

BOOK 33**VIRGINIA:**

At a regular meeting of the Board of Supervisors of Amherst County held at Temperance Elementary School thereof on Tuesday, the 21st day of September, 2010 at 7:00 p.m. at which the following members were present and absent:

BOARD OF SUPERVISORS:

| | | |
|----------|-----------------|--------------|
| PRESENT: | Mr. D. Kidd | ABSENT: None |
| | Ms. C. Tucker | |
| | Mr. R. Vandall | |
| | Mr. R. Curd | |
| | Mr. F. Campbell | |

Mr. D. Kidd, Chairman, called the meeting to order.

Mr. R. Vandall led invocation and pledge of allegiance.

IN RE: CITIZEN COMMENTS

Hazel Childrey – 109 6th Street – letter violations

Joan Almond – 1943 S. Coolwell Road – inspection of 1935 S. Coolwell Road

Mark Grey – Appomattox – Coach for a softball team (After Shock) – have been using field on Phelps Road – having been working on field and would like some consideration for first rights to field and they will continue to work on field

Larry Wolf – District 2 – County welfare rolls – Social Service budget 33 million dollars

Linwood Allen – Winesap Road – oppose to rental inspection ordinance

IN RE: APPROVAL OF AGENDA

Ms. C. Tucker – addition to Special presentations of Monty Jennings, Blue Ridge Realty

On motion of Mr. Campbell and with the following vote, the Board approved the agenda for September 21, 2010 with addition as follows:

AGENDA

**TUESDAY, SEPTEMBER 21, 2010
ADMINISTRATION BUILDING – 153 WASHINGTON STREET
TEMPERANCE ELEMENTARY SCHOOL
1981 LOWESVILLE ROAD
7:00 P.M.**

- I. Call to Order**
- II. Invocation and Pledge of Allegiance**
- III. Citizen Comments**
- IV. Approval of Agenda**
- V. Special Appearance and Presentations**

a. Blue Ridge Realty – Monty Jennings

VI. Other Public Hearings

- a. Ordinance modifying Section 11-17 of the County Code, relating to the membership of the Amherst Planning Commission
- b. Ordinance modifying Section 4-6 of the County Code, relating to rental housing inspections

VII. Consent Agenda

- a. Resolution amending Board procedures relating to citizen comment
- b. Virginia Association of Counties – Voting Credentials for the Annual Business Meeting
- c. Set interview for District 4 Planning Commission applicant

VIII. Correspondence

- a. Monthly Activity Report – September 21, 2010
- b. Building Safety & Inspections Monthly Report – August 2010
- c. VML/VACo Financing alternatives – Edgar O. Kinnier, Jr.
- d. Office of Drinking Water – Ukrop Conference Center
- e. Robert E. Lee Soil & Water Conservation Dist Letter of August 31, 2010
- f. Application of Columbia Gas of Virginia, Inc.
- g. VDOT Traffic Alerts – Sept 13-17, 20-24 2010

IX. Department Reports

Accounting Department

- a. Financial Update as of August 31, 2010

X. County Administrator's Reports

- a. None at this time

XI. County Attorney's Reports

- a. None at this time

XII. Appropriation/Transfers/Disbursements

XIII. Matters from Members of the Board of Supervisors

XIV. Closed Meeting (§2.2-3711.A, Code of Virginia, as amended)

XV. Adjourn to September 22, 2010 (Biosolids Public Hearing – 7:00 p.m. Administration Bldg.)

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: BLUE RIDGE REALTY – MONTY JENNINGS

Monty Jennings, Blue Ridge Realty, representing Mr. Savatore Mannino, presented a request for an easement behind the old Amherst Mini Mart building to allow access to the rear of the building. Mr. Eldon Cox, EDA, also spoke in favor of the request. If everything can be arranged, Mr. Mannino is hoping to open another Vito's.

IN RE: ORDINANCE MODIFYING SECTION 11-17 OF THE COUNTY CODE, RELATING TO THE MEMBERSHIP OF THE AMHERST PLANNING COMMISSION

Ellen Bowyer, County Attorney, opened the public hearing regarding the modifying of Section 11-17 of the county code for the purpose of decreasing the number of members to seven, providing that the Commission shall contain one member from each election district except where no such residents apply, and providing that the liaison member from the Board of Supervisors is appointed annually at the Board's first organizational meeting.

Proponents: None

Opponents: None

Board of Supervisors action:

On motion of Mr. R. Vandall and with the following vote, the Board approved the following modification of Section 11-17 of the County Code:

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That section 11-17 of the Code of the County of Amherst be and hereby is amended and reordained as follows:

Sec. 11-17. Membership.

A. The commission shall consist of seven members appointed by the board of supervisors as follows:

(1) Five members shall be drawn from the five election districts in the County. Except as provided in subsection E, each of the five members shall be resident in an election district distinct from one another, such that at least one resident from each election district holds membership on the commission.

(2) One member shall be drawn from any district in the County.

(3) One member shall be a member of the board of supervisors, and shall act as a liaison to the board. The liaison shall be appointed to the commission annually by the board at its first organizational meeting in January. The liaison shall not have a vote on matters before the commission.

Each member shall take the oath of office as required by law when appointed to the commission.

B. Each commission member shall be a resident of the County, qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half of the commission members shall own property in the County.

C. Commission members shall be appointed to four-year terms, except that appointments for vacancies occurring otherwise than by expiration of a four-year term shall be for the unexpired term. A member whose term expires shall continue to serve until a successor qualifies and is appointed.

D. The board may by passage of a resolution remove members from the commission for malfeasance in office.

E. If the Board does not receive an application from a qualified applicant in response to a duly advertised vacancy on the commission for a seat otherwise filled pursuant to the provisions of subdivision A(1) of this section, it may appoint to the commission a person residing in an election district in which a sitting commission member appointed under subdivision A(1) resides.

§2. That this ordinance shall be in force and effect upon adoption.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Vandall, and Mr. F. Campbell

NAY: None

IN RE: ORDINANCE MODIFYING SECTION 4-6 OF THE COUNTY CODE, RELATING TO RENTAL HOUSING INSPECTIONS

Ellen Bowyer, County Attorney, opened the public hearing regarding the modifying of Section 4-6 of the County Code, relating to rental housing inspections, for the purpose of making the residential rental dwelling units located at 1935 Coolwell Road, Madison Heights, Virginia and at 164 Cedar Gate Road, Monroe, Virginia, subject to the provisions of the rental housing inspection ordinance and making technical corrections to the format and wording of § 4-6.

Proponents:

Joan Almond, S. Coolwell Road, in favor of the rental inspections and something done to make Ms. Woody report the property at 1935 Coolwell Road, Madison Heights.

Leon Parrish, 209 St. Madison Heights wanted clarity of adding individual properties as blight areas.

Opponents:

Linwood Allen – oppose to rental inspections period.

Board of Supervisors action:

On motion of Mr. R. Vandall and with the following vote, the Board approved the modification of Section 4-6 of the County Code as follows:

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That § 4-6 of the Code of the County of Amherst be and hereby is amended and reordained as follows:

Sec. 4-6. - Rental inspections; rental inspection districts; exemptions; penalties.

A. Definitions. For purposes of this section:

Dwelling unit means a building or structure or part thereof that is used for a home or residence by one (1) or more persons who maintain a household.

Owner means the person shown on the current real estate assessment books or current real estate assessment records.

Residential rental dwelling unit means a dwelling unit that is leased or rented to one (1) or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom.

B. Purpose; district established. This section shall be known as the rental housing inspection ordinance ("ordinance"). Pursuant to the provisions of this ordinance, the County may inspect residential rental dwelling units identified in this ordinance to ensure compliance with the Uniform Statewide Building Code and to promote safe, decent and sanitary housing for its citizens.

(1) District Boundaries. Except as provided in subdivision B (3), the dwelling units subject to inspection shall be located in the following rental inspection district hereby established by the board of supervisors:

ELECTION DISTRICT # 5

Beginning at the confluence of William's Run Creek with the James River; thence in a Northerly direction along William's Run Creek to Rt. 622 (Wright Shop Road); thence in a easterly direction on Route 622 (Wright Shop Road) to Route 833 (Old Wright Shop Road); thence in a Northeasterly direction on Route 833 (Old Wright Shop Road) to Route 622 (Wright Shop Road); thence in a Northerly direction on Route 622 (Wright Shop Road) to Route 677 (Dixie Airport Road); thence in a Northerly direction on Route 677 (Dixie Airport Road) to Route 669 (Amelon Road); thence in a westerly direction on Route 669 (Amelon Road) to Route 1331 (Oakland Drive); thence in a southerly direction on Route 1331 (Oakland Drive) to its dead end; thence in a westerly direction to Route 783 (Woodland Drive); thence in a Northerly direction on Route 783 (Woodland Drive) to Route 1341 (Odin's Bow Road); thence in a westerly direction on Route 1341 (Odin's Bow Road) to Route 1329 (Wildwood Drive); thence in a southerly direction on Route 1329 (Wildwood Drive) to Route 682 (Woody's Lake Road); thence in a westerly direction on Route 682 (Woody's Lake Road) to Route 29 (South Amherst Highway); thence in a southerly direction on Route 29 (South Amherst Highway) to Route 766 (Dillard Road); thence in a westerly direction on Route 766 (Dillard Road) to Buck's Branch; thence in a southerly direction on Buck's Branch to the James River; thence in an easterly direction on the James River to William's Run Creek and the point of origin.

(2) Basis for establishing districts. The rental inspection district is based upon a finding by the board of supervisors that (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside each designated rental inspection district; (ii) the residential rental dwelling units within each designated rental inspection district are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in the need of inspection by the building department to prevent deterioration, taking into account the number, age and condition of residential dwelling rental units inside each designated rental inspection district; and (iii) the inspection of residential rental dwelling units inside each designated rental inspection district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in each designated rental inspection district. The boundaries of the designated rental inspection districts are limited to such areas of the County that meet the criteria set out in this subsection.

(3) Additional units subject to ordinance. An individual residential rental dwelling unit outside of a designated rental inspection district may be made subject to this section based upon a separate finding for each individual dwelling unit by the board of supervisors that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit; (ii) the individual dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit. Any units made subject to this section in accordance with the provisions of this subdivision shall be identified in this subdivision.

i. The board of supervisors finds that the unit located at 1935 Coolwell Road, Madison Heights, Virginia, 24572, is in the process of deteriorating. It therefore is made subject to the provisions of this ordinance.

ii. The board of supervisors finds that the unit located at 164 Cedar Gate Road, Monroe, Virginia, 24574, is in the process of deteriorating. It therefore is made subject to the provisions of this ordinance.

C. Amendments. Before adopting an amendment to this rental inspection ordinance including a change to the rental inspection district, the board of supervisors shall hold a public hearing on the proposed ordinance. Notice of the hearing shall be published once a week for two (2) successive weeks in a newspaper published or having general circulation in the County.

D. Notification.

(1) *To owners of dwelling units.* Upon identification of a designated rental inspection or individual dwelling units pursuant to subdivision B (3), the building department shall make reasonable efforts to notify owners of residential rental dwelling units in each designated rental inspection district, or their designated managing agents, and the owners of any individual dwelling units of the provisions of this section, including an explanation of this section and the responsibilities of the owner there under.

(2) *By owners of dwelling units.* The owners of dwelling units in a rental inspection district shall notify the building department in writing if the dwelling unit of the owner is used for residential rental purposes. The building department may develop a form for such purposes. There shall be no registration requirement or a fee of any kind associated with the written notification pursuant to this subsection. The written notification from the owner of a dwelling unit subject to this section shall be provided to the building department within sixty (60) days after the adoption of this section. However, there shall be no penalty for the failure of an owner of a residential rental dwelling unit to comply with the provisions of this subsection, unless and until the building department provides personal or written notice to the property owner, as provided in this section. In any event, the sole penalty for the willful failure of an owner of a dwelling unit who is using the dwelling unit for residential rental purposes to comply with the written notification requirement shall be a civil penalty of fifty dollars (\$50.00). For purposes of this subsection, notice sent by regular first class mail to the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed compliance with this requirement.

E. Inspections.

(1) *Initial inspection of dwelling units when rental inspection district is established.* Upon establishment of a rental inspection district in accordance with this section, the building department may, in conjunction with the written notifications as provided for in subsection C, proceed to inspect dwelling units in the designated rental inspection district to determine if the dwelling units are being used as a residential rental property and for compliance with the provisions of the Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants of such property.

Initial and periodic inspections of multifamily dwelling units. If a multifamily development has more than ten (10) dwelling units, in the initial and periodic inspections, the building department shall inspect only a sampling of dwelling units, of not less than two (2) and not more than ten (10) percent of the dwelling units, of a multifamily development, which includes all of the multifamily buildings which are part of that multifamily development. In no event, however, shall the building department charge a fee authorized by this section for inspection of more than ten (10) dwelling units. If the building department determines upon inspection of the sampling of dwelling units that there are violations of the Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants of such multifamily development, the building department may inspect as many dwelling units as necessary to enforce the Uniform Statewide Building Code, in which case, the fee shall be based upon a charge per dwelling unit inspected, as otherwise provided in subsection G.

(3) *Follow-up inspections.* Upon the initial or periodic inspection of a residential rental dwelling unit subject to this section, the building department has the authority under the Uniform Statewide Building Code to require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the building department deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of the Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants.

(4) *Periodic inspections.* Except as provided in subdivision (e)(3), following the initial inspection of a residential rental dwelling unit subject to this section, the building department may inspect any residential rental dwelling unit in a rental inspection district, that is not otherwise exempted in accordance with this section, no more than once each calendar year.

F. Exemptions from rental inspection ordinance. Upon the initial or periodic inspection of a residential rental dwelling unit subject to this section for compliance with the Uniform Statewide Building

Code, provided that there are no violations of the Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, the building department shall provide, to the owner of such residential rental dwelling unit, an exemption from this section for a minimum of four (4) years. Upon the sale of a residential rental dwelling unit, the building department may perform a periodic inspection as provided in subdivision (e) (4), subsequent to such sale. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four (4) years, an exemption shall be granted for a minimum period of four (4) years from the date of the issuance of the certificate of occupancy by the building department. If the residential rental dwelling unit becomes in violation of the Uniform Statewide Building Code during the exemption period, the building department may revoke the exemption previously granted under this section.

G. Fees. Fees for initial and subsequent inspections conducted under the authority of this section shall be identified in the fee schedule established pursuant to § 4-33 of the Code of the County of Amherst.

H. Rights and obligations of landlords and tenants. The provisions of this section shall not, in any way, alter the rights and obligations of landlords and tenants pursuant to the applicable provisions of Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of Title 55 of the Code of Virginia (1950), as amended.

I. Duties and responsibilities of building department. The building department shall administer this ordinance; however, the provisions of this section shall not alter the duties or responsibilities of the local building department under Code of Virginia, § 36-105 to enforce the Uniform Statewide Building Code.

J. Penalties. Unless otherwise provided in this section, penalties for violation of this section shall be the same as the penalties provided in the Uniform Statewide Building Code.

§2. That this ordinance shall be in force and effect upon adoption.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: RESOLUTION AMENDING BOARD PROCEDURES RELATING TO CITIZEN COMMENTS

On motion of Ms. C. Tucker and with the following vote, the Board approved the following resolution to modify the rules of procedure governing the manner in which meetings of the Amherst County Board of Supervisors are conducted, to provide further guidance relating to the expression of citizen comments during Board meetings as follows:

A resolution, to modify the rules of procedure governing the manner in which meetings of the Amherst County Board of Supervisors are conducted, to provide further guidance relating to the expression of citizen comments during Board meetings.

Approved as to form and legality
by the County Attorney

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST:

I. That the rules of procedure governing meetings of the Amherst County Board of Supervisors are amended with respect to citizen comments, as follows:

WHEREAS, the Board of Supervisors values citizen comments and wishes to hear from County citizens regarding issues of concern to them; and

WHEREAS, the increasingly diverse and complex issues presented to the Board require the most effective use of the Board's meeting time; and

WHEREAS, the current rules of procedure provide minimal guidance regarding citizen comments; and

WHEREAS, the current rules of procedure provide no guidance regarding how the Board can provide a meaningful response to a concern or issue raised by a citizen; and

WHEREAS, the Board of Supervisors wishes to provide additional guidance to ensure that citizens can communicate most effectively at public meetings.

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

That the Board hereby modifies its rules of procedure to include the following additional language after the fourth paragraph in Section V:

Citizens wishing to comment during the period allocated on the Board's agenda for citizen comment ("Citizen Comments") shall place their name on a sheet provided by the Board prior to the start of the Board's meeting. Comments shall be addressed directly to the Board, and shall be limited in time to three minutes. Comments may address the performance, conduct, and qualifications of public figures; however, comments shall not employ language which insults or demeans any person or which, when directed at a public official or employee is not related to his or her official duties. There shall be no comment during Citizen Comments on a matter for which a public hearing is scheduled during the same meeting, or on a matter that has already been the subject of a previous public hearing where no final vote has been taken. Any issue raised during Citizen Comments which the Board wishes to consider may be put on the agenda for a future Board meeting or work session by a majority vote. Board members shall not discuss issues raised in the course of Citizen Comments except by agreement expressed in a majority vote.

BE IT FURTHER RESOLVED:

That a copy of the rules of procedure relating to citizen comments shall be made available for review by citizens signing up to speak before the Board.

II. That this resolution shall be in force and effect upon passage.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: VIRGINIA ASSOCIATION OF COUNTIES VOTING CREDENTIALS FOR THE ANNUAL BUSINESS MEETING

The Board of Supervisors needs to designate a representative of the Board of Supervisors or if none attending a non-elected official or a member of a Board of Supervisors from another county to cast a proxy vote for your county and submitted to VACo by November 1, 2010 or may be submitted to the Credentials Committee at its meeting on Monday, November 8 at 4:30 p.m. in the Monroe Room or the conference registration desk before this meeting.

By consensus the Board will appointment someone at the Board of Supervisors meeting on October 5, 2010.

IN RE: INTERVIEW DATE FOR DISTRICT 4 PLANNING COMMISSION APPLICANT

By consensus the Board set October 5, 2010 at 4:00 p.m. to interview the Planning Commission applicant for District 4.

IN RE: CORRESPONDENCE

- a. Monthly Activity Report – September 21, 2010
- b. Building Safety & Inspections Monthly Report – August 2010
- c. VML/VaAc Financing alternatives – Edgar O. Kinnier, Jr.
- d. Office of Drinking Water – Ukrop Conference Center
- e. Robert E. Lee Soil & Water Conservation Dist Letter of August 31, 2010
- f. Application of Columbia Gas of Virginia, Inc.
- g. VDOT Traffic Alerts – Sept 13-17, 20-24 2010

Information Only

IN RE: FINANCIAL UPDATE AS OF AUGUST 31, 2010

Ms. Brenda Campbell, Director Accounting, presented the monthly financial update as of August 31, 2010 and was available for questions.

IN RE: COUNTY ADMINISTRATOR REPORTS

Mr. Lintecum made the Board aware of the retirement of John Boon, Deputy Public Safety Director and was seeking permission to advertise the opening as soon as possible.

On motion of Mr. Kidd and with the following vote, the Board approved the advertising of the Deputy Public Safety position.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: COUNTY ATTORNEY

None at this time.

IN RE: APPROPRIATIONS/TRANFERS

Ms. Tucker questioned whether this was a new addition or replacement vehicle.

On motion of Mr. R. Curd and with the following vote, the Board approved the following appropriation:

Sheriff's Department

| | | | |
|-------|------|---------------------|-------------|
| 31010 | 7005 | Vehicle | \$27,547.00 |
| | | (Fine Revenue Fund) | |

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: MATTERS FROM MEMBERS OF THE BOARD OF SUPERVISORS

Mr. R. Curd – None

Mr. F. Campbell – None

Mr. D. Kidd – request the Board to do a work session on public nuisances with Sheriff's Department, Planning, Building and Public Safety. He would like to see a formalized procedure on handling public nuisances and Ms. Tucker wanted included the mission statement revisited.

On motion of Mr. D. Kidd and with the following vote, the Board moved to set a work session to include the Sheriff's Office, Planning, Building and Public Safety.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell
NAY: None

Ms. Tucker: On motion of Ms. C. Tucker and with the following vote, the Board moved to set a public hearing for October 5, 2010 at 1:00 p.m. to allow an easement behind the Amherst Mini Mart building.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell
NAY: None

Mr. Vandall thanked Ms. Tucker for the hospitality at the Tuesday meeting at Temperance Elementary School.

IN RE: ADJOURNMENT

On motion of Mr. D. Kidd, seconded by Ms. C. Tucker and with the following vote, the Board adjourned to the Wednesday, September 22, 2010 meeting at the Administration Building.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell
NAY: None

Donald W. Kidd, Chairman

C. Lee Lintecum, County Administrator