

The Smyth County Board of Supervisors held its regular May meeting at 12:00 noon, **Tuesday, May 12, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

MEMBERS PRESENT:

C.C. "Charlie" Clark, Jr. Darlene R. Neitch
Marvin R. Perry Wade H. Blevins, Jr.
Brenda J. Waddell M. Todd Dishner (arrived at 12:30 p.m.)
Michael D. Roberts

STAFF PRESENT:

Michael Carter, Acting County Administrator
John H. Tate, Jr., County Attorney

OTHERS PRESENT:

Amber Johnson, Administrative Assistant
Charlie Atkins, CFO
Sally Morgan, Economic Development Planner
Mike Hounshell, Deputy
Scott Simpson, County Engineer
Dan Kegley, Smyth County News & Messenger

CALL TO ORDER, INVOCATION & PLEDGE OF ALLEGIANCE

With a quorum present, the meeting was called to order at 12:00 noon. Mr. Marvin Perry gave the invocation and Ms. Betty Blizzard led the pledge of allegiance.

ADOPTION OF AGENDA

Supervisor Blevins motioned to adopt the agenda as to form along with the additional agenda. Supervisor Neitch seconded the motion, vote is as follows:

AYES: 6
ABSENT: M. Todd Dishner
NAYS: None

MINUTES OF PREVIOUS MEETINGS

The Board was presented with Tuesday, April 14, Wednesday, April 15, and Thursday, April 23, 2009 minutes for adoption. With one minor change by Mr. Tate, Supervisor Blevins made the motion to approve these minutes as presented. Supervisor Neitch seconded the motion. The vote is as follows:

AYES: 6
ABSENT: M. Todd Dishner
NAYS: None

PAYMENT OF COUNTY INVOICES

Supervisor Blevins motioned to approve the following listed appropriations.

Appropriations

General County	\$1,590,000
North Holston Water	\$30,039.80
Long Hollow Water	\$213,936.61
Social Services (May 13-31, 2009)	\$385,000
(June 1-9, 2009)	\$80,000
Schools - Operating Fund	\$4,200,000
Debt and Capital Outlay	\$250,000

Supervisor Neitch seconded the motion. The vote is as follows:

AYES: 6
ABSENT: M. Todd Dishner
NAYS: None

Supervisor Blevins motioned to approve the accounts payable listing in the amount of \$985,707.01 (Includes \$499.25 to Wiley Wilson for courthouse renovations. Also, \$191,858 to Morcom International, Inc. and \$36,500.25 to Advanced Wireless Solutions, Inc. for the radio system project). Supervisor Neitch seconded the motion for approval. The vote is as follows:

AYES: 6
ABSENT: M. Todd Dishner
NAYS: None

CITIZEN'S TIME

There were approximately 30 citizens present. The following citizens spoke on these issues:

1. Max McClure - Mr. McClure is a resident of the Greenhill Subdivision and explained that the road is in need of repair. Since the sewer line was installed, the equipment damaged the road. He mentioned that Supervisor Blevins has looked at the road. The Chairman informed Mr. McClure that the VDOT representatives would be in the meeting at 3:00 p.m.

2. Jim Gates - Dr. Gates spoke on behalf of the Marion Town Council in regards to the *Recreation* budget request. He distributed a handout explaining the Town's increase request in regards to the recreation budget.
3. Earl McClure - Mr. McClure made brief remarks in regards to the Boards decisions as long as they are in accordance with the law. He suggested a public hearing at the Chilhowie High School on an Friday night or Saturday morning on the courthouse issues. Mr. McClure stated that the old school on Strother Street in Marion should be given away if someone would take it. He also stated that the judges should be elected as to being appointed.
4. Joe Ellis - Mr. Ellis stated that he is the spokesperson for the old school on Strother Street. He presented a PowerPoint presentation along with a video demonstrating the historical value of the building. Mr. Ellis spoke on the benefits of a music school in the building. He also mentioned the advantages of a joint venture with the Town of Marion.
5. Robbie Colley - Pointed out the advantages of education in the area. He stated that education was the key factor in this equation.

Mr. Chairman informed Mayor Helms, who was in the room, that the Board would soon respond to the Town's recent letter in regards to the old school.

Citizens time was closed at 12:45 p.m.

NEW BUSINESS

1. As in April, Mr. Atkins briefed the Board (with a handout) on the County's current financial standings. Mr. Atkins will continue make this update to the Board each month, and he is available for the Board's input.
2. Charlie Harrington, Emergency Services Coordinator, explained a Virginia Office of Emergency Medical Services grant for all Emergency Medical Services. This 100% funded grant has an application deadline of June 1, 2009. This grant will provide computers to the Marion, Saltville, and Sugar Grove rescue squads. These computers will be owned by the county and leased to these agencies with the understanding that they will pay for any damages or repairs to the computers.

Supervisor Perry motioned to approve the above mentioned grant in the amount of \$43,800 for 12 computers. Supervisor Roberts seconded the motion and it passed with the vote below:

AYES: 7
NAYS: None

As the Emergency Services Coordinator, Mr. Charlie Harrington gave an update on the recent storms that passed through the area. He informed the Board that this was the worst wind and rain since Hurricane Hugo and that the bulk of the damage was in the Town of Marion. He stated that this area was very fortunate with no injuries, most of the damage being debris and trees down.

3. Arthur Barker, Grant writer of the Sheriff's department presented the following grants:

a. Recovery Act Grant application - After Mr. Barker explained that all the necessary guidelines for the grant had been met, Supervisor Blevins motioned to approve the 100% funded grant application in the amount of \$26,889 to be utilized for firearms. Supervisor Perry seconded the motion and it passed with the vote as follows:

AYES: 7
NAYS: None

b. Acceptance of a Byrne Justice Assistance grant, local match - Supervisor Blevins motioned to accept the Byrne Justice Assistance grant in the amount of \$1,300 including a \$130 match. This will be used for 3 magnum spike strips. Supervisor Perry seconded the motion and it passed with the motion below:

AYES: 7
NAYS: None

4. Shannon Williams - Requested that the Board award the RFB for Computer Hardware and networking equipment to CDW Government Inc., the funding for the award is through the Virginia Wireless Service Board Grant. Supervisor Perry motioned to accept the bid submitted by CDW in the amount of \$111, 720.60, for fiscal year budget 2008-2009. Supervisor Blevins seconded the motion. It passed with the motion below:

AYES: 7
NAYS: None

Mr. Williams gave an update of the radio system project stating that the final walk through of Flat Top will occur in the near future.

5. Supervisor Roberts motioned to approve the following allocation of the fiscal year 2009 Four-For-Life funds. The County has received the payment for

Emergency Medical Services in the total amount of \$28,741.50. These funds are for the collection period of March 1, 2008 through February 28, 2009.

Marion Life Saving Crew	\$7,185.37
Sugar Grove Life Saving Crew	\$7,185.38
Saltville Rescue Squad	\$7,185.38
Chilhowie FD/EMS	\$7,185.37

Supervisor Blevins seconded the motion and it passed unanimously with the vote below:

AYES: 7
NAYS: None

6. Tax refund requests as submitted by the Commissioner of Revenue:

a. Supervisor Roberts motioned to approve the 2008 personal property tax refund request, by the Commissioner of Revenue, in the amount of \$925.72 to NMHG Financial Services, Inc. Supervisor Blevins seconded the motion and it passed unanimously.

AYES: 7
NAYS: None

NMHG Financial Services Inc.
Property Tax Compliance
PO Box 1920
Danbury CT 06813-1920

b. Supervisor Perry motioned to deny a 2008 personal property tax refund request, by the Commissioner of Revenue, in the amount of \$212.54 to Donald James Tilson. Supervisor Neitch seconded the motion and it passed unanimously.

AYES: 7
NAYS: None

c. Supervisor Perry motioned to refund Harold M & Alice M Doane \$289.17 plus interest, in regards to a tax refund request submitted by the Commissioner of Revenue. Supervisor Roberts seconded the motion and it passed unanimously.

AYES: 7
NAYS: None

Harold M & Alice M Doane
251 Page Town Road
Saltville VA 24370

7. Supervisor Roberts motioned to appropriate funds for the Rich Valley Fair Association in the amount of \$37,954.42. The county serves as the fiscal agent for a Tobacco Commission grant for the Association. The final drawdown has been received from the Commission which will be utilized to make final payment to the contractor of the building project, Highlands Industrial Millwright & Maintenance, Inc. Supervisor Blevins seconded the motion and it passed.

AYES: 7
NAYS: None

8. Supervisor Perry motioned to adopt the following resolution recognizing Business Appreciation Week. Also, \$110 is approved out of the IDA budget to advertise this week in the Saltville Progress recognizing Business Appreciation Week. Supervisor Roberts seconded the motion and it passed unanimously.

BUSINESS APPRECIATION WEEK 2009

WHEREAS, Governor Timothy M. Kaine has recognized May 10-16, 2009 as **BUSINESS APPRECIATION WEEK** in the **COMMONWEALTH OF VIRGINIA**, and called this observance to the attention of all citizens; and,

WHEREAS, Smyth County businesses play a vital role in strengthening our County by providing jobs, enhancing the tax base, and increasing income to the community; and

WHEREAS, the citizens of the Smyth County benefit from the positive business climate, economic growth, and job opportunities that are the contributions of local businesses; and

WHEREAS, Smyth County joins the Commonwealth in recognizing the accomplishments of our businesses, including our many small businesses that contribute greatly to the economic diversity of the County; and

WHEREAS, Business Appreciation Week increases public awareness of the valuable contributions that businesses make in our community.

NOW, THEREFORE, We, the Board of Supervisors of Smyth County do hereby recognize May 10-16, 2009 as **BUSINESS APPRECIATION WEEK** in Smyth County and call this observance to the attention of all our citizens.

AYES: 7
NAYS: None

9. Supervisor Perry motioned to renew the HVAC maintenance agreements for the county facilities (county office building, health department building, jail, and courthouse) with TRANE for one (1) year with two (2) additional optional years. Supervisor Blevins seconded the motion and it passed unanimously.

AYES: 7
NAYS: None

Mr. Simpson updated the Board on the air handling system at the Animal Control building; bid specifications have been advertised in the paper. The new sewer pump at the Animal Control building has been installed. He also mentioned federal stimulus funds in relation to county projects.

10. With the recommendation of the Budget Committee, the Board unanimously accepted a bid from Mid-State Equipment Co., Inc. in the amount of \$12,880 (3 cubic yards compactor, installation included) for the Fish Hatchery Convenience Station. This amount is appropriated from line 001-042030-3021 (Refuse Collection & Disposal, Solid Waste Escrow for Equipment).

AYES: 7
NAYS: None

OTHER NEW BUSINESS NOT ON THE AGENDA

Mr. Carter gave an update from the Virginia Department of Health on the most recent rabies cases in the area. He also updated the Virginia Department of Transportation's upcoming operating budget and how it will affect this area.

COMMITTEE RECOMMENDATIONS

1. Budget Committee - With the recommendation of the Budget Committee the Board unanimously accepted the following vehicle bids and appropriated the funds for purchase.

1. Water and Sewer Department - 2009 GMC pickup, \$19,900 from Crabtree, Buick, Pontiac, Inc. This amount appropriated from line 501-085010-9003 (Water and Sewer, Motorized Equipment).
2. County Administration - 2009 Chevrolet Trailblazer, \$26,085.90 from Marion Automotive Group. This amount appropriated from 001-012010-9003 (County Administration, Motorized Equipment).

AYES: 7
NAYS: None

2. Ordinance Committee - A recommendation in regards to scheduling a public hearing (along the guidelines of Virginia code Section 15.2-2204) to take public comment on changing Green Mountain Road name. With a motion by Supervisor Roberts and seconded by Supervisor Dishner a public hearing was scheduled for the July 14 Board meeting to take public comment. This will allow time for the E-911 Coordinator to mail notice to the affected parties.

AYES: 7
NAYS: None

Stacey O'Quinn, Community & Government Relations Manager at Mountain States Health Alliance presented and explained the following resolution for consideration:

A RESOLUTION IN SUPPORT OF AN APPLICATION BY SMYTH COUNTY COMMUNITY HOSPITAL TO ESTABLISH AN 18-BED REHABILITATION SERVICE

Whereas, inpatient rehabilitation services are not currently available within the local community and residents must travel significant distances to obtain inpatient care; and

Whereas, rehabilitation services at Smyth County Community Hospital ("SCCH") would reduce the driving time and out of pocket traveling expenses now required of area residents and their families to access rehabilitation services at a local Virginia facility; and

Whereas, the availability and accessibility of inpatient rehabilitation services at SCCH will offer a broader and more comprehensive continuum of care to residents of the local community; and

Whereas, the establishment of rehabilitation services at SCCH will improve the quality of care available to residents of the area; and

Whereas, SCCH, a member of the Mountain States Health Alliance (MSHA) family, will work closely with Johnston Memorial Hospital to coordinate care for their local residents, providing access to rehabilitation services.

NOW THEREFORE BE IT RESOLVED, by the Smyth County Board of Supervisors in Regular Session, that the County officially supports the application for Smyth County Community Hospital to seek permission to introduce rehabilitation services (COPN Request No. VA-7665).

RESOLVED, this 12th day of May 2009

By motion of Supervisor Perry, seconded by Supervisor Blevins the above resolution was unanimously carried.

AYES: 7
NAYS: None

Karen Hughes of District Three, Smyth County Adult Multi-Disciplinary Team presented this resolution for consideration. Supervisor Perry motioned to approve the resolution below, as presented. It was seconded by Supervisor Blevins and passed unanimously.

**OLDER AMERICANS MONTH
MAY 2009
A PROCLAMATION**

WHEREAS, Smyth County is a community in which 9,209 citizens age 55 and over make their home; and

WHEREAS, older adults in Smyth County and throughout the nation are an increasing population with evolving needs; and

WHEREAS, older Americans are valuable members of our society who enhance our communities and personal lives; and

WHEREAS, the increasing number of baby boomers reaching traditional retirement age highlights the need for increased support of older adults; and

WHEREAS, our older citizens of today and tomorrow promise to be among the most active and involved adult populations in our nation's history; and

WHEREAS, it is the responsibility of this and all U.S. communities to work collaboratively to address older adults' unique health and long-term care challenges; and

WHEREAS, it is crucial that communities modernize systems of care to help empower older Americans and give them more control over their own lives; and

WHEREAS, communities can improve older citizens' overall quality of life by helping them:

Make behavioral changes in their lifestyles that can reduce the risk of disease, disability and injury.

Obtain the tools they need to make informed decisions about, and gain better access to, existing health and long-term care options in their communities.

Have more options to avoid placement in nursing homes and remain at home as long as possible.

NOW THEREFORE, the Smyth County Board of Supervisors, Virginia, do hereby proclaim May 2009 to be Older Americans Month. We urge everyone to take time this May to honor our older adults and the professionals, family members, and citizens who care for them. Our efforts can improve the lives of our older citizens and help pave the way for future generations.

AYES: 7
NAYS: None

ZONING DEPARTMENT - CLEGG WILLIAMS

a. Planning Commission Recommendation

Supervisor Dishner motioned to approve the recommendation from the Planning Commission in regards to the Roger Blevins application for special use permit. The Commission makes the recommend that the Board approve Mr. Blevins' application to construct and establish a Service Business with the following conditions (beside 390 Sugar Street, Marion):

- The garage building has to be placed in front of the storage lot to act as a buffer,
- The storage lot has to be concealed by an 8' privacy fence which effectively screens the storage yard, and
- All vehicles must be stored within the fenced storage lot.

Supervisor Blevins seconded the motion and it passed with the following vote:

AYES:	6	C.C. "Charlie" Clark, Jr.	Brenda J. Waddell
		M. Todd Dishner	Wade H. Blevins, Jr.
		Marvin R. Perry	Michael D. Roberts

Abstention: 1 Darlene R. Neitch

b. Nuisance complaint against the 1034 Chestnut Ridge Road property.

After much discussion with the property owner, tenant, and those who filed the complaint, Supervisor Blevins motioned to allow 30 days for Carolyn Wilson-Property Owner and Curtis Cullop-Tenant at 1034 Chestnut Ridge Road to bring the property into compliance with the County's Nuisance Ordinance. Supervisor Perry seconded the motion. The vote is as follows:

AYES: 7
NAYS: None

VIRGINIA DEPARTMENT OF TRANSPORTATION

At 3:00 p.m. the Board proceeded with a public hearing. Mr. Carter read the advertisement below, which was published in the Smyth County News and Messenger April 25, and May 2, 2009, and also posted at the Smyth County Courthouse. There were no citizens present for this hearing, therefore the rules for public hearings were not read.

Public Hearing Notice

The Virginia Department of Transportation and the Board of Supervisors of Smyth County, in accordance with Section 33.1-70.01 of the Code of Virginia, will conduct a joint public hearing in the Board of Supervisors Meeting Room at 121 Bagley Circle, Suite 100, Marion, Virginia at 3:00 pm on Tuesday, May 12th, 2009. The purpose of this public hearing is to receive public comment on the proposed Secondary Six-Year Plan for Fiscal Years 2010 through 2015 in Smyth County and on the Secondary System Construction Budget for Fiscal Year 2010. Copies of the proposed Plan and Budget may be reviewed at the Abingdon Residency Office of the Virginia Department of Transportation, located at 700 East Main Street Abingdon Virginia, or at the Smyth County Office County offices located at 121 Bagley Circle Suite 100 Marion Virginia.

All projects in the Secondary Six-Year Plan that are eligible for federal funds will be included in the Statewide Transportation Improvement Program (STIP), which documents how Virginia will obligate federal transportation funds.

Persons requiring special assistance to attend and participate in this hearing should contact the Virginia Department of Transportation at 276-676-5503. Persons wishing to speak at this public hearing should contact the Smyth County Board of Supervisors at 276-783-3298.

Done by Order of the Smyth County Board of Supervisors

Present on behalf of VDOT were Steve Buston, Robert Hurt, and John Bolling. Mr. Buston gave a brief overview of the proposed plan stating that there was no additional funding. After discussion, the following resolution was duly adopted. Mr. Perry stating that he was voting in opposition because of state legislature. (The full Six-Year Plan will included in the official minutes)

A regular meeting of the Smyth County Board of Supervisors was held in the County Board Room on Tuesday May 12th, 2009. Followed by a joint public hearing with the Department of Transportation at 3:00pm, on a motion by Supervisor Blevins, seconded by Supervisor Neitch and duly carried, the resolution below was adopted.

Present were:

C.C. "Charlie" Clark, Jr.	Darlene R. Neitch	
M. Todd Dishner	Brenda J. Waddell	(nay vote)
Wade H. Blevins, Jr.	Marvin R. Perry	(nay vote)
Michael D. Roberts		

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan,

WHEREAS, this Board had previously agreed to assist in the preparation of this Plan, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Plan (2010 through 2015) as well as the Construction Priority List (2010) on Tuesday May 12th ,2009 after duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List,

WHEREAS, Steven B. Buston, Residency Administrator , Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan for Secondary Roads (2010 through 2015) and the Construction Priority List (2010) for Smyth County,

NOW, THEREFORE, BE IT RESOLVED that since said Plan appears to be in the best interests of the Secondary Road System in Smyth County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (2010 through 2015) and Construction Priority List (2010) are hereby approved as presented at the public hearing.

A COPY, TESTE:

Michael L. Carter, Acting County Administrator

AYES: 5 C.C. "Charlie" Clark, Jr. Michael D. Roberts
 M. Todd Dishner Wade H. Blevins, Jr.
 Darlene R. Neitch

NAYS: 2 Marvin R. Perry
 Brenda J. Waddell

PUBLIC HEARING - DAVIS VALLEY WINERY FESTIVAL PERMIT

At 3:38 p.m. the Board proceeded with a public hearing as noted in the publication below. Mr. Carter read the advertisement as run in the Smyth County News and Messenger on April 25 and May 2, 2009, the rules for public hearings were foregone. There were estimated to be 5 citizens present interested in this hearing.

**PUBLIC HEARING
BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS**

The Smyth County Board of Supervisors will conduct a public hearing on Tuesday, May 12, 2009, at 3:30 P.M. or as soon thereafter, as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application for an Annual Musical or Entertainment Festival permit under the Code of Smyth County, Virginia:

The Davis Valley Winery has submitted a festival application for a three (3) day event to be held June 25, 26, and 27, 2009. This event will be held at the Davis Valley Winery located at 1167 Davis Valley Road, Rural Retreat, Virginia, 24368. The applied festival hours are as follows:

*Thursday, June 25 - 3:00 p.m. thru 10:00 p.m.
Friday, June 26 - 1:45 p.m. thru 10:30 p.m.
Saturday, June 27 - 1:00 p.m. thru 10:00 p.m.*

At this public hearing, subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state his/her views thereon.

A copy of this application along with their maps and plans are on file in the Office of the County Administrator of Smyth County at the address given above, and may be viewed during regular business hours Monday through Friday.

Done by order of the Board of Supervisors
Michael L. Carter, Acting County Administrator

The Board heard from Mr. Billy Bear who had concerns regarding dust, lighting and the times of the festival.

Ruth Cox, owner of the winery was present and addressed these concerns stating that the lighting would be turned the opposite direction of Mr. Bear's property. The dust would also be addressed, as last year, with spreading water on the roads.

The hearing was closed at 3:45 p.m. The Board agreed to vote on this application at the next meeting due to the rules of procedures stating that issues heard at public hearings not be voted on until the next meeting.

Later in the meeting Board was made aware of the deadlines for approving festival applications. Therefore, Supervisor Neitch motioned to waive the rules for voting on issues following public hearings. Supervisor Blevins seconded the motion.

AYES: 7
NAYS: None

Supervisor Neitch motioned to approve the festival permit application submitted by the Davis Valley Winery (for an event to be held June 25-27, 2009). With the condition that *dust control* is administered through out the festival and that state law is yielded if there is a conflict on the ordinance. Supervisor Perry seconded the motion and it passed unanimously.

AYES: 7
NAYS: None

Brandon McCann, Executive Director of the Cascade Highlands tourism center gave a presentation of the center's program and how they involve Smyth County. Even though the center is out of North Carolina, it greatly involves interests of Smyth County.

OLD BUSINESS

1. Collection of delinquent taxes **(8-10-04)**. Mr. Carter updated that he has an updated delinquent tax list. Supervisor Perry motioned to continue this issue. Supervisor Neitch seconded the motion and it duly passed.

AYES: 6

NAYS: 1 C.C. "Charlie" Clark, Jr.

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

3. Re-codifying of the Smyth County Code **(1-10-2006)**. - The Board agreed to advertise for a public hearing on adopting the new code that has been received and updated. The public hearing is scheduled for the June meeting at 3pm.

4. Proposed revisions from the Planning Commission to the Subdivision Ordinance (referred to the Ordinance Committee **6-13-06**).

5. Disposal of former school building at 105 East Strother Street **(7-11-06)**.

6. Appointments: Board of Zoning Appeals **(2-12-08)**
One Alternate - VACANT

Area Beautification Committee Judges **(12-9-08)**
(Chamber of Commerce, 1 year term each calendar year)
North Fork District - Debbie Ogle

7. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer **(5-13-08)**.

8. Radio System Project **(6-26-08)**.

9. Request referred from the Budget Committee for a full Board discussion: In reference to a written request from the Commonwealth Attorney, Treasurer, and the Sheriff. Mr. Roy Evans, Commonwealth Attorney appeared before the Budget Committee on November 7 to explain the request on behalf of his office. He requested that the Board consider a raise for the Constitutional Offices equal with the raises of the county employees that was approved for fiscal year 2009. He stated that the requested raise would be from December 1, 2008 through June 30, 2009. The state has deferred their 2% raise for December 2008 to July 2009 **(11-12-08)**.

10. Possibility of no longer selling car decals but adding that cost to tax tickets. The Ordinance Committee was asked to look at this for the end of 2009 **(1-13-09)**.

11. Referred to the Water and Sewer Counsel, proceed with legal documents to provide uncollectable names and accounts from the Water and Sewer Department to other water providers in the county (**2-10-09**).

12. Nuisance complaint against a property owned by Joseph F. Ellis, Jr. - The Board voted to leave the matter on the Old Business agenda until the conclusion of a civil case is resolved. At that time, the nuisance issue will be revisited. Mr. Patton Graham (Mr. Ellis' Attorney) will update the Board on the civil case as it progresses (**4-14-09**).

13. Consideration of an amendment to the Smyth County Code relating to the Animal laws of the County. These amendments relate to enhanced punishment for violations of the animal laws of the Commonwealth and the County. The public hearing on these proposed amendments was held at the April 14 Board meeting.

By motion of Supervisor Roberts and seconded by Supervisor Neitch and unanimously carried, the following amendment to the Smyth County Code was adopted (this item is now removed from old business):

AMENDMENT
MAY 12, 2009

This amendment will make a change to Chapter 10 of the Smyth County Code, **Animals and Fowl, Article II, Dogs and Cats**, which ordinance is currently set out as §10-65.1 in the County Code of 1995, as amended. This amendment is being proposed to consider changes to the Smyth County Code under present Code section §10-65.1, which is predicted to be changed to Smyth County Code Section §8-127 in the new version of the Smyth County Code of 2007.

This amendment is required by §3.2-6587 of the Code of Virginia, as amended, are for the purpose of changes to the Smyth County Code to conform the punishment for violations of the Animal laws of Smyth County to the provisions for punishment of the same offenses under the Code of Virginia.

A public hearing was held April 14, 2009 at 3:00 p.m., on this proposal to amend §10-65.1 of the Smyth County Code (new §8-127 of the revised Code), and to rewrite the section to conform to the Code of Virginia. These changes provide several additional definitions of violations of the Smyth County Code, and to make plain the punishments for such actions, including:

A. If the known owner of any dog or cat shall fail to pay any license tax required by this Chapter before February 1 for the year in which it is due, he or she shall

be guilty of a Class 4 misdemeanor, and in addition, the Court may order confiscation and the proper disposition of the dog or cat.

B. It shall further be a violation of law, and Class 4 misdemeanor:

1. For any person to make a false statement in order to secure a dog or cat license to which the person is not entitled.

2. For any person to fail to obey an ordinance passed pursuant to §3.2-6522 or §3.2-6525.

3. For any owner to fail to dispose of the body of his or her companion animal in accordance with §3.2-6554.

4. For the owner of any dog or cat with a contagious or infectious disease to permit such dog or cat to stray from his or her premises if such disease is known to the owner.

5. For any person to conceal or harbor any dog or cat on which any required license tax has not been paid.

6. For any person, except the owner or custodian, to remove a legally acquired license tag from a dog or cat without the permission of the owner or custodian.

7. For any other violation of Chapter 65 of Title 3.2 of the Code of Virginia for which a specific penalty is not provided.

8. It shall be a Class 1 misdemeanor for any person to:

(a) Present a false claim or to receive any money on a false claim under the provisions of §3.2-6553: or,

(b) Impersonate a humane investigator.

9. These amendments will be completely revise §10-65.1, as set out above, and the amended section will be the same Smyth County Code Section contained in Chapter 10, Article II, §10-65.1, of the current Smyth County Code.

10. On a vote of the Board of Supervisors, with a quorum present, following a public hearing which was held on April 14, 2009 at 3:00 PM, the Board passed these amendments on May 12, 2009 by a vote of 7 Aye, 0 Nay, 0 absent/abstained, for the purpose of conforming the penalties of the Smyth County Code, and §10-65.1 to the penalties of the Code of Virginia for certain of the Animal laws of Smyth County as set out in these amendments.

11. This amendment shall become effective on May 12, 2009 at 5:00 PM.

AYES: 7
NAYS: None

CLOSED SESSION

Note: Mr. Perry left during closed session.

At 4:23 p.m. a motion was made by Supervisor Neitch to enter into Closed Session under Section 2.2-3711- A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Dishner and the motion passed unanimously.

Upon returning to open meeting at 5:08 p.m., a motion was made by Supervisor Dishner to adopt the following resolution certifying the business conducted in closed session as follows:

RESOLUTION CERTIFICATION OF CLOSED SESSION

WHEREAS, the Smyth County Board of Supervisors has convened in a closed session 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 a 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 closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Neitch and the vote is as follows:

AYES: 6
NAYS: None
ABSENT: Marvin R. Perry

CONTINUE THE MEETING

Supervisor Blevins motioned to continue the meeting until Thursday, May 28, at 7:00 p.m. for a joint public hearing with the Planning Commission and any other issues that may come up before that time. Supervisor Waddell seconded, it passed unanimously.

The Smyth County Board of Supervisors held a continued May meeting at 7:00 p.m., **Thursday, May 28, 2009**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

MEMBERS PRESENT:

C.C. "Charlie" Clark, Jr. Darlene R. Neitch
M. Todd Dishner Wade H. Blevins, Jr.
Brenda J. Waddell Marvin R. Perry
Michael D. Roberts

STAFF PRESENT:

Michael L. Carter, Acting County Administrator
John H. Tate, Jr., County Attorney

OTHERS PRESENT:

Amber Johnson, Administrative Assistant
Pam Testerman, Office Service Assistant
Charlie Atkins, CFO
Clegg Williams, Zoning Administrator
Becca Kirk, Administrative Assistant

PLANNING COMMISSION MEMBERS PRESENT:

Dennis Blevins Karl Kalber
Norman Sparks Graham Davidson
Amy Tuell Wayne Venable
Don Medley

CALL TO ORDER

Both Chairmen Clark and Blevins called the public hearing to order. Mr. Carter, Assistant County Administrator, read the following legal advertisement as published in the Smyth County News and Messenger, on May 16 and 23 (Saturday editions). Mr. Carter also read the rules of procedures for public hearings. There were approximately (20) citizens present interested in this application.

SMYTH COUNTY PLANNING COMMISSION

The Smyth County Board of Supervisors and the Smyth County Planning Commission will conduct a joint public hearing on Thursday, May 28, 2009, at 7:00 P.M. or as soon after 7:00 P.M. as an application may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application(s) to the Zoning Ordinance of Smyth County, Virginia:

An application from Ronnie Chambers for a Special Use Permit to establish a campground. The property is located on Crabapple Lane in the Konnarock Community. It is identified as Tax Map No. 86-A-38A and is zoned Agricultural/Rural.

At this public hearing, subject to the rules of procedure of the Board of Supervisors and Planning Commission of Smyth County, Virginia, any person may appear and state his/her views thereon.

Copies of the application(s) along with their maps/drawings are on file in the Office of the County Administrator of Smyth County. Copies are also maintained by the County Zoning Administrator at the address given above, and may be viewed during regular business hours Monday through Friday.

*Done by order of the Board of Supervisors and the Planning Commission.
Michael L. Carter, Acting County Administrator
Dennis R. Blevins, Chairman of the Planning Commission*

APPLICATIONS SUBMITTED

Ronnie T. Chambers - Special Use Permit: Mr. Williams summarized an application submitted by Ronnie Chambers. He explained that Mr. Chambers purchased approximately 36 acres in the Konnarock area of the county. The property is located on State Route 600, Whitetop Road and is identified by tax map # 86-A-38A. Mr. Chambers proposes to establish a "campground" on the property as defined by Section 10-12. Mr. Williams further explained that when he helped Mr. Chambers develop the site plan attached to his application, he only mentioned the structures he was proposing to construct for his planned use. In addition to the cabins and bathhouse, Mr. Chambers proposes to develop 10-12 sites for recreational vehicles with electric and water hook-ups. The proposed sites will be located around the barn seen in the attached site plan. Mr. Williams stated that notice of this public hearing was published in the Smyth County News on May 16 and 23 and a first class mailing was made to each of the adjoining property owners. Mr. Williams pointed out the following sections of the ordinance: Section 3-2.2 j) which allows Campgrounds in the A/R district by issuance of a SUP, §10-12 which defines Campgrounds and Article 6 which

contains the provisions for Special Use Permits. Mr. Williams read into public record six (6) letters he received from various citizens opposing the application or posing questions to be clarified. (Elizabeth Merz with the U. S. Forestry Service, Sandra Jett et al, Connie Daniels, Chuck Brown, Sandra Huffman Greer, Deborah Taylor.

Mr. Chambers was present and stated that he wanted a place for his friends and family to stay when they visit the area. He stated that he is interested in opening it for his church and youth to stay as well. He stated his intentions were not for the creation of a "horse camp" but should someone wish to bring their horses, he would allow it. He discussed that he would like to set up 10-12 recreational vehicle sites or camping trailer sites in addition to the bathhouse and three cabins. He discussed his plans for landscaping the property and the work he has done to the property since he purchased it, removal of junked manufactured homes, driveway upgrade, etc. He stated the campground would only be open for six to eight (6-8) months per year, not year around. He said he did not wish to disrespect the community.

It was discussed that since Mr. Chambers' application only stated "cabins, bath house" the recreational vehicle sites would not be considered as part of this hearing. He would have to file another Special Use Permit application for that use.

The following citizens spoke in opposition: Eva Hayes, Doug Crigger, Ann Pennington, Gene Hayes, and Shirley Huffman. Their reasons included the location of the cemetery, they felt the campground would be a disgrace to the deceased—several of whom are veterans, trash would pile up on the property, the smell from the horses would be bothersome, distance from Mr. Chambers' residence in Greensboro to the site, and who will be the property caretaker. Darlene Neitch presented a petition taken in opposition with approximately 130 signatures.

No one else spoke on this application.

Chairman Clark and Chairman Blevins closed the joint public hearing at 7:55 p.m. The Board convened to the Fourth Floor Social Service Board Room and called their meeting back to order at 7:59 p.m.

OTHER BOARD ITEMS

1. Budget Committee's recommendation to appropriate \$1,850 for courtroom security systems which had failed was approved unanimously by the board. The vote was as follows:

AYES: 7
NAYS: 0

2. Richard Lennon with the Auditing Firm; Brown, Edwards & Company L.L.P. presented the Board with the June 30, 2008 audit. Mr. Lennon reviewed the audit with the Board and took basic questions.

3. The Board discussed the Heath Care Service Agreement with the Smyth County Community Hospital. This program would reduce the cost of prescription drugs for the hospital to provide to out-patient or emergency room visitors. The contract must be with local government and will cost \$1 per year. Supervisor Perry made motion to approve this agreement and motion was seconded by Dishner. The vote was as follows:

AYES: 7
NAYS: 0

CLOSED SESSION

At 8:50 p.m. a motion was made by Supervisor Perry to enter into Closed Session under Section 2.2-3711 – A.7 (Counsel and Staff Consultation) of the Code of Virginia. This was seconded by Supervisor Dishner and the motion passed unanimously.

Upon returning to open meeting at 9:17 p.m.; a motion was made by Supervisor Perry to adopt the following resolution certifying the business conducted in closed session as follows:

RESOLUTION

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Smyth County Board of Supervisors has convened in a closed session 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 a 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 closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

The motion was seconded by Supervisor Dishner and the vote is as follows:

AYES: 7
NAYS: 0

ANY OTHER BUSINESS

1. Mr. Simpson briefly discussed an agreement with APCO for an easement at Long Hollow pump station. Mr. Tate reviewed this agreement. Supervisor Neitch made a motion to approve this agreement and was seconded by Supervisors Waddell. The vote was as follows:

AYES: 7
NAYS: 0

2. The Board discussed the Budget Committee recommendation to publish the list of delinquent taxes in news paper. Mr. Carter made the Board aware that he has an up-to-date listing. A vote was taken to proceed with legal aspect of collecting delinquent taxes. The vote was as follows:

AYES: 6
NAYS: 1 (Roberts)

At 9:20 p.m. Supervisor Perry motioned to recess with chairman to call meeting if necessary, Supervisor Dishner seconded, and it carried unanimously.