

July 28, 2009

County of Greene, VA

THE CONTINUED MEETING OF THE GREENE COUNTY BOARD OF SUPERVISORS WAS HELD ON TUESDAY, JULY 28, 2009 AT 5:30 P.M. IN THE COUNTY MEETING ROOM.

Present were: Steve Catalano, Chairman  
Clarence Peyton, Vice Chairman  
Jeri Allen, Member  
Carl Schmitt, Member  
Mike Skeens, Member  
Ray Clarke, County Attorney  
Barry Clark, County Administrator  
Patti Vogt, Deputy Clerk  
Tracy Morris, Finance Director

RE: EXECUTIVE SESSION

Upon motion by Carl Schmitt and unanimous vote, the Board entered into Executive Session to discuss legal and personnel matters pursuant to Section 2.2-3711 Subsection (a, 1-7) of the Code of Virginia.

**Contract Matters:**

- Health Insurance
- Broadband

**Land Acquisition:**

- Water and Sewer

**Legal:**

- None

**Personnel:**

- Administration

**Various Appointments:**

- None

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes

Carl Schmitt	-	Yes
Mike Skeens	-	Yes

Motion carried.

Upon motion by Carl Schmitt and unanimous vote, the Board returned to Open Session.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

By unanimous vote, all members certified that only public business matters lawfully exempted from the Open Meeting requirement and only such matters as identified by the motion to enter into Executive Session were discussed.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

**RE: EMPLOYEE SERVICE AWARDS**

The Chairman presented the following employee service awards:

Annette Garth - 10 years  
Bart Svoboda - 5 years

**RE: PUBLIC HEARING – AMEND COUNTY CODE – ANIMAL CONTROL**

Mr. Ray Clarke, County Attorney, reviewed the proposed amendment which would make it unlawful for an animal to make continuous noise for twenty (20) consecutive minutes or more with no cessation of such sounds for time periods greater than five (5) minutes during the twenty (20) consecutive minutes. This would not apply to any animal located on property zoned

Conservation (C-1) or Agricultural (A-1) of five (5) acres or more, to any animal in an animal shelter or commercial kennel as defined in Article 22 of the Greene County Zoning Ordinance or to sounds caused by livestock or poultry.

The Chairman opened the floor for public comment. Ms. Mickey Harper spoke in support of the proposed amendment. Mr. Jerry Yacuzzi, President of the Owners Association in Twin Lakes Subdivision, said they passed an amendment to their by-laws regarding noise nuisance and he supported approval of the amendment.

Mr. Thomas Miller, resident of Preddy Creek, spoke on the problems he has experienced with barking dogs which has impacted his family's quality of life and ability to enjoy their home and property. Repeated efforts to speak with neighbors regarding the barking have all failed. Mr. Miller felt if the approval of this amendment does nothing more than require the participation of both parties to seek reconciliation, then it has been effective.

Ms. Kara Pennella was opposed to the approval of the amendment. She felt this will deter citizens from working out problems on their own and noted there are other civil remedies available. Barking dogs should not be treated any differently than a neighbor's loud music. Ms. Pennella also said this ordinance would make the owners of barking dogs criminals.

Mrs. Susan Knight, member of the Board of Trustees for Twin Lakes Subdivision, said she is awakened constantly at night by barking dogs and supported approval of the amendment.

As there were no further comments, the public hearing was closed.

Mrs. Allen said the Noise Ordinance seems to be useless in the case of barking dogs. She said she doesn't like having to do this and did not agree that this would criminalize the owners of

barking dogs. Rather, this is an accommodation for people who are unable to work it out, as neighbors should be able to and unfortunately sometimes cannot.

Mr. Schmitt agreed and felt this amendment does a fair job. He did not feel this would be happening very often.

Mr. Skeens also agreed and noted he has received quite a few calls and emails, especially about barking dogs.

Mr. Peyton asked for clarification of Section 14-102. Does the responsibility lie with the complainant or can responsibility be put on law enforcement in every case?

Mr. Clarke said the person filing the complaint has to observe the behavior (i.e. hear the dog barking). This section makes the law enforcement official the complainant if they hear the dog barking. Mr. Clarke said the second sentence of this section can be struck and not affect the effectiveness of the ordinance.

Mr. Peyton said he would have a problem if law enforcement is called on every occasion to monitor the situation and file a complaint.

Mrs. Allen said it seems that citizens know there is nothing law enforcement can do about barking dogs. She felt the inclusion of law enforcement in the section would assist in the effectiveness of this ordinance.

The Chairman said the Animal Control Officers have expressed concern about the logistics of enforcing this section as they do not have the necessary manpower. He suggested the sentence be struck from the amendment.

Mrs. Allen said she was somewhat reluctant to drop the sentence and was concerned about a change in anticipation of the number of calls for barking dogs. The Chairman said the

concern is not about the number of calls but about the logistical challenge of the amount of time that would be required of the ACO.

Upon motion by Mike Skeens and unanimous vote, the Board approved the amendment to the Greene County Code with the deletion of the second sentence in Section 14-102. (See Attachment "A")

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: RESOLUTION TO AUTHORIZE FINANCING OF VEHICLES FOR SHERIFF'S OFFICE

Mrs. Tracy Morris, Finance Director, said this resolution, which is required by the bank, authorizes the financing of \$80,000 for vehicles for the Sheriff's Office. She noted the vehicles have already been purchased and received.

Mr. Peyton asked if the vehicles being replaced have been turned over to the County for disposal. He also asked if the vehicles were purchased under State contract. Mrs. Morris answered yes to both questions.

The Chairman said, traditionally, the County has allowed the Sheriff's Office to procure and ready vehicles in advance. However, he now feels the County needs to be in control of the process and recommended the Vehicle Maintenance Facility handle the procurement and readying of vehicles for issuance to departments. This would be the same procedure used recently to purchase school buses.

It was the consensus of the Board that the Vehicle Maintenance Facility be in charge of the procurement, readying and issuance of all vehicles. Vehicles being replaced will be turned in when the new vehicle is picked up.

Upon motion by Carl Schmitt and unanimous vote, the Board approved the resolution authorizing an \$80,000 lease purchase agreement, Series 2009, for vehicles for the Sheriff's Office. (See Attachment "B")

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: MATTERS FROM PUBLIC

PARKS AND RECREATION DEPARTMENT

Mrs. Pat Morris spoke on the recent request by the Parks and Recreation Department for an additional allocation of funds and asked the Board to deny this request. Departments should stay within their approved budget.

Mr. Sonny Clay also spoke in opposition of the additional allocation.

RE: CONSENT AGENDA

Upon motion by Jeri Allen and unanimous vote, the Board approved the following items on the consent agenda:

- a. Resolution to accept and appropriate \$3,620 in grant funds from the Virginia Fire Services Board for Dyke Volunteer Fire Company. No local match is required. (See Attachment "C")
- b. Resolution to accept and appropriate \$21,900 in grant funds from the Department of Homeland Security for the Greene County Rescue Squad. No local match is required. (See Attachment "D")

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

### PARKS AND RECREATION DEPARTMENT

The Chairman explained that, per the Rules of Order, the additional allocation of funds requires a second reading.

Mr. Peyton said he does not support the allocation of funds.

Mrs. Allen said, that while she does not support taking funds from the General Fund to cover overages, these were largely, if not entirely, unavoidable. She also noted the Board approved a significant overrun for the Schools. A lot of program costs are covered by users and expenses for printing, telephone and advertising costs went up to unexpected level during the year. Mrs. Allen felt Mr. Bates is doing a fantastic job with Parks and Recreation.

Mr. Schmitt agreed that no one likes to have overages and wants budget discipline. He spoke briefly on the expenditures and revenue for the Department.

The Chairman said the Department is over budget and he would not support allocation of additional funds.

Mr. Skeens said he would not change his vote and still supports the additional allocation.

Upon motion by Jeri Allen and affirmative vote, the Board approved the request from the Department of Parks and Recreation for the additional allocation of \$1,600 to cover overages in the FY 2009 budget.

Recorded vote:	Steve Catalano	-	No
	Clarence Peyton	-	No
	Jeri Allen	-	Yes

Carl Schmitt	-	Yes
Mike Skeens	-	Yes

Motion carried.

COMMONWEALTH ATTORNEY

Mr. Ron Morris, Commonwealth Attorney, was present to discuss his request to fill the vacant position in his office. The part-time position of Assistant Commonwealth Attorney is funded by a grant from the State which will be in effect until the end of 2010. Mr. Morris hopes to advertise the vacancy by August 1 and have the position filled by September 1. He noted his office ranks 3<sup>rd</sup> in the State in need for an Assistant Commonwealth Attorney.

Upon motion by Carl Schmitt and unanimous vote, the Board approved the request to fill the vacant grant funded position of part-time Assistant Commonwealth Attorney.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: OTHER MATTERS FROM THE BOARD

LIAISON REPORTS

Mrs. Allen reported the following:

- No RSA meeting this month
- Reviewed actions at the recent Planning Commission meeting
- EDA - New sign for Business Park. Also, new Visitor Center will be opening in August and Mr. John Humphries will be working there.

Mr. Schmitt reported the following:

- Rivanna River Basin Commission meeting focused on organizational matters. Marvin Moss newly elected Chair. Also discussed funds to be used for project at the recreation park.
- Attended summit meeting on broadband hosted by Senator Mark Warner. \$7.2 billion allocated for project. Working with local company and should have submittal ready for second round. Focus will be on "backbone" in County to get broadband out to rural areas.

Mr. Skeens said he and Mr. Peyton attended the ribbon-cutting ceremony for the United Christian College.

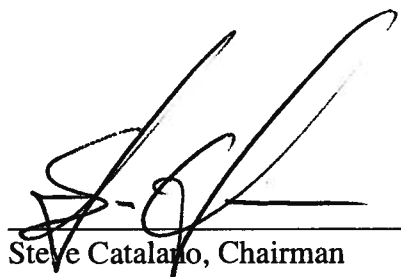
Mr. Peyton commented on the exterior maintenance project at the County Administration Building.

The Chairman reported the following:

- Rescue Squad has agreed to pursue revenue recovery with the County. A representative from billing company will attend meeting on August 25.
- EMS meeting - No funding for continuation of radio system expansion. Only maintenance projects until further notice.
- Mayors and Chairs meeting - Discussed new E & S regulations that localities will have to manage for the State which have not passed yet. County can opt out by giving control to DCR
- Had impromptu meeting with Tom Perriello on Saturday. Toured County and visited project sites.

RE: ADJOURN MEETING

As there was no further business, the meeting was adjourned.



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Steve Catalano, Chairman  
Greene County Board of Supervisors

**APPROVED BY THE BOARD OF SUPERVISORS ON JULY 28, 2009**

**ANIMALS**

**Article II. Animal Control**

**Division 2. Dogs**

**Subdivision II. License**

Sec. 14-95 – 14-100. Reserved

**Subdivision III. Animal Noise**

Sec. 14-101. Noise from Animals.

It shall be unlawful and shall be a nuisance for an owner or custodian of an animal to harbor or keep any animal within the county which frequently or for a continued duration howls, barks, or makes other excessive, continuous or untimely sounds; provided, however, this section shall not apply to any animal located on property zoned Conservation (C-1) or Agricultural (A-1) of five (5) acres or more, to any animal in an animal shelter or commercial kennel as defined in Article 22 of the Greene County Zoning Ordinance, or to sounds caused by livestock or poultry. For the purposes of this section, "excessive, continuous or untimely sounds" shall mean any howling, barking or other animal noise which continues for twenty (20) consecutive minutes or more with no cessation of such sounds for time periods greater than five (5) minutes during the twenty (20) consecutive minutes.

Sec. 14-102. Complaints of Animal Noise.

No person shall be charged with a violation of Section 14-101 of this Code unless the complainant appears before a magistrate and requests a summons to be issued.

Sec. 14-103. Penalty for Violation.

A violation of this section shall be punishable as a Class 3 misdemeanor, and any owner or custodian of an animal found guilty under this section shall be required to abate the disturbance. Upon a third conviction within twelve (12) months of any offense under this section involving the same animal, in addition to imposing a fine, the court shall order the animal to be removed from any area of the county covered by this section. If the owner or custodian of the animal fails to comply with such order within two (2) weeks, the animal control officer shall seize the animal and offer the animal to an appropriate animal shelter for adoption in a home outside of the area of the county covered by this section.

**State law references.** Power to enact legislation, Code of Virginia § 15.2-1200; Penalty for Class 3 misdemeanor, Code of Virginia § 18.2-11.

## **RESOLUTION**

### **AUTHORIZING AN \$80,000 LEASE PURCHASE AGREEMENT SERIES 2009 ("BANK-QUALIFIED")**

**WHEREAS**, Greene County, Virginia (the "County") proposes to enter into an exempt lease purchase financing in the maximum aggregate principal amount of \$80,000 in order to pay capital costs to acquire three (3) Sheriff's Department vehicles for essential governmental use and purposes (the "Project").

**WHEREAS**, SunTrust Bank (the "Bank") has offered to assist the County with the lease purchase financing of the Project and to enter into an \$80,000 Lease Purchase Agreement, Series 2009 ("Bank-Qualified") pursuant to the terms and conditions set forth in the letter from the Bank to the County, dated July 9, 2009, as amended, if at all (the "Bank Term Sheet"), a copy of which is attached hereto as Exhibit A.

**WHEREAS**, the foregoing arrangements will be reflected in the Lease Purchase Agreement (the "Agreement") to be dated (on or around) July 31, 2009, between the Bank, as Lessor thereunder, and the Board of Supervisors the County, as Lessee thereunder (the "Board"), a substantially final form of which has been presented and described at this meeting.

**WHEREAS**, pursuant to the Agreement the Bank will pay the costs of the Project, including costs of issuance in connection with the Agreement (for convenience, the "Project") and will lease the Project to the County.

**WHEREAS**, the County reasonably expects the Project to continue to be essential to the functions of the County for a period of not less than the term of the Agreement.

**WHEREAS**, the necessary steps under the Virginia Public Procurement Act, Chapter 43, Title 2.2 of the Code of Virginia, 1950, as amended, have been taken in connection with the Project.

**WHEREAS**, all amounts payable under the Agreement are subject to sufficient appropriations from the Board, upon due request of the County Administrator or other officer of the County charged with the responsibility of preparing the County's budget for each fiscal year, and the County is under no obligation to make any appropriation with respect to the Agreement.

**WHEREAS**, further, the Agreement shall not constitute a general obligation of the County, or a pledge of the full faith and credit of the County, or a charge against the general credit or taxing power of the County, and any amounts payable under the Agreement shall not constitute a debt of the County within the meaning of any constitutional or statutory limitation.

**WHEREAS**, at the request of the Bank, as Lessor under the Agreement, the County desires to designate the principal amount of the Agreement as a "qualified tax-exempt

obligation” under the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”).

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

1. Essential Governmental Purpose of Project. The Board hereby finds and determines that the Project and the terms and conditions of the Agreement, including the rental payments to the Bank, as Lessor, are in the best interests of the County for the acquisition and equipping of the Project, including the lease purchase financing thereof, and are in furtherance of the essential governmental purposes of the County.

2. Approval of Bank Term Sheet; Designation of Agreement and Details. The terms and provisions of the Bank Term Sheet are hereby approved and incorporated herein as if fully stated in the text of this Resolution. The payment of the \$250 Bank Fees (as set forth in the Bank Term Sheet) is hereby authorized and directed to be paid from the original principal proceeds of the Agreement.

The Agreement shall be dated the date of issuance and delivery thereof; shall provide for annual payments of rental thereunder to be computed over a three-year term at the rate of 3.86% per annum, in arrears; shall be designated, “\$80,000 Board of Supervisors of Greene County, Virginia Lease Purchase Agreement, Series 2009 (“Bank-Qualified”)”; and shall be fully registered. The Deputy County Administrator/Finance Director is hereby appointed as Registrar of the Agreement.

The Chairman, Vice-Chairman, and the County Administrator, any one or more of whom may act (whether individually or collectively, the “County Representative”), are each expressly authorized and directed hereunder to finally determine and approve all details of the Agreement, including without limitation, the maturity or payment dates and amounts and the final maturity date; *provided, however* that the maximum principal amount authorized under the Agreement shall not exceed **\$80,000**, and the Agreement shall bear interest in arrears at a rate not to exceed **3.86% per annum amortized over a three (3) year term**. (For illustration purposes only, the attached Exhibit B - Rental Payment Schedule sets forth (i) a fully amortized annual rental schedule with an assumed July 31, 2009 closing date, (ii) annual payment dates commencing on July 15, 2010, and continuing on each July 15 thereafter during the term of the Agreement, and (iii) a final rental payment being due thereunder on July 15, 2012.)

3. Approval and Execution of Agreement. The Agreement is hereby approved in substantially the form on file with the County and presented at this meeting. The execution, delivery, and performance of the Agreement are hereby authorized. The County Representative and the Deputy County Administrator/Finance Director, any one or more of whom may act, are each hereby appointed as Authorized Representatives under the Agreement, and further, are each

authorized and directed to execute, acknowledge, and deliver the Agreement with any changes, insertions and omissions therein as may be approved by any one or more of such individuals who shall execute the Agreement, such approval to be conclusively evidenced by such execution and delivery thereof. The Clerk of the Board (and any Deputy Clerk thereof) shall be authorized to affix or to cause to be affixed the County seal to the Agreement, if required, and to attest such seal. Each officer or agent of the County is further authorized and directed to execute and deliver on behalf of the County such additional instruments, documents or certificates, and to do and perform such things and acts, as they shall deem necessary or appropriate to carry out the transactions authorized herein or contemplated by the Agreement, including, but not limited to such instruments and performance of acts as may be required in order for the Agreement to qualify as an exempt "bank-qualified" lease purchase financing arrangement pursuant to the provisions of the Code and Treasury Regulations thereunder and the laws of the Commonwealth of Virginia. All of the foregoing acts previously performed by such officers or agents of the County are in all respects approved, ratified and confirmed.

4. Tax Compliance Matters. The County hereby represents and covenants that the Project, and all proceeds thereof, shall be used for the essential governmental purposes of the County Sheriff's Department. To the extent that the principal amount of the Agreement, together with any proceeds thereof (including but not limited to investment earnings thereon, if any), shall exceed the actual cost of the Project, as presently contemplated, it is to be understood that the County hereby authorizes that any such additional amounts available under the Agreement, if any, shall be expended by the County for capital projects for essential governmental purposes, or as otherwise may be required under the Code, including the optional prepayment of a portion of the outstanding principal amount of the Agreement to the extent required by law.

Accordingly, the County shall execute and deliver an appropriate certificate as to nonarbitrage or other tax certificate (the "Tax Certificate") in order to demonstrate compliance with the provisions of the Code, including the provisions of Section 148 of the Code and applicable regulations relating to "arbitrage bonds". The County Representative and the Deputy County Administrator/Finance Director, any one or more of whom may act, are each hereby authorized and directed to execute and deliver the Tax Certificate on the day of issuance of the Agreement. The County further covenants that (i) the proceeds from the issuance and delivery of the Agreement, all as described under the Code, will be expended and invested as set forth in the Agreement and that the County shall comply with the covenants and representations contained therein, and (ii) the County shall comply with the provisions of the Code so that the interest component of the rental being paid by the County to the Bank will remain excludible from gross income for Federal income tax purposes.

5. Designation of Agreement as "Bank-Qualified". The County hereby designates the Agreement as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code. The County affirms its reasonable expectation as to compliance with the various \$30 million limitations therein, including the covenant that the County reasonably anticipates that no more than aggregate \$30,000,000 tax-exempt obligations shall be issued by the County, including any "subordinate" entities of the County or "on behalf of" entities thereof (within the

meaning of the Code) during the current calendar year 2009 in accordance with the liberalized "bank qualification" requirements of Section 265(b)(3)(G) of the Code (added by the American Recovery and Reinvestment Act of 2009).

6. Nature of Obligation. It is to be understood that the Agreement represents a rental arrangement between the County and the Bank. Nothing in this Resolution or the Agreement shall constitute a debt of the County, and the Board shall not be obligated to make any payments under this Resolution or the Agreement except from monies appropriated therefor, from time to time.

7. Effective Date. This Resolution shall be effective upon its adoption.

**DATED: July 28, 2009**

**BOARD OF SUPERVISORS OF  
GREENE COUNTY, VIRGINIA**

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

**Exhibits:**

- A – Bank Term Sheet
- B – Schedule of Rental Payments

**RESOLUTION TO ACCEPT AND APPROPRIATE  
THREE THOUSAND SIX HUNDRED TWENTY DOLLARS FOR  
THE PURCHASES OF EQUIPMENT**

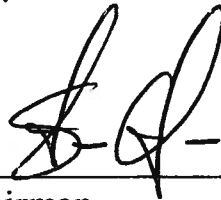
WHEREAS, the Dyke Volunteer Fire Department has received funding from the Virginia Department of Fire Programs; and

WHEREAS, the funds in the amount of three thousand six hundred twenty dollars (\$3,620) need to be appropriated to the appropriate line item in the 2009-2010 budget of the County of Greene, Virginia.

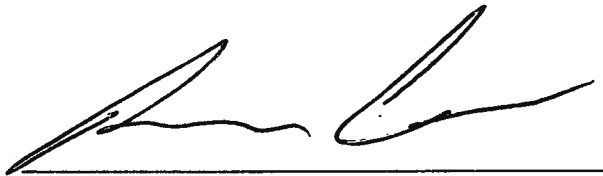
NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Greene, Virginia that three thousand six hundred twenty dollars (\$3,620) be appropriated to the 2009-2010 budget of the County of Greene.

BE IT FURTHER RESOLVED that the County Administrator of the County of Greene, Virginia is authorized to make the appropriate accounting adjustments in the budget to do all things necessary to give this resolution effect.

Adopted this 28th day of July, 2009.



Chairman



Barry Clark, Clerk

**RESOLUTION TO ACCEPT AND APPROPRIATE  
TWENTY-ONE THOUSAND NINE HUNDRED DOLLARS FOR THE  
PURCHASES OF EQUIPMENT**

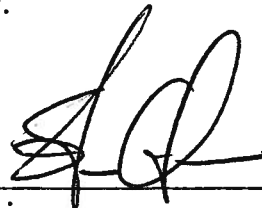
WHEREAS, the County of Greene has received funding from the Office of Emergency Medical Services; and

WHEREAS, the funds in the amount of twenty-one thousand nine hundred dollars (\$21,900) need to be appropriated to the appropriate line item in the 2009-2010 budget of the County of Greene, Virginia.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Greene, Virginia that twenty-one thousand nine hundred dollars (\$21,900) be appropriated to the 2009-2010 budget of the County of Greene.

BE IT FURTHER RESOLVED that the County Administrator of the County of Greene, Virginia is authorized to make the appropriate accounting adjustments in the budget to do all things necessary to give this resolution effect.

Adopted this 28th day of July, 2009.



Chairman



Barry Clark, Clerk