

July 13, 2010

County of Greene, Virginia

THE REGULAR MEETING OF THE GREENE COUNTY BOARD OF SUPERVISORS WAS HELD ON TUESDAY, JULY 13, 2010 AT 5:30 P.M. IN THE RAYMOND C. DINGLEDINE PERFORMING ARTS CENTER AT WILLIAM MONROE HIGH SCHOOL.

Present were: Steve Catalano, Chairman  
Clarence Peyton, Vice Chairman  
Jim Frydl, 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 Clarence Peyton 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:**

- Water and Sewer

**Land Acquisition:**

- Water and Sewer

**Legal:**

- None

**Personnel:**

- Constitutional Officers

**Various Appointments:**

- Central VA Regional Jail
- Jefferson-Madison Regional Library
- Jefferson Area Board for Aging

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jim Frydl	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

Upon motion by Clarence Peyton and unanimous vote, the Board returned to Open Session.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jim Frydl	-	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
	Jim Frydl	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: APPOINTMENTS

Upon motion by Jim Frydl and unanimous vote, the Board made the following appointments:

Jefferson Area Board for Aging	-	Eugene Sullivan
Jefferson-Madison Regional Library	-	Deborah Willenborg

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jim Frydl	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

Upon motion by Carl Schmitt and affirmative vote, the Board appointed Mr. Clarence Peyton to the Central VA Regional Jail Board.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Abstained
	Jim Frydl	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: SCHOOLS FACILITIES PROJECT

Mr. David Jeck, Superintendent, reviewed the tentative schedule for the proposed facilities project which includes four additional presentations to the Board of Supervisors before the end of 2010.

The list of athletic facility improvements were further refined as follows:

**Athletic facility improvements (\$3,200,000)**

- Americans with Disabilities Act (ADA) compliance
  
- Track improvements/expansion
- Stadium seating improvements/expansion (ADA)
- Baseball field relocation/improvements
- Softball field relocation/improvements
- Lighting for new baseball/softball fields
- Amenities (eg, dugouts) for new baseball/softball fields
- Concessions/restrooms for athletics
- Football fence relocation
- Security fence upgrades
- Entrance/signage for athletics (ADA)
- Press box
- Visitor seating
- Nature/exercise trail

**Gymnasium floor replacement (\$200,000)**

- Needed improvements to gymnasium include installing a new competition playing surface.

**Performing Arts Center refurbishment (\$300,000)**

Needed improvements to the performing arts center include:

- Americans with Disabilities Act (ADA) compliance
- Curtains replacement
- Stage floor refinishing
- Seating new and/or refurbished
- Lighting upgrades

**Project costs (\$1,000,000)**

Costs associated with the project beyond those for construction include legal fees, design fees, fixtures and equipment (FFE) and a contingency. All of these must be accounted for in the project budget and the submission to the PAR.

The sum of the four line items equals \$4.7 million. It was noted that projected costs are subject to market swings and only applicable for the foreseeable future. Also discussed was the fact that depressed construction costs present an opportunity to capture more built square footage

for the money. Two alternates, expansion of cafeteria/kitchen at high school and tennis courts as the County Park, were discussed. These could be designed and bid but not built unless prices were favorable and could be constructed within the initial budget.

Mr. Jeck reviewed the financing of the proposed project at 4.0% interest for 40 years and the Build America Bonds (BAB) stimulus program where the County could receive a 35% interest credit payment for the first 10 or more years. The retired debt service would cover the loan payments and the plan would be to pay the project off in 20 years.

RE: MATTERS FROM THE PUBLIC

The Chairman opened the floor for comments on the proposed school facilities project.

Marianne Shepard - Board of Supervisors needs to have vision to take County forward and support kids

Greg Breeden - Coaches baseball – facilities are run down and needs lights – do this project now

Melissa Liberatore - Spoke in support and urged Board to look at broader aspect

Keaton Rodland - Attended school here but graduated from high school in Charlottesville – spoke in support of project – people really want more money invested in sports

Ethyle Guisepe - Spoke on grants received by Albemarle County and supported school project

S. C. Hopwood - Supported project – Asked that those who opposed state reasons so citizens can better understand position

Randy Snead - Parent, coach, citizen, taxpayer – would be a travesty to not move forward – When someone moves to a new community, one of first things looked at is schools – supports project

Pam Leake - Spoke in support of project – citizen, taxpayer, volunteer and parent – extended invitation to Board members to attend athletic or performing arts event

Pat Morris - Spoke in opposition of the proposed project – who knows what State will cut next year? - She urged the Board to stand firm and deny

David Cox - Is this capital improvement or repair program? Didn't happen over night - Issues should have been addressed over the years – Just because retiring debt doesn't mean we need to go back into more debt - Encouraged the Board of Supervisors to stand by what they said during budget process this year

Andrea Wilkinson - This is best opportunity we'll have to accomplish this project – she has no children in schools but is certainly a user of the facilities

Mike Sizemore - Spoke on long range vision – need project now

Jim Shifflett - Teacher at and graduate of WMHS – spoke in support

Scott Wills - Spoke in support of project and compared this to taking care of your car – remember facilities when they need to be fixed

Brad Hirtz - Spoke on investing in community and children

Roy Dye - Great financial opportunity – take advantage of right now – the entire community will benefit from this – try to level the playing field

Angela Hawkins - Parent – If the Board says yes, please do all improvements at once – Improvements are to meet adequate needs and improve safety of facilities

- Terry Savoie - Recent resident – supports project – impressed with coaches and other staff
- Robbie Morris - Spoke in support
- Troy Harlow - School Board member and parent – spoke in support
- Neil Williamson - Speaking as citizen – supports project – timing could not be better for County - If no vote, what would you support?
- Andy Kelly - Athletic Trainer at WMHS – treats and tries to prevent injuries – detailed injuries he has treated – this is great opportunity to upgrade facilities
- Ray Dingledine - On Board of Directors for Greene Education Association Foundation and the Greene Athletic Foundation – both organizations support project 100% - impossible to raise funds for this type project – these projects, with few exceptions, were in the last building program – study identified same needs but County could not support at that time – now some facilities have deteriorated and the need is greater
- Ernie Inzana - Parent of four and also officiates high school football – Has one child who participates in track and can't have home meets – This project needs support of the Board of Supervisors
- Lisa Dean - Parent of two teenagers – supports project – just do it!
- Margaret Ramsey - Supports project – Board of Supervisors should be willing to take on small risk – more kids will participate as facilities improve – grades will go up
- Alan Laudermilch - Remembered problems with school books and buses – Is academic side of schools in good shape? Athletics are a privilege – Doesn't affect whole school – Projects need to be prioritized – possible to cut project back?

The Chairman closed matters from the public.

RE: RECESS

The Chairman called a short recess.

RE: BOS COMMENTS

Mr. Peyton said he participated in the selection process of the architect and felt there must be a plan in place to move forward with improvements. The County was excluded from initial financial planning session and he was somewhat surprised by the request to apply for \$5 million. He said it would have been very wrong for him to say yes to the application without knowing the full details and then later create more disappointment should the approval for the final loan arrangement be denied.

Mr. Peyton said he revisited the entire project and reviewed all details available. He fully understands the urgent need for improvements to existing facilities. However, it is his obligation to all taxpayers to review financial information and understand the impact of this project, both short and long term. He said he has no problem with the project but he feels the financial proposal presented to the Board of Supervisors is absolutely currently out of reach.

Considerations include the current depressed economic condition. He said the County just experienced the most serious shortfall in State funding allocation in its history. This has resulted in teacher layoffs, frozen wages, increased insurance premiums and more. County

employees have not received a pay increase for the second consecutive budget cycle. Requests for local funding continue to increase due to the composite index computation, unfunded mandates and services required.

This Board is faced with the pressing need to finance water impoundment and debt service payments associated with existing water and sewer capital investments are far reaching. Consideration must be given to the next "wave" of debt service which could include classrooms at Ruckersville Elementary School, expansion of the high school cafeteria, and connecting the middle and high schools. The County has already committed to \$2 million plus for the energy program at the schools. The annual allocation of \$10 to \$11 million to the school budget is expected and ongoing. The request is to add debt service payments of \$260,000 for 40 years or \$500,000 for 20 years. Mr. Peyton questioned why lock into a loan for that length of time when project life is short and what is the recourse when expansion is required due to increased enrollment?

Mr. Peyton said he would support the loan application provided specific loan amount is excluded from application or changed/amended before final approval. He would like to utilize \$375,000 (debt service paid down) contingent upon the County's financial status at decision time. Would also like to see the County get loan based on current revenues available at time of approval and limit the life of the loan to reduce interest payback. Mr. Peyton said he would also like to see a portion of the new and realized revenues from business and commercial growth earmarked for the project completion. He said he does not want to see the project drawn out for a long time and hopes the Board of Supervisors and School Board will communicate more openly during the process.

Mr. Schmitt said this application is simply to get in line for a loan of up to \$4.78 million and by no means commits the County to that amount. That amount would be available should the County choose to use it. The architect will have to make recommendation, committees will review and the Schools will ultimately come back to the Board of Supervisors with a proposal. The Board can then look at the revenue picture over the last three or four months and consider the project.

Mr. Schmitt said he is completely in support of this project. This financing situation and all the positives associated with it, will rarely, if ever, come along. The timing is also good because the Schools do not need to make major capital improvements (i.e. classrooms) at this time. If the County is ever going to take care of these facilities, now is the time. This is a great opportunity. He felt the County should proceed with the application recognizing that there will still be a time to sit down and make final decision on what to go forward with.

Mr. Skeens felt the County has to go forward with the loan application. This does not commit the County to the project. He said there are some real dangerous spots on the track. Mr. Skeens said he coached baseball from 1990-95 and the dugouts didn't even have a roof at that time. He felt the application process should continue and the details can be gotten into in a couple of months.

Mr. Frydl said he is 100% in favor of proceeding with this opportunity even though he has some of the same reservations that Mr. Peyton has. The discussed dollar amount is an up to amount. The USDA understands that the economy can change and funding ability can change. This decision is whether the County wants to proceed with the application for funds and has nothing to do with the scope of the project. The scope has to be determined based on cost,

citizen input, civil engineering, space limitations, etc. Mr. Frydl noted he also was a member of the selection committee for the architectural firm.

The Chairman thanked everyone for their comments and said that everyone, regardless of their position, is on the same page – to do what is right for the community. Mr. Catalano said he opposed the application at the previous meeting for many reasons, all surrounding the local budget situation. The Board of Supervisors froze all capital projects and worked really hard so the unprecedented State cuts did not affect classrooms. Both the Schools and the County made significant personnel changes to ensure that didn't happen.

The constant barrage of State cuts has been a constant challenge to manage and sometimes local initiatives have been replaced by those of the General Assembly. The General Assembly is putting all localities in a serious bind by their lack of leadership.

Mr. Catalano said his fear is, and was, that the retired debt service would actually be used in a future budget to offset cuts in operation. His position has never been about the application but about the “drop dead” amount. He felt, and still feels, that the cap amount is unaffordable. He said he is very frustrated with the process in that the USDA rules have put “the cart before the horse”.

Of the numerous calls and emails from citizens, both for and against the project, about 90% of the opposition did say that something needs to be done. Mr. Catalano said he would not quote an arbitrary number but would support the application if the resolution to borrow funds comes after the scope of the project is identified. At that time, the Board of Supervisors would have the ability to break out projects, adopt the full scope, or decide to not move forward with any of the proposal.

Mr. Catalano suggested a member of the Board of Supervisors be appointed to the steering committee to develop a program to come before the Board in November.

Mr. Skeens asked at what point the Schools will know about the 35% interest credit from BAB. Mr. Jeck said the bonding attorney has given them a 10 year figure but noted there is no mention of that time line in the documents.

It was the consensus of the Board to appoint Jim Frydl to the steering committee. Mr. Jeck said the first step of the steering committee would be to organize a public workshop.

The Chairman said the application moves forward.

RE: RECESS

The Chairman called a short recess.

RE: PUBLIC HEARING – ZONING AND SUBDIVISION ORDINANCE AMENDMENTS

The Chairman noted this is a follow-up process stemming from the emergency meeting held by the Board of Supervisors on May 24 regarding this topic. State law states any action taken at an emergency meeting must be followed by public process within sixty days.

The meeting was turned over to the Planning Commission and Mr. Norman Schwartz, Chairman, opened the public hearing.

Mr. Bart Svoboda, Zoning Administrator, reviewed the amendments adopted by the Board at the emergency meeting. Ordinance revision #2010-002 regulates water and sewer utilities relating to mandatory hookups.

Mr. Svoboda noted there has been additional text added since the May 24 meeting. The text added at the May 24 meeting was indicated in red and additional text added since was indicated in blue.

The original amendments added public water and sewer systems to uses permitted by right in the C1, A1, R1, R2, SR, PUD, B1, B2, B3, M1 and M2 zones. Central water or sewer systems (as defined in Article 22) were added as a use permitted by Special Permit in the R1, R2, SR, PUD, B1, B2, B3, M1 and M2 zones.

Added under 16-17 - Regulations Related to Water and Sewer Utilities - was that public water and public sanitary sewer hookup is mandatory for new construction (as defined in Article 22) within the Water and Sewer Service Area (WSSA). The definition of new construction is a recent amendment as follows:

New Construction and/or Water and Sewer Systems: Any structures and/or facilities for the purposes of mandatory connection, which obtained a building permit prior to May 24, 2010. Any subdivisions and developments for the purposes of mandatory connection shall be defined as those which have received final approval by the Board of Supervisors, the Planning Commission, or their designated agent prior to May 24, 2010.

The following definitions were added to the Zoning Ordinance:

- Central Water or Sewer Systems: A water or sewer system serving three (3) or more dwellings and/or other buildings, generally serving a single land development, subdivision, or neighborhood that is not owned or operated by Greene County or RSA.
- WSSA: (Water and Sewer Service Area) The area in the County where public water and sewer services are ~~nominal~~ available as defined by the WSSA policy, latest revision.
- RSA: Rapidan Service Authority

Mr. Svoboda reviewed definitions in the Subdivision Ordinance that were amended. Those sections were:

- 2-2-30 - Sanitary Sewage Disposal, public
- 2-2-31 - Sanitary Sewage Disposal, centralized
- 2-2-32 - Sanitary Sewage Disposal, on-lot
- 2-2-44 - Water Supply and Distribution System, public
- 2-2-45 - Water Supply and Distribution System, centralized
- 2-2-46 - Water Supply and Distribution System, on-lot

Mr. Slezak opened the floor for public comment.

Mr. Steve Jones, Fried Companies, said they currently have 1,700 approved residential lots affected by this ordinance change. Currently have three projects that have been submitted to the County for approval.

Last fall, after reviewing the County Code with attorney and engineers, they made the decision to amend plans for Oxford Hills, Ponds Edge and Monroe Heights to provide for central sewage system as permitted by the ordinance at that time. This decision was not made in haste and they felt it was the only way to bring affordable residential building lots to the market. Extensive research, effort and expense were incurred and they filed amended plans for these three projects with Mr. Svoboda on January 9, 2010.

County policy has been once plans are accepted by the County for review, those plans are reviewed by current rules and regulations in effect at the time plans were submitted. If this process is not followed, plans could never get approved.

Mr. Jones said it is over six months later and they still do not have final and complete review from the Planning Department. Virginia law allows 60 days for complete and final review.

Mr. Jones said he received a phone call on January 29 and a subsequent visit by the County Administrator, Zoning Administrator and the County's water and sewer consultant. He was asked why the plans were amended or changed. His answer was the Fried Companies made an economic decision to do what was allowed by right in the Code and filed those plans. Mr. Jones said he was told by the three representatives of the County that the County had absolutely no issue with Ponds Edge and Monroe Heights but did have an issue with Oxford Hills as it was going to be in Comprehensive Plan growth area and should be served by public water and sewer. The Fried Company had already purchased water connections and easements, so they agreed to disagree on the sewer side of it and continued to wait for comments which they still don't have.

The Board of Supervisors held an emergency meeting on May 24 and adopted new water and sewer regulations along with the formation of the WSSA. Mr. Jones said this was very interesting timing for the Fried Company as they were on the agenda for the meeting the next evening requesting approvals needed for Monroe Heights Subdivision. This request was denied unanimously.

Mr. Jones said the Board has modified the County Code and created the WSSA to keep the Fried Companies from doing what they legally have the right to do. In the process, the County has hurt and damaged a lot of other properties that are affected by these policies.

The mass drain fields designed are used throughout the Commonwealth and are regulated by the State Health Department. Mr. Jones said hiding behind a public safety issue is unbelievable as there is no health issue and the State Health Department will make sure of that. He said these changes are an attempt to make property owners pay the exorbitant connection fees currently in place. The connection fees in Greene County are the highest of the surrounding areas.

Mr. Ken Lawson, Fried Companies, said the reason the County invested in water and sewer was to attract businesses. The fees were raised \$5,000 per connection to pay for new infrastructure and later increased to \$10,000 each for water and sewer.

This mandates the addition of hundreds of thousands of dollars in improvements to the Greene County system before a connection is hooked up. Mr. Lawson noted a restaurant in Albemarle County would pay approx. \$35,000 in connection fees. The same restaurant in Greene County would pay \$150,000 to \$160,000 to hook up. The Board is turning something created to attract business into a detrimental disadvantage for Greene County. The Economic Development Authority and businesses have been saying this but the County has been unwilling to hear.

Mr. Lawson said he understands and shares concern that the County will not sell enough edus to service the debt but felt continuing on this path will guarantee there will not be enough money. New businesses can't be expected to absorb exorbitant fees and off site costs. Businesses alone will not pay the debt service. There has to be residential connections as part of the financial plan. The median home price in the area is \$248,000. Add \$10,000 to that for off site improvement on top of \$20,000 for connections and this is not sustainable. Developers can't

spend 12% of the cost of a new home to hook up to water and sewer. Mr. Lawson compared this cost to that of a home in the A1 zone.

Ms. Jenny Dietzel, representative of the Piedmont Environmental Council and a property owner in Greene County, said the PEC attorney reviewed the amendments. The PEC has lobbied on these issues before in Richmond. These type systems often fail and have been on the radar screen for some time. Their attorney had a lot of technical concerns and difficulties with the ordinance.

Ms. Dietzel said she had planned comments but would need to review the additional revisions that she has not seen. She felt the County is moving really fast and might do something it doesn't mean to do. She thought the County means to make sure growth is concentrated in the growth area to prevent urban sprawl and to make sure people connect to existing public water and sewer systems. She was not sure this ordinance does that and was afraid it will cause urban sprawl. Ms. Dietzel urged the Board not to pass this tonight as it needs some technical work which the PEC can assist with. There is a fine line between encouraging and discouraging.

Mr. Trey Steigman, Wexford Subdivision, said the ordinance adopted May 24 prohibits them from using private septic systems which was originally approved. He said he is sympathetic to the Fried Company and others with long planned developments.

Mr. George McCallum, Attorney representing Wexford Subdivision, LLC, said the developer made proffers, which were accepted, and included public water with private septic for each lot. The roads are built, water lines installed. The proposed amendment would apply to every parcel and new construction in the WSSA and does not respect vested rights as required by the VA Code. This has exceeded the authority that is provided to counties in imposing requirements under State legislation. Once final approval is given, these rights are vested.

Mr. McCallum said he had forwarded comments to Mr. Svoboda regarding language revisions to respect vested rights.

Mr. Larry Lamb asked where the proposal came from. He agreed with previous comments regarding the exorbitant fees.

Mr. Mark Obenshain, Attorney representing Hunnicutt Land LLC which is the owner of Monroe Heights Subdivision, said this amendment being a little bit unusual is an understatement. He asked that the proposals be rejected. His concerns relate to property rights of landowners and fundamental principals of open government. The ordinance changes were approved at a meeting on May 24 under the cloak of secrecy without any prior notice. The actions taken were unlawful for a variety of reasons. The Board of Supervisors is not permitted to take emergency action since there was no emergency to trigger the action. It appears apparent that the plan was devised with at least one purpose in mind, that being to thwart Hunnicutts plans. The Board of Supervisors denied the request by the developer less than 24 hours later.

The boundaries of the WSSA support that conclusion. The boundaries track those of growth area until suddenly Monroe Heights Subdivision is included in the WSSA but not in the growth area as designated in the Comprehensive Plan

Mr. Obenshain said a request under the Freedom of Information Act was issued and answered by individuals (county employees, members of the Board of Supervisors) but responses were anemic and conflicting with one another. The County is in clear violation of FOIA as it has utterly failed to provide any response to the request. The County, on June 24, acknowledged the request and indicated a response was forthcoming but none has been received

20 days later. To deprive the public of information on proposed action such as this defeats both the purpose of the FOIA and the purpose of the public hearing. He questioned how anyone can form a meaningful response to this proposal noting a scanned copy of the ordinance was received but did not include all revisions being considered tonight.

Mr. Obenshain said the process is deeply flawed and at odds with constitutional, statutory and common law principles of justice. It reflects a course of action that would be arbitrary and capricious. This singles out certain property owners and deprives them of the equal protection of the law and treats them differently from other property owners similarly situated. It deprives property owners of vested rights. He said he respected the efforts made by Mr. McCallum in seeking to protect the interest of his clients. This action would be vague and potentially punitive and advances no legitimate government interest. Mr. Obenshain pointed out it appears to stand in stark violation with the Dillon Rule. The Board of Supervisors has only the powers given to it by the Code of VA. Those powers do not include mandating water and sewer connections by property owners whose tracts do not adjoin or abut a public system. Some counties do have that authority but not Greene County.

Adoption of the proposed amendments will certainly lead to litigation. Mr. Obensain said Fried Companies is deeply committed to the County and their actions reflect that commitment. They want to work with the County. However, in order for that to be possible it is imperative that they be treated fairly.

Mr. Jay Willer questioned the definition of new construction. He said things happen in sequence in the approval process and suggested the County might want to tighten up the language. As worded, the process could happen out of sequence. He also noted the ordinance doesn't say what would happen if water supply is inadequate. He agreed that the cost the ordinance would impose on property owners is exorbitant. The County wants homes built in the growth area. He urged the Board to consider this carefully.

Mrs. Jean Sims, who owns property in the WSSA, said her land is zoned R1. She and her husband have been approached by developers who want to purchase their property. At first, they were reluctant to sell but then changed their minds. There was a contract on the property but it fell through. The developer was told he would have to upgrade the water lines from Stanardsville to the water tower at his cost and that the sewer plant was at capacity.

Mr. Alan Laudermilch said it seems the ordinance needs a little more work. He felt the rights of property owners should be respected and suggested "grandfathering" lots might be in order.

Mr. Neil Williamson, Free Enterprise Forum, questioned what happens if this is not approved tonight. The proposal has to be considered in context with current water and sewer policies. The wastewater plant was designed to accommodate commercial and higher density residential growth in developed areas. In the short time since that decision, the Board of Supervisors has mandated property owners hookup to both water and sewer at a cost of \$20,000. The rationale for high cost of hookups is the County needs to retire debt from construction of the wastewater treatment plant and have funds for additional water storage. To mandate that anyone building in the growth area must pay both to bring service to the property and pay \$20,000 for hookups is in conflict with the Comprehensive Plan. The pricing structure must change to reflect a regular contribution from end users to provide a regular, predictable funding source for capital needs for the future of these facilities. Sewer and water should not be used as growth control

tools. If the County is dedicated to focusing growth in designated areas, the County should act as a partner in the cost of bringing water and sewer to those areas. Mr. Williamson asked the Planning Commission and Board of Supervisors to consider if it is in the long term best interest of Greene County to remain in the RSA or move to a Greene County service authority.

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

Planning Commission Member Anthony Herring asked for a few clarifications. He asked if this affects communities that have received final approval. Mr. Svoboda said the proposed definition of new construction would exclude plans that were approved prior to May 24. He said if the proposed amendments are not approved tonight, actions taken by the Board of Supervisors at the emergency meeting are null and void as they would not be adopted within the 60 day time frame allowed by the Code of VA. Deferral would also exceed the 60 day time limit.

Planning Commission Member Bill Martin asked why the rush? Mr. Svoboda said that would be a question for the Board of Supervisors. Mr. Martin said he feels rushed. Mr. Svoboda said the Board of Supervisors felt the health, safety and welfare of the citizens of the County could be compromised with current proposals. The WSSA area expands rather than mirrors the designated growth area. Mr. Martin said he was worried about unintended consequence of pushing growth out into rural areas and about who would take over these systems when the developer is gone. He asked if the County is making itself less competitive.

Planning Commission Member Davis Lamb agreed with fellow Commissioners and expressed concern about the vested rights of property owners. He agreed this might push housing into agricultural areas. He said he was not too keen on private septic and water systems and questioned if the County would take them over.

Planning Commission Member Frank Steele said his greatest concern was sustained, controlled growth along the Route 29 and Route 33 corridors. The County only has so much water and land. He felt there would be a point in time when the developer leaves and the County will have to take care of systems. He also said he feels a little rushed. The Board of Supervisors and Planning Commission want to treat developers and people fairly.

Planning Commission Chairman Norman Slezak agreed that the Planning Commission was rushed. A lot of the changes were at the very last minute and the Planning Commission needs ample time to digest. This puts them at a serious disadvantage.

Upon motion by Anthony Herring and unanimous vote, the Planning Commission recommended denial/rejection of OR#2010-002 as proposed.

Recorded vote:	Norman Slezak	-	Yes
	Anthony Herring	-	Yes
	Davis Lamb	-	Yes
	Bill Martin	-	Yes
	Frank Steele	-	Yes

The meeting was turned back over to the Board of Supervisors.

Mr. Catalano allowed comments from Mr. Mannie Norford who has property in the proposed WSSA on Matthew Mill Road. The property, which belongs to his brother-in-law who is in a nursing home, has an existing well and septic system. They have been approached by a developer wanting to purchase the land. Adoption of the amendments will keep them from developing the land because they could not afford to build required infrastructure.

The Chairman opened floor for discussion by the Board of Supervisors.

Mr. Frydl said the original revisions did have unintended consequences which were corrected by the most recent changes. The revisions define who must hook up to public water and sewer. The County has made an investment in the water and sewer systems to provide for high density growth area. He did not find it particularly out of character with the Comprehensive Plan. The cost of new development should not be born by existing users and existing users should not be subsidized by new growth.

Mr. Schmitt said this is a work in progress and was spawned by the Board's deep concern about some of the developments happening in the County. This will not be the final say on this matter by any means. That it might be pushing growth out into the rural area is a valid point and needs to be considered. He felt if it's going to happen, it's going to happen. That this might be making it economically more feasible is also a valid point. Mr. Schmitt did not think it results in unintended consequence of pushing as it is already there and available. The A1 zone was removed because the lot size is large enough for a well and septic field.

Mr. Schmitt said the Board is dealing with a difficult issue and has spent a lot of time talking about it and trying to find a way to make sure the County can financially fund the future of the public sewer and water systems. We need to find a way to keep the County growing with cohesiveness. The Board is not taking on the issue that there is a public health and safety issue with the system per se. The Health Department will be in charge of monitoring. The question is, in long run, is this the County we want to wind up with?

Mr. Skeens said he also disliked receiving information at the last minute. He said he feels like this has been rushed and was not going to agree to it tonight.

Mr. Peyton said the intent was good. The governing body is charged with the responsibility and authority granted by the Code of VA in conjunction with the Comprehensive Plan for the purpose of promoting the health, safety and general welfare of the public. That was the purpose of revisions. He also agreed with receiving information at the final hour is a problem and suggested that needs to be taken into consideration.

The Chairman agreed with comments of members regarding the Board's intent. The law of unintended consequences is always there in every ordinance the Board considers. He said he was concerned about the illusion or lack of transparency and the last minute changes. Even knowing they are less restrictive, are to make it better and would be the right thing to do, he is disturbed that the people who have to deal with the ordinances received revisions when walking in the door tonight. The Board's intentions are pure and reflect the general welfare of the entire community. Mr. Catalano said he would hate to rush this decision until all revisions are absorbed by affected parties and suggested the revisions be legally reviewed one more time.

Mr. Ray Clarke, County Attorney, said the language in the enabling statute states that once an emergency ordinance is adopted, it is not enforceable unless it is adopted in accordance with procedures within 60 days. Action taken by the Board of Supervisors on May 24 would be of no effect until such time as readopted. Tabling or deferring effectively voids what was done on May 24.

Upon motion by Mike Skeens and unanimous vote, the Board referred the proposed amendments to the Planning Commission for further review. It was noted this starts the process all over again.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jim Frydl	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: PUBLIC HEARING – COUNTY CODE

The Board discussed whether to proceed with the public hearing or table the amendment at this time. It was the consensus of the Board to proceed with the public hearing.

Mr. Svoboda reviewed the proposed amendment to the County Code, Chapter 31 – Water and Sewer - that was adopted by the Board of Supervisors at the emergency meeting on May 24.

The Chairman opened the floor for public comment.

Mr. Neil Williamson commented that this code revision comes straight from the State Code and he questioned the need for it as the State Code and Health Department controls. Why does the County need to be in this business?

Ms. Lisa Hawkins, Attorney, said that in looking through the ordinance as proposed there are a few areas in which it deviates from what is provided in the State Code. She questioned the County's authority as to the extent of what is proposed.

Mr. Ken Lawson had no further comments due to the lateness of the hour.

Mr. Larry Lamb said it seems the County is trying to duplicate the process already in place by the State. He suggested further review.

Mr. Mark Obenshain felt this proposal could not be read in isolation as it is part of the package considered at the emergency meeting. He had a hard time understanding the need for these particular revisions unless it expands authority that is provided for under State law. He asked what the emergency was. In the almost 60 days that have passed since the emergency meeting, it is less and less clear what the nature of the emergency was. He urged the Board to reject this as well.

The Chairman closed the public hearing.

Mr. Schmitt said he would be interested in the specifics of the disconnect between the ordinance and the State Code. Ms. Hawkins responded the Board has this information as copies of the statutes are attached to the proposed ordinance. She felt the information that is necessary to be submitted to the Board and action on proposals might be broader than what the State Code states the Board may consider for disapproval.

Mr. Frydl felt the section of the State Code referenced is very broad minded and gives authority to any County that they may deny the application for a sewage system if such denial appears to be in the best interest of the inhabitants of the county or town.

Upon motion by Carl Schmitt and unanimous vote, the Board deferred action on the proposed amendment to the County Code.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jim Frydl	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: WATER AND SEWER SERVICE AREA (WSSA)

The Chairman noted the discussion regarding the WSSA would not be a public hearing as this is a policy.

Upon motion by Clarence Peyton and unanimous vote, the Board deferred action on proposed WSSA.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jim Frydl	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

The Chairman said a public hearing may be scheduled after the Planning Commission has time for due process.

RE: CONSENT AGENDA

Upon motion by Clarence Peyton and unanimous vote, the Board approved the consent agenda:

- a. Minutes of June 22, 2010 meeting.
- b. Resolution to accept and appropriate \$2,732 in federal funds from the Byrne Justice Assistance Grant Program for the Sheriff's Office. Local cash match of \$304 is required. (See Attachment "A")

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jim Frydl	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: OTHER MATTERS FROM THE BOARD

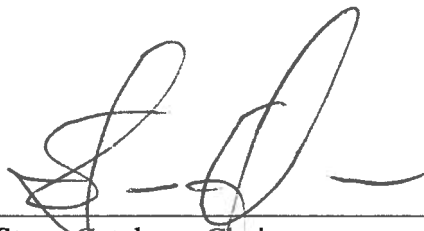
FENCING LAW

The Chairman noted the Board has received a request from Mr. Raymond Daughtry to review the fencing law. The County Attorney said a property owner must fence his property if he wants to keep livestock off. Greene County also has a no fence ordinance that designates land boundaries as fences for damages. He will research this matter further.

Board of Supervisors  
July 13, 2010  
Sheet 16

RE: CONTINUED MEETING

The meeting was continued to Tuesday, July 27, 2010 in the County Meeting Room.



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Steve Catalano, Chairman  
Greene County Board of Supervisors