

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA HELD ON THE 11<sup>TH</sup> DAY OF SEPTEMBER, 2000 AT 7:15 P.M. IN THE BOARD CHAMBERS, COUNTY COURTHOUSE, CHRISTIANSBURG, VIRGINIA:

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

### **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

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

### **PUBLIC ADDRESS SESSION**

Larry Martin addressed the Board of Supervisors about the need for an additional building inspector. Mr. Martin stated there is a long waiting list to get jobs inspected. Mr. Martin also addressed the Board concerning telecommunications towers. He urged the Board to require that any new telecommunications towers be located a minimum of 1,000 feet from residences, and a minimum of twice their height from roads or highways.

### **ADD TO THE AGENDA - ADDENDUM**

On a motion by Larry N. Rush, seconded by C.P. Shorter and carried unanimously, the following Addendum dated September 11, 2000 was added to the agenda under New Business:

**Moral Obligation Agreement**

Moral Obligation Agreement with SunTrust Bank concerning the financing of the economic development project with EchoStar in the Falling Branch Industrial Park.

The vote on the foregoing motion was as follows:

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

**CONSENT AGENDA**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously, the Consent Agenda dated September 11, 2000 was approved:

The vote was as follows:

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

**Approval of Minutes**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously, the Minutes dated August 11 and 12th and August 16, 2000 were approved.

**Schedule Public Hearing - Consumer Utility Tax**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors hereby schedules a Public Hearing to be held on October 10, 2000, at 7:15 P.M. in Courtroom B, Third Floor, Montgomery County Courthouse, 1 East Main Street, Christiansburg, Virginia, for the purpose of soliciting public comment on a proposed Ordinance Amending Chapter 2, Article II, Division 4, Entitled Consumer Utility Tax, Section 2-88 of the Code of the County of Montgomery, Virginia, in order to change how the tax is computed for consumers of electricity and natural gas.

**Revenue Refund - Appropriation**

On a motion by James D. Politis, seconded by Joe C. Stewart 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, 2001, for the function and in the amount as follows:

900	Revenue Refunds	\$70,000
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

451205	General Fund Balance	\$70,000
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Said resolution appropriates additional funds for the payment of revenue refunds.

**Final Plat - Hawks Flight Subdivision**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

WHEREAS, Hawks Flight Subdivision consists of 11 lots located off Smith Creek Road (SR 675) and has been found to meet the requirements of the Montgomery County Code Chapter 8, Article IV (Subdivision Ordinance).

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby approve the Final Plat of Hawks Flight Subdivision (Gay and Keese, Inc. Job No. 881 dated 5/15/00), Riner Magisterial District.

FURTHER, The Chairman is hereby authorized to sign said plat for recordation.

**Final Plat - Brush Mountain Estates Phase V**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

WHEREAS, Brush Mountain Estates Phase V consists of 17 lots located off Pandapas Pond Road (US 460) and has been found to meet the requirements of the Montgomery County Code Chapter 8, Article IV (Subdivision Ordinance); and

WHEREAS, The Montgomery County Code, Section 8-156 provides that a subdivider shall make adequate provision for storm and floodwater runoff and that if a subdivision involves new streets, the Virginia Department of Transportation shall determine that adequate provision for runoff will be taken; and

WHEREAS, The Virginia Department of Transportation requires that Montgomery County assume maintenance responsibility and liability that might arise from detention facilities in subdivisions; and

WHEREAS, The Montgomery County Code, Section 8-157 provides for approval by the County of stormwater detention facilities conditioned upon agreement being entered into by the County and a homeowners' association whereby the association assumes all liability for the maintenance and operation of the stormwater detention facilities; and

WHEREAS, The developer of Brush Mountain Estates, Phase V has agreed that said responsibility shall be assumed by the homeowners association.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby approve the Final Plat of Brush Mountain Estates Phase V (Aden Associates Plan No. T-7557-H revised 7/17/00), Mt. Tabor Magisterial District.

FURTHER, The Chairman is hereby authorized to sign said plat for recordation.

### **Final Plat - Triangle Commercial Center**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

WHEREAS, Triangle Commercial Center consists of 5 lots located off South Main Street (US 460) and has been found to meet the requirements of the Montgomery County Code Chapter 8, Article IV (Subdivision Ordinance);.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby approve the Final Plat of Triangle Commercial Center (Gay and Keese, Inc. Job No. 516 dated 3/24/00), Prices Fork Magisterial District.

FURTHER, The Chairman is hereby authorized to sign said plat for recordation.

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### **Speed Study - Gate Road**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County, Virginia has received a petition from concerned citizens requesting a speed limit be established and posted on Gate Road ( State Route 724 ); and

WHEREAS, Pursuant to the Board's policy adopted November 12, 1996, this petition contains the signatures of at least 50% of the property owners along the specified road.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors hereby respectfully requests the Virginia Department of Transportation (VDOT) to conduct a speed study on said road to determine the feasibility of posting a speed limit to improve the safety of this area.

### **APPOINTMENTS**

#### **Adjustment and Appeals Board-Extend Expiration Date**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that Kirk L. Sutphin's appointment to the Adjustment and Appeals Board is extended to October 19, 2000.

#### **Montgomery Regional Economic Development Commission**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia appoints **Clayton G. Tinnell, Jr.** to the Montgomery Regional Economic Development Commission as a non-elected representative of the Christiansburg/Montgomery County Chamber of Commerce effective September 12, 2000 and expiring December 31, 2001.

Said appointment fills the unexpired term of U. Wayne Elliott, resigned.

#### **Local Emergency Planning Committee (LEPC)**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

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BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby recommends that the Virginia Emergency Response Council appoint the following individuals to the Joint Blacksburg/Montgomery County Local Emergency Planning Committee:

Mr. Clint Treadway, Chief Engineer  
Montgomery Regional Hospital  
3700 South Main Street  
Blacksburg, VA 24060  
(540) 953-5154

Mr. J. C. Goforth  
Norfolk Southern Police Department  
110 Franklin Road, SE  
Roanoke, VA 24042-0042  
(540) 981-4915

Mr. Michael Vaught, General Manager  
Blacksburg-VPI Sanitation Authority  
P.O. Box 52  
Blacksburg, VA 24060  
(540) 552-6940

### **OLD BUSINESS**

#### **Remove from Table - Compensation for the Public Service Authority Second Vice-Chairman's Position**

On a motion by C.P. Shorter, seconded by James D. Politis and carried,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the proposed resolution to amend the compensation for the Public Service Authority Second Vice-Chairman's position be hereby **removed from the table**.

The vote on the foregoing motion was as follows:

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

#### **Compensation for the Public Service Authority Second Vice-Chairman's Position**

On a motion for approval by C.P. Shorter and seconded by James D. Politis,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the request to set compensation for the Second Vice-Chairman of the Public Service Authority (PSA) Board of Directors at \$75 per month, making the salary equal to the Vice - Chairman and the Secretary/Treasurer is **DENIED**.

The vote on the foregoing motion was as follows:

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

**Motion was for approval.**

**Rezoning Request - Michael C. & Helen R. Hughes**

On a motion by Larry N. Rush, seconded by John A. Muffo and carried unanimously,

**ORDINANCE 2000 -13**  
**An Ordinance Amending the Zoning**  
**Classification of 1.8 acres from**  
**A-1 (Agriculture) to GB (General**  
**Business)**

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning is in compliance with the Comprehensive Plan and meets the requirement for public necessity, convenience, general welfare and good zoning practice, and therefore the zoning classification of that certain tracts or parcels of land consisting of 1.8 acres of land is hereby amended and rezoned from the zoning classification of A-1 (Agriculture) to GB (General Business)

This action was commenced upon the application of Michael C. & Helen R. Hughes.

These tracts or parcels of land are identified as being that portion of Tax Parcel No. 91-A-22 located east of the gravel driveway between the house and shed and north of the small stream at 2731 Radford Road, in the Riner Magisterial District.

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

AYE

John A. Muffo None

Larry N. Rush

C.P. Shorter

James D. Politis

Annette S. Perkins

Joe C. Stewart

Mary W. Biggs

NAY

**Resolution Supporting the Designation of Certain Real Property of New River Community Action, Inc. as Exempt from Taxation by the General Assembly of Virginia**

On a motion by Annette S. Perkins, seconded by John A. Muffo and carried unanimously,

WHEREAS, New River Community Action, Inc. is a 501(c)(3) private, non-profit agency which promotes the development of the social, economic, educational and spiritual life for the citizens of Montgomery County in order to combat poverty; and

WHEREAS, New River Community Action, Inc. owns 0.2864 acre of real property at 110 Roanoke Street, Christiansburg in the Shawsville Magisterial District of the County of Montgomery, Virginia, where New River Community Action, Inc. presently has their office space; and

WHEREAS, Real property used exclusively for charitable and benevolent purposes by a qualifying organization shall be exempt from taxation as authorized by Article X, Section 6 (a)(b) of the Constitution of Virginia, upon action by the General Assembly of Virginia and so long as such organization is operated not for profit and the property so exempt is used in accordance with the purpose for which the organization is classified; and

WHEREAS, New River Community Action, Inc., has requested the Board of Supervisors of the County of Montgomery, Virginia to support New River Community Action, Inc's efforts in seeking a real estate tax exempt status on the 0.2864 acre where the New River Community Action, Inc. office is located, from the General Assembly of Virginia; and

WHEREAS, Based on this request, the Board of Supervisors of the County of Montgomery, Virginia, has conducted a public hearing, following proper notice, as required by Section 30-19.04 of the Code of Virginia, 1950, as amended; and

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WHEREAS, The Board of Supervisors of the County of Montgomery, Virginia, has examined and considered the following factors before the adoption of this resolution in support of the real estate tax exempt status for the 0.2864 acre where the New River Community Action, Inc. office is located:

1. New River Community Action, Inc. is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986.
2. No current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to New River Community Action, Inc. for use on the organization's property.
3. No director or officer of New River Community Action, Inc. is paid any compensation in excess of the value of the services performed in such position with the corporation.
4. No part of the net earnings of New River Community Action, Inc. inures to the benefit of any individual. New River Community Action, Inc. has approximately \$5.82 million in revenue with approximately \$3.1 million of that revenue generated from funds received by local, state, or federal grants.
5. New River Community Action, Inc. provides services for the common good of the public.
6. No part of the activities of New River Community Action, Inc. involves carrying on propaganda or otherwise attempting to influence legislation. The corporation does not participate in or intervene in any political campaign on behalf of any candidate for public office.
7. New River Community Action, Inc. has no rule, regulation, policy or practice which discriminates on the basis of religious conviction, race, color, sex or natural origin.
8. In 1999, the 0.2864 acre where the New River Community Action, Inc. is located is assessed at a value of \$99,500, with real estate taxes in the amount of \$676.60.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, as follows:

1. That this Board supports the request of New River Community Action, Inc. for exemption from real estate taxation on the 0.2864 acre of real property owned by New River Community Action, Inc., where the New River Community Action, Inc. office is located, that is assessed at a value of \$99,500 with a real estate tax liability in the amount of \$676.60. The exemption request is pursuant to Article X, Section 6(a)(b) of the Constitution of Virginia and the provisions of Chapter 36 of Title 58.1 of the Code of Virginia, 1950, as amended, and that such exemption should be categorized as charitable and benevolent.
2. That the County Administrator is directed to forward a certified copy of this resolution to

the members of the General Assembly representing the County of Montgomery, Virginia, with the request that the proper legislation be introduced in the General Assembly to achieve the purpose of this resolution.

The vote on the foregoing resolution was as follows:

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

### **NEW BUSINESS**

#### **Schedule Public Hearing - Boundary Line Adjustment - Roanoke County**

On a motion by Annette S. Perkins, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors hereby schedules a Public Hearing to be held on October 23, 2000, at 7:15 P.M. or as soon thereafter, in Courtroom B, Third Floor, Montgomery County Courthouse, 1 East Main Street, Christiansburg, Virginia, for the purpose of soliciting public comment on the Board's intention to approve an Agreement with the County of Roanoke, Virginia, relocating and changing a portion of the boundary line between Roanoke County and Montgomery County. The Agreement proposes to relocate 3.720 acres presently owned by Arthur W. and Annie L. Heslep and 1.960 acres presently owned by Richard A. Heslep from Roanoke County to Montgomery County and relocate 37.608 acres presently owned by Thomas, Ltd. from Montgomery County to Roanoke County.

The vote on the foregoing resolution was as follows:

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

**Virginia Tech Foundation Request for Revenue Bond Issuance Through the Craig County Industrial Development Authority**

On a motion by C.P. Shorter, seconded by Larry N. Rush and carried unanimously,

WHEREAS, The Industrial Development Authority of Craig County (the “Craig Authority”) was requested by the Virginia Tech Foundation, Inc. (the “Foundation”), having its principal place of business at 312 Burruss Hall, Blacksburg, Virginia 24061, to hold, on behalf of Montgomery County, Virginia (the “County”) and Craig County, Virginia (“Craig County”), a joint public hearing ( the “Joint Public Hearing”) on the issuance by the Craig Authority of its revenue bonds for the benefit of the Foundation in an amount not to exceed \$4,200,000 ( the “Bonds”), pursuant to the Industrial Development and Revenue Bond Act, Title 15.2, Chapter 49 of the Code of Virginia of 1950 as amended; and

WHEREAS, The proceeds of the Bonds will be used to assist the Foundation in financing the construction, development and equipping of Research Building XIV, a 37,500 square foot office building ( the “Project”) located at 1770 Forecast Drive in the Foundation’s Corporate Research Polytechnic Institute and State University campus in the Town of Blacksburg, Montgomery County, Virginia. The Project will be constructed next to Andrews Information Systems Building and will be leased by the Foundation to the University for its Communications Network Services program, which assists all segments of the University in meeting their voice, data, and video communication needs. The proceeds of the Bonds will also be used to pay costs of issuance; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), and Section 15.2-4906 of the Code of Virginia of 1950, as amended, ( the “Virginia Code”) , provide that both the highest elected governmental unit of the locality having jurisdiction over the issuer of private activity bonds and the highest elected governmental unit of the locality having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds after a public hearing. The Project is located in the County, and the Board of Supervisors of the County ( the “ Board”) Constitutes the highest elected governmental unit of the County; and

WHEREAS, Section 15.2-4905 of the Virginia Code provides that if a locality has created an industrial development authority, no industrial development authority created by a second locality may finance a facility located in the first locality unless the governing body of such first locality concurs with the inducement resolution adopted by the industrial development authority created by the second locality; and

WHEREAS, The County, by action of the Board, has created the Industrial Development Authority of Montgomery County, Virginia ( the “Montgomery Authority”). The Montgomery Authority, pursuant to a resolution adopted on August 15, 2000 ( the “Montgomery Authority Resolution”) has requested and recommended that the Board approve the issuance of the Bonds, subject to initial approval of their issuance after the Joint Public Hearing by the Craig Authority and by the Board of Supervisors of Craig County, ( the “Craig County Board”), which is the highest elected governmental unit of Craig County, on behalf of which the Craig Authority will issue the Bonds; and

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WHEREAS, The Craig Authority adopted a resolution after the Joint Public Hearing on August 24, 2000 agreeing to assist the Foundation in Financing the Project through the issuance of Bonds (the “Craig Inducement Resolution”). The Craig County Board adopted a resolution approving the issuance of the Bonds on September 5, 2000 (the “Craig County Board Resolution”); and

WHEREAS, A copy of the Montgomery Authority Resolution, a summary statement of the Joint Public Hearing, the Foundation’s Fiscal Impact Statement, the Craig Inducement Resolution and the Craig County Board Resolution have been filed with the Board.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA:

- a. The Board concurs with Craig Inducement Resolution and approves the issuance of the Bonds by the Craig Authority in a principal amount not to exceed \$4,200,000 for the benefit of the Foundation, as required by Section 147(f) of the Code and Sections 15.2-4905 and 15.2-4906 of the Virginia Code, to permit the Craig Authority to assist in the financing of the Project.
- b. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the creditworthiness of the Project or the Foundation, and as required by Section 15.2-4909 of the Virginia Code, the Bonds shall provide that the County shall not be obligated to pay the Bonds or the interest thereon or other costs incident thereto, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia nor any political subdivision thereof, including the County, shall be pledged thereto.
- c. Pursuant to the limitations contained in Temporary Income Tax Regulations Section 5f.103-2(f) (1), this resolution shall remain in effect for a period of one year from the date of its adoption.
- d. This resolution shall take effect immediately upon its adoption.

The vote on the foregoing resolution was as follows:

AYE

Larry N. Rush

C.P. Shorter

James D. Politis

Annette S. Perkins

Joe C. Stewart

NAY

None

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John A. Muffo  
Mary W. Biggs

**Escrow Requests-Appropriation**

On a motion by John A. Muffo, seconded by C.P. Shorter 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, 2001, for the function and in the amount as follows:

100	Board of Supervisors	\$ 52,414
110	County Administrator	\$ 61,181
130	Financial and Management Services	\$ 13,100
152	Assessor	\$ 14,210
162	Treasurer-Collections	\$ 5,646
170	Registrar	\$ 16,112
180	Internal Services	\$ 38,485
200	Commonwealth's Attorney	\$ 416
210	Circuit Court	\$ 6,849
230	JD&R Court	\$ 1,574
250	Circuit Court Clerk	\$ 4,000
320	Sheriff	\$ 77,109
400	General Services	\$116,655
520	RSVP	\$ 5,981
700	Parks and Recreation	\$ 25,000
710	Library	\$ 97,402
720	Floyd Library	\$ 6,656
800	Planning and Inspections	\$ 42,379
810	Economic Development	<u>\$ 9,600</u>
	Total	\$594,769

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

<u>Revenue Account</u>		
451205	General Fund Balance	\$594,769

BE IT FURTHER RESOLVED, That a transfer is hereby authorized as follows:

<u>FROM:</u>	
02	General Fund Balance - 1999C Bonds \$236,437

TO:

12 Capital Projects Fund - County  
Integrated Management Information System \$236,437

Said resolution appropriates amounts recommended to be escrowed for use in the current year to complete projects and to provide funding for liabilities over and above those encumbered by purchase orders.

The vote on the foregoing resolution was as follows:

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

**Schools - Escrow Request**

On a motion by C.P. Shorter, 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, 2001, for the function and in the amount as follows:

960 Special Contingencies - Schools \$ 60,830

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

Revenue Account:

451204	Fund Balance	\$ 60,830
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Said resolution appropriates unspent school operating funds remaining at June 30, 2000. The Board of Supervisors and School Board will meet jointly to determine how these monies will be used.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
James D. Politis	None	Joe C. Stewart
Annette S. Perkins		
John A. Muffo		
Larry N. Rush		

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C.P. Shorter  
Mary W. Biggs

**Agreement with the Town of Christiansburg Concerning the Industrial Access Funding for the Technology Drive Project in the Falling Branch Industrial Park**

On a motion by C.P. Shorter, seconded by Larry N. Rush and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby agrees to enter into an Agreement with the Town of Christiansburg concerning the Industrial Access Funding for the Technology Drive Project in the Falling Branch Industrial Park.

BE IT FURTHER RESOLVED, That Mary W. Biggs, Chairperson for the Board of Supervisors, is hereby authorized to execute the said Agreement with the Town of Christiansburg on behalf of the County of Montgomery, Virginia, as follows:

THIS AGREEMENT, made this 12th day of September, 2000, by and between the County of Montgomery, Virginia, (the "County"), and the Town of Christiansburg, Virginia, (the "Town").

W I T N E S S E T H

WHEREAS, The County desires to obtain Industrial Access Funds from the Commonwealth of Virginia, Department of Transportation (VDOT") in order to assist the County in funding the construction of Technology Drive located in the Falling Branch Industrial Park ("Technology Drive Project").

WHEREAS, Because the proposed location of Technology Drive is within the Town of Christiansburg, only the Town is eligible to request industrial access funds from VDOT.

WHEREAS, The Town, by appropriate resolution, requested industrial access funds from VDOT to assist the County in obtaining funding for the construction of the Technology Drive Project within the Falling Branch Industrial Park; and

WHEREAS, The Commonwealth Transportation Board has agreed to provide industrial access funding for the Technology Drive Project; and

WHEREAS, The Town has entered into an Industrial Access Road Agreement with VDOT, dated 9/20/00, whereby the Town has agreed to design, construct, inspect and provide the initial funding for the construction of the Technology Drive Project; and

WHEREAS, Since the construction of Technology Drive is vital to the development of the County's

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Falling Branch Industrial Park, the County has agreed through its Industrial Development Authority, to act as the Town's agent and be responsible for designing, constructing, inspecting and for providing the required funding for the construction of the Technology Drive Project; and

WHEREAS, The Town has agreed to forward all the industrial access road money received from VDOT through the Industrial Access Road Agreement to the County in order to reimburse the County for paying for all the eligible costs associated with the construction of the Technology Drive Project in the Falling Branch Industrial Park; and

WHEREAS, By Resolution approved September 11, 2000, the Board of Supervisors of the County of Montgomery, Virginia, approved this Agreement and authorized its Chairperson to execute this Agreement on behalf of the County; and

WHEREAS, By Resolution approved September 5, 2000, the Town Council of the Town of Christiansburg, Virginia, approved, this Agreement and authorized its Mayor to execute this Agreement on behalf of the Town.

NOW, THEREFORE, In consideration of the general welfare of the Town of Christiansburg and the County of Montgomery as a whole and the economic development of the Town of Christiansburg and the County of Montgomery to be promoted by the project and the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The County agrees to acquire and provide the necessary right of way and drainage easements for the construction of the Technology Drive Project.
2. The County agrees to prepare any required environmental documents and secure all necessary local, state and federal permits that may be required for the proposed construction of the Technology Drive Project.
3. The County agrees to design and prepare plans at the County's cost for the construction of the Technology Drive Project. The plans are to be submitted to VDOT for its review and approval prior to constructing the road.
4. The County agrees to construct the Technology Drive Project in accordance with the plans approved by VDOT.
5. The County agrees to provide the necessary inspection/construction engineering services as required to assure the Technology Drive Project is constructed in accordance with the plans and specifications approved by VDOT. The County agrees to make the Technology Drive Project available to inspection by VDOT during its construction and to obtain VDOT's concurrence prior to the projects acceptance.

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6. The County agrees to competitively bid the construction of the Technology Drive Project pursuant to the requirements of the Virginia Public Procurement Act.

7. The County agrees to maintain accurate records of all project costs for the Technology Drive Project in a form satisfactory to VDOT and make such records available for audit by VDOT. The County agrees to provide the Town with all the necessary records reflecting all the eligible project costs so that the Town may forward the records to VDOT in order to seek reimbursement from VDOT pursuant to the Industrial Access Road Agreement.

8. The Town agrees to request reimbursement from VDOT pursuant to the Industrial Access Road Agreement by forwarding the project cost records provided by the County. The Town agrees to make the request to VDOT immediately after receiving the project cost records from the County.

9. The Town agrees that upon receipt of the Industrial Access Road funding from VDOT, the Town shall immediately forward all of the funds received to the County in order to reimburse the County for those eligible costs incurred by the County in constructing the Technology Drive Project.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered on their behalf by their duly authorized officers, on the date first set out above.

County of Montgomery, Virginia

By: (s) Mary W. Biggs  
Chairperson

Attest:

(s) Jeffrey D. Johnson  
Clerk of the Board

Town of Christiansburg, Virginia

By: (s) Harold G. Linkous  
Mayor

Attest:

(s) Michelle Cregger  
Town Clerk

STATE OF VIRGINIA,  
CITY/COUNTY OF MONTGOMERY, to-wit:

The foregoing instrument bearing date of September 12, 2000, was acknowledged before me this 12th, day of September, 2000, by Mary W. Biggs, Chairperson for the Board of Supervisors of the County of Montgomery, Virginia.

My commission expires: August 31, 2002

(s) Vickie L. Swinney  
Notary Public

STATE OF VIRGINIA,  
CITY/COUNTY OF MONTGOMERY, to-wit:

The foregoing instrument bearing date of September 12, 2000, was acknowledged before me this 20th, day of September, 2000, by Harold G. Linkous, Mayor of the Town of Christiansburg, Virginia.

My commission expires:

(s) Marie H. Howard  
Notary Public

The vote on the foregoing resolution was as follows:

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

**MORAL OBLIGATION AGREEMENT- ECHOSTAR**

On a motion by James D. Politis, seconded by Joe C. Stewart and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the

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Board of Supervisors hereby agrees to enter into a Moral Obligation Agreement with SunTrust Bank concerning the financing of the economic development project with EchoStar in the Falling Branch Industrial Park; and

BE IT FURTHER RESOLVED, That Mary W. Biggs, Chairperson for the Board of Supervisors, is hereby authorized to execute the said Moral Obligation Agreement with SunTrust Bank on behalf of the County of Montgomery, Virginia.

The vote on the forgoing resolution was as follows:

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

**MORAL OBLIGATION AGREEMENT  
OF  
THE COUNTY OF MONTGOMERY, VIRGINIA**

THIS MORAL OBLIGATION AGREEMENT, made on the \_\_\_\_\_ day of \_\_\_\_\_, in then year 2000, by and between the County of Montgomery, Virginia, a political subdivision of the Commonwealth of Virginia (the “County”) and \_\_\_\_\_ Bank.

BACKGROUND

1. The Industrial Development Authority of the County of Montgomery, Virginia (the “Authority”) a public body politic and corporate of the Commonwealth of Virginia, was created pursuant to the provisions of Chapter 49 of Title 15.2 of the Code of Virginia, 1950, as amended.
2. The Authority holds a Deed to land located in the Town of Christiansburg, Virginia, within the County of Montgomery, consisting of +/- 160 acres, known as the Falling Branch Industrial Park and (more particularly described in Exhibit A attached hereto).
3. In order to order to induce EchoStar to locate its CustomerService Center in the County and thereby to promote the industrial development and economy of the County, the Authority proposes to undertake construction and development of a 100,000 square foot facility on said land (the

“Project”) and to lease to EchoStar the entirety of the premises, including the +/- 19 acres on which the facility will be located.

4. The Authority has obtained a commitment from \_\_\_\_\_ Bank to finance the cost of the Project up to \$ \_\_\_\_\_ and as part of that commitment and as security for the Taxable Line of Credit to be provided by \_\_\_\_\_ Bank, \_\_\_\_\_ Bank requires the Moral Obligation of the County to repay the Taxable Line of Credit in the event that the Authority fails to make payment of the same.

**NOW THEREFORE**, For and in consideration of the foregoing premises and the mutual benefits to be derived therefrom and other good and valuable consideration, the receipt and sufficiency of which are hereby-acknowledged, the parties hereto agree as follows:

1. In the event the Authority fails to repay the debt created by the Line of Credit in accordance with the terms of repayment stated therein, the County hereby acknowledges that, to the extent permitted by law, it has a moral obligation to pay \_\_\_\_\_ Bank such amounts otherwise due from and payable by the Authority. In the event of non-payment by the Authority, \_\_\_\_\_ Bank by its duly authorized representative shall submit an appropriation request to the County in the amount then due \_\_\_\_\_ Bank by the Authority. Subject to the making of an appropriation pursuant to the provisions of this Paragraph 1, the County shall pay \_\_\_\_\_ Bank the amount of such appropriation as soon as practicable.

2. \_\_\_\_\_ Bank shall apply any funds so appropriated and paid to it by the County toward the Authority’s obligations under the Line of Credit provided by \_\_\_\_\_ Bank.

3. Nothing herein shall be deemed to be a pledge of the faith and credit or the taxing power of the County with respect to any sums which may become payable hereunder.

4. If any clause, provision or paragraph of this Agreement shall be held illegal or invalid by a Court, the illegality or invalidity of such clause, provision or paragraph shall not affect any of the remaining clauses, provisions or paragraphs hereof, and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision or paragraph had not been contained herein. In case any question should arise as to whether any provision contained herein shall be in violation of law, then such provision shall be construed to the agreement of the parties hereto to the full extent permitted by law.

**IN WITNESS WHEREOF**, THE County of Montgomery, Virginia, has caused its name to be subscribe hereunto by its Chair, Board of Supervisors, and its seal to be hereto affixed and attested by the Clerk of the County, and \_\_\_\_\_ Bank has caused its name to to be subscribed hereunto by \_\_\_\_\_, its duly authorized representative, and its seal to be affixed and attested by its Secretary, all as of the date first above written.

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BY: \_\_\_\_\_

Mary W. Biggs, Chair

Attest:

\_\_\_\_\_  
Clerk

(BANK) \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

(SEAL)

Attest:

\_\_\_\_\_  
(Secretary)

**INTO WORK SESSION**

On a motion by Annette S. Perkins, seconded by C.P. Shorter and carried unanimously,

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

- Virginia Tech Regional Airport

The vote on the foregoing motion was as follows:

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

**OUT OF WORK SESSION**

On a motion by Larry N. Rush, seconded by Annette S. Perkins and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors hereby ends their Work Session to return to

Regular Session.

The vote on the foregoing motion was as follows:

AYE

Larry N. Rush

C.P. Shorter

James D. Politis

Joe C. Stewart

Annette S. Perkins

John A. Muffo

Mary W. Biggs

NAY

None

**COUNTY ATTORNEY'S REPORT**

Sanitation Districts The County Attorney explained the purpose of sanitation districts. A community with signatures of 50% of qualified voters can petition the Circuit Court for a specific purpose to help better the community. The purpose can be for water/sewer, trash collection, utilities, fire and rescue services, etc. The Circuit Court makes the final decision and can make a community a sanitation district for a defined purpose. The community pays an additional tax separate from other local and state taxes to help pay for these services.

Telecommunication Towers The County Attorney reported the Roanoke Times had an interesting article about telecommunications towers. The article mentioned that cell towers could be a wise investment when leasing land to cell tower companies. Property owners could make up to \$85,000 annually from rent.

**COUNTY ADMINISTRATOR'S REPORT**

Elliott Creek Road- SR 675 The County Administrator reported that staff investigated the request by Mr. Howard Walters to repair Elliott Creek Road. Elliott Creed Road is an unsurfaced secondary road with seven open fords and four miles long. There are only six residences on this road with the majority of them located on the western portion of the road. Mr. Walters property is located on the eastern portion and where most of the open fords are. The residents use Craig Mountain Road to get in and out as it is a good road verses using Elliot Creek Road. The County Administrator recommended that the road be placed on the six year road plan as it would be an expensive undertaking to widen and grade Elliot Creek as requested by Mr. Walters. The Board requested that VDOT be asked to review this request and estimate the cost of repairing Elliott Creek Road.

**BOARD MEMBERS' REPORTS**

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**Supervisor Rush** attended the Parks and Recreation Commission meeting on Wednesday, September 6, 2000. Supervisor Muffo's class reported on the progress of the AEP Donated Land project. The Committee also discussed the Elliston Park project and the costs related to the park.

**Supervisor Stewart** reported he received a letter concerning an item that will be on the ballot in November about the Federal Government wanting to buy land. Supervisor Stewart said he would give the letter to the County Administrator to review.

**Supervisor Perkins** requested the County Administrator respond to a letter she received concerning the construction of multi-family apartments near Windsor Hills in Blacksburg.

**Workforce Investment Act (WIA)** Supervisor Perkins attended the WIA meeting. A strategic plan has been approved and sent to the CLEO Committee.

**New River Valley Planning District Commission (NRVPDC)** Supervisor Perkins provided information from the NRVPDC meeting in the Board's packet. Topics of discussion included the district's unemployment rate, update on regional projects, uses for GIS in Economic Development, and Transportation. Supervisor Perkins noted that the District's unemployment rate is up to 3.8%, while Montgomery County's is 2.2%. Floyd County has the highest unemployment at 8.3%.

**Economic Development Commission** Supervisor Perkins attended the EDC meeting and the topic of discussion was affordable housing. The latest statistics show that the average home sale price has increased. An average home in Blacksburg rose from \$168,000 to \$182,000 and in Montgomery County from \$158,000 to 165,525.

**Human Services Commission** Supervisor Perkins reported the next Human Services Commission meeting is scheduled for September 21, 2000.

**Supervisor Muffo** reported that his class attended the Parks & Recreation Commission meeting to report on the progress of the AEP Donated Land project. He stated they are in the process of reviewing the tape from the citizens meeting on their ideas and requests for recreational activities they want at the park.

**Supervisor Shorter** reported he and the County Administrator met with Dan Brugh, VDOT's Resident Engineer, to discuss several road issues.

**Prices Fork Town Meeting** A town meeting in Prices Fork is scheduled for October 19, 2000 at the Prices Fork Elementary School.

Supervisor Shorter commented that the railroad tracks on SR 114 are still in need of repair. The County Administrator will contact Norfolk Southern about this issue.

**Chair Biggs** reported that information on Montgomery County Schools SOL Test Scores were in their packet to review. She will keep the Board updated on any information she receives.

**Va Gas Pipe Line Company** Chair Biggs attended a citizens meeting held in Roanoke concerning the proposed gas pipe line by Va Gas Pipe Line Company. She stated that the meeting was well attended.

**Coal Mining Heritage Park Dedication** Chair Biggs expressed appreciation to everyone who made the dedication of the Coal Mining Heritage Park a success. She indicated that Joe Powers and Meghan Dorsett from the Planning Department and Tom Bain from Parks & Recreation deserve to be mentioned for all their hard work. The dedication was held on September 9, 2000 and was well attended.

**VDoT Proposed Cell Tower on 177** Chair Biggs received a call from a concerned citizen about the proposed telecommunications tower on VDoT's right-of-way along the 177 coordior. She questioned whether the tower would have to be removed when the construction of the 177 interchange is started and then replaced. Chair Biggs stated she spoke with Dan Brugh at VDoT and he indicated there would not be a conflict with the construction of the interchange.

### **INTO CLOSED MEETING**

On a motion by John A. Muffo, seconded by Larry N. Rush and carried unanimously,

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

- Section 2.1-344(A)
- (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. Contractual Matter - Carilion
    - 2. Town of Christiansburg
  - (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

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Open Meeting Would Adversely Affect the Bargaining Position or Negotiation Strategy of the Public Body

1. Virginia Department of Transportation
2. Long Shop/McCoy Fire/Rescue Building

- (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. Evaluation - County Attorney

The vote on the foregoing motion was as follows:

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

**OUT OF CLOSED MEETING**

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

BE IT RESOLVED, That 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>
Larry N. Rush	None
C.P. Shorter	
James D. Politis	

Joe C. Stewart  
Annette S. Perkins  
John A. Muffo  
Mary W. Biggs

**CERTIFICATION OF CLOSED MEETING**

On a motion by C.P. Shorter, seconded by Larry N. Rush 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 2.1-344.1 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**

Larry N. Rush  
C.P. Shorter  
James D. Politis  
Joe C. Stewart  
Annette S. Perkins  
John A. Muffo  
Mary W. Biggs

**NAYS**

None

**ABSENT DURING VOTE**

None

**ABSENT DURING MEETING**

None

**ADJOURNMENT**

On a motion by John A. Muffo seconded by Annette S. Perkins and carried unanimously, the Board adjourned to Monday, September 25, 2000 at 7:15 p.m.

The vote on the foregoing motion was as follows:

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

The meeting adjourned at 10:10 p.m.

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