

9-12-2006

Vote: 6 yea
 1 absent (Roberts)

CITIZEN'S TIME

Mrs. Mary Anna Turner, a retired employee of the Smyth County Department of Social Services spoke on behalf of the majority of current employees of Department of Social Services. She expressed those employees's opposition to the dismissal of Mr. Virgil Miller as the Department Director. They requested that the Board review the decision made by the local Department of Social Services Board and reinstate Mr. Miller. She also explained their request that the current Social Services Board be dissolved and reinstated with new members so that the department can move in the right direction.

Mrs. Sondra Hall of Middle Fork Road explained the problem with speeding on the road since it has been repaved. She requested that the proper authority patrol the area or children at play signs be installed. Her request was referred to VDOT.

Ms. Doris Smith of the Smyth County Extension Homemakers invited the Board to their annual luncheon to be held on Tuesday, October 10 at 10:30 a.m. at the Farm Bureau building.

Mrs. Brenda Gwyn of the Smyth County Museum and Historical Society again expressed the Society's wishes to obtain the old school building on East Strother Street in Marion.

Mr. Gregory Orvick of Marion expressed his concern for more business in the Marion area and the need for more jobs. Mr. Whitmore and Mr. Slemp responded to the progress that has been made.

Mr. Perry responded to the request from the employees of the Department of Social services. He explained that the Board of Supervisors cannot override the Social Services Board's actions. Going through the court system would be the next step. Mr. Tate also agreed. Mrs. Neitch also responded to the request, who serves on the Social Services Board. She explained that the Social Services Board members are not at liberty to speak on the dismissal of Mr. Miller and apologizes for any hardships.

Upon motion of Mr. Roberts, seconded by Mr. Blevins, and unanimously carried, the Board approved a DMV grant for the Sheriff's Department in the amount of \$19,264

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with \$3,853 in kind, the in kind being fuel, for completion of this grant.

Vote: 7 yea
 0 nay

Upon motion of Mr. Roberts, seconded by Mr. Perry, and unanimously carried, the Board tentatively approved an agreement with Spectrum Design for the Allison Gap School, Elderly Housing Study. Once the grant is awarded the Chairman is authorized to sign the agreement.

Vote: 7 yea
 0 nay

Upon motion of Mrs. Neitch, seconded by Mr. Slemp, and unanimously carried, the Board approved a Virginia Department of Housing and Community Development grant contract for the Flat Ridge Road (Rye Valley) Water Self-Help Project. The contract is on file at the Office of the County Administrator.

Vote: 7 yea
 0 nay

Upon motion of Mr. Perry, seconded by Mr. Slemp, and unanimously carried, the Board approved a letter of support for an Appalachian Regional Commission (ARC) grant application for fiscal year 2007-2008. The application is being filed by the Smyth Washington Regional Workforce Consortium. This letter commits \$25,000 in matching funds, this does not appropriate funds.

Vote: 7 yea
 0 nay

Upon motion of Mr. Slemp, seconded by Mr. Perry, and unanimously carried, the Board reappointed Mr. Bill Huber as the alternate to the Board of Appeals Virginia Statewide Uniform Building Code. His 4 year term will expire September 30, 2010.

Vote: 7 yea
 0 nay

Upon motion of Mrs. Neitch, seconded by Mr. Slemp, and unanimously carried, the Board approved the Mount Rogers Community Mental Health and Mental Retardation Services Board's Annual Performance Contract with the Department of Mental Health Retardation and Substance Abuse Services. The following is a summary of the fiscal year 2007 performance contract (will be included in the official minutes).

Vote: 7 yea
 0 nay

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Upon motion of Mr. Perry, seconded by Mrs. Neitch, and unanimously carried, the Board approved the pick up truck bid in the amount of \$17,195 from Empire Ford of Abingdon for the Animal Control department.

Vote: 7 yea
 0 nay

With the recommendation of the Fire and Rescue Funds Committee, the Board unanimously approved that Request for Proposals be solicited for the portable cascade system.

Vote: 7 yea
 0 nay

Upon motion of Mr. Blevins, seconded by Mr. Slemp, and unanimously carried, the Board appropriated \$5,000 from the Celebration fund (#001-56000-6022). This fund is currently budgeted at \$25,000. The Celebration Committee request \$5,000 for advertising expenses.

Vote: 7 yea
 0 absent

Upon motion of Mr. Perry, seconded by Mr. Slemp, and unanimously carried, the Board adopted the following resolution:

WHEREAS, the potential developer of land near Exit 47 is currently undertaking a traffic impact analysis of the interchange area; and

WHEREAS, the developer through its consultant is in the discussion stages with the Virginia Department of Transportation (VDOT) and the Federal Highway Administration (FHWA) regarding the traffic impact analysis; and

WHEREAS, the developer has asked for the initial support from the local governing body for the project before proceeding into more detailed engineering that will be required.

THEREFORE, Be It Resolved that the Smyth County Board of Supervisors supports the proposed development and is interested in the project progressing forward; and

BE IT FURTHER RESOLVED, that the Smyth County Board of Supervisors urges both VDOT and the FHWA to expedite its initial review process on the project.

Vote: 7 yea
 0 absent

Upon motion of Mr. Perry, seconded by Mr. Blevins, and unanimously carried, the Board approved the East Hungry Mother Water Project construction contracts contingent upon the Attorney's review. The Chairman is then authorized to sign the contracts.

Vote: 6 yea
 1 absent (Neitch, stepped out of the room)

Upon motion of Mr. Slemp, seconded by Mr. Blevins, and unanimously carried,

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the Board approved a single festival permit for the Davis Valley Winery, contingent upon written approval of the Sherriff's Department and the Virginia Department of Health.

The event will be held on Saturday, September 16, 2006.

Vote: 6 yea
 1 absent (Dishner)

Steve Buston of the Department of Transportation updated the Board on the Fiscal Year 2008-2013 Six Year Improvement Program public hearing to be held on Wednesday, October 18, 2006 at 6:00 p.m., in the Grand Hall at the Southwest Virginia Higher Education Center. This hearing will cover the Primary, Urban and Interstate Systems.

Mr. Buston briefly discussed the Six Year Secondary System Improvement Program. A new system called Federal Routes funding has been put into place. He hopes to discuss this further in detail with the Board in the near future. He also mentioned the possible public hearing scheduled for this year's Six-Year Improvement Program.

Mr. Clark referred the request made during citizen's time concerning Middle Fork Road.

Upon motion of Mr. Perry, seconded by Mrs. Neitch, and unanimously carried, the Board continued the following recommendation from the Planning Commission (on the joint public hearing held on Thursday August 24, 2006) at the request of Mr. Mike Taylor.

After discussion including the option of vacating the plat, the Chairman called for a motion. Mr. McClure moved to recommend to the Board of Supervisors that they or Bud Owens, the subdivision agent, grant Mike Taylor the authority to vacate his plat and to then proceed with changing the zoning from Residential to Agricultural/Rural. Mr. Venable seconded the motion and it passed unanimously.

Vote: 7 yea
 0 nay

Upon motion of Mr. Slemp, seconded by Mr. Blevins, and unanimously carried, the Board appropriated \$359.76 from the Board's advertising fund (#11010-3007) for the advertisement of the dog and cat vaccination clinics.

Saltville Progress	\$45 per week	\$90
Smyth County News	\$134.88 per week	\$269.76

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Vote: 5 yea
 2 absent (Dishner, Mr. Roberts was out of the room)

At approximately 4:03 p.m. the Board proceeded with a public hearing as advertised on the following proposed amendments to the 2006-2007 School Board budget. Mr. Whitmore read the advertisement as placed in the Smyth County News. There were approximately 10 citizens present and there were no citizens signed up to speak.

<u>REVENUE</u>		<u>Proposed</u>	<u>Proposed</u>
<u>School Operating Fund</u>	<u>Current</u>	<u>change</u>	<u>budget</u>
State Funds	\$28,517,588	-0-	\$28,517,588
Federal Funds	6,161,196	-0-	6,161,196
County Funds	8,844,744	\$1,692,576	10,537,320
Sales Tax	4,515,002	-0-	-0-
Other funds	470,165	-0-	-0-
<u>Total School Operating Fund</u>	<u>\$48,508,695</u>	<u>\$1,692,576</u>	<u>\$50,201,271</u>

<u>EXPENDITURES</u>			
<u>School Operating Fund</u>			
61000: Instruction	\$36,424,436	-0-	\$36,424,436
62000: Administration, Attendance & Health	1,900,000	-0-	1,900,453
63000: Pupil Transportation	2,200,962	-0-	2,200,962
64000: Operating & Maintenance Services	4,324,651	1,365,076	5,689,727
65000: School Food Service	2,227,690	120,000	2,347,690
<u>68000: Technology</u>	<u>1,430,503</u>	<u>207,500</u>	<u>1,638,003</u>
<u>Total School Operating fund</u>	<u>\$48,508,695</u>	<u>\$1,692,576</u>	<u>\$50,201,271</u>

Upon motion of Mr. Slemp, seconded by Mr. Blevins and unanimously carried, the reading of the rules for public hearings was forgone.

Vote: 5 yea
 2 absent (Dishner, Perry)

Mr. Jim Sullivan, School Superintendent, thanked the Board for their consideration in allowing the School Board to utilize the left over funds from the 2005-2006 budget. These funds would be used to catch up on facility improvements. The hearing was closed at approximately 4:09 p.m.

Mr. Whitmore suggested that both Budget Committees of the Board and School Board meet to discuss the request and project list in depth. The Budget Committee will then return to the Board with a recommendation.

Mr. Roberts stated his concerns on the General Assembly adjustment. He also suggested that the committee consider an escrow fund and keep in mind the effects of spending the deficit.

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At 4:30 p.m. the Board proceeded with a hearing on an appeal filed by Earl McClure on the variance to the Subdivision Ordinance granted by the Planning Commission on July 27, 2006 for the proposed Sheridan Ridge Subdivision.

Mr. McClure explained his appeal with a handout that outlined the following points:

1. The Subdivision Agent could not qualify the request as a valid one to satisfy the provisions set out in section 5.3 of the Subdivision Ordinance.
2. Granting the variance did not comply with the mandatory standards prerequisite to granting a variance set out in section 5.3 of the subdivision ordinance.
3. The Planning Commission did not acknowledge a previous request for a variance to the identical (Big Horn Estates) section of the Subdivision Ordinance which was overturned by the Board of Supervisors.

Mr. Tate clarified Mr. McClure's appeal that he appeals the decision to grant a variance to permitting these lots to be used for permanent residence. He also responded to the Big Horn Estates case.

Mr. Dennis Blevins, Chairman of the Planning Commission, responded to the above reasons for the appeal:

1. The subdivision agent stated that the terrain was too steep to meet VDOT street standards. If a VDOT street were installed, the homes could have been occupied on a permanent basis without a variance. Therefore, the subdivision agent felt that the request was valid under Section 5.3 because the "physical development of land" represented a "difficulty" or "hardship".
2. Planning Commissioners who voted in favor of the variance were satisfied that it met the standards required in Section 5.3.1-5.3.4. Conditions described in these four sections were addressed during discussion, much of which occurred before Mr. McClure arrived.
3. Mr. McClure stated that the Planning Commission did not acknowledge a previous Planning Commission decision on a variance request. However, as noted in the meeting minutes, Mr. McClure reminded the Commission of the previous decision. Those who approved the variance felt that the existing Big Horn Estates Recreational Development and the proposed Sheridan Ridge development were different enough not to consider the previous variance as setting a precedent that would apply to the present variance.

The Planning Commission recommended and forwarded to the Board in May a proposed amendment to the Subdivision Ordinance that would render this variance unnecessary. The Commission felt that the proposed amendment would be adopted by the Board and did not see a need to delay the Sheridan Ridge project until the Board acted on the proposed amendment. With this in mind coupled with the fact that the

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steep terrain made a VDOT street a hardship and difficulty in the physical development of the land as referred to in Section 5.3 on Variances, the Commission approved the variance request so that permanent homes could be built on the lots that will be accessed by a private road.

Mr. Graham Davidson also of the Planning Commission spoke in favor of the appeal.

The appeal hearing was closed at 5:09 p.m.

The Board briefly discussed the appeal and the kind of message they would be sending to the citizen's if the Planning Commission's decision was overturned or approved.

Upon motion of Mr. Slemp, seconded by Mr. Roberts, and duly carried, the Board upheld the Planning Commission's decision to grant the variance to the Subdivision Ordinance applied for by Ms. Lou Ann Earnhardt for the proposed Sheridan Ridge.

Vote: 3	yea (Roberts, Slemp, Clark)
2	nay (Neitch, Blevins)
2	absent (Dishner, Perry)

Upon motion of Mr. Slemp, seconded by Mr. Blevins, and unanimously carried, at approximately 3:30 p.m., the Board agreed to enter into closed session as allowed by the Code of Virginia, Section 2.2-3711 (A) for (5) report on business prospect, and (7) for pending litigation and legal briefing.

Vote: 6	yea
1	absent (Dishner)

At 3:56 p.m. the Chairman ended the closed session.

Upon motion of Mr. Slemp, seconded by Mr. Blevins, BE IT RESOLVED that the Smyth County Board of Supervisors unanimously adopts the following resolution:

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

NOW, THEREFORE, BE IT RESOLVED that the Smyth County Board of

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Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Smyth County Board of Supervisors.

Vote: 5 yea
 2 absent (Dishner, Perry)

Mr. Whitmore announced the tentative schedule of Governor Kaine's visit to the Town of Marion in the coming week.

Upon motion of Mr. Blevins, seconded by Mrs. Neitch, and unanimously carried, the Board agreed to defend the recent lawsuit filed by Carol and Ernie Sullins.

Vote: 4 yea (Clark, Roberts, Blevins, Neitch)
 2 absent (Dishner, Perry)
 1 abstention (Slemp)

Old Business

1. Collection of delinquent taxes (Mr. Whitmore has contacted the attorneys **8-10-04**).

Mr. Tate briefly discussed the procedure for placing the names of delinquent taxes in the newspaper. The Board discussed other avenues that could be taken to obtain the unpaid taxes.

Upon motion of Mr. Perry, seconded by Mr. Slemp, and duly carried, the Board agreed to run the delinquent taxes in the newspaper.

Vote: 6 yea (Dishner, Slemp, Clark, Neitch, Blevins, Perry)
 1 nay (Roberts)

Upon motion of Mrs. Neitch, seconded by Mr. Roberts, and duly carried, the Board appropriated the funds to run a notice in the newspaper (when the list is prepared) that the list will run in 3 weeks. This will give a notice to those delinquent and will allow time for taxes to be paid.

Vote: 6 yea (Roberts, Dishner, Clark, Neitch, Blevins, Perry)
 1 nay (Slemp)

2. Marevine Slemp, request for water service on Fox Valley Road (**5-11-04**).

3. Request for tax exempt status for the Smyth County Community Foundation.

4. Request the Board vote on the public hearing held Wednesday, November 9, 2005 on imposing a processing fee not to exceed \$25 for any person admitted to the

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County or Regional Jail following conviction (**11-9-2005**).

Upon motion of Mr. Perry, seconded by Mr. Slemp, and unanimously carried, the Board adopted an ordinance which imposes a processing fee not to exceed \$25, for any person admitted to the Regional Jail, following conviction. The funds will be used to defray the cost of processing those persons. These fees collected will be paid the Smyth County Sheriff's Department (until further notice) and is effective as of October 1, 2006.

Vote: 6 yea
 1 absent (Dishner)

Upon motion of Mr. Slemp, seconded by Mr. Blevins, and unanimously carried, the Board removed item number 4 from old business.

Vote: 6 yea
 1 absent (Dishner)

5. Geographical Information Systems (GIS) on the Smyth County website (**11-9-2005**).

The progress of this system was briefly discussed. Mrs. Morgan updated that Manuel Street is working on the project. The Committee is looking at the possibility of Anderson & Associates hosting the site.

6. Request for tax exempt status for the Lincoln Theatre (**12-13-2005**).

7. Re-codifying of the Smyth County Code (**1-10-2006**).

8. Ordinance Committee recommendation to merge the manufactured home ordinance into the zoning ordinance as proposed in the zoning amendments present to the Board in January 2005 (**4-11-2006**).

9. Smyth County Fire & Rescue Association request for release of \$50,000 (**5-9-2006**).

10. Reappointment: (**6-13-2006**)

Industrial Development Authority (4 year term, district specific)
Jimmie Stamper-591 Cleghorn Valley Road, Marion (646-8670) 6-30-2006

11. Proposed revisions from the Planning Commission to the Subdivision Ordinance. (referred to the Ordinance Committee **6-13-2006**).

12. Disposal of former school building at 105 East Strother Street (**7-11-2006**).

The Board discussed the disposal of the former school building. Mr. Dishner made the motion to proceed with donating the building to the Appalachian School of Music, pending obtaining that groups 501 (c) (3) status. He also added that with the appropriate amount of time, 3 years for instance, that if the building is not being used for the purposes reported at the time of donation, that it revert back to the County. The

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Board further discussed this motion and the building. Mr. Blevins suggested that the two interested parties, Smyth County Museum and Historical Society and the Appalachian School of Music and Art, get together to see if a compromise can be worked out that they both be able to use the building. Mr. Dishner withdrew his motion and the Board agreed to give to the two parties 30 days to see if a compromise could be made.

13. Tourism Association funding (8-24-2006).

Upon motion of Mr. Slemp, seconded by Mr. Perry, and unanimously carried, the Board appropriated \$22,701 from the Chamber of Commerce/Tourism fund (#001-56000-6005) and \$22,701 from the Board's Contingency fund (#001-011010-8888). Total amount of \$45,402 to be paid to the Smyth County Chamber of Commerce.

Vote: 6 yea
 1 absent (Dishner)

At approximately 5:20 p.m., upon motion of Mr. Slemp, seconded by Mrs. Neitch, and unanimously carried, the meeting was continued until Thursday, September 28, 2006 at 7:00 p.m. for a joint public hearing with the Planning Commission and any other issues that may arise.

Vote: 5 yea
 2 absent (Dishner, Perry)

C.C. Clark, Jr., Chairman

Virginia: At a continued meeting of the Smyth County Board of Supervisors held at the County Office Building on Thursday, September 28, 2006, at 7:00 P.M.

Board Members Present:	Mr. Charlie Clark, Chairman Mr. Marvin Perry Mrs. Darlene Neitch Mr. Harold Slemp	Mr. Wade Blevins Mr. Todd Dishner Mr. Michael Roberts
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Staff Members Present:	Mr. Clegg Williams Mrs. Amber Johnson Ms. Shirley Spencer Mr. Charlie Atkins	Mr. Scott Simpson Mr. John Tate Mr. Mike Carter
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Planning Commission Members Present:	Mr. Dennis Blevins, Chairman Mr. Earl McClure Mr. Karl Kalber	Ms. Amy Tuell Mr. Graham Davidson
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Planning commission Members Absent:	Mr. Wayne Venable	Mr. Archie Atwell
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At 7:00 p.m. the Chairman of the Board and Chairman of the Planning Commission called the joint public hearing to order. There were approximately 5 citizens present. Mr. Carter read the advertisement as placed in the Smyth County News and Messenger on September 16 and 23.

Upon motion of Mr. Perry, seconded by Mr. Blevins, and unanimously carried, the Board voted to forgo the reading of the rules and procedures for public hearings.

Mr. Clegg Williams, Zoning Administrator, summarized the only application he received. He explained that when the zoning ordinance was adopted, Mr. Walker Keen owned two tracts of land on Adwolfe Road. The front tract he utilized for his HVAC business. As a result, the lot was zoned Commercial. After retiring, Mr. Keen had the property divided for auction. As a result there were two lots with the front portion zoned commercial and the rear zoned agricultural/rural. Russell & Jill Brooks purchased one of those lots and have decided they would like the entire tract zoned Agricultural/Rural, which caused them to submit the required application. Notification was sent by first class mailing to all adjoining property owners.

Mrs. Jill Brooks spoke on behalf of her application. She explained that they initially planned to build a vehicle repair business in front and a home on the back. However, the cost of the septic tank permit was expensive because the Health Department will not evaluate for a private system on land that is zoned Commercial. Therefore, she offered the land for sale, and Mr. Gene Blackburn is interested in purchasing it if the rezoning is approved.

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Mr. Gene Blackburn spoke in favor of the rezoning and said he wanted to build a garage for personal use on the site if it is zoned Agricultural/Rural.

In response to a question from Mr. Marvin Perry, Mr. Williams explained that Mr. Blackburn would need a special use permit to build a personal use garage on a lot in the A/R District, but he could build it by right in the Commercial District. However, the cost of the septic tank permit would be much greater in the Commercial District.

Mr. Robert Wolfe who owns property at 847 Adwolfe Road expressed concern about possible uses that A/R zoning would allow.

Mrs. Glenda Richardson who operates a used vehicle business next to and across from the site also expressed concern about possible uses that A/R zoning would allow.

Following brief discussion the hearing was closed at 7:25 p.m. The Board recessed for approximately 10 minutes for the Planning Commission to complete their meeting.

Upon motion of Mr. Slemp, seconded by Mr. Perry, and unanimously carried, the Board approved the renewal of the Engineering Term Contracts for the following 4 firms for the next year. The first year ended on August 9, with 2-1 year renewals. Mr. Simpson requested the renewal for the second of the 3 years for August 9, 2006 to August 9, 2007.

1. Lane Engineering, Inc.
2. Anderson & Associates, Inc.
3. Thompson & Litton
4. Draper Aden

Upon motion of Mr. Perry, seconded by Mr. Blevins, and unanimously carried, the Board approved the recommendation from the Budget Committee to amend the budget in the amount of \$19,264 to accommodate a DMV Grant (for the Sheriff's Department) approved at the September 12 Board meeting. The amendment is as follows:

- Revenue account #03-001-023020-0017 increased in the amount of \$19,264.
- Expense account #04-001-021070-8888-25 increased in the amount of \$19,264.

Upon motion of Mr. Perry, seconded by Mrs. Neitch, and unanimously carried, the Board approved the recommendation from the Budget committee to grant a request

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from Jimmy Warren. The request will amend the budget to reflect an increase in revenue (account #03-001-018030-0029) of \$15,000 from the state from the Technology Trust Fund and increase expenditures (account #04-001-021060-8888-70) by \$15,000.

Pending legal and staff review, upon motion of Mr. Roberts, seconded by Mr. Slemp, and unanimously carried, the Board approved the Virginia Department of Housing and Community Development Planning Grant Agreement for the Allison Gap School Elderly Housing Project.

Mr. Joe Ellis appeared to discuss the Tourism Bylaws which were presented.

The Board and Mr. Tate discussed the document and suggested the following changes:

- The Association should report to the 4 financial backers annually.
- The bylaws should state that the Association will consist of an elected official appointed by the Governing bodies of each of the three Towns and the County as opposed to the "highest elected official".
- Copies of meeting minutes will be forwarded to the Board.

Mr. Tate suggested that the bylaws be amended to match the State Charter which would accommodate the above change concerning the Association's members. He also asked that the Board review these bylaws further and return any additional concerns to him and which he will relay.

The Board briefly discussed the old school building on East Strother Street with Mr. Ellis. The Board received information from the Historical Society that they had met with Mr. Ellis on the possibility of working together on the building. Mr. Ellis informed the Board that he had met with the Society and they agreed that they would not be able to work together on the building. He is currently applying for 501 (c)(3) status of the School of Appalachian Music & Art.

Upon motion of Mrs. Neitch, seconded by Mr. Perry, and unanimously carried the meeting was adjourned at 8:32 p.m.

C.C. Clark, Jr., Chairman

