

BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 27, 2003

At a regular meeting of the Pulaski County Board of Supervisors held on Monday, February 24, 2003 at 7:00 p.m. at the County Administration Building, Board Room, 143 Third Street, NW, in the Town of Pulaski, Virginia, the following members were present: Joseph L. Sheffey, Chairman; Bruce L. Fariss, Vice Chairman; Charles E. Cook; William E. "Eddie" Hale; and Frank R. Conner. Staff members present included: Peter M. Huber, County Administrator; Nancy M. Burchett, Assistant County Administrator; David Tickner, Community Development Director; Thomas J. McCarthy, Jr., County Attorney; and Gena T. Hanks, Executive Secretary.

1. Invocation

The invocation was delivered by Reverend Terri Sternberg, Trinity Lutheran Church.

2. Additions to Agenda

Mr. Huber advised an emergency declaration resolution had been issued by county staff due to the recent flooding. By consensus, the Board ratified the following emergency declaration:

WHEREAS, the Board of Supervisors of the County of Pulaski does hereby find that:

1. Due to the heavy rain and wind storms, the County of Pulaski is facing dangerous flood conditions followed by possible power outages; and
2. Due to the floods, a condition of extreme peril of life and property necessitates the proclamation of the existence of an emergency;

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that an emergency now exists throughout the county; and

IT IS FURTHER PRCLAIMED AND ORDERED that during the existence of said emergency, the powers, functions and duties of the Director of Emergency Services and that of the County of Pulaski shall be those prescribed by state law and the ordinances, resolutions and approved plans of the County of Pulaski in order to mitigate the effects of said emergency.

Date: 8:00 a.m., February 22, 2003

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3. Public Hearings

- a. A request by **LGRR L L C** for a Special Use Permit (SUP) to allow sign setback variance on property to be known as **Auto Shine Car Wash**, identified as tax map no. 029-021-0000-0002, (1.0000 total acres), zoned Commercial (CM-1), located at 6101 Fulk Dr., Cloyd District.

Mr. Tickner explained the request and advised the Planning Commission recommended approval.

Chairman Sheffey opened the public hearing on this matter.

Mr. Garrett Weddle, developer of the proposed carwash, explained the proposed development and requested the Board approve the Special Use Permit.

There being no further citizen comments, the public hearing was closed.

It was moved by Mr. Conner, seconded by Dr. Fariss and carried, that the Board approve the Special Use Permit, as recommended by the Planning Commission.

Voting yes: Dr. Fariss, Mr. Cook, Mr. Sheffey, Mr. Hale, Mr. Conner.  
Voting no: none.

- b. An initiative by the **County of Pulaski** to amend the Pulaski County Zoning Ordinance to redefine "**Public Garage**", and allow a Public Garage as a use by-right in the Industrial (I1) Zoning District.

Mr. Tickner explained the request and advised the Planning Commission recommended approval.

Chairman Sheffey opened the public hearing on this matter. There being no comments, the public hearing was closed.

It was moved by Mr. Cook, seconded by Mr. Conner and carried, that the Board approve the zoning amendment, as recommended by the Planning Commission. The approved zoning amendment is as follows:

**"Garage, Public:** A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles. This includes a rebuilder as defined by Section 46.2-1600 of State Code. This does not include salvage dealers, demolishers, or salvage pool operators as defined under said code. Garages are not intended to permanently storage salvage

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vehicles, vehicle parts or used tires. Temporarily disassembled or temporarily non-operational vehicles may be stored for no more than 12 months and shall be screened from adjoining properties by an opaque fence at least six (6) feet in height")

Voting yes: Dr. Fariss, Mr. Cook, Mr. Sheffey, Mr. Hale, Mr. Conner.

Voting no: none.

- c. Adoption of an ordinance imposing license taxes on the severing and transportation of coal and gas in Pulaski County, Virginia, including local coal and gas road improvement.

Mr. Huber explained the proposed ordinance and advised a public hearing had been scheduled to receive citizen comments.

Chairman Sheffey opened the public hearing. Several questions were posed by Board members to county staff and the Commissioner of Revenue regarding specific definitions, taxation of gas not extracted in the County and reuse of gas by the company for operation of the well.

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

It was moved by Mr. Cook, seconded by Mr. Hale and carried, that the Board adopt the following ordinance:

**Section I. Title.**

The title of this Ordinance shall be "AN ORDINANCE IMPOSING LICENSE TAXES ON THE SEVERING AND TRANSPORTATION OF COAL AND GAS IN PULASKI COUNTY, VIRGINIA, INCLUDING LOCAL COAL AND GAS ROAD IMPROVEMENT".

**Section II. Definitions.**

The following words, terms and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Closely-held Corporation shall mean a corporation not publicly traded and having twenty or fewer shareholders.

Coal shall mean and include any material composed predominantly of hydrocarbons in solid state.

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Common Carrier shall mean any person involved in any phase of the transportation of coal or gas within the county or from the county. This includes, but is not limited to, the receiving, collection or assembly of coal or gas for conveyance from one mode of transportation to another or the same mode, as well as, the actual movement of the coal or gas in shipment.

Gas shall mean and include any substance or form that is neither liquid nor solid and which is sought for and removed from the earth for the vapor itself and used for lighting, heating, cooking or any other purpose.

Gross Receipts shall mean the fair market value measured at the time coal or gas is utilized, sold for utilization in the county, or at the time each is placed in transit for shipment from the county. In any transaction, gross receipts shall not be less than the fair market value for coal or gas of a similar grade and quality. The term "gross receipts" shall include only those receipts derived from property located in the county.

Mineral and Minerals shall mean coal or gas.

Mining operation shall mean any act or activity by which any person becomes an operator as defined in this article.

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Operator shall mean any resident or nonresident person having an operating economic interest in coal or gas mined or severed in the county, or any person who first received proceeds from the sale of the coal or gas mined or severed in the county. This term may include both owners and producers.

Owner shall mean the owner of a legal or equitable interest in coal or gas at the time of severance. This shall include landowners who receive an economic benefit from the removal of minerals from their land.

Person shall mean and include any individual, firm, partnership, corporation, cooperative, joint venture, association, estate, trust, business trust, trustee, trustee in bankruptcy, any person acting under declaration of trust, executor, administrator, partner, agent, receiver, syndicate, assignee, or other group or combination acting as a unit, in the plural as well as the singular number.

Producer shall mean any person engaged in severing coal or gas from the earth in the county, including any owner or operator so engaged.

Severing, Severance, and Severed shall mean the taking, from any land or soil or slag piles situated in the county any coal or gases in any manner whatsoever.

### **Section III. Taxes Levied and Rates.**

- (a) A License Tax is hereby levied and imposed pursuant to Section 58.1-3712 of the Code of Virginia, 1950, as amended, on every person engaging in the business of severing coal or gases from the earth in Pulaski County, Virginia. Such tax shall be at a rate of one percent (1%) of the gross receipts from the sale of coal or gases severed within Pulaski County.
- (b) In addition to the taxes levied and imposed in Section III (a) herein, a license tax is hereby levied and imposed pursuant to Section 58.1-3713 of the Code of Virginia, 1950, as amended, on every person engaged in the business of severing coal or gases from the earth in Pulaski County, Virginia, which tax shall be used for local coal and gas road improvements. Such tax shall be at the rate of one percent (1%) of the gross receipts from the sale of coal or gases severed within Pulaski County.
- (c) In addition to the taxes levied and imposed in Section III (a) and III (b) herein, a license tax is hereby levied and imposed pursuant to Section 58.1-3713.4 of the Code of Virginia, 1950, as amended, on every person engaging in the business of severing gases from

the earth in Pulaski County, Virginia. Such tax shall be at a rate of one percent (1%) of the gross receipts from the sale of coal or gases severed within Pulaski County.

- (d) The foregoing taxes are hereby levied and imposed in addition to all other taxes and fees of every kind now imposed by law, upon every person engaged in the business of mining or severing coal or gas from lands lying within the county.

**Section IV. Operator's Licenses – In General.**

- (a) It shall be unlawful for any person to engage in mining or severing coal or gas in Pulaski County, Virginia, unless such person has the appropriate current licenses as provided for in Section III herein issued by the Commissioner of Revenue.
- (b) Prior to beginning any severance of coal or gas in Pulaski County, every producer shall file with the Commissioner of Revenue an application for the required licenses as provided for in Section III herein for each mining or severance operation in Pulaski County, Virginia. Every application shall be signed by each operator, if a natural person; if said operator is an association or partnership, the application shall be signed by a member or partner; if said operator is a corporation, the application shall be signed by an executive officer or some person specifically authorized by the corporation to sign the application. In any of the cases listed above, the application may be signed by an agent who has been designated as having such authority in a writing filed with the Commissioner of Revenue. Each application shall be accompanied by a list of all those persons known by the signers to have an economic interest in the mining or severance.
- (c) When the required application has been made, the Commissioner of Revenue shall issue to each applicant, who has met all of the requirements of this ordinance, licenses as required by Section III herein for each mining or severance operation within Pulaski County, which licenses shall not be transferable.
- (d) No licenses shall be issued or reissued under this section to a person who owns or is an agent for a person who owns an interest in a severance, transport or mining operation that is conducted by a person owing delinquent taxes at the time the application is submitted or to a person who owes or is an agent for a person who owes delinquent taxes; and, when such facts are known to the Commissioner of Revenue, he may, at his election, hold the hearing provided for in subsection (e) of this

section. An arrangement for payment of delinquent taxes made by the treasurer may be treated as payment for the purposes of this section.

- (e) Whenever any person fails to comply with any provision of this article, the Commissioner of Revenue shall hold a hearing, after giving such person ten (10) days notice in writing, specifying the time and place of hearing and requiring him to show cause why his licenses should not be revoked, suspended, or his application for renewal denied. The Commissioner of Revenue may revoke or suspend and may also deny reissuance of any one or more of the licenses held by such person.

#### **Section V. Operator's Returns.**

Every operator required to pay the tax imposed by this Ordinance, shall, on or before April 30<sup>th</sup>, July 31<sup>st</sup>, October 31<sup>st</sup> and January 31<sup>st</sup> hereafter, transmit to the Commissioner of Revenue, upon a form furnished by the Commissioner, a return showing the quantities of coal and/or gas produced and the gross receipts from all coal or gas mined or severed during the three (3) month period ending one month prior to each of the aforesaid dates. In the event that any date on which a return is to be filed falls upon a Saturday, Sunday, legal holiday or other date on which the Pulaski County Courthouse is closed, then the time for the filing of such return shall be extended until the next date that the Commissioner of Revenue's Office is open for business. The tax or taxes shall become effective at the time, under the prevailing reasonable standard of the industry, that it can be computed. This return shall be made under oath and subject to the penalty for perjury. The Commissioner of Revenue shall transmit to the County Treasurer all records related to the taxes owed and payments from each operator.

#### **Section VI. Payment of Tax; Penalty and Interest on Delinquencies.**

At the time of transmitting the return required under Section V to the Commissioner of Revenue, the operator shall remit to the County Treasurer therewith the amount of tax or taxes due under the applicable provisions of this article. Failure to remit such tax or taxes on or before the last day for filing the return shall cause such tax or taxes to become delinquent. A penalty of ten percent (10%) will be assessed upon all delinquent taxes and interest will be charged at the rate of ten percent (10%) per annum, with both penalty and interest imposed as of the first day such taxes become delinquent. The Treasurer and the Commissioner of Revenue shall reconcile their records concerning identity of taxpayers, amounts received, outstanding taxes due, and if applicable, the arrangements made by the Treasurer for payment of the delinquent taxes on a monthly basis.

**Section VII. Reissuance of Operator's License.**

Upon receipt of the prescribed forms required under Section V from an operator and upon receipt of written report of payment of taxes or arrangement therefore required under Section VI from the County Treasurer, the Commissioner of Revenue shall reissue the operator's licenses to all operators in compliance with this ordinance for the three month period following the date on which such return and taxes are to be paid (April 30<sup>th</sup>, July 30<sup>th</sup>, October 31<sup>st</sup>, or January 31<sup>st</sup>). In calculating such three month period, holidays, weekends, and dates upon which the Commissioner of Revenue's Office is closed shall not be considered. No license shall be reissued to a person who owes or is an agent for a person who owes delinquent taxes except as provided in Section VI.

**Section VIII. Procedure When Operator Fails to Make Return or Makes Incorrect or False Return.**

In the event any operator fails to make a return as provided by this article, makes a grossly incorrect return, or a return that is false or fraudulent, it shall be the duty of the Commissioner of Revenue to make an estimate for the taxable period of the gross value of all coal or gas mined or severed by such operator and assess the tax or taxes plus penalties. The Commissioner of Revenue shall give such operator ten (10) days notice in writing requiring such operator to appear before him, with such books, records and papers as he may require relating to the business of such operator for such taxable period, and the Commissioner of Revenue may require such operator or the agents and employees of such operator to give testimony or to answer interrogatories under oath respecting such mining or severing of coal or gas or the failure to make a return thereof as provided in this article. If any operator fails to make any such return or refuses to permit an examination of his books, records or papers, or to appear and answer questions within the scope of such investigation, the Commissioner of Revenue is hereby authorized to make the assessment based upon such information as may be available to him, and the County Treasurer may issue a warrant for the collection of any such taxes and penalties so found to be due. The assessment so made shall be deemed prima facie correct. In addition, the Commissioner of Revenue may, upon reasonable notice, assess taxes for such severance or mining operation against any other person liable for the tax, including owners and producers.

**Section IX. Procedure When Operator Ceases Operations.**

If the holder of a license issued under Section III ceases to conduct a severance or mining operation, the license shall thereupon expire, and such holder shall inform the Commissioner of Revenue, in writing, within thirty (30) days thereafter, that he has ceased to conduct such mining operation and a

copy of such report, upon receipt thereof, shall be forwarded to the County Treasurer.

**Section X. Bond or Deposit of Securities to Assure Payment of Tax.**

- (a) The Commissioner of revenue may, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied by this article, require any person subject to such tax to file with him a bond secured by a surety company authorized to do business in this state as surety, in such reasonable amount as the Commissioner of Revenue may fix, to secure the payment of any tax, penalty or interest due or which may become due from such person under this Ordinance. In lieu of such bond, securities approved by the Commissioner of Revenue may be deposited with the County Treasurer, which securities shall be kept in the custody of the Treasurer and shall be sold by him, at the direction of the Board of Supervisors, at public or private sale, without notice to the depositor thereof, if it becomes necessary in order to collect any tax, penalty or interest due under this article. Upon any such sale, the surplus, if any, above the amounts due under this Ordinance shall be returned to the person who deposited the securities.
- (b) The securities authorized by this section may include without limitation stock in any corporation engaged in a severance or mining operation; a contract or lease for severance or mining rights; a deed of trust on real estate; a security interest in personal property; or other such devices to insure the payment of debt.

**Section XI. Records of Producers, Owners and Common Carriers.**

- (a) Each producer, owner and common carrier of coal and gas shall maintain records showing the source, quantity and gross receipts on payments for coal and gas which they have produced or transported, or for which they have received some economic benefit. Each such producer, owner or common carrier shall make such records available for examination by the Commissioner of Revenue at the office in Pulaski County where such records are usually kept, or at the office of the Commissioner of Revenue.
- (b) Any common carrier involved in the transportation of coal or gas within or from the County shall submit, upon request, to the Commissioner of Revenue records showing the source, quantity and, if purchased, the price paid for all coal or gas which he acquired, severed, mined or transported during the preceding

month. This information may be available to any other political subdivision in which the coal or gas may have been severed.

**Section XII. Taxes Collected Pursuant to this Ordinance shall be Paid and Distributed as Provided by Law.**

The taxes collected pursuant to the Ordinance shall be paid and distributed as provided by law.

**Section XIII. Coal and Gas Road Improvement Advisory Committee – In General.**

There is hereby authorized a Coal and Gas Road Improvement Advisory Committee to be composed of four (4) members as follows: a member of the Board of Supervisors appointed by the Board of Supervisors; the Resident Engineer from the State Department of Highways and Transportation; and two (2) citizens of the County connected with the coal and gas industries and to be appointed for a term of four (4) years by the Chief Judge of the Circuit Court.

**Section XIV. Coal and Gas Road Improvement Plans.**

The Coal and Gas Road Improvement Advisory Committee shall develop, on or before July first of each year, a plan for improvement of roads during the following fiscal year. Such plan must have the approval of three (3) members of the committee and shall be submitted to the governing body for its approval. The governing body may approve or disapprove such plan, but may make no changes without the approval of three (3) members of the committee.

**Section XV. Miscellaneous Offenses.**

- (a) The following persons shall be guilty of violation of this Ordinance and subject to the same penalties as provided by general law for a Class I Misdemeanor:
  - (1) Any person who conducts a severance and/or mining operation in this County without obtaining a license or after a license has been suspended or revoked.
  - (2) Each officer or director of a corporation that conducts a severance and/or mining operation in this County without obtaining a license or after a license has been suspended or revoked.
  - (3) Each shareholder of a closely-held corporation that conducts severance and/or mining operations in this County without obtaining a license or after a license has been suspended or revoked.

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Each day of violation shall be a separate offense. No person shall be convicted under the provisions of subsections (a) (2) and (a) (3) of this section who shall have objected to the conduct of the mining operation in writing to the president or secretary of such corporation and forwarded a copy of this objection to the Commissioner of Revenue.

- (b) It shall be unlawful for any person:
  - (1) To fail to keep the records required by this Ordinance or to make such records available as herein required; or
  - (2) Willfully to fail to pay, collect or truthfully account for any pay or any license tax herein imposed; or
  - (3) Willfully to attempt in any manner to evade or defeat any such license tax or the payment thereof.
  - (4) Each day of violation shall be a separate offense.
- (c) Any violation of this Ordinance shall be punishable by a fine not to exceed twenty-five hundred dollars (\$2,500.00) for each day of violation and confinement in the regional jail for not more than twelve (12) months, either or both.
- (d) Any penalty imposed for violation of this section shall be in addition to the civil remedies or penalties provided for by law.

### **Section XVI. Severability.**

In the event any provisions of this Ordinance or any part, section, subsection, sentence, or phrase thereof should be held unconstitutional or otherwise invalid on any ground, such provision, part, section, subsection, sentence or phrase shall be deemed severable and the remainder of this Ordinance shall remain in full force and effect.

### **Section XVII. Effectiveness.**

The provisions of this Ordinance shall take effect upon passage, pursuant to Section 58.1-3712, 58.1-3713, and 58.1-3713.4 of the Code of Virginia, 1950, as amended, and:

- (a) all unpaid taxes, pursuant to prior coal and gas severance tax ordinances and coal haul road tax ordinances, owed as of the date of passage of this Ordinance, shall remain due and payable pursuant to the Ordinances in effect prior to the date of passage of this Ordinance.

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- (b) all persons having valid coal or gas severance tax licenses or coal haul road severance tax licenses on the date of passage of this Ordinance, pursuant to prior severance tax ordinances, shall be considered to have similar licenses pursuant to this Ordinance until such time as such licenses must be renewed as provided for in Section VII herein.
- (c) the penalties for violations of such prior coal and gas severance tax ordinances shall remain applicable and in full force and effect; however, except as otherwise provided herein such Ordinances are hereby repealed.

Adopted on February 24, 2003.

Voting yes: Dr. Fariss, Mr. Cook, Mr. Sheffey, Mr. Hale, Mr. Conner.

Voting no: none.

d. CDBG Dry Well Replacement Program

Staff advised a public hearing has been scheduled to solicit public input on Pulaski County's use of funds provided by the CDBG Dry Well Replacement Program.

Ms. Joyce Hill, Manager of SERCAP, and Ms. Alice Stewart also of SERCAP, explained the program.

Chairman Sheffey opened the public hearing. There being no comments, the hearing was closed.

It was moved by Mr. Hale, seconded by Dr. Fariss and carried, that the Board accept the monies for the Virginia Department of Housing and Community Development for providing assistance to low- and moderate-income households who have experienced a complete loss of water at their private water source as a result of the 2002 drought, with CDBG funds providing \$1,000-\$5,000 for drilling of a well for each eligible household.

Voting yes: Dr. Fariss, Mr. Cook, Mr. Sheffey, Mr. Hale, Mr. Conner.

Voting no: none.

4. Highway Matters:

The Board met with Virginia Department of Transportation (VDOT) Resident Engineer Dan Brugh regarding the following highway matters:

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a. Follow-up from Previous Board Meeting:

1. Rt. 693 Addition

Mr. Brugh advised the road could be paved and widened at a cost of approximately \$175,000, and could be considered as a six year plan issue.

It was moved by Dr. Fariss, seconded by Mr. Conner and carried, that staff be requested to place this road on the six year plan waiting list.

Voting yes: Dr. Fariss, Mr. Cook, Mr. Sheffey, Mr. Hale,  
Mr. Conner.

Voting no: none.

2. Improvements, Exit 98 Ramp, Traveling North Bound on I81

Mr. Brugh advised no serious accidents have been reported to VDOT on this ramp. Mr. Brugh further advised VDOT plans to install larger warning signs and that a possible speed limit reduction could be posted, if serious accidents continue to occur.

3. Request for Off Ramp From Rt. 11 (Turn Lane from High School on Rt. 643)

Mr. Brugh advised costs for improvements would be approximately \$100,000 and could be considered as a six year plan road issue.

It was moved by Mr. Conner, seconded by Dr. Fariss and carried, that staff be requested to place this road on the six year plan waiting list.

Voting yes: Dr. Fariss, Mr. Cook, Mr. Sheffey, Mr. Hale,  
Mr. Conner.

Voting no: none.

4. Rustic Road Program Update

The Board reviewed Mr. Brugh's recommendations along with roads currently on the plan. Mr. Brugh advised VDOT would provide a resolution for approval by the Board at the March 24 Board meeting.

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Supervisor Conner requested that the portion of Hatcher Road not slated for improvement in the next year be considered for a Rustic Road Program improvement.

### 5. Rt. 100 Trees and Streetlights

County staff reviewed the status of improvements to Rt. 100. Mr. Brugh recommended dogwood, redbud, and small shrubs along this area. County staff indicated a summer 2003 deadline for improvements.

Supervisor Conner requested consideration be given to cutting trees along Rt. 11 due to the accidents that have occurred. Mr. Brugh advised it was a VDOT policy to only cut diseased trees.

### b. Rural Addition Status Report

- State Maintenance for Lewis Lane

County staff reviewed the status of rural additions and advised that Lewis Lane residents had been sent letters regarding the need for acquiring additional right-of-way and further, that staff is waiting on a response from the residents.

Supervisor Conner inquired regarding the status of Black Hollow Lane which VDOT plans to pave when the asphalt plants reopen.

### c. Revenue Sharing Program

Mr. Brugh asked if the Board would like to participate in the program. The Board approved including any additional cost of Rt. 100 trees and streetlight improvements, as well as roadside trash pickup, mowing and storm water management at Fair Acres. Mr. Brugh advised snow removal in industrial parks would not qualify for the program.

### d. Board of Supervisors Concerns

Supervisor Conner inquired regarding the status of Eugene Street and advised that Wayne Davis had contacted him regarding problems of water backing up. Mr. Brugh advised he would review the matter.

Supervisor Conner inquired regarding the status of bridges in Little Creek.

Supervisor Conner inquired regarding the status of Hatcher Road improvements.

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Supervisor Fariss expressed concern regarding vehicles being able to pass each other when the New River floods Route 693 and residents begin using the New River Trail as an alternative. Mr. Brugh advised he would review the matter and report back to the Board.

Supervisor Sheffey expressed concern regarding the road leading to the landfill being only one lane. Mr. Brugh advised VDOT was seeking approval for an emergency contract to repair the road and the cost would be approximately \$500,000. Supervisor Conner expressed concern regarding one lane adequately holding the current traffic weight limit.

Supervisor Fariss commended VDOT for clearing of roads during the recent flooding emergency.

Mr. Brugh advised VDOT expected to receive additional salt and currently has enough salt for several storms for the remainder of the 2003 winter.

e. Citizen Concerns

There were no citizen comments at this time.

5. Treasurer's Report

Treasurer Rose Marie Tickle presented the monthly report.

6. Citizens' Comments

There were no citizen comments at this time.

7. Reports from the County Administrator & Staff:

a. Key Activity Timetable (KAT)

The Key Activity Timetable was reviewed by the Board.

Supervisor Fariss asked if the mapping network under Information Technology had been completed. Staff advised the KAT would be changed to reflect a "completion" date of July 03 under this item.

b. Appointments

The Board delayed action on appointments until the "Closed Meeting" session of the Board meeting.

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c. Revenue Estimates – FY 04

Mr. Huber reviewed in detail the revenue estimates for FY 04, including a presentation of charts and graphs related to the estimates, a copy of which is filed with the records of this meeting.

8. Items of Consent:

On a motion by Dr. Fariss, seconded by Mr. Cook and carried, the Board approved all items of consent noted as follows, except for item "f – Foreign Trade Zone Utilization" which was voted on as a separate item.

Voting yes: Dr. Fariss, Mr. Cook, Mr. Sheffey, Mr. Hale, Mr. Conner.  
Voting no: none.

a. Approval of Minutes of January 27, 2003

The Board approved the minutes of the Board of Supervisors January 27, 2003, meeting as presented.

b. Accounts Payable

The Board approved accounts payable as presented on checks numbered 2830 through 3196, subject to audit.

c. Appropriations and Interoffice Transfers

The Board approved appropriations as follows, as well as interoffice transfer #8 totaling \$42,588.57:

General Fund # 12

Revenues

1401-01	Traffic/Speeding Funds (19,000)	\$ 11,000.00
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Expenditures

505-409	Police Supplies (New Firearms)	\$11,000.00
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School Fund #6

Revenues

3018031300	Refund/Overpayment	\$ 2,582.07
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3018990200	Misc.	192.50
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	Comp. Services Reimbursement	7,437.03
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	School Nurse Services	<u>\$ 15,038.07</u>
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	Total	\$ 25,249.67
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Expenditures

62200-3110 Health Services \$ 25,249.67

School Fund #7

66600-3320 Facilities (\$8,000.00)

66600-6007 Facilities (553,595.00)

68300-8201 Technology-Additional Equip. 221,495.00

62120-5800 Administration-Misc. 168,635.00

63200-1181 Transportation-Bus Driver Salaries 122,296.00

64200-1191 Operations-Custodian Salaries 49,068.00

d. Ratification – Agreement - After School Program

The Board ratified administrative approval of an agreement with the School Board for an "After School Program" at Newbern Elementary School, a copy of said agreement being filed with the records of this meeting. Additionally, the Board approved this agreement as a blanket agreement for future after school programs.

e. Personnel Changes

The Board reviewed recent personnel changes as prepared by Ms. Burchett.

f. Foreign Trade Zone Utilization

The Board took no action on this matter. Staff was requested to assess the figures provided by the consultant and provide an update to the Board.

g. Building Usage – Randolph Park

The Board approved use of the facilities at Randolph Park for the following activities and dates:

1. March of Dimes – April 16

2. Relay for Life – May 2 & 3

h. Virginia Cooperative Extension Service Memorandum of Understanding

The Board approved the Memorandum of Understanding, a copy of which is filed in the County Administrator's Office. Staff explained that Floyd, Montgomery and Pulaski counties are providing partial funding for two extension agents working 24 hours per week and Montgomery County has agreed to serve as fiscal agent. Staff further explained that Giles County may also participate, pending further

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consideration of other sharing arrangements being offered by Virginia Tech.

i. Acceptance of Radio Communications Assessment

The Board acknowledged receiving portions of the recently completed Radio Communications Assessment pertinent to the county dispatch center operations. The Board accepted the report as recommended by staff. Staff advised of plans to tour the Botetourt County dispatching system.

j. House Bill 2215 Opposition

The Board approved notifying legislators of opposition to state interference in local land use issues, specifically House Bill 2215 which would require localities to allow permanent manufactured homes in at least two residential zoning districts not specifically designated for permanent manufactured homes.

k. House Bill 2755 Support

The Board approved sending a letter expressing support for House Bill 2755 which would impose a five year moratorium on annexation for towns.

l. July 4<sup>th</sup> Funding Commitment

The Board approved committing \$5,000 towards the July 4, 2003 activities, with a tentative itinerary being planned as follows:

9:30 a.m. – Flag raising and retirement ceremonies at the Dublin Town Center

Noon – Parade through the Town of Pulaski

4:00 p.m. – Blue Jays baseball game Calfee Park

7:00 p.m. – Music at Fairgrounds

9:00 p.m. – Fireworks at Fairgrounds

Staff was requested to proceed with the arrangements for the fireworks display at the New River Valley Fairgrounds.

m. Refinancing Alternatives – Bob White Building

The Board authorized staff accepting the least costly alternative for refinancing the existing debt on the building.

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n. Draper Mountain Overlook Winter Schedule

The Board approved the following schedule of opening for the Draper Mountain Overlook for the winter months:

- March 15 through January 5 open 8:00 a.m. through 9:00 p.m.
- January 5 through March 15 open by special request only.

Staff was requested to arrange for appropriate signage.

o. Agreement – Virginia Department of Forestry

The Board approved an agreement allowing the Virginia Department of Forestry to build a shed in the county garage complex, with ownership of the structure to revert to the county should the Forest Service no longer need it to store the fire plow.

Mr. McCarthy was requested to clarify if agreement returns improvements to county.

9. Citizen Comments

Mr. Virgil Nester of Twin Communities Fire Department questioned when fire and rescue volunteers and personnel would receive the \$25 check approved by Board for county stickers. County staff advised it was confirming all personal property taxes have been paid by volunteers and once completed, checks would be issued.

10. Other Matters from Supervisors

Supervisor Fariss expressed concern regarding the county's obligation for protecting county employees from any suits resulting from an accident involving an employee. The Board approved the County Attorney drafting an appropriate policy for review by the county's insurance company and Board adoption.

Supervisor Fariss expressed concerned about charges for sewage by the PSA, in particular, the area around the NRV Fairgrounds and the need for future planning and development of trunk lines and branch lines. Staff was requested to contact the Montgomery County Administrator to determine how financing has been arranged for sewage in the Riner area. Further, staff advised the Planning Commission and county engineer could determine a plan on where trunk lines would be needed. Supervisor Fariss requested information be obtained and taken to the Planning Commission.

Supervisor Sheffey inquired regarding existing loans by the county, as well as how much is owed.

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Supervisor Cook inquired as to status of the animal shelter plans. Staff advised Architect Glenn Reynolds is working on the plans and expects to have a revised set of plans within two weeks.

11. Closed Meeting –2.2-3711.A.1.3.5.7

It was moved by Mr. Hale, seconded by Mr. Conner and carried, that the Board of Supervisors enter closed session for discussion of the following:

Property Disposition or Acquisition – Pursuant to Virginia Code Section 2.2-3711(A)3 discussion for consideration of the disposition or acquisition of publicly held property regarding:

- Building Acquisition
- New River Valley Regional Jail
- Fairlawn Area Development
- Building Reuse Plan

Personnel – Pursuant to Virginia Code Section 2.2-3711(A)1 discussion for consideration of employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of public officers, appointees or employees, regarding:

- Appointments

Prospective Industry – Pursuant to Virginia Code Section 2.2-3711(A)5 discussion concerning a prospective business or industry, or the expansion of an existing business and industry, where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

- Shell Building
- Report of Industrial Prospect Activity

Legal Matters – Pursuant to Virginia Code Section 2.2-3711(A)7 consultation with legal counsels and briefing by staff for discussion of specific legal matters and matters subject to probable litigation regarding:

- Bob White Building Refinancing

Voting yes: Mr. Cook, Mr. Sheffey, Mr. Hale, Mr. Conner.  
Voting no: Dr. Fariss.

## BOARD OF SUPERVISORS MEETING MINUTES OF JANUARY 27, 2003

### Return to Regular Session

On a motion by Dr. Fariss, seconded by Mr. Conner and carried, the Board returned to regular session.

Voting yes: Dr. Fariss, Mr. Sheffey, Mr. Hale, Mr. Conner.

Voting no: Mr. Cook.

### Certification of Conformance with Virginia Freedom of Information Act

On a motion by Dr. Fariss, seconded by Mr. Cook and carried, the Board of Supervisors adopted the following resolution certifying conformance with the Virginia Freedom of Information Act.

WHEREAS, the Board of Supervisors of Pulaski County, Virginia, has convened a closed meeting of this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act:

WHEREAS, Section 2.2-3712(D) of the Code of Virginia requires a certification by this Board of Supervisors that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Pulaski County, Virginia hereby certifies to the best of each members' 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 this motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors.

Voting yes: Dr. Fariss, Mr. Cook, Mr. Sheffey, Mr. Hale,  
Mr. Conner.

Voting no: none.

### Appointments

#### 1. NR/Mount Rogers Workforce Investment Board (WIB)

Staff was requested to contact a representative of Motion Control to determine an interest in serving on the WIB.

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2. Board of Zoning Appeals

It was moved by Dr. Fariss, seconded by Mr. Cook and carried, that the Board of Supervisors submit a nomination to the Circuit Court for the appointment of Charles Ward to the Pulaski County Board of Zoning Appeals.

Voting yes: Dr. Fariss, Mr. Cook, Mr. Sheffey,  
Mr. Hale, Mr. Conner.

Voting no: none.

12. Adjournment

On a motion by Mr. Hale, seconded by Mr. Conner and carried, the Board of Supervisors adjourned its regular meeting scheduled for Monday, March 24, 2003 at 7:00 p.m. in the Board of Supervisors Meeting Room of the County Administration Building, 143 Third Street, N. W., in the Town of Pulaski.

Voting yes: Dr. Fariss, Mr. Cook, Mr. Hale, Mr. Sheffey, Mr. Conner.

Voting no: none.

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Joseph L. Sheffey, Chairman

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Peter M. Huber, County Administrator