

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 27<sup>TH</sup> DAY OF MAY 2003, AT 7:15 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Annette S. Perkins	-Vice Chairman
	Mary W. Biggs	-Supervisors
	John A. Muffo	
	James D. Politis	
	C.P. Shorter	
	Jeffrey D. Johnson	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	T.C. Powers, Jr.	-Planning Director
	Steve Sandy	-Zoning Administrator
	Robert C. Parker	-Public Information Officer
	Karen Edmonds	-Human Resources Director
	Vickie L. Swinney	-Secretary
ABSENT:	Larry N. Rush	-Chair
	Gary D. Creed	-Supervisor

**CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

The Chair called the meeting to order and the Pledge of Allegiance was recited.

**PUBLIC HEARINGS**

Special Use Permit

**Robert L. Haley & Sandra H. Dolinger (Agent: Joan & Tom Elmore) request a Special Use Permit on a 10.0 acre tract, with possible conditions, in Agriculture (A-1) to allow a country inn.** The property is located on the west side of Mabry Lane at the Warm Hearth Drive intersection and is identified as Tax Parcel No. 67-A-2 (Account ID #007798) in the Prices Fork Magisterial District. The

property lies in an area designated as Urban Expansion Area in the Comprehensive Plan.

The Zoning Administrator explained the difference between a country inn as requested in the special use permit and a bed and breakfast. The Zoning Ordinance allows a country inn to have full-service restaurant facilities that provide meal services to guests and to the general public, while a bed and breakfast shall not contain restaurant facilities. A country inn is limited to 30 guest rooms while a bed and breakfast is limited to 15 guest rooms. At their May 14, 2003 meeting, the Planning Commission found the request in conformance with the Comprehensive Plan and recommended approval of the special use permit, subject to five conditions.

Tom and Joan Elmore, agents for the applicant, spoke in support of the special use permit. Mr. Elmore stated that he and his wife will be the owners of the country inn. They have dreamed of opening a bed and breakfast/country inn in order to use their skills they have acquired over the years. The Country Inn will enhance the tax base by giving support to tourism. The Country Inn will have only 8 guest rooms initially and hopefully will expand to 20 rooms in the future. Mr. Elmore asked the Board for their support.

Stuart White spoke in support of the request. Mr. White will be the general contractor for the country inn. He has helped Mr. & Mrs. Elmore secure a site that he believes is an ideal site for a country inn, and will help design the inn. He urged the Board to take into consideration the Planning Commission's recommendations and vote for approval.

David Shanks, Radford University Small Business Center, spoke in support of the special use permit. Mr. Shanks has worked with Mr. & Mrs. Elmore to secure financing for this project. They are in the process of securing investors for the project.

Sandra Daniels, speaking on behalf of her mother, Eva May Tawes and the Mabry heirs, is not opposed to the request, but has several concerns. Ms. Daniels indicated they are unable to locate the Atkinson Family Cemetery. She is unsure if the cemetery is located on the property proposed for a country inn or located on the property currently owned by the Howerys. She asked that this matter be clarified before any ground is moved. Ms. Daniels also voiced her concerns with the sewer leeching beds being near the flood plain. She suggested the sewer plan be designed and approved before the project begins. Ms. Daniels stated it looked as if the 10 acre lot was to be subdivided into two lots. She believes that 5 acres is not sufficient to support this type of development. If the lot is subdivided, she suggested that one 5 acre lot be left natural, maybe in the hands of a conservation group, where the 5 acres could not be developed. Ms. Daniels also suggested the country inn be limited to 12 guest rooms instead of allowing 20 guest rooms as recommended by the Planning Commission. She asked that these concerns be addressed by the Board before approving the request.

There being no further speakers, the public hearing was closed.

Special Use Permit

**Betty Estes requests a Special Use Permit on a 0.683 acre tract, with possible conditions, in Agriculture (A-1) to allow an accessory building in excess of 850 square feet and sixteen (16) feet in height.** The property is located at 701 Graves Avenue and is identified as Tax Parcel No. 41-A-71 (Account ID #06184) in the Prices Fork Magisterial District. The property lies in an area designated as a Rural Area in the Comprehensive Plan.

The Zoning Administrator described the request. At their May 14, 2003 meeting, the Planning Commission found this request to be in conformance with the Comprehensive Plan and recommended approval with three conditions.

There being no speakers, the public hearing was closed.

Rezoning Request and Special Use Permit

**Jerry, Gary, and David Carter requests to rezone 0.91 acre from Community Business (CB) to Agriculture (A-1) with a Special Use Permit, with possible proffered conditions, to allow a contractor's storage yard.** The property is located at 3744 Old Creek Road, and is identified as Tax Parcel No. 38-A-81 (Acct ID # 028961) in the Prices Fork Magisterial District. The property currently lies in an area designated as a Conservation/Rural in the Comprehensive Plan.

The Zoning Administrator described the request. At their May 14, 2003 and May 21, 2003 meeting, the Planning Commission found the request compatible with the Comprehensive Plan and recommended approval with eight conditions. The Zoning Administrator explained that on May 29, 1984 the subject site was rezoned from Agricultural to Community Business with a Conditional Use Permit to operate an automobile repair establishment. Since then, Mr. Carter has closed the automobile garage and is using the site as a contractor's storage yard. In order to be in conformance with the Zoning Ordinance, a special use permit is needed in order to continue using the site as a contractor's storage yard.

Todd Smith spoke on behalf of the applicants. He requested the Board consider changing the condition of hours of operation from 7 a.m. to 8 p.m. to 7 a.m. to 9 p.m. He indicated that during the summer they work longer hours and this would allow them to work longer in the field before bringing in the equipment. He urged the Board to approve this request for rezoning and special use permit.

Jimmy Graham addressed the Board with concerns about the noise and road damage associated with the current contractor's storage yard. Mr. Graham stated he does not want to put the Carters out of business but there should be some restrictions. He requested the hours of operation be set from 7 a.m. to 7 p.m. Monday - Friday, due to the noise being intrusive to the neighbors. He indicated that they trespass on his property in order to access the back of their property. He suggested the Board make it a requirement for

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the applicants to clean up the property and remove all trash laying around. Mr. Graham also expressed concerns with the grading of the road by the applicants which causes water to go through is property. They also erected an illegal culvert. Mr. Graham urged the Board to take all of his concerns into consideration before approving the special use permit.

Supervisor Perkins received the following petition in opposition to the above request:

‘Petition

Jerry, Gary and David Carter have applied to the Planning Commission and the Board of Supervisors of Montgomery County, Virginia to have rezoned a parcel of land of .91 acre, to allow them to operate a contractor’s yard. For the following reasons, we the undersigned are opposed to such action:

1. The above applicants are presently already operating as such without authorization and this has proven to be a nuisance on several grounds: their engines and air brakes are noisy; petitioners are also in the habit of using their Diesel or ‘Jake’ braking systems at several points on each passage to and from their property; the vehicles themselves are inherently noisy also. Much of the transportation and yard work with these vehicles is audible from many residences on Old Creek Road and on Mr. Zion Road, and all is audible from some such residences. The applicants may make a number of trips per day with several vehicles each time.
2. The engines used to propel their vehicles are also sources of odors and noxious fumes.
3. The applicants are known on occasion to leave their motors running and/or their backup safety signals operating in their yard for no obvious reason.
4. Applicants have used and continue using their property for illegal disposal of trash and refuse resulting from their activities. In one instance the applicants have dumped refuse (coils of old conveyor belting) on a deeded R/W owned by another resident.
5. Applicants’ vehicles have damaged and continue to damage the surface of Old Creek Road, to the extent that it can never be successfully patched or repaired. There are potholes every few feet along the entire length. Once begun, such damage accelerates rapidly and lowers property values, and it causes undue wear and tear to the vehicles of the other residences.
6. The presence of such a yard also itself lowers property values of other residences.
7. The fueling and maintenance of the applicants vehicles, and related activities, pollute the local environment.

8. To authorize such activities by the agencies involved is nothing more than spot zoning, and has the effect of nullifying the Zoning Ordinance.

We the following undersigned by witness of our signatures are agreed to the above and respectfully ask the agencies involved that they deny the requested rezoning by petitioners:

Oliver H. McKagen	Jimmy R. Graham
Darlene Graham	Paul Kessinger
Tonya Kessinger	Chad Kassell
Erin Kassell	Tim Myers
Anthony Wheeler	B. Wesley Van Dyke
Keith Patterson	P.D. Price
Pam Saville	Archie Montgomery
Tatiana McKagen	Kenneth Graham”

Oliver McKagen addressed the Board in opposition to the request. Mr. McKagen referenced the petition he distributed to the Board. The signatures represents 80% of households on Old Creek Road. As stated in the petition, the noise is a constant nuisance and trash litters the property. Mr. McKagen expressed concern with the damage to the road from the heavy equipment being driven or hauled. This makes it impossible to maintain and repair the road to make it decent for other residents who live on Old Creek Road. Mr. McKagen believes if the request is approved it would be spot zoning with all disregard to the Zoning Ordinance.

Stuart White spoke in support of the request. Mr. White stated that Mr. Carter has owned and operated a garage since 1984. The use of the property as a contractor’s storage yard is less intense now than it was in 1984. He does not know of any complaints in the past about this operation. He indicated that no equipment is moved from the lot until all school busses have run their route. Therefore, any noise in the early morning may be coming from the school busses. He believes if the hours of operation are restricted to 8:00 p.m. it would be a burden to the Carters because the equipment is moved from one job site to another, all the equipment will not be stored on the site at the same time.

Ken Graham addressed the Board in opposition to the request. Mr. Graham owns property at the end of Old Creek Road and intends to build a home on his property. He is opposed to any changes in zoning of the property in this area since it will have serious effects on property value. The property is already cluttered up enough without adding more to what is already there. He expressed concern with the hours of operations being changed to 7:00 a.m to 9:00 p.m. He believes this is rather late and a nuisance to the residents who live along this road. There should be consideration to people who go to bed earlier due to working earlier shifts. Mr. Graham asked how often the County reviews Special Use Permits for

compliance. He urged the Board to deny this request.

There being no further questions, the public hearing was closed.

Rezoning Request

**Jason Underwood requests to rezone 0.667 acre from Agriculture (A-1) to Residential (R3), with possible proffered conditions, to allow the subdivision of property.** The property is at 3814 Truman Avenue and is identified as Tax Parcel Nos. 90-1B-12C (Acct ID # 020226) in the Riner Magisterial District. The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

The Zoning Administrator described the request. At their May 14, 2003 meeting, the Planning Commission found the request in conformance with the Comprehensive Plan and recommends approval. The Planning Commission stated that this was a compatible use of the property and should improve the area.

There being no speakers, the public hearing was closed.

Special Use Permit - Amendment

**George E. Via, II ( Agent: Ron Walton) requests an amendment to a Special Use Permit for a radio tower approved on December 11, 2000 in Agriculture (A-1) to remove the 150 foot setback requirement.** The property is located on the northwest side of Fishers View Road on Fishers View Mountain and is identified as Tax Parcel No. 110-A-18 (Account #020099) in the Shawsville Magisterial District. The property lies in an area designated as Conservation Area in the Comprehensive Plan.

The Zoning Administrator explained that at their May 14, 2003 meeting, the Planning Commission tabled this request to their June 11, 2003 meeting and recommended the Board continue this public hearing to their June 13, 2003 meeting in order to receive their recommendations.

There being no speakers, the public hearing was continued to June 23, 2003.

Ordinance Amending Chapter 10, Entitled Zoning, Section 10-2

**An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-2,** of the Code of the County of Montgomery, Virginia exempting certain farm buildings and structures not used for residential purposes from the application of the zoning ordinance.

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The Planning Director explained the changes to Section 10-2 of the Zoning Ordinance. The Board of Supervisors requested the Planning Commission to review the ordinance relating to farm buildings and structures. The Board suggested that certain farm buildings and structures not used for residential purposes be exempt from the application of the zoning ordinance. The Planning Commission reviewed the changes to the zoning ordinance and expressed concerns over exempting farm structures entirely from all zoning ordinance requirements. The also expressed concern over determining legitimate farm uses versus those that may use this provision to circumvent the zoning ordinance. Therefore, the Planning Commission recommended denial of the proposed amendments. They recommended that exemption for properties in AFD or Land Use Value Assessment Program be approved in lieu of the proposed amendments. The Planning Commission recommends increasing the size of accessory buildings that one can build by-right. If the accessory building is larger than what is permitted by-right, a special use permit is required. The application will be reviewed by the Board of Zonong Appeals instead of the current process where the Planning Commission reviews the request and makes a recommendation to the Board of Supervisors. The proposed recommendation would eliminate the Planning Commission and the Board of Supervisors from the review process. The application could be reviewed within 30 days instead of 60-90 days.

Lloyd Phillips spoke in support of the proposed ordinance with one exception. The proposed ordinance states that farm buildings and structures shall be exempt from the application of the zoning ordinance when the buildings or structures are setback a minimum of 100 feet from any adjoining property line and the buildings on the property where farming operations take place. Mr. Phillips believes this requirement will be a burden on farmers. He stated that you can build a house with a setback of only 15 feet from the adjoining property line. He requested the Board to approve the proposed ordinance with the deletion of the 100 ft setback requirement.

David Moore addressed the Board with his concerns with the proposed amendments. Mr. Moore is a Planning Commission member and believes the proposed amendments as suggested by the Board of Supervisors overlaps recommendations from the Planning Commission. He believes that if the Board of Zoning Appeals was allowed to review special use permits for accessory buildings over a certain size it would speed up the process. Mr. Moore requested the Board to consider the recommendations by the Planning Commission on exempting certain farm buildings and structures from the zoning ordinance.

There being no further speakers, the public hearing was closed.

Ordinance Amending Chapter 10, Entitled Zoning, Sections 10-21(4), 10-22 (4), 10-23 (4), 10-24 (4), 10-25 (4)10-26(4), 10-27(4), 10-54 and 10-55

**An Ordinance Amending Chapter 10, Entitled Zoning Ordinance, Sections 10-21(4), 10-22(4), 10-23(4), 10-24(4), 10-25(4), 10-26(4), 10-27(4), 10-54 and 10-55** respectively of the Code of the County

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of Montgomery, Virginia, allowing the Montgomery County Board of Zoning Appeals to grant certain special use permits.

The Planning Director described the proposed amendments to the Zoning Ordinance. At their May 14, 2003 meeting, the Planning Commission recommended approval of the proposed amendments. The proposed amendments would allow the County Board of Zoning Appeals to approve specific Special Use Permits of a local nature.

There being no speakers, the public hearing was closed.

An Ordinance Amending Chapter 10, Entitled Zoning Sections 10-28(5), 10-29(5), 10-30(5), 10-31(5), 10-33(5), 10-34(5), and 10-35(5)

**An Ordinance Amending Chapter 10, Entitled Zoning Sections 10-28(5), 10-29(5), 10-30(5), 10-31(5), 10-33(5), 10-34(5), and 10-35(5)** of the Code of the County of Montgomery, Virginia establishing a maximum coverage of impervious surface in GB general business district, CB community business district, M-1 manufacturing district, M-L manufacturing light district, PIN planned industrial district, PUD-COM planned unit development-commercial district and PUD-RES planned unit development - residential district.

The Planning Director described the proposed amendments to the Zoning Ordinance. At their May 14, 2003 meeting, the Planning Commission recommended approval of the proposed amendments.

There being no speakers, the public hearing was closed.

An Ordinance Amending Chapter 10 Entitled Zoning, Sections 10-21(5) and 10-22 (5)

**An Ordinance Amending Chapter 10 Entitled Zoning, Sections 10-21(5) and 10-22 (5)** Respectively of the Code of the County of Montgomery, Virginia by clarifying the density requirements in the A-1 agricultural and C-1 conservation districts.

The Planning Director described the proposed amendments to the Zoning Ordinance. At their May 14, 2003 meeting, the Planning Commission recommended approval of the proposed amendments.

There being no speakers, the public hearing was closed.

An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-22(3)

**An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-22(3)** of the Code of the County

of Montgomery, Virginia, by deleting roadside stand operated by a farm owner or operator and by adding farm enterprise, sawmill, temporary to uses permitted by right in the C-1 conservation district.

The Planning Director described the proposed amendments to the Zoning Ordinance. At their May 14, 2003 meeting, the Planning Commission recommended approval of the proposed amendments.

Margaret Smith expressed concerns with the addition of the operation of a sawmill in the Conservation District to be permitted by right. She asked why a farm enterprise would need a sawmill on their property. She stated she is in agreement with the proposed changes with the exception of allowing a sawmill by right in the Conservation District. Ms. Smith requested the Board remove this section from the proposed changes.

There being no further speakers, the public hearing was closed.

An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-37

**An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-37** of the Code of the County of Montgomery, Virginia, by changing when repairs, restoration and/or maintenance may be made to structures within the flood way.

The Planning Director described the proposed amendments to the Zoning Ordinance. At their May 14, 2003 meeting, the Planning Commission recommended approval of the proposed amendments.

There being no speakers, the public hearing was closed.

An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-41

**An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-41** of the Code of the County of Montgomery, Virginia changing the definition of accessory structures, eliminating certain use limitations in A-1 and C-1 districts and by deleting the supplemental regulations pertaining to wayside stands.

The Planning Director described the proposed amendments to the Zoning Ordinance. At their May 14, 2003 meeting, the Planning Commission recommended approval of the proposed amendments.

There being no speakers, the public hearing was closed.

An Ordinance Amending Chapter 10 Entitled Zoning, Section 10-61

**An Ordinance Amending Chapter 10 Entitled Zoning, Section 10-61** of the Code of the County of Montgomery, Virginia by changing the definitions for automobile graveyard; garage; private home occupation; inoperative motor vehicle; roadside stand and wayside stand.

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The Planning Director described the proposed amendments to the Zoning Ordinance. At their May 14, 2003 meeting, the Planning Commission recommended approval of the proposed amendments.

There being no speakers, the public hearing was closed.

### **PRESENTATION - ELLIS D. MEREDITH**

Vice-Chair Perkins presented a resolution of appreciation to Ellis D. Meredith. Mr. Meredith served as the County's Treasurer for 31 years and retired December 2002. The Board of Supervisors expresses its appreciation and gratitude to Mr. Meredith for his outstanding dedication to the citizens of Montgomery County.

### **PUBLIC ADDRESS**

Charlie Elgin addressed the Board about issues related to the Planning Commission. He is concerned that certain recommendations on proposed changes to the Zoning Ordinance to the Board from the Planning Commission in January, 2003 have not been considered. Mr. Elgin also expressed concern with the Board changing the number of members on the Planning Commission from 10 to 7 members. He believes the Planning Commission should be make up of 10 members at large. Planning Commission members go on site visits to review zoning and special use permit requests. Some members are not able to attend due to their work schedule.

Jim Dangerfield addressed the Board with concerns about the condition of the softball fields at the Plum Creek Park. Mr. Dangerfield is a volunteer coach for the summer Dixie League Baseball in Riner. The Dixie League was formed in Riner and joined the Town of Christiansburg League due to the high quality of their ball fields and staff. Mr. Dangerfield believes the ball fields in Montgomery County are in poor condition and a disgrace. He urged the Board to visit the ball fields in the County to see what condition they are in. Mr. Dangerfield requested the County to stand by their promise to have quality ball fields for the youth in Montgomery County.

Doug Testerman addressed the Board about the County's Health Insurance Plan. Mr. Testerman indicated that the high cost of the family insurance plan would cause a burden to the employees who have the family plan. He distributed a comparison chart on health insurance plans for other localities in the New River Valley. He indicated that most of the other localities help supplement the cost of the employees share for the family plan. Mr. Testerman asked the Board to consider supplementing the employee share of insurance costs.

Steve Howard, Planning Commission member, addressed the Board with concerns relating to the Planning Commission. Mr. Howard believes the Planning Commission should be made up of 10 members at large, not 7 members. This would make the process less political and there would be better input from 10 members. Mr. Howard also expressed concern about amendments to the Zoning Ordinance recommended by the Planning Commission in January 2003 not being considered.

Margaret Smith addressed the Board with concerns about the County's possible acquisition of land for recreation purposes in the Riner area. The Board will be discussing this matter under closed meeting later in the meeting. Ms. Smith believes that if the closed meeting involves any discussion about a particular piece of property for which the developer has applied for a rezoning and is offering community recreation, then it is premature to be discussing this matter until such time that a public hearing is held on the rezoning.

**ADD TO THE AGENDA - ADDENDUM**

On a motion by Mary W. Biggs, seconded by C.P. Shorter and carried unanimously, the following addendum, dated May 27, 2003, was added to the agenda:

**Into Closed Meeting**

(5) Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business- or industry's interest in locating or expanding its facilities in the community.

1. Falling Branch
2. Allegheny District

**Appropriation - Metropolitan Planning Organization**

**Resolution Requesting the President of the University of Miami to Keep the University of Miami in the Big East Conference**

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	Gary D. Creed
C.P. Shorter		Larry N. Rush

James D. Politis  
John A. Muffo  
Annette S. Perkins

**CONSENT AGENDA**

On a motion by John A. Muffo, seconded by James D. Politis and carried unanimously, the Consent Agenda dated May 27, 2003 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
James D. Politis	None	Gary D. Creed
John A. Muffo		Larry N. Rush
Mary W. Biggs		
C.P. Shorter		
Annette S. Perkins		

**Approval of Minutes**

On a motion by John A. Muffo, seconded by James D. Politis and carried unanimously, the minutes dated April 28, 2003 and May 12, 2003 were approved.

**County Attorney - Appropriation**

On a motion by John A. Muffo, seconded by James D. Politis 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, 2003 for the function and in the amount as follows:

120	County Attorney	\$10,000
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
451203 Undesignated Fund Balance	\$10,000

Said resolution appropriates funds for the County Attorney through June 30, 2003.

**Board of Supervisors - Appropriation- Contribution to Virginia Association of Counties**

On a motion by John A. Muffo, seconded by James D. Politis 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, 2003 for the function and in the amount as follows:

100	Board of Supervisors	\$1,000
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

451203	Undesignated Fund Balance	\$1,000
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Said resolution appropriates the County's contribution to Virginia Association of Counties (VACo) due to Virginia hosting the National Association of Counties (NACo) Annual Conference in 2007.

**OLD BUSINESS**

**Ordinance Amending Chapter 8 Article III, Section 8-69 of the Code of the County of Montgomery, Entitled Erosion and Sediment Control - Amend Existing Fee Schedule**

On a motion by Mary W. Biggs, seconded by C.P. Shorter and carried unanimously,

**2003-05**

**CHAPTER 8 ARTICLE III, SECTION 8-69  
OF THE CODE OF THE COUNTY OF MONTGOMERY,  
ENTITLED EROSION AND SEDIMENT CONTROL  
AMEND EXISTING FEE SCHEDULE**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery Virginia, that Chapter 8, Article III, Section 8-69 of the Code of the County of Montgomery, Virginia be amended and reordained as follows:

Section 8-69.	Fee Schedule
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Agreement in lieu of a plan . . . . . \$5.00  
Monthly Inspection Fee for a single residence  
pursuant to an Agreement in lieu of a plan . . . . . \$35.00

Plan Review:

- 1. Up to and including one acre of disturbed area . . . . . \$50.00
- 2. Each additional acre of disturbed area or part thereof . . . . . \$35.00

Monthly Inspection Fee pursuant to Plan Review :

- 1. Up to and including one acre of disturbed area . . . . . \$50.00
- 2. Each additional acre of disturbed area or part thereof . . . . . \$6.00

The ordinance shall take effect July 1, 2003.

Adopted by the Board of Supervisors of the County of Montgomery, Virginia this 27<sup>th</sup> day of May, 2003.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Gary D. Creed
Mary W. Biggs		Larry N. Rush
C.P. Shorter		
James D. Politis		
Annette S. Perkins		

**Suspension of Rules**

On a motion by C.P. Shorter, seconded by John A. Muffo and carried,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia pursuant to Rule # 2 of the Rules of Order and Parliamentary Procedures the Board hereby suspends its rules in order to re-consider the request from the Greenbrier Pipeline Company, LLC for conveyance of easement on county property in order to construct a pipeline.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
C.P. Shorter	James D. Politis	Gary D. Creed

Mary W. Biggs  
John A. Muffo  
Annette S. Perkins

Larry N. Rush

**Conveyance of Easement - Greenbrier Pipeline**

On a motion by C.P. Shorter, seconded by John A. Muffo and carried,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby grants and conveys to the Greenbrier Pipeline Company, LLC, a Delaware corporation, of 120 Tredegar Street, Richmond, Virginia 23219, its successors and assigns a fifty foot easement one hundred seventeen lineal feet in length for a right-of-way to construct, install, maintain, repair, replace (with larger or smaller pipe), operate and remove a pipeline, together with all appurtenant appliances and equipment, for the transportation of natural gas and its constituents upon and over certain lands of Montgomery County, Virginia situate in the District of Riner, Montgomery County, Virginia, being further described as follows:

Being all certain tracts of land located in Montgomery County, Virginia, described in a Deed from the Commonwealth of Virginia to the Board of Supervisors of Montgomery County, Virginia, dated May 31, 1998, and recorded in Deed Book 614, Page 614, of the Records of the Circuit Court Clerks Office in Montgomery County, Virginia, and being further identified as Tax Map 124-A, Parcel 77.

BE IT FURTHER RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby grants Greenbrier Pipeline Company, LLC a fifty (50) foot temporary construction easement adjacent to the right-of-way easement to be in effect only for the construction phase of the project and will terminate once construction is complete and all disturbed areas are stabilized.

BE IT FURTHER RESOLVED, The Board of Supervisors hereby authorizes Larry N. Rush, Chairperson of the Board, to execute said easements on behalf of the Board of Supervisors.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
C.P. Shorter	James D. Politis	Gary D. Creed
John A. Muffo		Larry N. Rush
Mary W. Biggs		
Annette S. Perkins		

**NEW BUSINESS**



Mary W. Biggs  
C.P. Shorter  
James D. Politis  
Annette S. Perkins

Larry N. Rush

**Resolution of Commemoration - Scott Allen Hylton**

On a motion by Mary W. Biggs, seconded by C.P. Shorter and carried unanimously,

***WHEREAS, Scott Allen Hylton*** was the beloved husband of Khris Hylton and the devoted father of Justin, Jordan, Jonathan and Kayelin; and

***WHEREAS, Scott Allen Hylton*** served the citizens of the New River Valley for twenty years in his capacity as a law enforcement officer, and as a Christiansburg Police Officer since December 2002; and

***WHEREAS, Scott Allen Hylton*** was well known throughout the community and admired for his unquestioned integrity and strong character; and

***WHEREAS, Scott Allen Hylton*** was mortally wounded in the line of duty on May 9, 2003; and

***WHEREAS, Scott Allen Hylton*** will be greatly missed and lovingly remembered by his wife, his family, and the New River Valley community who recognizes a brave man who was not afraid to risk his life in the name of justice and for the protection of others.

***NOW, THEREFORE, BE IT RESOLVED***, The Board of Supervisors of Montgomery County, Virginia, on behalf of all of its citizens, offers its deepest condolences and most heartfelt sympathy to the loved ones and many friends of ***Scott Allen Hylton***.

***BE IT FURTHER RESOLVED***, That the original of this resolution be presented to the family of ***Scott Allen Hylton*** and that a copy be made a part of the official Minutes of Montgomery County, that his memory may be so honored and ever cherished.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	Gary D. Creed
John A. Muffo		Larry N. Rush
C.P. Shorter		

James D. Politis  
Annette S. Perkins

**Metropolitan Planning Organization - Appropriation**

On a motion by Mary W. Biggs, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Metropolitan Planning Organization Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2003 for the function and in the amount as follows:

910	Metropolitan Planning Organization	\$50,000
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

419108	Recovered Costs	\$50,000
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Said resolution appropriates state and federal monies to support the start-up costs for the Metropolitan Planning Organization (MPO), through June 30, 2003.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
C.P. Shorter	None	Gary D. Creed
James D. Politis		Larry N. Rush
Mary W. Biggs		
John A. Muffo		
Annette S. Perkins		

**Resolution Requesting the President of the University of Miami to Keep the University of Miami in the Big East Conference**

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

WHEREAS, Virginia Tech and the University of Miami joined the Big East Conference at its inception in 1979 with both universities watching the conference grow to support more than 5,000 athletes in 23 sports, and experience ten national championships in six different sports; and

WHEREAS, Since joining the Big East, Virginia Tech's average football attendance has increased 57%, making the decision to join the Big East Conference a good decision for Virginia Tech, as well as the other Big East schools; and

WHEREAS, Virginia Tech and the University of Miami, along with other universities, have been partners in the conference for over a decade, strengthening the Big East Conference and making participation beneficial for all schools; and

WHEREAS, Virginia Tech sports programs affect our local community, as collegiate sports in other Big East schools impact their areas, making a strong Big East Conference a critical factor in supporting the economic structure of all of our communities; and

WHEREAS, Virginia Tech accounts for more than 25% of the jobs in our region and pumps \$1.3 billion annually into the local economy, with the economic impact of a single home football game estimated at \$2 million; and

WHEREAS, It is recognized that the University of Miami's decision to stay or not stay in the Big East will have an impact on the economic well being of communities such as Montgomery County, Virginia that are supported by the Big East Conference schools.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia respectfully requests, on behalf of the citizens of Montgomery County, and for the sake of all the schools in the Big East Conference, that University of Miami President Donna Shalala reject the overtures of the Atlantic Coast Conference and keep the University of Miami in the Big East Conference.

BE IT FURTHER RESOLVED, The Board of Supervisors of Montgomery County respectfully requests, on behalf of the people who depend on not only Virginia Tech, but other Big East schools, that President Shalala renew the promise she made in 2001 that "We're committed to the Big East. You have our word. We're not going anywhere".

BE IT FURTHER RESOLVED, The Board of Supervisors of Montgomery County encourages the elected leadership of other cities and counties in the Big East to make a similar appeal to President Shalala.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
James D. Politis	None	Gary D. Creed
John A. Muffo		Larry N. Rush
C.P. Shorter		

Mary W. Biggs  
Annette S. Perkins

**INTO WORK SESSION**

On a motion by Mary W. Biggs, seconded by C.P. Shorter and carried unanimously,

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

1. Health Insurance Plan

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	Gary D. Creed
C.P. Shorter		Larry N. Rush
James D. Politis		
John A. Muffo		
Annette S. Perkins		

The Human Resources Director gave a presentation on the County's Health Insurance Plan for Fiscal Year 2003-2004. The County is in a consortium which includes 8 New River Valley local government entities. The Consortium sought proposals for insurance in late 2002 and received four proposals. Because they provide a large network with no referrals required, and offered the most affordable rate, the Consortium chose Southern Health as the health insurance carrier.

The Human Resources Director explained that this year was a tough year for insurance rates and they worked to get the cost as low as possible and yet keep the benefit level as high as possible. A few reasons why the County's insurance rate increased significantly over last year were due to high claims experience, which means the county spends more money in claims than the company had received in contributions. Also, the majority of employees were covered by Carilion, whose rates were low and perhaps under market. The County incurred a lost ratio of 101.3% versus 86.9% compared to the other localities, which means a higher cost in insurance premiums. The cost for a single employee for high insurance increased

from \$235.41(Carilion) and \$310.00(Southern Health) to \$346.00 (Southern Health). From FY 2000 to FY 2004 the County subsidy for the single rate has increased by 75%, an average increase of 15% per year. The County pays 100% of the employees cost for health insurance. The employee pays the difference in cost for the employee/child(ren), employee/spouse and employee/family insurance plan. The rates for these plans did increase significantly. The County is offering different options this year in order to lower the premium for the employees: a high insurance plan, which is the higher premium and less out of pocket cost; a medium insurance plan; and a low insurance plan, which is low premium but higher out of pocket costs.

The County is not alone in dealing with the rising cost of health insurance. Medical costs are rising faster in the New River Valley than in any other are in Southern Health’s book of business. Other localities and organizations are struggling to maintain a strong health insurance benefit for their employees at a reasonable cost. Therefore, the County chose the insurance company that was the most affordable while continuing to offer a high benefit package and still abide by the County’s commitment to pay 100% of the employee cost of health insurance.

**OUT OF WORK SESSION**

On a motion by Mary W. Biggs, seconded by John A. Muffo 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>	<u>ABSENT</u>
C.P. Shorter	None	Gary D. Creed
James D. Politis		Larry N. Rush
John A. Muffo		
Mary W. Biggs		
Annette S. Perkins		

**COUNTY ADMINISTRATOR’S REPORT**

BZA - Vacancy for Alternate The County Administrator reminded the Board there is a vacancy for an Alternate on the Board of Zoning Appeals. BZA appointments are not advertised. Board members submit individual names for recommendation to the Circuit Court. The Circuit Court Judge makes appointment on recommendations from the Board.

Meeting with Legislators The County Administrator reported that Senator John Edwards and Delegate Jim Shuler were the only legislators available to attend a meeting with the Board. The Board, by consensus, scheduled a meeting for Thursday, June 12, 2003 to discuss legislative issues. Staff was instructed to invite the Constitutional Officers.

Swift Water Rescue - There will be a meeting on Swift Water Rescue at the Montgomery Regional Hospital, June 6, 2003 at 10:30 a.m. The Elliston Volunteer Fire Department will be recognized for their efforts in swift water rescue this past year. They will be discussing the creation of a regional swift water team. As the present time Salem has the only swift water rescue team in the area.

New River Community Action - SHARE Federal Shelter Pilot Project Grant The New River Community Action, Inc., is planning to make application to the Virginia Department of Housing and Community Development for the SHARE Federal Shelter Pilot Project Grant. With the pilot grant, NRCA is seeking to further help and offer assistance for families and individuals who are homeless or at risk of becoming homeless. One requirement of the grant application is that NRCA obtain a signed Certification of Local Approval for non-profit applicants. This requirement would state that Montgomery County approves the application for the grant by NRCA.

### **NRCA Application for SHARE Federal Shelter Project Grant - Resolution of Support**

On a motion by Mary W. Biggs, seconded by C.P. Shorter and carried unanimously,

WHEREAS, The New River Community Action, Inc. (NRCA) is preparing an application to the Virginia Department of Housing and Community Development for the SHARE Federal Shelter Project Grant in the amount of \$150,000; and

WHEREAS, The SHARE Federal Shelter Project Grant will help families and individuals who are homeless or at risk of becoming homeless; and

WHEREAS, This grant would serve clients who are not eligible for NRCA's Homeless Intervention Program; and

WHEREAS, New River Community Action, Inc. is a well-known proponent of self-sufficiency in the New River Valley since 1965; and

WHEREAS, The Board of Supervisors recognizes the effort by NRCA to prevent homelessness in the New River Valley.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby supports the New River Community Action's application to the Virginia Department of Housing and Community Development for the SHARE Federal Shelter Project Grant.

BE IT FURTHER RESOLVED, The Board of Supervisors authorizes Jeffrey D. Johnson, County Administrator, to sign the Certification of Local Approval for Non-Profit Applicants on behalf of the Board of Supervisors.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	Gary D. Creed
C.P. Shorter		Larry N. Rush
James D. Politis		
John A. Muffo		
Annette S. Perkins		

## **BOARD MEMBERS' REPORTS**

Supervisor Biggs VACo Education Steering Committee Meetings Supervisor Biggs attended the VACo Education Steering Committee meeting held May 19, 2003 in Richmond. She reported that VACo will be requesting the General Assembly to fully fund the Standards of Quality (SOQ) positions that are required by the General Assembly.

Supervisor Shorter attended the VACo Environmental and Agricultural Steering Committee meeting held on May 19, 2003.

County Announcements Posted at Consolidated Collection Sites - Supervisor Shorter suggested a bulletin board be installed at the County's Consolidated Collection Sites to inform citizens about events occurring in the County. Examples would be the paint exchange, hazardous waste drop-off day and Broomin and Bloomin.

Supervisor Muffo Merchants Capital Tax - Supervisor Muffo suggested that the County could exempt the first X amount of dollars from the Merchant Capital Tax. This would eliminate a few of the smaller business

from paying the Merchant's Capital Tax and giving the larger business a tax break. Staff was instructed to investigate the various options and report their findings back to the Board .

Supervisor Perkins Merchants Capital Tax Committee Meeting - Supervisor Creed, Supervisor Perkins and county staff met to discuss the Merchants Capital Tax. Several options were discussed and more research will need to be done.

VACO - Transportation Steering Committee Supervisor Perkins attended the VACo Transportation Steering Committee meeting held May 19, 2003. She reported that the General Assembly transferred \$317,000 from the Transportation Trust Fund to the General Fund. She also reported there may be shifting of funds in the next year from maintenance funds to construction funds. There has been talk from the Virginia Department of Transportation that localities may have to pay for maintenance on the roads in their locality.

Airport Taxes - Supervisor Perkins reported that the General Assembly transferred \$1.4 million allocated for Airport Security to the General Fund.

Virginia Tech/Montgomery Regional Airport - Airport Security. The Airport Authority is in the process of reviewing airport security and will be increasing the security at the airport.

### **Suspend Rules - Extend Meeting**

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

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby suspends Rule #20 of the Rules of Order and Parliamentary Procedures in order to continue the Board of Supervisors meeting beyond 11:30 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Gary D. Creed
James D. Politis		Larry N. Rush
C.P. Shorter		
Mary W. Biggs		
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 (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 Negotiation Strategy of the Public Body

1. Recreational Facilities - Riner

(5) Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business- or industry-s interest in locating or expanding its facilities in the community.

1. Falling Branch  
2. Allegheny District

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Gary D. Creed
James D. Politis		Larry N. Rush
C.P. Shorter		
Mary W. Biggs		
Annette S. Perkins		

**OUT OF CLOSED MEETING**

On a motion by C.P. Shorter, 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:

AYE                      NAY                      ABSENT  
John A. Muffo   None                      Gary D. Creed  
James D. Politis                                      Larry N. Rush  
C.P. Shorter  
Mary W. Biggs  
Annette S. Perkins

**CERTIFICATION OF CLOSED MEETING**

On a motion by C.P. Shorter, seconded by James D. Politis 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  
C.P. Shorter  
James D Politis  
Mary W. Biggs  
John A. Muffo  
Annette S. Perkins

NAYS

None

ABSENT DURING VOTE

Gary D. Creed  
Larry N. Rush

ABSENT DURING MEETING

Gary D. Creed  
Larry N. Rush

ADJOURNMENT

On motion by C.P. Shorter, seconded by Mary W. Biggs and carried unanimously, the Board adjourned to Monday, June 2, 2003 at 7:15 p.m.

The vote on the foregoing motion was as follow:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
James D. Politis	None	Gary D. Creed
John A. Muffo		Larry N. Rush
Mary W. Biggs		
C.P. Shorter		
Annette S. Perkins		

The meeting adjourned at 12:30 a.m., Wednesday, May 28, 2003.

ATTEST:

\_\_\_\_\_  
Larry N. Rush, Chairman

\_\_\_\_\_  
Jeffrey D. Johnson,  
County Administrator