

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

At a regular meeting of the Board of Supervisors of Amherst County held at the Administration Building thereof on Tuesday, the 21<sup>st</sup> day of April, 2009 at 7:00 p.m. at which the following members were present and absent:

**BOARD OF SUPERVISORS:**

PRESENT:	Mr. L. Parrish Mr. C. Adams Mr. D. Kidd Mr. R. Vandall Mr. V. Wood	ABSENT: None
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Mr. Parrish called the meeting to order.

Mr. Vandall opened with prayer and led in the pledge of allegiance to the flag.

**IN RE: AGENDA**

On motion of Mr. V. Wood and with the following vote, the Board of Supervisors approved the agenda with the following amendments:

**AGENDA**

**TUESDAY, APRIL 21, 2009  
ADMINISTRATION BUILDING – 153 WASHINGTON STREET  
SCHOOL BOARD MEETING ROOM  
7:00 P.M.**

**I. Call to Order****II. Invocation and Pledge of Allegiance****III. Approval of Agenda****IV. Public Hearings**

- a. 2008-30 Request by the County of Amherst for a zoning text amendment to amend the regulations regarding cul-de-sacs and flag lots. Currently the ordinance allows flag lots only in the A-1 Agricultural Residential District with no stipulations and no reference to lots fronting on cul-de-sacs. The proposed ordinance would allow a reduced frontage requirement on lots fronting on cul-de-sacs to fifty (50) feet at the arc of the cul-de-sac. Additionally, the ordinance clarifies specific regulations to flag lot's usage, such as: flag lots may be used only in cases of extreme topography, and may be used only on less than fifteen (15) percent of the total lots in a subdivision, location – no two flag lot entrances shall adjoin, setbacks – to be applied where the lots meets minimum width requirements, and frontage – of forty (40) feet in width.
- b. 2008-31 Request by the County of Amherst to amend Section 1209.01 of the Family Division requirements of the Amherst County Zoning and Subdivision Ordinance. The proposed ordinance increases the allowed time for approval of a family division plat, and adds a stepchild as a qualifying member according to the Virginia State Code. The ordinance requires that family subdivisions met the provisions of the Watershed Overlay District. The ordinance addresses the number of years the property shall be owned prior

to a parcel of land being subdivided, and the number of years a parcel of land should be owned after division with a restrictive covenant placed upon it. The ordinance requires an affidavit to be signed by the grantor and grantee that identifies compliance of the ordinance. The ordinance provides a section that allows the Zoning Administrator or his/her designee to vacate the family division if it is in violation of the ordinance.

- c. 2008-32 Request by the County of Amherst for a zoning text amendment that would not require soil work (i.e. primary and reserve drainfield) on a residue lot that is greater or equal to twenty (20) acres. Currently, the ordinance requires that a primary and one hundred (100) percent reserve drainfield be certified on all lots in a subdivision, including residue lots (the remaining portion). The proposed ordinance will only require a primary and one hundred (100) percent reserve drainfield on a single residue lot that is less than twenty (20) acres.
- d. 2009-01 Request by George Rowe for a zoning text amendment that would allow the display, sale and wholesale of modular homes as a special exception use in the B-2 General Commercial District.
- e. 2009-02 Request by James River Recreation, LLC for a zoning text Amendment to allow Off-Highway Vehicle Parks and Recreational facilities as a special exception use in the A-1 Agricultural Residential District. The proposal adds a definition of Off-Highway Vehicle Parks and Recreational facilities, Off-Highway Vehicle and perennial stream as well as a section regulating Off-Highway Vehicle Recreation facilities under the special provision section of the Amherst County Zoning Ordinance.
- f. Public Hearing to receive public input regarding the proposed adoption of a resolution to create the Amherst County Broadband Authority
- g. Public Hearing on the intention to file an application for funding with USDA, Rural Development for funding of the purchase of emergency vehicles

#### **V. Citizen Comments**

#### **VI. Consent Agenda**

- a. Calendar Items
- b. Animal Care and Control Department – Report for January, February and March, 2009
- c. Building Safety and Inspections monthly report for March 2009
- d. Letter of March 30, 2009 – Ben Cline, House of Delegates
- e. Letter of April 8, 2009 – Ann L. Jennings and Patricia J. Bell
- f. Letter of April 6, 2009 – Robert Prezioso, Dept. of Transportation

#### **VII. County Administrator's Report**

- a. QAD Entrance
- b. Pedlar EMS Tower**

#### **VIII. County Attorney's Report**

- a. Monacan Park: Wake Boarding Boat Issue
- b. Noise Ordinance – Supreme Court Ruling**

#### **IX. Matters from Members of the Board of Supervisors**

#### **X. Appropriations/Transfers/Disbursements**

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

**§2.2-3711.A.1 Discussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter which involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.**

**a. Personnel**

§2.2-3711.A.3 Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

**b. Prospective Business**

**XII. Adjourn**

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood  
NAY: None

**IN RE: PUBLIC HEARINGS**

- a. 2008-30 Request by the County of Amherst for a zoning text amendment to amend the regulations regarding cul-de-sacs and flag lots. Currently the ordinance allows flag lots only in the A-1 Agricultural Residential District with no stipulations and no reference to lots fronting on cul-de-sacs. The proposed ordinance would allow a reduced frontage requirement on lots fronting on cul-de-sacs to fifty (50) feet at the arc of the cul-de-sac. Additionally, the ordinance clarifies specific regulations to flag lot's usage, such as: flag lots may be used only in cases of extreme topography, and may be used only on less than fifteen (15) percent of the total lots in a subdivision, location – no two flag lot entrances shall adjoin, setbacks – to be applied where the lots meets minimum width requirements, and frontage – of forty (40) feet in width.

Planning Director Bryant introduced case 2008-30 and provided a video presentation. Mr. Bryant explained that the intent of the Planning Commission does not desire to eliminate “flag lots”, but to more strictly regulate their use.

Mr. Parrish called the public hearing to order.

**Speakers:**

Gary Jennings supports reduction in cul-de-sac design, opposes 40' frontage for flag lots. He stated that further regulation of flag lots will increase cost of development. Mr. Jennings stated that he agrees with setback requirements.

Steven Brooks agreed with reduction in cul-de-sac design, opposes 40' frontage for flag lots and disagrees with side-by-side driveways.

Scott Strang agrees with entire ordinance amendment.

Thomas Brooks agrees with cul-de-sac reduction size, disagrees on 15% rule for maximum number of lots to be established as flag lots within a subdivision.

Joyce Brooks stated that she disagrees with flag lot restrictions.

There were no other speakers and the public hearing was closed.

Planning Director Bryant answered specific questions of Board members.

There was a Board discussion and consensus of the Board of Supervisors to defer action on the zoning text amendment on regulations regarding cul-de-sacs and flag lots to a future work session.

- b. 2008-31 Request by the County of Amherst to amend Section 1209.01 of the Family Division requirements of the Amherst County Zoning and Subdivision Ordinance. The proposed ordinance increases the allowed time for approval of a family division plat, and adds a stepchild as a qualifying member according to the Virginia State Code. The ordinance requires that family subdivisions met the provisions of the Watershed Overlay District. The ordinance addresses the number of years the property shall be owned prior to a parcel of land being subdivided, and the number of years a parcel of land should be owned after division with a restrictive covenant placed upon it. The ordinance requires an affidavit to be signed by the grantor and grantee that identifies compliance of the ordinance. The ordinance provides a section that allows the Zoning Administrator or his/her designee to vacate the family division if it is in violation of the ordinance.

Planning Director Bryant introduced case 2008-31 and answered questions of Board members.

Mr. Parrish called the public hearing to order.

Speakers:

Bonnie Dawson opposes the proposed ordinance amendment.

Wendy Kendrick supports the proposed ordinance amendment.

Scott Strang supports the proposed ordinance.

Gary Jennings opposes the proposed ordinance.

Jacob BeChee opposes the proposed ordinance

Steven Brooks opposes ordinance.

Joyce Brooks suggested including family division to include great grandchildren and opposes five (5) year ownership restrictions.

Renee Harlow opposed to ordinance.

Ken Beck opposed to ordinance.

Bruce Campbell opposed to ordinance.

Thomas Brooks opposed to ordinance and suggested adding great grandchildren as well as step children.

Robert LeClair opposed proposed ordinance.

Randy Thorpe opposed proposed ordinance.

There were no other speakers and the public hearing was closed.

There was a Board discussion and consensus by the Board of Supervisors to defer action to amend Section 1209.01 of the Family Division requirements of the Amherst County Zoning and Subdivision Ordinance to a future work session.

- c. 2008-32 Request by the County of Amherst for a zoning text amendment that would not require soil work (i.e. primary and reserve drainfield) on a residue lot that is greater or equal to twenty (20) acres. Currently, the ordinance requires that a primary and one hundred (100) percent reserve drainfield be certified on all lots in a subdivision, including residue lots (the remaining portion). The proposed ordinance will only require a primary and one hundred (100) percent reserve drainfield on a single residue lot that is less than twenty (20) acres.

Planning Director Bryant introduced case 2008-32.

Mr. Parrish called the public hearing to order.

Speakers:

Gary Jennings spoke in support of proposed ordinance, but opposes reserve drainfield in any case.

Thomas Brooks supports proposed ordinance.

Randy Tharpe supports proposed ordinance.

The public hearing was closed.

On motion of Mr. R. Vandall and with the following vote, the Board of Supervisors moved adoption of the following zoning text amendment that would not require soil work on a residue lot that is greater or equal to twenty (20) acres:

1203. Preparation of preliminary plat.

*1203.01. Preliminary plat requirements.* The preliminary plat shall be legibly drawn in accordance with the following requirements:

1. One (1) or more sheets may be used, each to be numbered as "page (number) of (total number of pages)"; if two (2) or more sheets are used, each sheet shall show the name of the subdivision and match lines shall be provided to indicate where sheets join.
2. The scale shall not be less than one (1) inch equals one hundred (100) feet. The zoning administrator or planning director may accept a scale which is sufficient to clearly show all required details on the plat.
3. Where the complete plat cannot be shown on one sheet, an index map shall be provided on a separate sheet at a reduced scale.

*1203.02. Preliminary plat information.* The preliminary plat shall include the following information:

1. Date of plat and name of surveyor preparing it, shown on each sheet;
2. Scale and north meridian, designated "true" or "magnetic" and oriented to the top of each sheet, where practical;
3. The name and signature of the owner, shown on the first sheet;
4. Sources of data used in preparing the plat, including the deed book and page number of the last instrument in the chain of title;

5. Locations, lengths, and bearings of lines of the proposed subdivision, with names of all adjoining property owners and the location of each of their common boundaries including established streets and waterways; and adjoining streets with their names;
6. All pertinent natural and historical features and landmarks; including existing and finished contour lines as needed for review of drainage and sewer facilities, and including watercourses, marshes, lakes, impoundments and areas of significant vegetation;
7. All subdivisions, jurisdiction boundary lines, streets, alleys, or other public ways; and other landmarks, if any, within two thousand (2000) feet of the proposed subdivision shown on an insert on the first sheet at a scale no smaller than six hundred (600) feet to one inch;
8. Total acreage of the proposed subdivision and the acreage remaining in the original tract, if any;
9. The location of existing buildings in and within one hundred (100) feet of the subdivision, and the location and description of all existing markers;
10. The proposed locations, widths, and names of all streets and alleys;
11. Proposed lot lines with proposed dimensions, building lines and easements, and the proposed use of each lot and other areas, including significant natural features, and those areas to be used for parking, open space, recreation, commercial purposes, or public or governmental use, and existing and proposed utility installations;
12. Proposed lot numbers and block letters;
13. If the proposed subdivision consists of land acquired from more than one source of title, the outlines of the several tracts shall be shown and identified on the index map;
14. A map showing the location of the proposed subdivision with respect to any designated flood plan district, including information, but not limited to, the one hundred (100) year flood elevations, boundaries of the flood plain districts, proposed lots and sites, fills, flood or erosion protective facilities, and areas subject to special deed restrictions;
15. Indicate current zoning of the parcel of land to be subdivided as provided herein.
16. All special platting requirements of Section 710 must be shown for those portions of the property located within any Primary or Secondary Watershed District. This information shall include tributary buffer strips, drain field and reserve drain field spaces, reservoir setbacks, reservoir setback restriction statements, minimum septic tank maintenance standards and storm water management facilities;
17. Name and signature of any owners of property over which a right-of-way traverses which is intended to provide required access to the subdivision. The signature block shall include the following statement: "The owners understand and accept the prescribed right-of-way on their property as a means of access to a subdivision of property. It is understood and accepted that maintenance of the access road will take place within the right-of-way."
- 18. All lots shall have a primary and one hundred (100) percent reserve drainfield unless the lot is being served by public sewer or is a single residue (the remaining portion) lot greater than or equal to twenty (20) acres. For a single residue lot twenty (20) acres or greater the following statement shall be clearly noted on the plat for this lot: *"The approval of this residue lot by the County of Amherst does not certify or guarantee the owner or purchaser the presence of adequate soils to support an on-site wastewater treatment system for any development as no demonstration has been made by the developer/subdivider of the same"*.**
19. All private waste disposal systems including their reserve areas be located on the same property as the building site that the private waste disposal system benefits. Mass drain fields may not be subject to this proposal.

20. When private on-site wastewater systems other than mass drain fields approved by the Amherst County Health Department are utilized:

1. Each system approved after October 17, 2006 shall have another on-site wastewater system area reserved for use in the event of failure of the initial on-site wastewater system;
2. In all zones, the reserve on-site wastewater system area shall be sufficient to accommodate a minimum of one hundred (100) percent of the capacity of the initial on-site wastewater system;
3. The location of all on-site wastewater system areas and reserve areas shall be shown on the plat of the subdivision and if pretreatment is proposed for the on-site wastewater system such proposal must be clearly stated on the plat.
4. All plats of subdivision and site plans shall contain the following: The Virginia Department of Health advises that septic tanks be pumped every three (3) to five (5) years to maximize the life of the on-site wastewater system area.

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood  
NAY: None

- d. 2009-01 Request by George Rowe for a zoning text amendment that would allow the display, sale and wholesale of modular homes as a special exception use in the B-2 General Commercial District.

Planning Director Bryant introduced case 2009-01.

Mr. Parrish called the public hearing to order.

Speakers:

Thomas Brooks, Sr. represented George Rowe in support of the request.

There were no other speakers and the public hearing was closed.

On motion of Mr. D. Kidd and with the following vote, the Board of Supervisors moved approval of the following zoning text amendment that would allow the display, sale and wholesale of modular homes as a special exception use in the B-2 General Commercial District.

707. General Commercial District B-2.

*707.01. Intent of General Commercial District B-2.* This district covers those areas intended for the conduct of any retail business. Those with extended hours of operation and generating high volumes of traffic are permitted in this zone.

*707.02. Permitted uses.* Within the General Commercial District B-2, the following uses are permitted:

1. Accessory buildings and uses as provided in Section 901 herein;
2. Banks and savings and loan institutions;
3. Clinics and medical offices;
4. Clubs and lodges, fraternal, civic and patriotic;
5. Drug stores and other establishments for the filling of prescriptions and sale of pharmaceutical and similar supplies;
6. Emergency services;
7. Food stores;
8. General convenience stores;
9. Newsstands;

10. Oil and gas exploration, extraction and production, provided the provisions of Sections 45.1-361.1 through 45.1-361.144, Code of Virginia, 1950, as amended, and the oil and gas rules and regulations promulgated by the Virginia Department of Labor and Industry are adhered to;
11. Professional office buildings;
12. Public utilities such as poles, lines, transformers, pipes, meters and related or similar facilities; water sewer distribution lines;
13. Retail nurseries and greenhouses;
14. Retail service stores such as bakeries, barber shops, beauty parlors, shoe shops, self-service laundries, and establishments for receiving and distributing articles for laundering, drying and dry cleaning;
15. Signs as provided in Section 907 herein;
16. U.S. Post Offices;
17. Wearing apparel stores;
18. Antique and gift shops;
19. Automobile service stations as provided in Section 902 herein;
20. Cemeteries;
21. Churches, manses, parish houses and adjacent cemeteries;
22. Day care centers;
23. Garages, public;
24. Hardware stores;
25. Motels, motor hotels and motor inns;
26. Restaurants;
27. Schools;
28. School support facilities;
29. Shopping center, subject to restrictions of Section 909 herein;
30. Shopping complex;
31. Single-family dwelling and a retail sales and/or service store within the same main structure, provided the single-family dwelling unit occupies fifty (50) percent or more of the structure;
32. Telephone repeater substations, with no external antennas;
33. Automobile laundry or carwash provided that a paved area shall be located on the same lot for the storage of vehicles awaiting entrance to the washing process;
34. Bakeries employing not more than ten (10) persons other than clerks and vehicle drivers;
35. Cabinet making shops;
36. Catering establishments;
37. Cold storage plants and frozen food lockers not including lard rendering and abattoirs;
38. Dry cleaning plants;
39. Funeral homes;
40. Furniture stores;
41. Printing plants and newspaper offices;
42. Radio and TV offices and studios;
43. Retail automotive parts stores;
44. Satellite dish antenna sales and service establishments;
45. Theaters, indoor;
46. Videotape sales and rental establishments;
47. Wholesale and jobbing establishments;
48. Bowling alleys, roller skating and ice skating rinks, billiard parlors, pool rooms, dance halls, game rooms, pinball parlors, electronic game center, golf driving ranges and similar forms of amusement;
49. Colleges;
50. Community centers;
51. Contractor facilities and storage yards and establishments for installation and servicing the following: air conditioning, electrical service, flooring, hearing, interior decorating, painting, plumbing, roofing, steel erection, tiling or ventilating with all material stored entirely in buildings enclosed on all sides or with walls or fences, supplemented by plantings as may be prescribed by the board of supervisors;
52. Dormitories;
53. Excavation contractor's facilities and yards for storage of equipment intended for off-site use;
54. Feed and seed stores;
55. Golf driving range;
56. Kennels;



57. Light manufacturing, processing or packaging of products (including machine shops without punch presses) provided all operations are conducted in a building which shall not have any opening other than a stationary window within one hundred (100) feet of a residential, agricultural or a school district; shall not store or otherwise maintain any parts or waste material outside such building; and shall not create conditions of smoke, fumes, noise, odor or dust detrimental to health, safety or general welfare of the community; and shall be permanently screened from adjoining residential lots and districts by a wall, fence, evergreen hedge and/or other suitable enclosure of a minimum height of seven (7) feet at the original elevation of the property line;
58. Pest exterminating businesses;
59. Public utilities: public water and sewer transmission lines, treatment facilities, and pumping stations; electrical power transmission lines and substations; oil and gas transmission pipelines and pumping stations; microwave and radio wave transmission and relay towers and substations; telephone exchange center, offices, equipment storage, dispatch centers and warehouse facilities;
60. Radio and TV transmission towers (provided the tower is so located that its minimum distance from any lot line shall equal the maximum height of the tower above ground level);
61. Radio and TV transmitters;
62. Sign manufacturing;
63. Truck stop;
64. Veterinary hospitals and clinics;
65. Libraries;
66. Public utilities;
67. Public streets;
68. Wireless communication facilities as provided in Section 914 herein;
69. Short-term tourist rental of dwelling.

*707.03. Special Exceptions.*

1. Bulk storage and sale of sand, gravel and rock;
2. Automobile sales, used;
3. Building and excavating contractor facilities with outside storage;
4. Automobile laundry or car wash, provided that a paved area shall be located on the same lot for the storage of vehicles awaiting entrance to the washing process;
5. Building materials dealer, not including handling of bulk materials such as sand and gravel;
6. Farm machinery display, sales and services;
7. Machinery sales and services;
8. Arenas, auditoriums or stadiums;
9. Automotive repair garage, mechanical and body, provided all operations are conducted in a building which shall not have any opening other than a stationary window within one hundred (100) feet of a residential, agricultural or public lands district and which shall not store or otherwise maintain any parts or waste material outside such building;
10. Tire recapping, provided all operations are conducted in a building which shall not have any opening other than a stationary window within one hundred (100) feet of a residential, agricultural or school district and which shall not store or otherwise maintain any parts or waste material outside such building;
11. Adult entertainment establishments in accordance with Section 915;
12. Tattoo establishments;
13. Auction house;
14. Self-service mini-storage and warehouse facilities;
- 15. Display of and sale of wholesale and retail modular homes.**

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None

- f. 2009-02 Request by James River Recreation, LLC for a zoning text Amendment to allow Off-Highway Vehicle Parks and Recreational facilities as a special exception use in the A-1 Agricultural Residential District. The proposal adds a definition of Off-Highway Vehicle Parks and Recreational facilities, Off-Highway Vehicle and perennial stream as well as a section regulating Off-Highway Vehicle Recreation facilities under the special provision section of the Amherst County Zoning Ordinance.

Planning Director Bryant introduced case 2009-02 and requested input from the County Attorney Hunt concerning a recent Virginia Supreme Court decision that affects local noise ordinance restrictions.

County Attorney Hunt provided information regarding a recent Supreme Court ruling on noise ordinances.

Mr. Parrish called the public hearing to order.

Speakers:

Thomas Brooks, Sr. spoke as representative for James River Recreation Center, LLC/Ken Beck.

**Mr. Vandall left meeting**

Ken Beck spoke in support of amendment.

Gary Jennings spoke in support of amendment.

Joyce Brooks spoke in support of amendment.

LeAnn Horton spoke in support of amendment.

Mike Bernaky spoke in support of amendment.

Bernard Proctor spoke in opposition to the proposed ordinance and urged the Board to perform a noise study.

Glenn Lee spoke as representative of Scott Zion Baptist Church who oppose the proposed ordinance.

There were no other speakers and the public hearing was closed.

There was a Board discussion.

Mr. Kidd specifically asked the County Attorney if the zoning text amendment is approved with the understanding that the current noise ordinance is unconstitutional will an existing facility be grandfathered to not be required to comply with a future noise ordinance. The County Attorney replied that an existing facility would not be grandfathered.

There was a consensus by the Board of Supervisors to defer action on the request for a zoning text amendment to allow off-highway vehicle parks and recreational facilities as a special exception use in the A-1 Agricultural Residential District to a future work session.

- g. Public Hearing to receive public input regarding the proposed adoption of a resolution to create the Amherst County Broadband Authority

Bryan David, Region 2000 Economic Development Council Director and Attorney Gore of Hefty & Wiley introduced the proposed creation of a Broadband Authority.

Mr. Parrish called the public hearing to order.

Speakers:

Lee Horton requested further information concerning the proposed Broadband Authority.

Attorney Gore provided provided background of the proposed project and concept of its intended purpose at the request of Chairman Parrish.

There were no other speakers and the public hearing was closed.

On motion of Mr. Wood and with the following vote, the Board of Supervisors approved the following resolution creating the Amherst County Broad Band Authority.

**Amherst County Board of Supervisors**

**RESOLUTION**

**A RESOLUTION CREATING  
THE AMHERST COUNTY BROADBAND AUTHORITY**

**WHEREAS**, a meeting of the Board of Supervisors of Amherst County, Virginia was held on the 21st day of April, 2009. This Resolution was adopted upon a motion duly made and seconded; and

**WHEREAS**, access to affordable high speed data and Internet service ("broadband") is important for fostering economic development, improving educational opportunities, ensuring public safety, and enhancing the overall quality of life of the citizens of the county; and

**WHEREAS**, access to broadband is extremely limited throughout the majority of the county; and

**WHEREAS**, the private sector alone has not been able to fulfill this community need, and there is no indication that it will do so in the near future; and

**WHEREAS**, the Amherst County Board of Supervisors has made a determination that in order facilitate the provision of affordable high speed data service and Internet access to local businesses, local government, and the general public, the county should create a Broadband Authority.

**NOW, THEREFORE, BE IT RESOLVED**, that the Amherst County Broadband Authority (hereinafter the "Authority") be created pursuant to the Virginia Wireless Service Authorities Act, Chapter 54.1 of Title 15.2 of the Code of Virginia (§15.2-5431.1 et seq.) ("Act") as a body politic and corporate, and as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare as authorized under the Act. As required by §15.2-5431.4 of the Code of Virginia, the Articles of Incorporation of the Authority are hereby set forth as follows:

**ARTICLES OF INCORPORATION OF THE  
AMHERST COUNTY BROADBAND AUTHORITY**

Pursuant to the Virginia Wireless Service Authorities Act, Chapter 54.1 of Title 15.2 of the Code of Virginia (§15.2-5431.1 et seq.), the Amherst County Board of Supervisors hereby establishes and adopts these Articles of Incorporation of the Amherst County Broadband Authority.

**I. Name**

The name of the authority is "Amherst County Broadband Authority" (the "Authority").

**II. Address and physical location**

The address of the Authority's principal office is: 153 Washington Street, Amherst, Virginia 24521. The Authority physically will be located at the Office of the County Administrator for Amherst County in Amherst, Virginia.

**III. Board of the Authority**

The number of members of the Authority Board will consist of five (5) members. Each member of the Board of Supervisors of Amherst County is an ex-officio member of the Authority Board and his term as a member of the Authority Board will begin and end with his service as a

member of the Board of Supervisors of Amherst County. Each member of the Board before entering upon the discharge of the duties of the office shall take and subscribe to the oath prescribed in § 49-1 of the Code of Virginia. The name and addresses of the initial members of the Authority Board are as follows:

<u>Name of Member</u>	<u>Address</u>
Donald Kidd	153 Washington Street, Amherst, VA 24521
Vernon Wood	153 Washington Street, Amherst, VA 24521
Chris Adams	153 Washington Street, Amherst, VA 24521
S. Ray Vandall	153 Washington Street, Amherst, VA 24521
Leon Parrish	153 Washington Street, Amherst, VA 24521

#### **IV. Purpose For Which Authority Is Created**

The Authority's purpose is to provide qualifying communications services as authorized by the Virginia Wireless Service Authorities Act ("Act") and Article 5.1 (§56-484.7:1 et seq.) of Chapter 15 of Title 56 of the Code of Virginia.

#### **V. Powers of the Authority**

The Authority is an instrumentality exercising public and essential governmental functions to provide for the public health and welfare. The Authority shall have all rights, duties, and powers provided under the Act, including but not limited to, the power to sue and be sued in its own name, adopt an official seal, adopt bylaws and rules to govern its affairs, issue notes and revenue bonds, enter into contracts, fix and charge fees for services.

**IN WITNESS WHEREOF**, after duly advertising this Resolution and notice of hearing, and holding the public hearing pursuant to §15.2-5431.5 of the Code of Virginia, the Amherst County Board of Supervisors does hereby adopt this Resolution Creating the Amherst County Broadband Authority and setting forth the Authority's initial Articles of Incorporation this 21st day of April, 2009.

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd and Mr. V. Wood

NAY: None

ABSENT: Mr. R. Vandall

On motion of Mr. V. Wood and with the following vote, the Board of Supervisors approved the Virginia's Region 2000 Economic Development Council engagement letter dated April 13, 2009.

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd and Mr. V. Wood

NAY: None

ABSENT: Mr. R. Vandall

- h. Public Hearing on the intention to file an application for funding with USDA, Rural Development for funding of the purchase of emergency vehicles

Mr. Parrish called the public hearing to order for the intent to file an application for USDA funding as advertised.

There were no speakers and the public hearing was closed.

On motion of Mr. Adams and with the following vote, the Board of Supervisors approved the adoption of the following resolution on the intention to file an application for funding with USDA, Rural Development for funding of the purchase of emergency vehicles:

**RESOLUTION OF GOVERNING BODY OF AMHERST COUNTY**

The governing body of the County of Amherst, consisting of five (5) members, in a duly called meeting held on the 21<sup>st</sup> day of April, 2009 at which a quorum was present RESOLVED as follows:

**BE IT HEREBY RESOLVED** that, in order to facilitate obtaining financial assistance from the United States of America, acting, by and through the Rural Housing Service, an agency of the United States Department of Agriculture, (the Government) in the development of a plan for funding of emergency vehicles to serve the community, the governing body does hereby adopt and abide by the covenants contained in the agreements, documents, and forms required by the Government to be executed.

**BE IT FURTHER RESOLVED** that the County Administrator be authorized to execute on behalf of the County of Amherst Board of Supervisors the above-referenced agreements and to execute such other documents including, but not limited to, debt instruments and security instruments as may be required in obtaining the said financial assistance.

This Resolution, along with a copy of the above-referenced documents, is hereby entered into the permanent minutes of the meetings of this Board.

AMHERST COUNTY BOARD OF SUPERVISORS  
(ENTITY NAME)

BY \_\_\_\_\_  
Leon J. Parrish, Chairman

**CERTIFICATION**

I hereby certify that the above resolution was duly adopted by the Board of Supervisors of Amherst County in a duly assembled meeting on the 21<sup>st</sup> day of April, 2009.

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Rodney E. Taylor, County Administrator

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd and Mr. V. Wood

NAY: None

ABSENT: Mr. R. Vandall

**IN RE: CITIZEN COMMENTS**

There were no citizen comments.

**IN RE: CONSENT AGENDA**

- a. Calendar Items
- b. Animal Care and Control Department – Report for January, February and March, 2009
- c. Building Safety and Inspections monthly report for March 2009
- d. Letter of March 30, 2009 – Ben Cline, House of Delegates
- e. Letter of April 8, 2009 – Ann L. Jennings and Patricia J. Bell
- f. Letter of April 6, 2009 – Robert Prezioso, Dept. of Transportation

The County Administrator presented consent agenda items.

**IN RE: QAD ENTRANCE**

The County Administrator presented information concerning the QAD road entrance.

On motion of Mr. Wood and with the following vote, the Board of Supervisors approved the appropriation of \$13,945.00 from deferred revenue account to compensate QAD for their entrance road as previously agreed.

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd and Mr. V. Wood

NAY: None

ABSENT: Mr. R. Vandall

**IN RE: PEDLAR EMS TOWER**

The County Administrator presented information concerning a proposed exemption for a wireless communication tower at Pedlar Fire and Rescue and requested permission to advertise a public hearing for construction of proposed tower.

On motion of Mr. Kidd and with the following vote, the Board of Supervisors directed the County Administrator to advertise the proposed exemption for the county construction of a wireless communication tower at Pedlar Fire and Rescue.

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd and Mr. V. Wood

NAY: None

ABSENT: Mr. R. Vandall

**IN RE: MONACAN PARK: WAKE BOARDING BOAT ISSUE**

County Attorney Hunt provided a report concerning wakeboard boat regulations at Monacan Park. The Amherst County Parks and Recreation Board recommended proceeding with drafting an ordinance banning "wake enhancing devices" at Monacan Park. He advised that he would draft said ordinance, transmit it to DGIF for enforcement recommendations/review and then present the new ordinance to the Parks and Recreation Board for their approval and then send the ordinance to the Board of Supervisors for discussion/vote.

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

Mr. D. Kidd suggested the Board consider procedures for control of speaking during public hearing.

Mr. C. Adams stated that all department heads should get monthly budget reports.

Mr. L. Parrish informed the County Administrator that a street light needs replacing at 3<sup>rd</sup> and Clark Street. Mr. L. Parrish also informed the County Administrator that there is a storm water drainage problem at 349 Main Street in Old Town Madison Heights.

Mr. V. Wood informed the County Administrator that there are a number of inoperable vehicles located on Ned Brown Lane that needs to be investigated.

**IN RE: APPROPRIATIONS/TRANSFERS/DISBURSEMENTS**

On motion of Mr. V. Wood and with the following vote, the Board of Supervisors approved the following appropriations and transfers:

**a. APPROPRIATIONS**

**Sheriff's Department**

31020	1010	Narcotics Comp	\$	499.60
31020	5401	Office Supplies		62.87
31020	5410	Uniform		131.00
(Pass through revenue deposited with Treasurer)				

**b. TRANSFERS****Sheriff's Department**

Transfer from:

31020 3005 Maint SVC \$ 1,500.00

Transfer to:

31020 5449 Tires \$ 1,500.00

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd and Mr. V. Wood

NAY: None

ABSENT: Mr. R. Vandall

**IN RE: CLOSED SESSION**

Mr. C. Adams moved to go to closed session to discuss a (1) personnel matter and (3) discussion relating to the acquisition or disposition of real property pursuant to § 2.2-3711.A.1 and 3 of the Virginia Code Section.:

§2.2-3711.A.1 – Discussion or consideration of the assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees, or employees of any public body.

§2.2-3711.A.3 – Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

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

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd, and Mr. V. Wood

NAY: None

ABSENT: Mr. R. Vandall

Mr. D. Kidd moved to come out of closed session, seconded by Mr. C. Adams and approved with the following vote:

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd, and Mr. V. Wood

NAY: None

ABSENT: Mr. R. Vandall

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

Mr. L. Parrish	AYE
Mr. C. Adams	AYE
Mr. D. Kidd	AYE
Mr. R. Vandall	ABSENT
Mr. V. Wood	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. C. Adams, seconded by Mr. V. Wood and with the following vote, the Board of Supervisors adjourned until April 23, 2009 at 10:30 a.m. in the Administration Building.

AYE: Mr. L. Parrish, Mr. C. Adams, Mr. D. Kidd and Mr. R. Vandall

NAY: None

ABSENT: Mr. R. Vandall

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Leon J. Parrish, Chairman  
Amherst County Board of Supervisors

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Rodney E. Taylor, County Administrator