shall provide emergency services antennae space on the proposed tower for the agreed upon rental rate of \$1 per year subject to the structural capacity of the tower and provided that emergency service antennae do not provide radio frequency interference to other antennae located upon the tower. Emergency service providers shall provide equipment. Tower owner/agent shall install the antennae at market rate. If the County declines the offered location, the tower owner will provide the County with the next lowest location on the tower. In no case shall the County be offered a height of less than one-hundred twenty feet (120 feet) on the tower.
9. Intensive survey of the known "Slave Cemeteries", identified on the Survey Plan (Sheet S-1) of site development plans, shall be performed in accordance with the Virginia Department of Historic Resource standards to determine whether possible impacts to unrecorded burials may occur as a consequence of this project (see VA DHR letter dated July 28, 2008). Fencing consisting of wooden split rail fencing or similar shall be installed around the determined cemetery boundaries. Chain link fencing shall not be acceptable. The fencing shall be reviewed, inspected and approved by the Zoning Administrator prior to initiation of any construction on the site related to the special use permit including grading and land clearing activities.

The property is located at 477 Alleghany Spring Road, and is identified as Tax Parcel No(s). 83-A-27, 27D (Acct No. 026123), in the Shawsville Magisterial District (District C).

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
John A. Muffo	
Mary W. Biggs	
James D. Politis	
Doug Marrs	
Gary D. Creed	
Annette S. Perkins	

ORD-FY-09-07
AN ORDINANCE CREATING AN ADDITION
TO AGRICULTURAL AND FORESTAL DISTRICT
AFD-2 (CATAWBA) WITHIN MONTGOMERY COUNTY, VIRGINIA

On a motion by James D. Politis, seconded by William H. Brown and carried unanimously,

WHEREAS, Gordon and Nancy Johnson have filed application for an addition to AFD-2 on February 28, 2008, which Agricultural and Forestral District was created by ordinance adopted on May 5, 1980 and previously renewed by ordinances adopted on October 12, 1987 and October 10, 1995 and currently scheduled to terminate on December 31, 2011; and

WHEREAS, The application was referred to the Agricultural and Forestral District Advisory Committee and said Committee has reviewed the application and reported its findings and recommendations on the July 2, 2008; and

WHEREAS, The application was referred to the Planning Commission and said Commission did publish notice of the pendency of the application on July 30, 2008 in the New River Current, a newspaper of general circulation within Montgomery County, Virginia; and

WHEREAS, The Planning Commission held a public hearing on August 13, 2008 and thereafter forwarded the applications with its findings and recommendations for approval to the Board of Supervisors; and

WHEREAS, The Board of Supervisors, after proper notice, held its public hearing on August 25, 2008.

NOW, THEREFORE, BE IT HEREBY ORDAINED, By the Board of Supervisors of Montgomery County, Virginia:

- (1) That the addition to Agricultural and Forestral District AFD-2 is in accordance with the provision of Title 15.2, Chapter 43, Sections 15.2-4300 through 15.2-4314, Code of Virginia, 1950, as amended.
- (2) That said addition shall consist of approximately 84.34 acres owned by Gordon and Nancy Johnson on Catawba Road (SR 785) in the Mt. Tabor Magisterial District of Montgomery County consisting of Tax Map No. 20-A-6 (Acct No. 009762).

NEW BUSINESS

R-FY-09-30 RESOLUTION ESTABLISHING THE PERSONAL PROPERTY TAX RELIEF PERCENTAGE FOR 2008

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

WHEREAS, The Personal Property Tax Relief Act of 1998, Virginia Code §58.1-3523, et seq. ("PPTRA"), has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly (the 2005 revisions to the 2004-06 Appropriations Act, hereinafter cited as the "2005 Appropriations Act"); and

WHEREAS, These legislative enactments required the County of Montgomery, Virginia, to take affirmative steps to implement these changes and to provide for the computation and allocation of relief provided pursuant to the PPTRA as revised; and

WHEREAS, These legislative enactments provide for the appropriation to the County of Montgomery, Virginia, commencing in 2006, of a fixed sum to be used exclusively for the provision of tax relief to owners of qualifying personal use vehicles that are subject to the personal property tax ("PPT") on such vehicles and provide the opportunity for the County of Montgomery, Virginia, to fashion a program of tax relief that serves the best interest of its citizenry; and

WHEREAS, The Board of Supervisors adopted an ordinance to implement the changes to PPTRA affected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia on November 28, 2005.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the rate of 100% of relief shall be applied to each qualifying vehicle valued at \$1,000 or less and that the rate of **59.91%** shall be applied to first \$20,000 in value of each qualifying vehicle with a value above \$1,000. Those rates of relief are estimated to exhaust PPTRA relief funds available to the County of Montgomery, Virginia, by the Commonwealth of Virginia for Tax Year 2008.

FURTHER BE IT RESOLVED, That any amount of PPTRA relief not used within the County of Montgomery's Fiscal Year shall be carried forward and used to increase the funds available for personal property tax relief in the following Fiscal Year.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
James D. Politis	
Doug Marrs	
Gary D. Creed	
William H. Brown	
John A. Muffo	
Annette S. Perkins	

R-FY-09-31
RESOLUTION AMENDING CONDITIONS
OF THE APPROVAL OF THE USE OF A PRIVATE STREET
FOR THE HS TEJAS SUBDIVISION

On a motion by Gary D. Creed, seconded by James D. Politis and carried unanimously,

WHEREAS, The Board of Supervisors at its May 27, 2008 meeting approved a Resolution authorizing HS Tejas, Ltd. to subdivide Tax Map Parcel 33-(A)-6 ("the Property") using Reese Mountain Road, a private street as access to the public right of way subject to seven (7) conditions; and

WHEREAS, HS Tejas, Ltd. has requested the Board of Supervisors to amend condition number four by allowing the helicopter landing area for emergency evacuation to be located and constructed on property adjacent to the subdivision as opposed to being located and constructed within the proposed subdivision; and

WHEREAS, The Board of Supervisors hereby agrees to approve amending condition number four by allowing the helicopter landing area to be constructed on property adjacent to the proposed subdivision conditioned upon HS Tejas, Ltd. obtaining the necessary property rights and local land use approval to locate and maintain the helicopter landing area off-site.

NOW THEREFORE, BE IT RESOLVED By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby approve of HS Tejas, Ltd. subdividing the Property using Reese Mountain Road, a private street, to provide access to the public right of way subject to the proposed subdivision meeting the requirements of the Montgomery County subdivision ordinance and the following additional amended conditions imposed in order to provide the efficient and safe utilization of the Property:

1. A second ingress and egress for the Property for emergency access shall be shown on the subdivision plat and maintained by the property owners from Reese Mountain Road through to Gray Fox Lane in Roanoke County.
2. The private Reese Mountain Road shall be maintained by all the property owners in the subdivision pursuant to a Road Maintenance Agreement. Through covenants and deed restrictions each property owner within the subdivision shall be required to participate in the cost of maintaining private Reese Mountain Road or its successor road. The Road Maintenance Agreement shall be reviewed and approved by the County Attorney prior to approval of the first subdivision plat submitted for County approval for the Property.

3. The subdivision using private Reese Mountain Road shall have a minimum lot size of 20 acres or greater with no more than 45 lots total for the entire Property and a length of street per lot ratio of one hundred fifty (150) feet per lot or greater. The private Reese Mountain Road shall have a maximum grade of eighteen (18) percent and a minimum width of all weather surface or pavement of eighteen (18) feet. All necessary road improvements shall be completed prior to approval of the first subdivision plat submitted for County approval for the Property.

4. A helicopter landing area shall be constructed within the subdivision or off-site on property adjacent to the subdivision for emergency evacuations. If the helicopter landing area is located and constructed off-site, HS Tejas, Ltd. shall either own the property or obtain necessary easement rights to locate and maintain the helicopter landing area on the off-site property. HS Tejas, Ltd. shall provide to the County prior to subdivision approval documentation concerning the property rights for the use of the off-site property as well as land use approval from Roanoke County should the landing area be located off-site in Roanoke County. The design of the landing area shall be approved by the Lifeguard 10 service. The helicopter landing area shall be constructed prior to any subdivision approval by the County. The helicopter landing area shall be maintained by the Subdivision's Homeowner's Association.

5. Within the covenants and deed restrictions for the subdivision a provision shall be included limiting the clearing of trees to a maximum area of seventy-five (75) feet around each home site with the exception of any clearing needed for the installation of drainfields and driveways which shall be limited to a maximum of fifteen (15) feet beyond the edge of the drainfield site or driveway.

6. HS Tejas, LTD shall provide all purchasers of the Property with a copy of the "Notice to All Potential Purchasers" (the "Notice") prior to closing. A copy of the Notice is attached and incorporated by reference.

7. All lots shall have approved drainfield locations prior to approval of final subdivision plat.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
Doug Marrs	
William H. Brown	
John A. Muffo	
Mary W. Biggs	
Gary D. Creed	
Annette S. Perkins	

**A-FY-09-23
SCHOOL OPERATING FUND
YEAR END ENCUMBRANCE CARRY OVER**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund is granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2009, for the function and in the amount as follows:

940	Transfer to School Operating Fund	\$3,069,635
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The source of funds for the foregoing appropriation is as follows:

451203	Undesignated Fund Balance	\$3,069,635
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BE IT FURTHER RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the School Operating Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2009, for the function and in the amount as follows:

<u>School Operating</u>		
561000	Instruction	\$ 11,501
562000	Admin, Attendance & Health	\$ 455
563000	Transportation	\$ 921,196
564000	Operations and Maintenance	<u>\$2,136,483</u>
	Total	\$3,069,635

The source of funds for the foregoing appropriation is as follows:

<u>Revenue Account:</u>		
451204	Fund Balance	\$3,069,635

Said resolution reappropriates monies supporting the balances of outstanding purchase orders for the Schools.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
William H. Brown	
John A. Muffo	
Mary W. Biggs	
Gary D. Creed	
James D. Politis	
Annette S. Perkins	

INTO WORK SESSION

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Fiscal Year End 2008 and General Fund Balance
2. Legislative Priorities

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
John A. Muffo	
Mary W. Biggs	
Gary D. Creed	
James D. Politis	
Doug Marrs	
Annette S. Perkins	

Fiscal Year End 2008 and General Fund Balance

Marc Magruder, Budget Manager, presented year-end totals for revenues for FY 08. Mr. Magruder reported that actual revenue received was greater than estimated by \$1.85 million. Undesignated revenues after the windfall adjustment were 2.88% over estimates. The FY 08 estimated revenue totaled \$85 million and actual received was \$86.9 million. Additional revenues were received in personal property taxes, other current property taxes (public service corporation taxes), and real estate commercial growth. Mr. Magruder explained that the additional revenues were known and built into the development of the FY 2009 budget.

Angie Hill, Financial & Management Services Director, provided an update on the general fund cash balance. The available general cash balance at the end of June 30, 2008 was \$4.7 million. A total of \$13.5 million is earmarked for reserves, such as cash flow, debt service, capital, fuel, and road maintenance. Ms. Hill explained that based on the County's demonstrated cash needs over the past several years, the County needs approximately \$11 million for cash flow.

2009 Legislative Priorities

The County Administrator provided an update on the County's legislative program for 2009. He directed the Board to the County's Legislative Priorities from 2008. None of the priorities listed were resolved during the 2008 session of the General Assembly. Also, Board members raised concerns regarding VDOT's proposed secondary street acceptance requirements (SSAR). The Board is concerned that the responsibility for maintaining secondary streets, along with the fiscal responsibility, is being shifted from the state to local government without state funding.

The County Administrator stated that staff would draft a resolution using the same priorities from 2008 and incorporate concerns related to VDOT's SSAR.

The County Attorney explained that it would not be appropriate to include concerns related to the secondary street requirements in the Board's legislative priorities as these are regulations adopted by the Virginia Department of Transportation and not the General Assembly.

Supervisor Creed suggested that the list of priorities also be shortened in order to have the most important issues noted on one page. He believes certain issues get lost among a five page document and the Board needs to get their point across by having a critical priority list.

Supervisor Perkins reported that she is on the Virginia Association of Counties' (VACo) Resolution Committee and a conference call is scheduled in October 2008 to address priorities. It will be helpful to have Montgomery County's list of priorities by then. VACo is scheduled to adopt their legislative package at the annual meeting in November 2008.

OUT OF WORK SESSION

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Mary W. Biggs	
Gary D. Creed	
James D. Politis	
Doug Marrs	
William H. Brown	
Annette S. Perkins	

The Board took a 15 minute recess at 8:45 p.m. and reconvened at 9:00 p.m.

COUNTY ATTORNEY'S REPORT

The County Attorney reported the Virginia Tech Foundation, Inc., requested the Montgomery County Industrial Development Authority (IDA) to issue revenue bonds for \$175 million on their behalf. The IDA will not assume any liability for issuing the bonds. They are being used as a facilitator only as the VT Foundation can not issue debt.

VT Foundation is proposing to finance existing debt (Series 2007 Bonds) in the amount of \$25.2 million; constructing a 45,000 sq. ft. research building #27 located at Kraft Drive in Blacksburg, Va; constructing a 32,000 sq. ft. research building #26 located at Kraft Drive, Blacksburg; improvements to the Integrated Life Sciences Building, Kraft Drive, Blacksburg; refinancing the costs of the Corporate Research Center (CRC) pumpstation; refinancing the costs of the VTTI pumpstation; refinancing a portion of the costs of Cheatham Hall, VT Campus; refinancing the costs of the Pete Dye River Course located in Pulaski, Va; and constructing a 145,000 sq. ft. Virginia Tech National Capital Region Research Building in Arlington, Va.

The IDA will be holding a public hearing in October 2008 and the Board of Supervisors will need to approve the issuance of bonds by the IDA by resolution. It is not required for the Board to hold a public hearing.

COUNTY ADMINISTRATOR'S REPORT

Inmate Clean-up Project: The County Administrator reported the Sheriff's Office submitted a report on the Inmate Clean-up Project for the week of August 11 – 16, 2008. A total of 4,920 tons of trash was picked up, 43 staff hours, and 215 inmate hours. The inmates cleaned up along Christiansburg Mountain area, Wayside Drive (Christiansburg Town limits to Roanoke Road), Cinnabar Road, Radford Road (Plum Creek), and McCoy Road.

The County Administrator commended the Sheriff's Office for implementing this project.

Board Retreat: The County Administrator asked the Board to check their calendars for available dates for the board retreat. The dates need to be finalized with the facilitator. Several Board members requested that the retreat not be held on a Sunday, they preferred Thursday – Saturday if possible.

BOARD MEMBERS' REPORT

Supervisor Marrs reported he will be attending a VACO Transportation Steering Committee meeting in Charlottesville on October 10, 2008.

Supervisor Biggs attended the September 2, 2008 School Board meeting. She reported that the invitation for bids on the new Elliston/Lafayette Elementary School ends in October. They are planning to break ground in December of January 2009. They continue to express concerns with the lack of land for the new Prices Fork Elementary School.

Joint Meeting with School Board is scheduled for Tuesday, September 9, 2008 at the Eastern Montgomery High School. The Architects will unveil the design plans for the new Ellison/Lafayette Elementary School.

State Budget Cuts for Education The School Board does not know at this time if the schools will be affected by the budget cuts, and if they are what the percentage of reductions will be.

Supervisor Politis reported on Friday, September 5, 2008 the Auburn High School football field was named Henry Sink Memorial Field in honor of Henry Sink, a huge supporter of the community, who passed away in 2007.

Supervisor Muffo reported the Social Services Board will meet on September 15, 2008 to discuss the Department of Social Services Director position. The current Director is retiring in December 2008. They have completed the interview process and the SSB will discuss viable candidates.

Supervisor Creed asked for a progress report on the cat problem in Montgomery County. The County Administrator replied staff is meeting with the Friends of Animal Control and Care (FACC) and the Humane Society. They are reviewing the best possibilities on how to proceed with a plan, both short and long term. The Board can expect a full report in October 2008.

Supervisor Creed suggested that the County enter into a partnership with the SPCA where they can operate and oversee the facility.

Supervisor Perkins also reminded the Board about the upcoming joint meeting with the School Board on September 9, 2008.

A Town/County Liaison meeting is scheduled for Wednesday, September 10, 2008. Supervisors Biggs requested that the cat issue in the County be added to the agenda.

ADJOURNMENT

The Chair declared the meeting adjourned at 9:15 p.m.

APPROVED: _____ ATTESTED: _____
Annette S. Perkins B. Clayton Goodman, III
Chair County Administrator