

**Virginia :** At the regular meeting of the Smyth County Board of Supervisors held at the County Office Building on Tuesday, April 13, 2004 at 12:00 noon .

**Board Members**

**Present:** Mr. Marvin R. Perry Mr. Charlie Clark  
Mr. Harold Slemp Mr. Todd Dishner  
Mrs. Darlene R. Neitch Mr. Michael D. Roberts  
Mr. Wade H. Blevins, JR

**Staff Members**

**Present:** Mr. Edwin B.J. Whitmore, III Mr. John H. Tate, Jr.  
Mr. Michael Carter Ms. Amber Tilson  
Mr. Scott Simpson Mr. Charlie Atkins  
Mrs. Mary Ann Evans

The Chairman called the meeting to order at 12:03PM .

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Rev. David Neitch, of Liberty Freewill Baptist Church , led the invocation. Pledge of

Allegiance was led by Mary Walters from the Water Department.

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Upon motion made by Mrs. Neitch, seconded by Mr. Slemp and unanimously carried the

board approved the agenda with a change in the Accounts Payable Listing amount from

\$640,511.17 to \$664,649.99.

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Upon motion of Mr. Clark, seconded by Mr. Slemp, and unanimously carried, the Board

approved the minutes of the March 9 and March 25, 2004 meetings with the following changes.

March 9, 2004 changes:

The following bids were received for Divisions IA, IB,IC, II, and III for the Allison Gap

Sewer/Saltville Wasterwater System Improvements:

-IA-Allison Gap	Little B Enterprises, Inc. – Castlewood VA	Collection System	
	\$1,056,961.75		
-IB-Allison Gap	Central Builders, Inc.- Midlothian VA	Collection System	\$1,059,025.00
-IC Allison Gap	Mendon Pipeline–Ghent WV	Collection System	\$1,622,926.00
-II- Saltville Wastewater	Frizzell Construction Company-Bristol TN	Treatment Plant	\$2,124,277.00
-III-McHenry's Creek	W&L Construction and Paving, Inc.-Chilhowie	Rehabilitation	\$ 550,535.00
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			\$6,413,724.75

Upon motion of Mr. Roberts, seconded by Mrs. Neitch, and duly carried the Board

accepts the forstated low bids for the Allison Gap Sewer System, and the Chairmen is authorized

to sign said contracts.

Vote: 6 yea  
1 nay (Perry)

March 25, 2004 changes:

Upon the conclusion of the meeting at 7:45 PM the Board reconvened in the School Board office for a 7:30 PM advertised meeting. The school's fiscal year 2004-2005 budget was discussed and the meeting ended around 8:45 PM .

The two foregoing items are the complete changes to the minutes for March 9 and 25, 2004.

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The Chairman opened citizen's time.

- During citizen's time Antionette Goodrich of the Cedars/Hall Addition Sewer Project

expressed her thanks for the work being done at this time and her concerns for the pump station

location.

- Mrs. Judy Taminger expressed her thanks for the workforce study and the work being

done to get better education out there for the county's workers.

The Chairman declared citizen's time closed.

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Dr. Wilkins expressed his thanks for the support from Smyth County . He explained future plans for the campus and the colleges budget request.

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Catherine Cox of the Museum of the Middle Appalachian, Saltville , VA , gave an update and asked that their funding be increased to \$25,000.00 to help with renovation and construction of new display units in a building next door that the Museum planned to purchase.

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Mr. Mike Untiedt updated the Board on the progress of the Cole Crest Drive request, concerning a road being constructed under the Substandard Subdivision Roads Program using Revenue Sharing Funds from VDOT. They hope to have more information in the next few weeks.

He distributed a letter from the Attorney General's office that was sent to Delegate Carrico.

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Upon motion of Mr. Blevins, seconded by Mr. Slemm, and unanimously carried, BE IT RESOLVED that the Smyth County Board of Supervisors approves and appropriates the following out of the appropriate fund account:

General County	\$1,035,000.00
Department of Social Services (April 2004)	\$ 340,000.00
(May 1 <sup>st</sup> –11 <sup>th</sup> )	\$ 35,000.00
Schools	
Operations	\$2,950,000.00
Capital Outlay & School Debt	-0-
Green Hill/Shuler Hollow	\$ 47,056.04
Animal Damage	\$ 60.59
Social Security Funds (Sheriff Dept.)	\$ 565.09

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Upon motion of Mr. Blevins, seconded by Mr. Slemph, and unanimously carried, the Board approved the attached the Accounts Payable listing in the amount of \$664,649.99 from the appropriate fund account.

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Upon motion of Mr. Slemph, seconded by Mrs. Neitch, and unanimously carried, the Board approved a refund in the amount of \$51.62 to Mr. John Bower ( PO Box 766 , Jonesville VA 24263), for personal property tax, upon recommendation of the County Attorney .

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Upon motion of Mr. Clark, seconded by Mr. Roberts, and unanimously carried, the Board denied Mr. Carl Billings' ( 2624 South Fork Road , Marion VA, 24354) request for a property tax refund in the amount of \$101.20, upon recommendation of the County Attorney because Mr. Billings did not file the request with in the 6 month time frame allowed by law.

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Upon motion of Mr. Dishner, seconded by Mr. Slemph, and unanimously carried, the Board approved a refund in the amount of \$42.00 to Mr. Ernest Blevins ( 646 B Lane , Marion VA 24354) for personal property tax, upon recommendation of the County Attorney .

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The Board was asked to appoint a member for the New River/Mount Rogers Workforce Investment Board. Mr. Whitmore stated that he would look into getting someone.

Upon motion of Mrs. Neitch, seconded by Mr. Slempp, and unanimously carried, the matter of appointee for the Investment Board was continued until the next meeting.

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Mrs. Neitch volunteered to serve on the Smyth County Chamber of Commerce Board for the remaining term of Donnie Fullen, resigned, ending December 31, 2005 .

Upon motion of Mr. Slempp, seconded by Mr. Clark, and unanimously carried, Mrs. Darlene Neitch was appointed to serve on the Chamber of Commerce Board for the unexpired term of Donnie Fullen.

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Upon motion of Mr. Roberts, seconded by Mr. Slempp, and unanimously carried, the Board agreed to a three year agreement for the Cost Allocation Plan from Robinson, Farmer, Cox Associates, at a cost of \$2,500.00 per year.

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Upon motion of Mr. Clark, seconded by Mr. Slempp, and unanimously carried, the Board agreed to employ Robinson, Farmer, Cox Associates, for fiscal year 2004-2005 Audit at a cost, not

to exceed \$26,500.00 with IDA audit not to exceed \$1,000.00.

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Upon motion of Mr. Slemp, seconded by Mr. Dishner, and duly carried, the Water and Sewer Department County Attorney services was awarded to the firm of Campbell & Doyle during fiscal year 2004-2005 at the following rate of "\$85 per hour for legal services, beginning May 1, 2004."

The said attorney services to be put out for bid during fiscal year 2005-2006 for a period of three years.

Vote: 5      Yea  
      2      Nay (Neitch, Blevins)

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Upon motion of Mr. Roberts, seconded by Mr. Clark, and duly carried, the Smyth County Attorney services will be renewed with Gwyn & Tate for fiscal year 2004-2005, at the rate of \$100.00 per hour. Mr. Tate also proposes that if chosen he would, "continue the monthly retainer of \$1200.00 per month, which would pay for 12 hours of legal work each month. The retainer will

be credited to the actual statement for legal services performed each month.”

Vote: 5 Yea  
2 Nay (Neitch, Blevins)

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Upon motion of Mrs. Neitch, seconded by Mr. Blevins, and duly carried, the Smyth County Attorney Legal Services to be put out for bid for period beginning fiscal year July 2005, which will be renewable for 3 fiscal years.

Vote: 4 Yea  
3 Nay (Dishner, Roberts, Clark )

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The following Board matters were continued:

1. Matter of collection of delinquent taxes.
2. Request from Nebo Community Center Board to become owners of the old Nebo School either by lease or donation (Building and Grounds Committee).

3. Ken Heath's request concerning establishment of local tax abatement ordinance (referred to County Attorney , 7-1-2003 ).
4. East County Spring Source Study ( 8-1-2003 ).
5. Cole Crest Drive reference being brought into the Secondary System. ( County Attorney is awaiting information before advertising a public hearing).
6. Bob Mason's request concerning road repairs on a privately owned road – Green Hills Project (Water/Sewer Committee 10-1-2003 ).
7. Request from Sonya Strouth concerning establishing a rescue squad in the Adwolfe area ( 1-1-2004 ).
8. Methadone Clinic, referred to the Planning Commission ( 2-1-2004 ).
9. Draft revisions for Zoning Ordinance referred back to Planning Commission for study and recommendation ( 2-1-2004 ).
10. Request concerning 911 contracts with the towns (911 Committee, 2-1-2004 ).

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Upon motion of Mr. Clark, seconded by Mr. Slemp, and duly carried, the Board approved

the recommendation by the Budget Committee for funds in the amount of \$30,599.15, to be

proposed in the fiscal year 2004-2005 budget for the Bike Trail.

Vote: 6 Yea  
1 Abstention (Roberts)

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During Highway department time Mr. Buston informed the Board that they are working with citizens on Colecrest Drive and he feels the project will get going soon.

Mr. Slemp asked about Nicks Creek Road . Mr. Buston stated that it would be at least summer before it is completed. Mr. Slemp also asked about the creek close to exit 50. There are problems with overflow.

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Susie Jennings requested the Board to consider starting the process for tax exempt status, for the Smyth County Community Foundation. This was held over until the May meeting for more questions.

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Upon motion of Mr. Slemp, seconded by Mr. Clark, and unanimously carried, the Board

approved the following schedule for the Board of Equalization to meet with Smyth County citizens:

May 4	9am-12noon	May 11	9am-12noon
May 5	9am-12noon	May 12	9am-12noon
May 6	9am-12noon – 1pm-5pm	May 13	9am-12noon 1pm-5pm
May 17	1pm-5pm – 6pm-9pm	May 25	9am-12noon
May 18	9am-12noon	May 26	9am-12noon
May 20	9am-12noon – 1pm-5pm		

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Upon motion of Mr. Dishner, seconded by Mr. Clark, and duly carried, the Board approved

the rezoning of the Dalphna Miller property (Minute Mart) on Chatham Hill Road from Residential to

Commercial.

Vote: 6 Yea  
1 Abstention (Slomp)

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Upon motion of Mr. Roberts, seconded by Mrs. Neitch, and unanimously carried, the Board

approved the request to write a letter of concurrence to the Compensation Board in support of a

viewing station for the records of the Circuit Court Clerk Office to be used in the Commissioner of Revenue's office. Compensation Board to provide for 27% of needed funding.

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Upon motion of Mr. Slemph, seconded by Mr. Blevins, and unanimously carried, the Board approved the use of Canteen money in the Sheriff's Department to pay part time employees to assist with inmates with medical procedures.

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Upon motion of Mr. Slemph, seconded by Mrs. Neitch, and unanimously carried, the Board adopted the following resolution concerning "Smyth County Clean-Up Day":

WHEREAS, Saturday, April 24, 2004 has been selected in order to correspond with Earth Day, Arbor Day and other clean-up activities scheduled throughout the state, and

WHEREAS, the Area Beautification Committee of the Chamber of Commerce of Smyth County, Inc. is encouraging all Adopt-A-Highway program participants, churches, clubs, and organizations to schedule a clean up, and

WHEREAS, the Virginia Department of Transportation is arranging special pickups to support the efforts of volunteers throughout the Smyth County area.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Smyth County acknowledges the importance of encouraging area residents to work together to maintain the appearance of Smyth County, and declares April 24, 2004 as "Smyth County Clean-Up Day."

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Shannon Williams gave a follow up on the 2-1-1 program. It is becoming a national phone

number for those in need of information and referral service in health and human services. They hope to go live in August 2004, with a call center in Roanoke . It is nice for the 911 center because it will reduce the number of nonemergency calls coming in. This is a grant funded program, they have enough funds for this year and next year. They do ask that the Board be aware that in the future they could ask for some type of local financial support.

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Pursuant to notice duly published in a local newspaper, the Board proceeded to conduct a public hearing to consider re-adoption of proposed Ordinance entitled Courthouse Security.

No one appeared to speak during the public hearing. The Chairmen declared the public hearing closed.

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Upon motion of Mrs. Neitch, seconded by Mr. Slemp and unanimously carried the following

ordinance was adopted:

Purpose: Amendment to Title 34 of the Smyth County Code, **Finance and Taxation**, Article III, Court Costs, §34-77, to continue to impose an additional assessment of costs on criminal and traffic convictions in the courts of Smyth County. The purpose of this ordinance is to make permanent to following Division 4, §34-77, Title 34, Article III of the Smyth County Code.

The Board of Supervisors herewith adopts this ordinance to amend the Smyth County Code, to continue, on a permanent basis the following section, which will impose an additional court cost on a conviction in the General District Courts and the Circuit Court of Smyth County, Virginia as outlined hereafter, and make §34-77, with the change set out herein, a permanent part of the Smyth County Code, as follows:

**DIVISION 4. COST ASSESSMENT FOR COURT SECURITY**

**§34-77** (1) The Clerk of each District Court of Smyth County, Virginia, and the Clerk of the Circuit Court of Smyth County, Virginia shall assess and collect an additional sum of Five Dollars (\$5.00) as a part of the costs in each criminal or traffic case in which the defendant is convicted of a violation of any statute or ordinance.

(2) Any funds collected by the Clerk of each of the respective courts shall remit these funds monthly to the Treasurer of Smyth County. The Treasurer shall maintain a separate internal record, and shall provide a means to segregate any funds received by the Treasurer as a result of this ordinance from other funds received by the Treasurer.

(3) All funds received by Smyth County, Virginia as a result of this ordinance may be appropriated by the governing body to the Sheriff of Smyth County for the sole purpose of funding courthouse security personnel.

(4) Repealed.

*Secs. 34.78-34.120. Reserved*

No other changes are being made to TITLE 34, FINANCE AND TAXATION, by this amendment to the Smyth County Code.

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Pursuant to notice duly published in a local newspaper, the Board proceeded to conduct a

public hearing to consider the Allison Gap Bond issue.

Mr. Earl McClure appeared to ask questions. Mr. Jack Barbrow expressed his support for the sewer project. No one else appeared to speak for or against said proposed Bond issue. The Chairman declared the public hearing closed.

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Upon motion of Mr. Roberts, seconded by Mr. Dishner, and duly carried the Board adopted the following resolution:

**RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$3,135,900 GENERAL OBLIGATION SEWER BONDS OF SMYTH COUNTY , VIRGINIA , AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF**

Smyth County (the "County") has elected to be treated as a city for the purpose of issuing its bonds, pursuant to Section 10(b) of Article VII of the Constitution of Virginia.

Pursuant to the Public Finance Act of 1991 (Chapter 26, Title 15.2, Code of Virginia of 1950, as amended) (the "Act"), the Board of Supervisors of Smyth County (the "Board of Supervisors") is authorized to contract debts on behalf of the County and to issue, as evidence thereof, bonds, notes or other obligations payable from a pledge of the revenues from the County's sewer system and a pledge of the County's full faith and credit.

The Board of Supervisors has determined it necessary and expedient to authorize the issuance of general obligation bonds of the County in the maximum principal amount of \$3,135,900 to finance the costs of capital improvements (the "Project") to the County's sewer system, including upgrades to the Allison Gap wastewater treatment plant and line extensions.

The Board of Supervisors has held a public hearing on the proposed issuance of the bonds, in accordance with Section 15.2-2606 of the Act.

BE IT RESOLVED BY THE BOARD OF VIRGINIA :

SUPERVISORS OF SMYTH COUNTY

1. Recitals. The foregoing recitals are incorporated as a substantive part of this resolution.

2. Authorization of Project. The County authorizes the Project. The Project may be modified by the County; provided, however, that the modification is approved in writing by the Government.

3. Project as Part of System. The Project is determined to be, and shall be, a part of the System.

4. Authorization of Bonds. Pursuant to the Constitution of Virginia and the Act, there are hereby authorized to be issued and sold general obligation bonds of the County in an aggregate principal amount of \$3,135,900, to provide funds, together with other available funds, to finance the Project and to pay the cost of issuing the bonds.

5. Sale of Bonds. After mature consideration of the methods of sale of such bonds and current conditions of the municipal bond market, it is hereby determined that it is in the best interest of the County to accept the offer of the United States of America (the "Government"), to purchase the bonds upon certain terms and conditions set forth in the Government's letter dated December 19, 2001, addressed to the County Administrator of the County, as amended, a copy of which letter has been presented to Board of Supervisors. Such offer is here by accepted, and the County hereby agrees to meet such terms and conditions.

*Section 5 is amended by a letter of Webster Day dated April 9, 2004*

6. Details of Bonds. The bonds shall be issued as one bond in the denomination of \$2,735,500 and a second bond in the denomination of \$400,400.00, and shall be designated "General Obligation Sewer Bonds (Allison Gap Sewer Project), Series of 2004" (the "Bonds"). The Bonds shall bear interest at the rate of the lower of (a) 4.50% per year, or (b) the rate quoted by the Government as the closing rate effective on the date of the Bonds' delivery to the Government (the

"Closing Date"). The execution of the Bonds pursuant to Section 9 of this resolution shall conclusively evidence the interest rate stated in the Bonds as having been approved and authorized by this resolution. The Bonds shall be in fully registered form, shall be numbered R-1 and R-2, shall be dated the date of the Closing Date, and shall provide for payment of interest only on the first and second anniversaries of the Closing Date. Equal installments of combined principal and interest on each Bond shall be payable beginning the 25th full month following the Closing Date and continuing on the same date of each month thereafter until the principal of the Bond is paid in full. Such installments shall be in an amount sufficient to amortize fully the principal of that Bond over 456 months at the rate of interest on that Bond, which amount shall be determined by the Chairman or Vice-Chairman before the Closing Date. The execution of each Bond pursuant to Section 9 of this resolution shall conclusively evidence the amount of such monthly installments as having been approved and authorized by this resolution. If not sooner paid, the final installment on the Bonds shall be due and payable 40 years from the Closing Date. In the event the Closing Date occurs on the 29th, 30th or 31st day of a month, the payment date shall be the 28th day of the month. Any payment on the Bonds shall be applied first to interest accrued to the payment date and then to principal. Installments shall be payable in lawful money of the United States of America by check or draft mailed to the registered owner of the Bonds at its address as it appears on the registration books, except that the final installment shall be payable upon presentation and surrender of the Bonds at the office of the County Treasurer who is hereby appointed Registrar.

7. Alternative Form for Advances of Principal. At the request of the Government, the Bonds may be delivered as fully registered bonds in the alternative form contained herein providing for principal advances to be made from time to time by the Government in an aggregate amount not to exceed \$3,135,900. An authorized officer of the Government shall enter the amount and the date of each such principal advance on the Certificate of Principal Advances attached to the Bond against which such advance is made when the proceeds of such advance are delivered to the County. Each such principal advance shall bear interest from the date of such advance so entered on the certificate.

8. Prepayment. Installments of principal due on the Bonds may be prepaid at the option of the County at any time as a whole or in part from time to time (but if in part, in inverse order of their maturities), without premium. Notwithstanding the above, the County may at any time deliver moneys to the Government with instructions that such moneys be credited against future installments due on the Bonds in inverse chronological order. Prepayments shall not affect the obligation of the County to pay the remaining installments payable as provided in paragraph 6 above.

9. Execution of Bonds. The Bonds shall be signed by the Chairman or Vice Chairman of the Board of Supervisors and the County's seal shall be affixed thereto and attested by the Clerk or any Deputy Clerk of the Board of Supervisors

10. Form of Bonds. The Bonds shall be in substantially the following form:

No. R\_\_\_\_\_

\$\_\_\_\_\_

UNITED STATES OF AMERICA

COMMONWEALTH OF VIRGINIA

SMYTH COUNTY

General Obligation Sewer Bond

(Allison Gap Sewer Project) Series of 2004

Dated: \_\_\_\_\_, 2004

Smyth County, Virginia (the "County"), for value received, hereby acknowledges itself indebted and promises to pay to the United States of America, or registered assigns, the principal sum [equal to the aggregate amount of principal advances shown on the attached Certificate of Principal Advances, but not to exceed the sum(1)] of

\_\_\_\_\_ AND 00/100 DOLLARS

(\$ \_\_\_\_\_ .00)

and to pay to the registered owner hereof interest on the unpaid principal from the date [hereof] [of each principal advance shown on the attached Certificate of Principal Advances] until payment of the entire principal sum at the rate of \_\_\_\_\_ percent (\_\_\_\_%) per year. Interest only is payable on \_\_\_\_\_, \_\_\_\_\_ and on \_\_\_\_\_. Installments of combined principal and interest of \$\_\_\_\_\_ are payable beginning \_\_\_\_\_, \_\_\_\_\_, and continuing on the same day of each month thereafter until the principal of this bond' is paid in full Any payment on this bond shall be applied first to interest accrued to such payment date and then to principal. If not sooner paid, the final installment shall be due and payable 40 years from the date hereof. Such installments shall be payable in lawful money of the United States of America by check or draft mailed to the registered owner at its address as it appears on the registration books kept for that purpose at the office of the County Treasurer who has been appointed Registrar, except that the final installment shall be payable upon presentation and surrender hereof at the office of the Registrar.

This bond is one of an issue of bonds in the aggregate amount of \$3,135,900 which has been authorized by a resolution duly adopted by the Board of Supervisors of the County on \_\_\_\_\_, 2004 (the "Bond Resolution") and is issued pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, to provide

funds, together with other available funds, to finance capital improvements to the County's sewer system, including upgrades to the Allison Gap wastewater treatment plant and line extensions.

Reference is hereby made to the Bond Resolution and any amendments thereto for the provisions, among others, describing the pledge and covenants securing this bond, the nature and extent of the security, the terms and conditions upon which this bond is issued, the rights and obligations of the County and the rights of the bondholder.

Both principal of and interest on this bond are payable from ad valorem taxes to be levied without limitation as to rate or amount on all property in the County subject to taxation to pay the installments of principal and interest on this bond to the extent other funds of the County are not lawfully available and appropriated for such purpose, and the full faith and credit of the County are pledged therefor. In addition, the principal of and interest on this bond are secured by a pledge of the revenues of the County's sewer system (the "Revenues") as provided in the Bond Resolution, subject to the right of the County to apply Revenues to payment of operation and maintenance expenses of the system. The lien of such pledge is on parity with the lien of any pledge of Revenues previously given to secure the payment of the following bonds assumed or issued by the County:

*(1) Alternative language to be used if the Government requests provision for principal advances.*

- 1) \$156,900 Water Revenue Bond, Series of 1989A;
- 2) \$32,700 Water Revenue Bond, Series of 1989B;
- 3) \$117,500 Water Revenue Bond, Series of 1990A;
- 4) \$25,100 Water Revenue Bond, Series of 1990B;
- 5) \$281,000 Water Revenue Bond, Series of 1990C;
- 6) \$354,000 Sewer Revenue Bond, Series of 1991;
- 7) \$40,000 Landfill Revenue Bond, Series of 1991;
- 8) \$18,000 Landfill Revenue Bond, Series of 1991;
- 9) \$411,600 Water Revenue Bond (Ebenezer Project), Series of 1992;
- 10) \$160,000 Water Revenue Bond (Midway Phase II Project), Series of 1992;
- 11) \$225,700 Water Revenue Bond ( Walker 's Creek Project), Series of 1992A;
- 12) \$102,000 Water Revenue Bond ( Walker 's Creek Project), Series of 1992 B;
- 13) \$505,800 Water Revenue Bond (Watson's Gap Project), Series of 1992;

- 14) \$36,000 Water Revenue Bond ( Crystal Spring Project), Series of 1992;
- 15) \$109,800 Water Revenue Bond ( Currin Valley Project), Series of 1992A;
- 16) \$53,600 Water Revenue Bond ( Currin Valley Project), Series of 1992B;
- 17) \$136,000 Water Revenue Bond (Route 613 Project), Series of 1993A;
- 18) \$18,600 Water Revenue Bond (Route 613 Project), Series of 1993B;
- 19) \$1,374,900 Water Revenue Bond ( Cleghom Valley Phase II Project), Series of 1994;
- 20) \$73,500 Sewer Revenue Bond (Bear Creek Project), Series of 1995;
- 21) \$1,129,000 General Obligation Solid Waste Disposal Bond, Series of 1996;
- 22) \$263,600 Water Revenue Bond (Possum Hollow Project), Series of 1996;
- 23) \$1,655,000 General Obligation Sewer Bond (Hungry Mother Sewer Project), Series of 1997;
- 24) \$334,000 Water Facility Bond, Series 2001 B (Hutton Branch Water Project);
- 25) \$133,000 Water Facility Bond, Series 2001 C (Hutton Branch/Currin Valley Water Project);
- 26) \$346,000 Water Facility Bond, Series 2002 B (Hutton Branch Water Project);
- 27) \$797,700 Sewer Facility Bond, Series 2002 C (Green Hill Sewer);
- 28) \$503,049 General Obligation Water and Sewer Bond (Groseclose Water Project) Series  
2004; and
- 29) \$1,500,000 Sewer Facility Bond, Series 2004 (2)

Additional bonds secured equally and ratably with this bond by a pledge of the Revenues may be issued from time to time under the conditions, limitations and restrictions set forth in the Bond Resolution.

Transfer of this bond may be registered upon the registration books of the Registrar. Prior to due presentment for registration of transfer the Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

Installments of principal due on this bond may be prepaid at the option of the County at any time as a whole or in part from time to time (but if in part, in inverse order of their maturities),

without premium. Prepayments of installments of principal shall not affect the obligation of the County to pay the remaining installments payable as provided above.

*(2) Language to be included if this bond is issued and outstanding as of the Closing Date.*

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of this bond have happened, exist and have been performed, and this bond, together with all other indebtedness of the County, is within every debt and other limit prescribed by the Constitution and statutes of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the Board of Supervisors of Smyth County has caused this bond to be signed by its Chairman, its seal to be affixed hereto and attested by the Clerk of the Board of Supervisors of the County, and this bond to be dated the date shown above.

ATTEST:

Specimen DO NOT sign

Specimen DO NOT sign

\_\_\_\_\_ (SEAL) \_\_\_\_\_

Clerk, Board of Supervisors

Chairman, Board of Supervisors

of Smyth County , Virginia

of Smyth County , Virginia

Vote: 6 Yea  
1 Nay (Perry)

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Upon motion by Mr. Roberts, seconded by Mr. Clark and duly carried the Board adopted

the following Loan Resolution, on the Allison Gap Sewer Project:

## LOAN RESOLUTION

(Public Bodies)

A RESOLUTION OF THE Board of Supervisors OF Smyth County AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

### Allison Gap Sewer

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Smyth County (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

**FOUR HUNDRED THOUSAND FOUR HUNDRED AND XX / 100 DOLLARS (\$400,400.00)**

pursuant to the provisions of Title 15.2 Code of VA as amended; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U-S-C. 1921 et seq.) in the

planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

**NOW THEREFORE**, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C- 1983(c)).
3. To provide for, execute, and comply with Form RD 4004, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or  
  
permit others to do so, without the prior written consent of the Government.
7. Not to defeace the bonds, or to borrow money, enter into any contractor agreement, or

otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.

8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States . Any income from these accounts will be considered as revenues of the system.

9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted
11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$ 500,000.00 under the terms offered by the Government; that Chairman of the Board and County Administrator of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be

required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s). The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

Yeas \_\_\_\_\_ Nays \_\_\_\_\_ Absent \_\_\_\_\_

IN WITNESS WHEREOF, the Board of Supervisors of the Smyth County has duly adopted this resolution and

caused it to be executed by the officers below in duplicate on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

(SEAL)

Smyth County

Attest \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Vote: 6 Yea  
1 Nay (Perry)

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Mr. Ronnie Waddle appeared to inform the Board the Smyth County Fire

and Rescue Association's budget request for \$50,000.00 and informed the

Board what funds in the past year had been expended for and what

departments received said funds. Referred to budget committee.

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Upon motion by Mrs. Neitch, seconded by Mr. Dishner  
and unanimously

carried the Board adopted the following resolution concerning Girl  
Scout

recipients of the Gold Award:

WHEREAS, the Girl Scouts of the Appalachian Council  
have announced the names of the Girl Scouts that have achieved  
the 2004 Gold Award, and

WHEREAS, the Gold Award symbolizes outstanding  
accomplishments in the areas of leadership, community service,  
career planning, and personal development, and

WHEREAS, Meredith Jane Sturgill, Samantha Jo Sturgill,  
Kelsey Anne Duncan, and Kelly Michelle Richardson are  
residents of Smyth County and have accomplished this major  
award.

THEREFORE BE IT RESOLVED that the Smyth County  
Board of Supervisors recognizes these four young ladies on the  
occasion of receiving the Gold Award and extends its  
congratulations to them for their hard work and dedication to the  
Girl Scouts.

A letter of congratulations will be sent to the above girls  
from the Board of Supervisors.

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Upon motion of Mrs. Neitch, seconded by Mr. Blevins and  
unanimously

carried, the trees for the Wilderness Road Convenience station  
are to be planted

as soon as possible.

Upon motion of Mrs. Neitch, seconded by Mr. Slemph and  
unanimously

carried, trees for the Wilderness Road Convenience station will be  
referred to the

Solid Waste Committee to consider the type of trees to be planted  
and Mrs. Huff

will be invited to said meeting.  
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Mr. Blevins questioned Mr. Whitmore on the monthly report he asked to

see on the industries and prospects in the County. Mr. Blevins asked that

something be put in the packets each month so Board members can see

progress. Sally Morgan was asked to come down to the meeting and give a

report.

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Upon motion of Mrs. Neitch, seconded by Mr. Slemp, and unanimously

carried, the Board agreed to enter into executive session to discuss prospective

business or industry as outlined in Section 2.2-3711 (A) (5) of the Code of

Virginia , as amended.

Chairmen declared the executive session ended and the doors were

opened to the public.

Vote: 7 yea

0 Nay

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Upon motion of Mrs. Neitch, seconded by Mr. Dishner, and unanimously carried, BE IT RESOLVED that the Smyth County Board of Supervisors adopts the following resolution:

WHEREAS, the Smyth County Board of Supervisors has convened an executive 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 the Smyth County Board of Supervisors that such executive meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Smyth 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 executive meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Smyth County Board of Supervisors.

Vote: 7 Yea

0 Nay

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Meeting was adjourned at 4:39PM .

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Chairman

