

**BOOK 33****VIRGINIA:**

At a regular meeting of the Board of Supervisors of Amherst County held at the Administration Building thereof on Tuesday, the 16<sup>th</sup> day of November, 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 in the invocation and pledge of allegiance.

**IN RE: CITIZEN COMMENTS**

Ms. Martha Bryant – CVTC mom – Central Virginia Training Center ambulance run report

Mr. Carl Wildman – Phelps Road School

Delegate Ben Cline – 230 S. Main Street Amherst – had resolutions that he wanted to present to Mr. Leon Parrish, Mr. Vernon Wood and Mr. Donald Wood

Mr. Leon Parrish – spoke thanking Mr. Cline

**IN RE: AGENDA****AGENDA**

**TUESDAY, NOVEMBER 16, 2010  
ADMINISTRATION BUILDING – 153 WASHINGTON STREET  
SCHOOL BOARD MEETING ROOM  
7:00 P.M.**

- I. Call to Order**
- II. Invocation and Pledge of Allegiance**
- III. Citizen Comments**
- IV. Approval of Agenda**
- V. Zoning Public Hearings**
  - a.** 2010-21 Request by Gerald N. Smith, Jr., for a special exception request in the A-1 Agricultural Residential District. The purpose of the special exception is to install a temporary anemometer to gather information for one (1) year. The temporary anemometer would be installed to determine if enough wind speed is present to construct a permanent small wind energy system. The parcel is located at 210 Stapleton Road and is further identified as tax map number 142-A-27A, 28A.
- VI. Correspondence**
  - a.** Monthly Activity Report – November 2010
  - b.** Building Safety and Inspection monthly report – October 2010

- c. Sheriff's Department monthly report – September 2010
- d. Parks Recreation and Cultural Development Board minutes – September 20, 2010
- e. Central Virginia Community College-Amherst Center Status – November 2010
- f. Letter regarding the use of Monacan Park for launching equipment needed to repair pipeline in the middle of the James River – November 3, 2010
- g. Robert E Lee Soil & Water Conservation District – September 23, 2010
- h. VDOT Traffic Alert – November 8-12, 2010

**VII. Department Reports**

**Central Accounting**

- a. Financial Report for October 2010

**Assistant County Administrator/Purchasing Agent**

- a. Animal shelter employee euthanasia training
- b. General Engineering/Consulting Proposals

**VIII. County Administrator's Reports**

- a. Employee Recognition Program
- b. Legislative Priorities

**IX. County Attorney's Reports**

- a. Resolution ensuring that the Board of Supervisors receives regular spoken reports on progress made in resolving issues facing the County.
- b. Resolution instructing the County Administrator as to the type of language the Board wishes to have used in identifying budget line items contained in the annual County Budget.
- c. Resolution instructing the County Administrator and County Attorney to examine how the County can resolve the matter of any outstanding match funds which the Board of Supervisors may be obligated to appropriate as a result of state and federal government funding expended in support of the Amherst Depot restoration.

**X. Appropriation/Transfers/Disbursements**

**XI. Matters from Members of the Board of Supervisors**

**XII. Adjourn**

**REMINDER: WORKSHOP AT 1:00 P.M, NOVEMBER 16, 2010**

- Add:**
- V. Special Appearance
    - a. Monelison Volunteer Fire Dept. – Ernest N. Cash
  - IX. County Attorney
    - d. Resolution – Panther Mountain
  - XI.b Closed Session

On motion of Mr. F. Campbell and with the following vote, the Board of Supervisors approved the agenda with the amendments.

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

NAY: None

**IN RE: MONELISON VOLUNTEER FIRE DEPARTMENT – ERNEST N. CASH**

Chief Cash, Fire Department, and Captain Vickie Padget, Rescue Squad, appeared before the Board and presented the Board with two (2) \$50,000 checks from the sale of the trucks in part payment of the loan to purchase the 2006 Pierce Rescue truck.

**IN RE: PUBLIC HEARING – ZONING 2010-21 GERALD N. SMITH, JR.**

- a. 2010-21 Request by Gerald N. Smith, Jr., for a special exception request in the A-1 Agricultural Residential District. The purpose of the special exception is to install a temporary anemometer to gather information for one (1) year. The temporary anemometer would be installed to determine if enough wind speed is present to construct a permanent small wind energy system. The parcel is located at 210 Stapleton Road and is further identified as tax map number 142-A-27A, 28A.

Mr. Jeremy Bryant, Planning & Zoning Director, presented the public hearing case and informed the Board that the Planning Commission had approved the request for the special exception with the following conditions.

- 1. The anemometer and tower shall be taken down one (1) year from date of installation.
- 2. The approval is only for the installation of the anemometer and supporting tower. If a small wind energy system is desired at this location, a separate special exception application and hearing will be required.

Proponents: None

Opponents: None

On motion of Ms. C. Tucker and with the following vote, the Board of Supervisors approved the request for the special exception to install a temporary anemometer at 210 Stapleton Road, further identified as tax map number 142-A-27A, 28A.

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

NAY: None

**IN RE: CORRESPONDENCE**

- a. Monthly Activity Report – November 2010
- b. Building Safety and Inspection monthly report – October 2010
- c. Sheriff's Department monthly report – September 2010
- d. Parks Recreation and Cultural Development Board minutes – September 20, 2010
- e. Central Virginia Community College-Amherst Center Status – November 2010
- f. Letter regarding the use of Monacan Park for launching equipment needed to repair pipeline in the middle of the James River – November 3, 2010
- g. Robert E Lee Soil & Water Conservation District – September 23, 2010
- h. VDOT Traffic Alert – November 8-12, 2010

Information only

**IN RE: FINANCIAL REPORT FOR OCTOBER 2010**

Ms. Brenda Campbell, Director Central Accounting, presented a financial report for October 2010 and was available for questions.

**IN RE: ANIMAL SHELTER EMPLOYEE EUTHANASIA TRAINING**

David Proffitt, Assistant County Administrator/Purchasing Agent reported to the Board that animal warden Carla Tomlin and part time shelter employee Laura Bryan are both currently scheduled to begin euthanasia training. Animal warden, Brian Tharpe, is currently certified but will not be available to assist before February due to a law enforcement training program that he is currently involved with.

**IN RE: GENERAL ENGINEERING/CONSULTING PROPOSALS**

David Proffitt, Assistant County Administrator/Purchasing Agent, reported to the Board of the proposals for general engineering/consulting services that were received and requested the appointment of an evaluation committee to review engineering proposals, interview selected firms and provide a recommendation to the Board of Supervisors for contract award.

On motion of Ms. Tucker and with the following vote, the Board of Supervisors moved to appoint Dan French, Service Authority, Teresa Nuckols, Solid Waste, Lee Lintecum, County Administrator, David Proffitt, Purchasing Agent and Frank Campbell, Board of Supervisors to serve on the engineering proposals evaluation committee.

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

**IN RE: EMPLOYEE RECOGNITION PROGRAM**

The Board was advised of the choices in the employee recognition program. On motion of Ms. Tucker and with the following vote, the Board approved the proposal to recognize the retirees with a gift at a regular Board meeting and the others recognized in the Amherst New Era Progress.

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

**IN RE: LEGISLATIVE PRIORITIES**

Mr. Lintecum informed the Board that the legislation luncheon has been scheduled for December 10, 2010 at 11:30 a.m. at the Amherst Education Center. He asked the Board to express their concerns and adopt a priority list to be presented to the state delegates and senators at that meeting.

**IN RE: RESOLUTION INSTRUCTING THE COUNTY ADMINISTRATOR AS TO THE TYPE OF LANGUAGE THE BOARD WISHES TO HAVE USED IN IDENTIFYING BUDGET LINE ITEMS CONTAINED IN THE ANNUAL COUNTY BUDGET**

On motion of Ms. C. Tucker and with the following vote, the Board approved the following:

**BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST**, that the County Administrator is instructed to ensure that, in the preparation of the County budget, there are no line items denominated as "miscellaneous" or identified by any other description that does not indicate the nature of the monies therein or the uses to which those monies may be put, as follows:

**WHEREAS**, the Board of Supervisors is responsible for approving an annual County budget and for approving transfers among line items within that budget; and

**WHEREAS**, the Board wishes to ensure its most accurate understanding of the use of tax revenues, fines, and other monies coming into the County; and

**WHEREAS**, there are within some departments or other offices governed by the County budget a practice of identifying line items as "miscellaneous" or using other general language that does not clearly reflect the intended use of County funds; and

**WHEREAS**, the Board wishes to ensure that the budgetary process and resulting budget are transparent and understandable to County citizens, businesses, and others with an interest in the County of Amherst.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST**, that the County Administrator shall ensure in the preparation of the County budget that there are no line items identified as "miscellaneous" or identified using other terminology which does not plainly and accurately indicate the uses to which the associated monies may be put.

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: RESOLUTION TO ENSURE THAT THE BOARD OF SUPERVISORS RECEIVES REGULAR SPOKEN REPORTS ON PROGRESS MADE IN RESOLVING ISSUES FACING THE COUNTY**

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

**BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST**, that the County Administrator and the County Attorney shall ensure that an issue's examination or resolution is reported to the Board as follows:

**WHEREAS**, the Board of Supervisors recognizes that there are numerous issues that Board members, County citizens, County staff, or others may raise in the course of a Board meeting; and

**WHEREAS**, it is in the best interest of County operations that such issues are examined and addressed or otherwise resolved within appropriate timeframes; and

**WHEREAS**, there is not now existing a uniform process by which the County Administrator and the County Attorney (hereafter "staff") identify, monitor, and report to the Board on issues assigned to time; and

**WHEREAS**, the Board wishes to establish a uniform process to ensure the most effective and efficient examination and resolution of issues arising before the Board.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST**, that any member of the Board of Supervisors may offer a motion asking (i) that a given issue before the County be included on the Board meeting agenda under County Administrator Reports or County Attorney Reports, and (ii) that staff provide a spoken report at each subsequent meeting of the Board of Supervisors on their progress in resolving the issue until the issue has been resolved, unless the Board directs otherwise;

**BE IT FURTHER RESOLVED**, that the Board of Supervisors shall consider integrating this reporting process into its procedures in the course of its first meeting in January.

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: RESOLUTION TO INSTRUCT THE COUNTY ADMINISTRATOR AND THE COUNTY ATTORNEY TO EXAMINE OPTIONS FOR THE COUNTY'S RESOLUTION OF ISSUES SURROUNDING THE COUNTY'S OBLIGATION TO REPAY CERTAIN FEDERAL AND STATE GRANTS ASSOCIATED WITH THE AMHERST DEPOT RESTORATION**

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

**BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST**, that the County Administrator and the County Attorney are instructed to research issues surrounding and

develop recommendations regarding, resolutions of any obligation to repay federal and state monies associated with the Amherst Depot restoration as follows:

**WHEREAS**, the Board of Supervisors recognizes the significant financial constraints now facing the County; and

**WHEREAS**, the Board understands that there may be significant additional expenses associated with further work needed to complete renovation of the Amherst Depot; and

**WHEREAS**, the Board also recognizes that obligations to repay certain federal and state monies may be triggered if the County is unable to accomplish every aspect of the anticipated renovation; and

**WHEREAS**, the Board has instructed its County Administrator by a resolution passed on October 19, 2010, to provide the following information on the Amherst Depot: the current status of County action on those projects; the anticipated expenses the County will incur for each project over the coming five years; the anticipated revenues to the County from each project over the coming five years; the other non-monetary benefits expected to accrue to the County from each project over the next five years; any options before the Board relative to implementing the projects; and any other pertinent information; and

**WHEREAS**, the Board requested this information so that it can gain a full understanding of the Depot restoration project and accurately identify potential revenue and necessary expenditures in the course of its consideration of the County budget; and

**WHEREAS**, the County Administrator is to produce the requested information at the Board meeting on December 7, 2010.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST**, that the County Administrator is to research the question of whether any other municipalities have successfully negotiated a decrease or elimination of a repayment obligation for federal or state grant monies where all or a portion of the work to be completed is not accomplished, and supply his findings to the County Attorney no later than December 7, 2010.

**BE IT FURTHER RESOLVED**, that the County Attorney shall consider the research findings of the County Administrator, assess the extent of the County's legal position relative to the repayment obligation, and, at the Board's first meeting in January, 2011, report on any feasible options relating to the decrease or elimination of the repayment obligation for the federal or state grant monies.

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: RESOLUTION TO MODIFY THE TERMS OF THE COUNTY'S AGREEMENT WITH PROPERTY OWNERS RELATIVE TO LEASING REAL PROPERTY ON PANTHER MOUNTAIN FOR LOCATION OF AN EMERGENCY COMMUNICATIONS TOWER AND A ROAD PROVIDING ACCESS THEREON, AND TO INSTRUCT THE COUNTY ATTORNEY AS TO HER AUTHORITY TO EFFECT A SPEEDY RESOLUTION OF ISSUES NOW DELAYING EXECUTION OF THOSE LEASES**

On motion of Ms. C. Tucker and with the following vote, the Board approved the following:

**BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST**, that the Board of Supervisors hereby modifies its agreement with property owners relative to County leases of real property on Panther Mountain and instructs the County Attorney, as follows:

**WHEREAS**, the County has placed a communication tower and equipment on Panther Mountain, and has constructed and improved an access road to the site containing that tower and equipment; and

**WHEREAS**, both the access road and the tower site are located on private property; and

**WHEREAS**, the owners of that private property permit the County's entry onto the private property, and the County is in the process of revising and establishing leases to formalize the parameters of that permission; and

**WHEREAS**, the Board of Supervisors voted on June 16, 2009, to enter an agreement with Paul Massie Saunders, Jr., and John Tatum Saunders ("Saunderses") governing County access to their property; and

**WHEREAS**, that agreement has not to date been finalized; and

**WHEREAS**, the Board of Supervisors wishes to resolve this matter as expeditiously as possible in a fair manner that takes into consideration the amount of time and energy that the Saunderses have expended attempting to resolve this matter.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST**, that the Board of Supervisors will compensate the Saunderses an additional \$8,000.00 for a total of \$10,000.00, for the County's use of the Saunderses' property since 2002, given the sixteen-month delay in acting on the Board's commitment of June 16, 2009; that the Board directs with respect to both leases that the five-year increase in the lease amounts shall be calculated based on the total percentage increase in the Consumer Price Index over the period of those five years; that the Board instructs the County Attorney to arrange for such modifications to the plat revised November 17, 2009, as she deems necessary; and that the Board directs that the cost of such modifications shall be supported with monies from the General Fund.

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: APPROPRIATIONS/TRANSFERS**

On motion of Mr. F. Campbell and with the following vote, the Board approved the following appropriations and/or transfers:

##### **School Board**

Supplemental appropriation of \$793,026.00 to the 2010-11 revenue and expenditure budget

Revenue received from the following

##### **State**

Technology Grant FY10	\$ 90,500.00
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##### **Grants**

School Improvement Carry-over funds CES	\$ 65,251.00
State Academic Grants – TES	\$ 8,800.00
State Academic Grant – PVES & TES	\$ 27,316.00
Project Graduation – ACHS	\$ 13,000.00
School Improvement Grant)-CES	\$179,167.00
School Improvement Grant – MHES	\$ 50,000.00
Clinical Faculty Grant	\$ 46,700.00
21 <sup>st</sup> Century Funds – CES & MHES	\$ 58,753.00

##### **Local Funds**

GED Local Funds	\$ 30,000.00
ABE Local Funds – Bedford County	\$ 12,146.00
Fuel Reimbursement – Amherst County	\$ 20,000.00
Transportation Day Treatment – CVCS	\$ 10,282.00
Refunds & Reimbursements – CVCC	\$ 54,968.00
Lynchburg City Schools (Non-Center Based and Laurel Program)	\$126,143.00

Sheriff's Department

31020 4410 400	Police Supplies	\$ 5,000.00
(Forefeit Assets)		

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

NAY: None

**IN RE: MATTERS FROM THE BOARD OF SUPERVISORS**

Mr. R. Vandall – None

Mr. R. Curd – None

Mr. F. Campbell – None

Mr. D. Kidd – discussion public nuisances and how to fund demolition if needed

On motion of Mr. D. Kidd and with the following vote, the Board moved to use the surplus from tax sale to cover demolition of needed and to prepare paper work to cover this.

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

NAY: None

Ms. C. Tucker – None

**IN RE: CLOSED SESSION**

Mr. R. Vandall moved that the Amherst County Board of Supervisors convene in closed session pursuant to the exemption at § 2.2-3711 (A) (7) of the Code of Virginia, to consult with the County Attorney regarding specific legal matters pertaining to the transfer of the Phelps Road School property and the current status of that property, which matters require the provision of legal advice by legal counsel.

This was seconded by Mr. D. Kidd and approved with the following vote:

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

NAY: None

Mr. F. Campbell moved to come out of closed session, seconded by Mr. R. Curd and approved with the following vote:

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

NAY: None

Mr. Kidd moved the closed session resolution and was approved with the following roll call vote:



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

### **CERTIFICATION OF CLOSED MEETING**

**WHEREAS**, the Amherst County Board of Supervisors has convened a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the Amherst County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Amherst County Board of Supervisors 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 convening the closed session were heard, discussed or considered by the Amherst County Board of Supervisors.

Any member who believes that there was a departure from the requirements of clauses (i) and (ii) shall state the substance of the departure that, in his judgment, has taken place. (If any member cites a departure, his statement shall be recorded in the minutes.)

### **IN RE: ADJOURNMENT**

On motion of Mr. F. Campbell, seconded by Mr. R. Vandall and with the following vote, the Board moved to adjourn.

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

NAY: None

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Donald W. Kidd, Chairman  
Amherst County Board of Supervisors

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C. Lee Lintecum  
County Administrator