BOARD OF SUPERVISORS MINUTES **AUGUST 26, 2008**

At a regular meeting of the Orange County Board of Supervisors held on Tuesday, August 26, 2008 beginning at 7:00 p.m., in the Meeting Room of the Gordon Building, 112 West Main Street, Orange, Virginia. Present: R. Mark Johnson, Chairman; Teri L. Pace, Vice-Chairman; Zack Burkett*; S. Teel Goodwin; and Lee H. Frame, Jr. Also present: William C. Rolfe, County Administrator; Todd G. Patrick, County Attorney; and Teresa Lamb, Office Assistant.
**Supervisor Burkett entered the meeting at 4:02 p.m.*

RE: WORKSESSION ON CAPITAL IMPROVEMENTS PLAN (CIP)

Mr. Rolfe discussed the carry forward of capital project funds and their balances as of June 30, 2008. Discussion ensued about the 127 Belleview Avenue Renovations, Roof Repairs; Gordonsville Library Renovations; Shelter Renovation Donations; Water Project; Wireless Project; Reserve for Fire Equipment Replacement; Postal Facility in Barboursville; the Park Development; the Capital Improvements Plan (CIP); Budget and how they would like to see future projects.

RE: RECESS

The Board recessed for dinner at 5:25 p.m. and reconvened at 7:00 p.m.

RE: ADOPTION OF AGENDA

Mr. Frame moved, seconded by Mr. Goodwin and carried, to adopt the agenda as revised. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: CONSENT AGENDA

Mr. Frame moved, seconded by Mr. Goodwin and carried, to approve the following consent agenda items as presented:

RE: SUPPLEMENTAL APPROPRIATIONS FOR FY2008

The Board approved the following supplemental appropriations for FY2008:

DEPT	ACCOUNT DESCRIPTION	AMOUNT		Funding Source
Library	Refund Books	$	252.82	Refund Fees
Library	Refund Books	$	89.84	Refund Fees
Subtotal Library		**$**	**342.66**	
	Total, This Request	**$**	**342.66**	
	Fiscal Year to Date Total	**$**	**1,499,999.86**	

RE: SUPPLEMENTAL APPROPRIATIONS FOR FY2009

The Board approved the following supplemental appropriations for FY 2009:

DEPT	ACCOUNT DESCRIPTION	AMOUNT		FUNDING SOURCE
Cty Administration	Supplies	$	94.00	Miscellaneous Revenue
Subtotal County Administration		**$**	**94.00**	
Animal Shelter	Emergency Vet	$	2,697.60	Donations
Animal Shelter	Pet Food	$	25.00	Donations
Animal Shelter	Vaccinations	$	37.57	Donations
Subtotal Animal Shelter		**$**	**2,760.17**	
Sheriff	Triad	$	20.00	Donations
Sheriff	Supplies	$	165.00	Expenditure Refund
Sheriff	Triad	$	150.00	Donations
Sheriff	Repair/Maintenance	$	150.00	Miscellaneous
Sheriff	Repair/Maintenance	$	768.65	Insurance Recovery
Sheriff	Repair/Maintenance	$	208.60	Expenditure Refund
Subtotal Sheriff		**$**	**1,462.25**	
Human Resources	COBRA Insurance	$	777.29	Expenditure Refund
Subtotal Human Resources		**$**	**777.29**	
	Total, This Request	**$**	**5,093.71**	
	Fiscal Year to Date Total	**$**	**122,953.45**	

RE: BUDGET TRANSFERS FOR FY2008

The Board approved the following budget transfers for FY2008:

Transfer from department	Transfer from line item	Transfer to department	Transfer to line item	Amount	
Landfill	Hospitalization	Landfill	Salaries	14355.61	A
Landfill	Worker's Comp	Landfill	Salaries	1042.03	A
Landfill	Wages Part-time	Landfill	Salaries	800.59	A
Landfill	Criminal History	Landfill	Salaries	91.78	A
Landfill	Professional Service	Landfill	Salary Overtime	6000.00	A
Landfill	Criminal History	Landfill	Salary Overtime	37.06	A
Landfill	Fuel oil gas	Landfill	Unemployment	12243.96	A
Landfill	Fuel oil gas	Landfill	Rental Lease	4348.60	A
Landfill	Contracted Servcs	Landfill	Professional Servcs	3219.55	A
Landfill	Maintenance,radio	Landfill	Professional Servcs	210.65	A
Landfill	Fuel oil gas	Landfill	Maintenance Equip	3001.40	A
Landfill	Vadeq annual fee	Landfill	Maintenance Equip	1392.24	A
Landfill	Computer Supplies	Landfill	Seed Fertilizer	1448.52	A
Landfill	Tool and Equip	Landfill	Seed Fertilizer	1983.08	A

RE: BUDGET TRANSFERS FOR FY2009

The Board approved the following budget transfers for FY2009:

Transfer from department	Transfer from line item	Transfer to department	Transfer to line item	Amount	
Salary	Reserve for Raises	Information Tech	Salaries	3,895.00	A
Salary	Reserve for Raises	Information Tech	FICA	297.97	A
Salary	Reserve for Raises	Information Tech	Retirement	549.97	A
Salary	Reserve for Raises	Information Tech	Group Life	38.95	A
Salary	Reserve for Raises	Information Tech	Workers Comp	5.66	A
Salary	Reserve for Raises	E911	Salaries	433.58	A
Salary	Reserve for Raises	E911	FICA	33.16	A
Salary	Reserve for Raises	E911	Retirement	61.22	A
Salary	Reserve for Raises	E911	Group Life	4.34	A
Salary	Reserve for Raises	E911	Workers Comp	0.62	A
Salary	Reserve for Raises	Landfill	Salaries	267.67	A
Salary	Reserve for Raises	Landfill	FICA	20.48	A
Salary	Reserve for Raises	Landfill	Retirement	37.79	A
Salary	Reserve for Raises	Landfill	Group Life	2.68	A
Salary	Reserve for Raises	Landfill	Workers Comp	5.30	A
Salary	Reserve for Raises	Building Inspection	Salaries	500.93	A
Salary	Reserve for Raises	Building Inspection	FICA	38.33	A
Salary	Reserve for Raises	Building Inspection	Retirement	70.73	A
Salary	Reserve for Raises	Building Inspection	Group Life	5.00	A
Salary	Reserve for Raises	Building Inspection	Workers Comp	0.73	A
Salary	Reserve for Raises	Sheriff	Salaries	871.75	A
Salary	Reserve for Raises	Sheriff	FICA	66.69	A
Salary	Reserve for Raises	Sheriff	Retirement	123.09	A
Salary	Reserve for Raises	Sheriff	Group Life	8.72	A
Salary	Reserve for Raises	Sheriff	Workers Comp	1.27	A
Salary	Reserve for Raises	Landfill	Salaries	200.20	A
Salary	Reserve for Raises	Landfill	FICA	15.31	A
Salary	Reserve for Raises	Landfill	Workers Comp	8.61	A
Salary	Reserve for Raises	Landfill	Salaries	214.50	A
Salary	Reserve for Raises	Landfill	FICA	16.41	A
Salary	Reserve for Raises	Landfill	Workers Comp	9.21	A
Salary	Reserve for Raises	Landfill	Salaries	366.81	A
Salary	Reserve for Raises	Landfill	FICA	28.06	A
Salary	Reserve for Raises	Landfill	Retirement	51.80	A
Salary	Reserve for Raises	Landfill	Group Life	3.67	A
Salary	Reserve for Raises	Landfill	Workers Comp	18.69	A
Salary	Reserve for Raises	E911	Salaries	726.81	A

Salary	Reserve for Raises	E911	FICA	55.60	A
Salary	Reserve for Raises	E911	Retirement	102.62	A
Salary	Reserve for Raises	E911	Group Life	7.27	A
Salary	Reserve for Raises	E911	Workers Comp	1.05	A
Salary	Reserve for Raises	Building Inspection	Salaries	800.00	A
Salary	Reserve for Raises	Building Inspection	FICA	61.20	A
Salary	Reserve for Raises	Building Inspection	Retirement	112.96	A
Salary	Reserve for Raises	Building Inspection	Group Life	8.00	A
Salary	Reserve for Raises	Building Inspection	Workers Comp	13.73	A
Salary	Reserve for Raises	Sheriff	Salaries	2,016.00	A
Salary	Reserve for Raises	Sheriff	FICA	154.23	A
Salary	Reserve for Raises	Sheriff	Retirement	284.66	A
Salary	Reserve for Raises	Sheriff	Group Life	20.16	A
Salary	Reserve for Raises	Sheriff	Workers Comp	37.17	A
Salary	Reserve for Raises	OFEMS	Salaries	724.00	A
Salary	Reserve for Raises	OFEMS	FICA	55.39	A
Salary	Reserve for Raises	OFEMS	Retirement	102.23	A
Salary	Reserve for Raises	OFEMS	Group Life	7.24	A
Salary	Reserve for Raises	OFEMS	Workers Comp	49.85	A
Salary	Reserve for Raises	E911	Salaries	4,160.00	A
Salary	Reserve for Raises	E911	FICA	318.24	A
Salary	Reserve for Raises	E911	Retirement	587.39	A
Salary	Reserve for Raises	E911	Group Life	41.60	A
Salary	Reserve for Raises	E911	Workers Comp	6.05	A

A. Merit Increases processed for July and August fiscal year 2009

RE: BUDGET AMENDMENT TO CARRY FORWARD FUNDS FROM FY08 TO FY09

The Board approved an amendment to the fiscal year 2009 County budget in the amount of $462,970.42 as presented.

RE: APPROPRIATION OF $65,000 OF LANDFILL FUND BALANCE

The Board approved the use of the Landfill Fund Balance in the amount of $65,000 and appropriation of the funds to 4.513.42400.3106.

RE: AMENDMENT OF PUBLIC HEARING DATE FOR THE DRAFT SUBDIVISION ORDINANCE

The Board approved an amendment to the public hearing date for the draft subdivision ordinance from September 9, 2008 to September 23, 2008.

RE: PROPOSED CHANGES TO THE COUNTY'S COMPREHENSIVE ANIMAL LAWS

The Board authorized a public hearing on September 9, 2008 to consider an amendment to the comprehensive animal laws ordinance.

Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: PUBLIC COMMENT/PUBLIC APPEARANCES
None.

RE: SCHOOL ASSESSMENT PRESENTATION
Roger Richardson, Principal with BCWH, updated the Board on the status of the school assessment. He stated that information on the projections should be available in the next two to three weeks and that they should conclude the entire study within the next two months.

RE: ROUND HILL VILLAGE PROJECT – TRANSPORTATION IMPACTS
Henry Carter, Mayor of the Town of Orange, briefly reviewed the proposed transportation plans for Route 15 North. He explained what the Round Hill Village Project means to the Town of Orange and stated that roundabouts serve traffic better by keeping it moving, rather than bringing it to a stop with a traffic light.

Michael Collins, Town Planner, made a presentation to the Board regarding the transportation impacts associated with the proposed Round Hill Village Project. He explained the roles of the Town, VDOT, and the County. Mr. Collins explained the Town's Comprehensive Plan - North Downtown Concept; grids; roundabouts and the requirement set forth by the Code of Virginia requiring that a Transportation Impact Analysis (TIA) be submitted to VDOT for the Round Hill project and also for the Town of Orange Zoning Ordinance.

Butch Davies, member of the Commonwealth Transportation Board, briefly explained the background and history of roundabouts. He stated that VDOT is currently in support of the roundabouts and indicated that they will review each one. He noted that roundabouts would add significantly to the community's entrance on the Route 20 corridor. Mr. Davies concluded by saying that historically VDOT has not been a supporter of roundabouts but are encouraging them now.

Discussion ensued regarding: pedestrian walkways; the study of average traffic and peak traffic.

Larry Fanton, VDOT Residency Program Manager, explained that, according to recent highway studies, roundabouts reduce fatalities by 95%, injury crashes by 76% at those intersections, and pedestrian accidents by 30% to 40%. He noted that roundabouts also reduce gas consumption, toxic submissions and green house gasses, as well as, a tool for speed management.

Discussion ensued regarding: annual vehicle growth rate; internal allowances; bypass allowances; truck traffic; and future street connections.

Gate Pratt, representative of Limehouse Architects, commented on the connectivity issue and noted that his firm was not the designer of this particular one, but upon review of the plans, it seemed to be appropriate.

RE: BOARD COMMENT
Mrs. Pace made the following statement: *"As a result of Mark Johnson's remarks directed to me during the August 12, 2008, Board meeting and written statements thereafter, I am seeking professional counsel. I also want to bring to the Board's attention and inform the public that this Board held an illegal meeting on August 12, 2008. At 12:04 a.m. when our closed session ended I mistakenly signed the paper stating that no issues were discussed except for the publicized issues. It was a few days later when reflecting on the meeting that I realized that Mark Johnson had breached the specified conditions of a closed session by initiating a discussion on and directives to the County Attorney's Office which had not*

been publicized as a topic for the closed session. I regret that this illegal meeting took place and we need to make sure we guard against infractions such as this so it does not happen again."

RE: ACTION ITEMS

RE: MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF SOCIAL SERVICES

Mr. Rolfe explained that the proposed memorandum of understanding is in reference to and is an extension of the original "Claim for Office Space" document that was approved by Virginia Department of Social Services (VDSS) on November 20, 1995, for a ten year term or until November 20, 2005. Upon expiration, the Orange County Department of Social Services (OCDSS) honored the agreement on a month to month basis and now VDSS is requiring that the document be updated. He stated that 80% of the amount paid is reimbursed by federal grants. In the past year, VDSS has met with agencies to review agreements and confirm compliance with federal guidelines. Mr. Rolfe noted that the proposed agreement will bring the County into compliance with the state and federal government. He noted that under the terms of the memorandum of understanding, the annual rent paid to the County will be $85,992 ($7,166 per month). This amount is OCDSS' equitable share of expenses paid by the County to maintain the facility including interest on the capital lease, depreciation, public works expenses, and insurance. He concluded by saying that federal guidelines require that the memorandum be amended on October 1, 2010 when the County has paid the capital lease in full and owns the facility outright.

Discussion ensued regarding the amount of rent that the County is currently receiving and why the amount of rent was lower.

Following discussion, Mr. Frame moved, seconded by Mr. Goodwin and carried, to authorize the County Administrator to sign the memorandum of understanding with the OCDSS for use of space at a monthly cost of $7,166.

Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

RE: ZONING STEERING COMMITTEE

Mr. Frame nominated Michael Perez to serve as a District Five representative on the Zoning Ordinance Steering Committee. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

The Board also appointed the following individuals to serve on the Zoning Ordinance Steering Committee: Keith Kelly of the National Park Service; John Floyd and Sam Elswick of the Orange County Historical Society. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: DISCUSSION ITEMS

RE: CABLE ISSUE WITH LAKE OF THE WOODS

Mr. Rolfe explained that the County has had an agreement with Lake of the Woods Association (LOWA) since 1997 concerning the administration of a CATV franchise agreement with Prestige Cable TV, Inc. It appears that LOWA is of the opinion that this agreement is still valid. He explained that the County does not have a franchise with Prestige Cable TV, Inc. and noted that the agreement makes no mention of successor franchises. Mr. Rolfe further stated

that the County does not directly receive a franchise fee from any cable TV provider. The State currently collects a communication tax and remits a portion of the total received to Orange County. Funds collected from CATV providers are co-mingled with funds from various other communication providers. Mr. Rolfe stated that, as administrators of the franchise, LOWA is supposed to make semi-annual reports to the Board and thus far the County has not received a report since January, 2005.

Mr. Rolfe concluded by saying that staff recommends that the County give notice, under the terms of the agreement, that it is formally exercising the sixty day termination notice.

Mr. Frame read the agreement and commented on the report that Mr. Rolfe was speaking of. He requested that the agreement be signed as presented.

Discussion ensued regarding: communication fees; revenues; renegotiation of the agreement; and the amount, if any, that LOWA should receive.

RE: RECESS

The Board took a short recess at 9:00 p.m. and reconvened at 9:07 p.m.

RE: CABLE ISSUE WITH LAKE OF THE WOODS CONTINUED

Mr. Frame moved to appropriate, from contingency fund, the amount necessary to pay for the 2007 and 2008 payment per the agreement.

Mr. Burkett asked Mr. Frame if he would amend the motion to say "the amount necessary to pay the funds up to date" which would include sixty days should the Board decide to terminate the agreement. Mr. Frame concurred. Mr. Burkett seconded the motion.

Discussion ensued as to what future action should the Board take regarding the franchise agreement with Lake of the Woods Association (LOWA).

Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

Mr. Burkett moved to terminate the franchise agreement sixty days from the current date and authorize the County Administrator to renegotiate the agreement with the Lake of the Woods Association. Mrs. Pace seconded the motion for discussion.

Discussion ensued regarding costs that LOWA is incurring for the service and expansion of the operation to the Comcast subscribers in Orange County to assist with funding for the service.

Ayes: Johnson, Burkett, Goodwin, Pace. Nays: Frame.

RE: PENDING ITEMS

a. Wireless Project
b. Illegal Information
c. Lighting Ordinance

RE: CALENDAR

The Board received copies of its calendar for the months of August, September and October, 2008. The proposed joint dinner meeting with the Planning Commission scheduled for October 2, 2008,

was canceled.

RE: BOARD COMMENT (CONTINUED)

Chairman Johnson responded to Mrs. Pace's comments which were made earlier in the meeting regarding the claim that an illegal Closed Session meeting was held by the Board. He stated that the motion for Closed Session at the Board's August 12, 2008 meeting, included discussion and evaluation of the County Administrator's office and that it was under that heading, as an explanation, for why the Board was discussing the County Administrator's office and action that the County Attorney had taken. He explained that he had discussed this issue with the County Attorney prior to the meeting as to whether the same motion would include the meeting topic. He indicated that he has again spoken with the County Attorney since then and Mr. Patrick still agrees that the discussion had to do with the County Administrator's office and not the County Attorney's office.

Mrs. Pace stated that she strongly disagrees because the directive was to the County Attorney's office and not the County Administrator's office. Chairman Johnson stated that he had spoken to Mr. Patrick privately and given him a directive and that the directive was not given during the Closed Session meeting. Mrs. Pace stated that it should not have been brought up at all because it was not publicized for discussion. Chairman Johnson stated that the discussion was brought up in connection with the County Administrator and that the County Attorney's action that he was discussing had to do with the County Administrator. He concluded by saying that the County Attorney agrees with him.

Mrs. Pace questioned Mr. Patrick's logic for his determination. Mr. Patrick clarified his position on the matter. Mrs. Pace stated that she disagreed.

RE: CLOSED SESSION

At 9:25 p.m., Mr. Goodwin stated, "Mr. Chairman, I move this meeting be recessed and that the Orange County Board of Supervisors immediately reconvene in closed session for the following purposes:

- Discussion and evaluation of the County Attorney's Office, where such discussion will necessarily involve specific individuals, as permitted by Virginia Code section 2.2-3711(A)(1)."

Mr. Burkett seconded the motion. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: OPEN SESSION

At 9:46 p.m., Mrs. Pace moved, seconded by Mr. Goodwin and carried; to reconvene in open session whereupon the Board adopted the following resolution:

WHEREAS, the Orange County Board of Supervisors has convened a closed meeting 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 this Orange County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW THEREFORE, BE IT RESOLVED, that the Orange 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 business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Orange County Board of Supervisors.

The motion carried. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: DISCUSSION FOLLOWING CLOSED SESSION

Mr. Burkett initiated a short discussion regarding staff members inappropriately stating County policy matters which had not been determined by the Board of Supervisors.

RE: ADJOURNMENT

At 9:55 p.m., there being no further business to discuss, Mr. Burkett moved, seconded by Mr. Goodwin and carried, that the meeting be adjourned. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.