

VIRGINIA: AT THE REGULAR MEETING OF THE DINWIDDIE COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD MEETING ROOM OF THE PAMPLIN ADMINISTRATION BUILDING IN DINWIDDIE COUNTY, VIRGINIA, ON THE 20TH DAY OF OCTOBER AT 3:00 P.M.

PRESENT: DONALD L. HARAWAY – CHAIR ELECTION DISTRICT #2
HARRISON A. MOODY – VICE CHAIR ELECTION DISTRICT #1
JOHN V. TALMAGE ELECTION DISTRICT #3
DORETHA E. MOODY ELECTION DISTRICT #4

ABSENT: MICHAEL W. STONE ELECTION DISTRICT #5

ADMINISTRATION

PRESENT: W. KEVIN MASSENGILL, COUNTY ADMINISTRATOR
ANNE HOWERTON, DIVISION CHIEF OF FINANCE AND GENERAL SERVICES
JOHN C. BLAIR II, COUNTY ATTORNEY

=====

1.2.& 3. ROLL CALL – INVOCATION – PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: Mr. Talmage
Ms. Moody
Mr. Moody
Mr. Haraway

ABSENT: Mr. Stone

4. AMENDMENTS TO AGENDA

W. Kevin Massengill, County Administrator, stated that Mr. Stone had asked him to explain that he was not in attendance because he was chaperoning a school trip to a national convention of the FFA.

John C. Blair II, County Attorney, stated that the agenda needed to be amended under Closed Session to add §2.2-3711 (A) (3) Real Estate, Disposition of Real Property.

Mr. Massengill stated that also under Closed Session a.) §2.2-3711 (A) (1) Personnel Matters, Appointments detail needed to include Industrial Development Authority.

Mr. Haraway stated that he had received a call stating that if there were no seats available at this meeting and citizens were left standing, it was requested that he amend the agenda to move the Citizen Comment period up on the agenda. He stated that as he looked out over the audience there were plenty of seats so he would not amend the agenda to move the Citizen Comment period from its usual place on the agenda.

Upon motion of Mr. Moody, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the agenda is amended and adopted as stated.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

5.A. CONSENT AGENDA: APPROVAL OF MINUTES FOR AUGUST 24, 2009 SPECIAL MEETING

Upon motion of Mr. Talmage, seconded by Ms. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the August 24, 2009 Special Meeting Minutes are approved.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None

Absent: Mr. Stone

**CONSENT AGENDA: APPROVAL OF MINUTES FOR SEPTEMBER 15, 2009
REGULAR MEETING**

Upon motion of Mr. Talmage, seconded by Ms. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the September 15, 2009 Regular Meeting Minutes are approved.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

5. B. CONSENT AGENDA: CLAIMS

Upon motion of Mr. Talmage, seconded by Ms. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the following claims are approved and funds appropriated for same.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

| CLAIMS | 09/11/09 | 09/18/09 | 09/23/09 | 09/25/09 | 10/02/09 | 10/02/09 | 10/09/09 | 09/30/09 | TOTALS |
|---------------------------------------|---------------------|---------------------|---------------------|---------------------|-----------------------|---------------------|---------------------|---------------------|-----------------------|
| | Void 1070439 | Void 1070512 | Void n/a | Void 1070600 | Void 1070733 | Void n/a | Void 1070810 | Void 1070664 | |
| | 1070440- 1070511 | 1070513- 1070599 | 1013 MC | 1070601- 1070663 | 1070734- 1070803 | 1070805- 1070806 | 1070811- 1070885 | 1070665- 1070732 | |
| 101 - General Fund | \$92,412.42 | \$195,955.63 | | \$100,394.23 | \$250,467.92 | \$258.90 | \$111,488.85 | \$889,517.85 | \$1,640,495.80 |
| 103 - Jail Commission | | \$356.76 | | \$300.00 | | | \$77.42 | | \$734.18 |
| 105 - Playground Equipment | | | | | | | \$10,902.00 | | |
| 202 - Medical Center | | | \$145,000.00 | | | | | | \$145,000.00 |
| 209 - Litter Grant Fund | | | | | | | | | |
| 210 - Community Develpmt | | | | | \$42,165.83 | | | | \$42,165.83 |
| 226 - Law Library | | | | | | | | | |
| 228 - Fire Programs & EMS | \$4,063.35 | \$2,848.45 | | | \$3,088.00 | | \$1,739.84 | | \$11,739.64 |
| 229 - Forfeited Asset Sharing Program | \$2,230.00 | \$1,265.40 | | | | | | \$172.24 | \$3,667.64 |
| 301 - School Const. | | \$115,961.85 | | | | | | | \$115,961.85 |
| 304 - CDBG Grant Fund | | | | | | | \$0.47 | | \$0.47 |
| 305 - Capital Projects Fund | \$41,614.81 | \$14,483.86 | | \$10,328.98 | \$681,855.60 | | \$18,518.60 | | \$766,801.85 |
| 401 - County Debt Service | | | | | \$82,447.40 | | \$2,500.00 | | \$84,947.40 |
| 3-101 - Revenue | \$50.00 | \$355.00 | | \$100.00 | | | | | \$505.00 |
| 3-202 - Medical Center | | | | | | | | | \$0.00 |
| TOTALS | \$140,370.58 | \$331,226.95 | \$145,000.00 | \$111,123.21 | \$1,060,024.75 | \$258.90 | \$145,227.18 | \$889,690.09 | \$2,812,019.66 |

**5. C. CONSENT AGENDA: SCHOOL BOND REQUISITIONS FROM PROJECT FUND:
HS-55; ES-58; FH-11**

The Board received the following requisitions from William David Clark Acting Superintendent of Schools. These requisitions were approved by the School Board at their meeting on Tuesday, October 13, 2009.

Upon motion of Mr. Talmage, seconded by Ms. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that a total disbursement of \$151,859.14 from the VPSA 2007 Bonds, is approved.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

No. HS -55

REQUISITION FROM THE PROJECT FUND

[Indicate whether from Note Account or Bond Account of Project Fund by marking a line through incorrect amount]

Note/Bond Account

Industrial Development Authority of Dinwiddie County, Virginia
VPSA 2007 Bonds

TO: PFM Asset Management

FROM: The Industrial Development Authority of Dinwiddie County, Virginia,
Project Fund

DATE: October 13, 2009

The undersigned Authorized County Representative requests that you make the following disbursements from the referenced Project Fund:

| <u>AMOUNT</u> | <u>TO</u> | <u>PURPOSE</u> |
|----------------------|----------------------------------|--------------------------------|
| \$ 151,859.14 | Kenbridge Construction Co., Inc. | Application for Payment No. 39 |
| \$ 151,859.14 | TOTAL OF THIS REQUISITION | |

Upon motion of Mr. Talmage, seconded by Ms. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that a total disbursement of \$25,298.86 from the VPSA 2007 Bonds is approved.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

No. ES- 58

REQUISITION FROM THE PROJECT FUND

[Indicate whether from Note Account or Bond Account of Project Fund by marking a line through incorrect amount]

Note/Bond Account

Industrial Development Authority of Dinwiddie County, Virginia
VPSA 2007 Bonds

TO: PFM Asset Management

FROM: The Industrial Development Authority of Dinwiddie County, Virginia,
Project Fund

DATE: October 13, 2009

The undersigned Authorized County Representative requests that you make the following disbursements from the referenced Project Fund:

| <u>AMOUNT</u> | <u>TO</u> | <u>PURPOSE</u> |
|---------------------|----------------------------------|--------------------------------|
| \$ 25,298.86 | Kenbridge Construction Co., Inc. | Application for Payment No. 37 |
| \$ 25,298.86 | TOTAL OF THIS REQUISITION | |

Upon motion of Mr. Talmage, seconded by Ms. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that a total disbursement of \$25,977.22 from the VPSA 2007 Bonds is approved.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

No. FH-11

REQUISITION FROM THE PROJECT FUND

[Indicate whether from Note Account or Bond Account of Project Fund by marking a line through incorrect amount]

Note/Bond Account

Industrial Development Authority of Dinwiddie County, Virginia
VPSA 2007 Bonds

TO: PFM Asset Management

FROM: The Industrial Development Authority of Dinwiddie County, Virginia,
Project Fund

DATE: October 13, 2009

The undersigned Authorized County Representative requests that you make the following disbursements from the referenced Project Fund:

| <u>AMOUNT</u> | <u>TO</u> | <u>PURPOSE</u> |
|---------------------|--|--|
| \$ 25,977.22 | Instrumentation & Control Systems Engineering, Inc. | Stadium Sports Lighting Application 5 – 9/30/09 |
| \$ 25,977.22 | TOTAL OF THIS REQUISITION | |

6. REPORTS: DEPARTMENT OF TRANSPORTATION

The Board received the information below from Ray Varney, VDOT Residency Administrator.

THE DINWIDDIE MONTHLY October 2009

The VDOT Petersburg Residency monthly report for Dinwiddie County

Maintenance Items

Accomplished Work Highlights

- Mowing operations for Primaries and Secondaries continues. Mowing should be complete by bid November.
- Minor ditching and shoulder operations.
- Responding to individual needs.

Budget Summary for Church Road and McKenney AHQs and Petersburg Residency covers period through October 2, 2009.

| | FY 10 Budget | Spent YTD (\$) | Budget Remain (\$) | Spent (%) | Spend Plan (\$) | Spend Plan (%) | Ahead (-) /Behind(+) (\$) |
|-----------------|----------------|----------------|--------------------|-----------|-----------------|----------------|---------------------------|
| Church Road AHQ | \$1,450,608.17 | \$392,843.38 | \$1,057,764.79 | 27.1% | \$595,449.36 | 66.0% | \$202,605.98 |
| McKenney AHQ | \$1,631,281.11 | \$436,490.69 | \$1,194,790.42 | 26.8% | \$436,490.69 | 61.8% | \$269,827.02 |

Construction Projects

Ongoing Projects:

PVMT-964-034,P101,N501 (Concrete Pavement Repair on I-85 and I-295)

- Contactor continues concrete patching on I-295 in Henrico County. Plans are to finish the areas on I-295 prior to moving to I-85 in Dinwiddie County. Due to safety concerns, a double lane closure has been put in place to allow the employees sufficient room to conduct their concrete operations.
- Fixed Completion Date: 10/31/2009
- Project is On-Schedule and projected to completed over-budget for reasons stated above.

Preliminary Engineering Items

Active Project Status (only active projects depicted)

Non-Maintenance Funded Projects:

River Road Intersection Improvements at Ferndale – This project is scheduled to be advertised for construction next month. Actual construction should begin in early 2010. UPC 61294.

Route 1 Intersection Improvement at Cox Road – This project will make improvements to the intersection. Total project cost is estimated to be \$6,354,000. It is unclear if there are sufficient funds to take this project through construction. Scheduled advertisement for construction is 12/17/13. UPC 73268

Route 601 (Ferndale Road) Intersections Improvements at Cox Road - This project will make improvements to the intersection. Total project cost is estimated to be \$4,844,000. It is unclear if there are sufficient funds to take this project through construction. Scheduled advertisement for construction is 4/29/14. UPC 80993

District Maintenance Funded Projects:

Route 1 NB Bridge Superstructure Replacement – This project will replace the bridge from the piers up. It will require a shift in the traffic to the opposite side of Route 1. Project design is just beginning. \$1,600,000 in additional funding is needed in FY 11 from the Federal Bridge Funds. Total project costs are currently estimated at \$2,700,000. Advertisement is scheduled for 1/11/2010. UPC 93287

I-85 District Wide Bridge System Preservation Project – This project will make repairs to some of the bridges on I-85, including bridge(s) in Dinwiddie County. Project design is just beginning. \$1,800,000 in additional funding is needed in FY 11 from the Federal Bridge Funds. Total project cost is currently estimated at \$1,800,000. Advertisement is scheduled for 7/10/2010. UPC 89383

Route 226 over NSRR – This project will do maintenance on the bridge. Project design is just beginning. \$1,940,000 in additional funding is needed in FY 11 from the Federal Bridge Funds. Total project costs are currently estimated at \$1,940,000. Advertisement is scheduled for 12/31/2010. UPC 89379

PM-4C-10 – RAAP – Federally Eligible Project – Plant mix primary roads that are federally eligible. Routes in Dinwiddie are Cox Road from Route 460 to Sunset Drive and Route 460 from a location near Coleman Lake Road to a location near Courthouse and from a location near Pine Hill Road to a location near Butterwood Road. Scheduled Advertisement is January 2010. UPC 94461 (Note, this is the District funded portion of this contract. The Residency funded portion of this contract is shown below.)

Residency Maintenance Funded Replacement Projects:

PL6 – Pipe Culvert Replacement – SAAP Non-federally eligible project. Replace pipe culverts on Wheeler's Pond Road and Perkins Road in Dinwiddie County. It also includes pipes in Prince George County. Road closures with detours are likely. Scheduled Advertisement 12/22/09. UPC 94319

O44 – Pipe Culvert Replacement – RAAP – Federally eligible project. Line four pipe culverts on Namazine Road over Whippernock Creek and replace one culvert under Route 1 just south of Airport Road. It also includes pipes in Prince George County. Road closures with detours are likely. Project has been delayed for funding issues. No current advertisement date. UPC 94317

PM-4C-10 – RAAP – Federally Eligible Project – Plant mix for higher volume, federally eligible secondary routes. Routes in Dinwiddie are Courthouse Road from 0.13 miles east of White Oak Road to Route 460 and Carson Road from Route 1 to bridge over the old railroad track. Scheduled Advertisement January 2010. UPC 94461

Future Funding

All items in this report are subject to change or cancellation based on funding.

Mr. Massengill, County Administrator, discussed the recent Metropolitan Planning Organization (MPO) meeting he had attended. He stated that several years ago the MPO had set aside funding toward addressing the problematic intersection of Route 226 and Route 1. He said the biggest issue was larger trucks trying to turn at the intersection. When the Ft. Lee expansion occurred, in a sense of regionalism, Dinwiddie County decided to forego its funding to allow it to go toward Ft. Lee and then those funds would come back to Dinwiddie County later. This project is the next in line; however, there are not sufficient funds to do the improvements at Route 226 and Route 1 intersection, as well as another problem at the intersection of Ferndale and Route 226. There seems to be an even more significant issue at Ferndale and Route 226; and it was the understanding of the project team from VDOT that the intersection of Ferndale and 226 was a greater need. Mr. Massengill stated that he had presented at the meeting that it was the County's desire that with the potential Secondary Six-Year funds there may be the ability to make some substantial improvements to the Ferndale/Rt. 226 intersection; and there may even be some carry-over funds for Route 226 and Route 1. This brings the discussion back regarding a roundabout. With a roundabout at that location, from the funds in the MPO and Secondary Six-Year Plan, there may be the possibility to accomplish both projects. Without a roundabout, the County may not be able to get the project started.

Mr. Varney stated that there had been discussion about conducting a public information meeting with a roundabout scheme. At that meeting the scheme would be presented so that citizens would understand how a roundabout would work at that particular location.

Mr. Haraway suggested that a public meeting be scheduled to educate the citizens of that area as soon as possible.

6.B. REPORTS: VEHICLE LICENSE TAX

The Board received the memo below from John C. Blair II, County Attorney.

At the September 15, 2009 Board of Supervisors meeting, Chairman Haraway asked for County staff to examine the issue of the vehicle license tax. Specifically, Chairman Haraway requested that staff prepare an ordinance to prevent County residents from having to pay the vehicle license tax for a replacement vehicle after paying the vehicle license tax earlier in the year for the original vehicle.

The attached ordinance is proposed for the Board's comments. With the Board's consent, this ordinance change will be advertised and voted upon at the November meeting of the Board of Supervisors.

Chairman Haraway also mentioned his desire for a permanent Dinwiddie County decal. If the Board wishes to implement this program, there are three main policy concerns that need to be addressed.

First, does the Board wish to charge a fee for the issuance of a permanent decal? Second, does the Board wish to charge a fee for replacing a lost decal? Finally, does the Board wish to subject individuals to a penalty for not displaying the decal? The Board can enact an ordinance that would create a traffic offense for not displaying the decal. The County's former decal ordinance imposed a misdemeanor penalty of twenty dollars (\$20.00) for failure to display a County decal. In the alternative, the Board could just require the display of the decal to use the County's solid waste facilities without attaching any criminal or civil penalties for non-display of the decal.

The County Attorney's Office respectfully requests that the Board provide guidance to it on these issues if the Board desires to implement a permanent Dinwiddie County decal.

Attached Draft Ordinance:

**AN ORDINANCE TO AMEND THE
CODE OF THE COUNTY OF DINWIDDIE, 1985, AS AMENDED
BY ADDING**

**SECTION 14-18.1. WAIVER OF LICENSE TAX ON REPLACEMENT VEHICLE
CHAPTER 14. MOTOR VEHICLES AND TRAFFIC, ARTICLE II. VEHICLE LICENSE**

BE IT ORDAINED by the Board of Supervisors of Dinwiddie County:

(1) *That the Code of the County of Dinwiddie, 1985, as amended, is amended by deleting the following language marked with strikethrough and by inserting the following language shown underlined:*

Sec. 14-18.1. Waiver of vehicle license tax on replacement vehicles.

(a) The vehicle license tax assessed on a motor vehicle sold or transferred by the owner thereof, or surrendered by the lessee to the lessor thereof, (the "old vehicle") may be applied to the vehicle license tax assessed on a replacement motor vehicle (the "replacement vehicle") in the year of acquisition if the owner or lessee satisfies the following six (6) requirements:

(1) An owner sells or transfers, or a lessee surrenders to the lessor, the old vehicle;
and

(2) The owner or lessee acquires a replacement vehicle; and

(3) Both the old and replacement vehicles are titled or leased in the same name (owner's or lessee's); and

(4) Both the sale, transfer, or surrender of the old vehicle and the acquisition of the replacement vehicle occur during the same vehicle license tax year; and

(5) The owner or lessee paid the vehicle license tax on the old vehicle assessed pursuant to this article for the current vehicle license tax year; and

(6) The owner or lessee must present evidence of each of the requirements (1) through (5) above to the county treasurer within 30 calendar days of the acquisition of the replacement vehicle in order for the tax paid on the old vehicle to be applied to the tax due on the replacement vehicle.

(b) Replacement vehicles acquired on or after July 1 of the vehicle license tax year shall not entitle the owner or lessee thereof to any refund or proration of the annual vehicle license tax in connection with section 14-18 herein.

(c) This section shall be effective January 1, 2010 and shall apply beginning with the 2010 vehicle license tax year.

(2) *That this ordinance shall become effective immediately upon adoption.*

Code of Virginia Reference: § 46.2-752

Mr. Jones, County Treasurer, and Ms. Stevens, Commissioner of the Revenue, were present at the meeting.

Mr. Haraway expressed concern about recognition of Dinwiddie County citizens at manned sites as he had been told that some are visiting the sites that are not from Dinwiddie County. He stated that he would be against charging the public for the decal.

Mr. Talmage agreed that it would be nice to have the decal but he was not in favor of charging for it.

Mr. Moody agreed with Mr. Haraway and Mr. Talmage. He said the license fee should take care of the decal.

Ms. Moody agreed that citizens should not have to pay for another decal when they purchase another vehicle; and that decals should be on cars.

The Treasurer also spoke to the Board regarding the decal. He stated that he felt to just give out something free was a means of just anyone coming in and saying they needed a decal for the landfill. He said if it stayed on a vehicle permanently and someone from a close jurisdiction bought the car, that individual could come into Dinwiddie to dump their trash. There was discussion as to something that could be given to citizens to be able to show residency when visiting the manned sites.

Regarding the vehicle license fee, Mr. Jones stated that his concern was the 30 day calendar period when registering under a 30 day license fee. He said also the only evidence that is asked for is the bill of sale. He said he thought evidence of sale should be spelled out in the ordinance in order to receive a waiver.

Mr. Massengill asked that staff work with the Treasurer and the Commissioner of the Revenue regarding the waiver to make any fine touches before going to public hearing. He said it would be brought back to the Board to be effective January 1.

7.A. ACTION ITEM: 2010 CENSUS PARTNER RESOLUTION

In the absence of Stephanie Knight, Partnership Specialist, 2010 Census, Tammie J. Collins, Division Chief of Planning and Community Development presented the resolution below to the Board.

Mr. Moody stated that it was important to get an accurate census as a lot of the County's funding was based on population.

Upon motion of Mr. Moody, seconded by Mr. Talmage

BE IT RESOLVED that the Board of Supervisors of Dinwiddie County, Virginia approves the 2010 Census Partner Resolution as stated.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

2010 CENSUS PARTNER RESOLUTION

WHEREAS, an accurate census count is vital to our community and residents' well-being by helping planners determine where to locate schools, day care centers, roads and public transportation, hospitals and other facilities, and achieving an accurate and complete count of the nation's growing and changing population; and

WHEREAS, more than \$400 billion per year in federal and state funding is allocated to states and communities based, in part, on census data; and

WHEREAS, census data help determine how many seats each state will have in the U.S. House of Representatives and often is used for the redistricting of state legislatures, county and city councils and voting districts; and

WHEREAS, the 2010 Census creates jobs that stimulate economic growth and increase employment; and

WHEREAS, the information collected by the census is confidential and protected by law;

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of Dinwiddie County, Virginia are committed to Dinwiddie County partnering with the U.S. Census Bureau to help ensure a full and accurate count in 2010.

As a 2010 Census partner, we will:

1. Support the goals and ideals of the 2010 Census and disseminate 2010 Census information to encourage those in our community to participate.
2. Encourage people in Dinwiddie County to place an emphasis on the 2010 Census and participate in events and initiatives that will raise overall awareness and ensure a full and accurate census.
3. Support census takers as they help our community complete an accurate count.

CERTIFICATION

I, W. Kevin Massengill, Clerk of the Board of Supervisors of Dinwiddie County, Virginia certify that the foregoing is a true and correct copy of a resolution passed at a lawfully organized meeting of the Board of Supervisors of Dinwiddie County held at Dinwiddie County, Virginia, at 3:00 p.m. on October 20, 2009.

W. Kevin Massengill, County Administrator
Clerk to the Board

7.B. ACTION ITEM: EXTENSION OF TERMS OF CONTRACT – COMMERCE PARK ROAD

The Board received the memo below from Stephanie Allman, Director of Economic Development. In the absence of Ms. Allman who was ill, the information was presented by Tammie J. Collins, Division Chief of Planning and Community Development.

BACKGROUND

The Commerce Park Access Road Project is the first infrastructure project within the approximately 245 acre site that the County purchased for Economic Development purposes. This access road will be the main entrance point into the park from US. Route 460 and is directly opposite Beck-Chappell Drive. The project consists of approximately 1,200 linear feet of four-lane roadway with curb and gutter, causeway, raised grass median, multi-use path, turn lanes, enclosed storm sewer system, new sanitary sewer and waterline work. When complete, the road will open up parcels at the front of the park for retail development, in the center for office space development, and at the back of the park for light industrial development.

On February 13, the Board of Supervisors awarded the road construction project to F.G. Pruitt since they were the lowest responsive and responsible bidder. F.G. Pruitt stated in their bid that they could begin the project within one week of notice to proceed from the County and that the project would be complete within 180 calendar days. The contract date was February 25, 2009 and the road construction began on March 15, 2009 with a completion date listed as September 25, 2009. Since the original contract was signed, Dinwiddie County added a 30 day extension to the contract due to delays associated with wetlands crossing which resulted in the turbidity curtain and undercut change order. The new completion date was set at October 25, 2009

CURRENT PROJECT INFORMATION

Attached to this memo is a change order request from F.G. Pruitt requesting a 30 day contract extension because of delays to the schedule caused by additional scope of work added to the project and by the Virginia Department of Transportation (VDOT). On June 29, Dinwiddie County was notified that F.G. Pruitt was delaying work at the Commerce Park because no further work could be done until the County made a determination of whether to add the waterline work to the road project, VDOT made a decision about pavement sections based on CBR tests taken in the field, and VDOT approved the traffic control measures for the turn lane work along U.S. 460.

Work was stopped from July 1 until July 20. On July 7, the Board of Supervisors approved the addition of the waterline project. Immediately following that determination, the County's engineer VHB, created plans for the waterline project and F.G. Pruitt changed their schedule to add this work. On July 20, F. G. Pruitt started back to work on the waterline project but was still delayed on the road construction since the County was still waiting on answers from

VDOT regarding the pavement sections and traffic control. Therefore, F.G Pruitt did not submit a contract extension change order with the cost change order for the waterline work.

VDOT provided final approval of the pavement sections and the County's engineer, VHB, updated F.G. Pruitt (that e-mail is attached). A traffic control meeting with VDOT including the County, VHB and F.G. Pruitt took place on August 13, 2009, and the traffic control plan was completed a few weeks following.

While the overall F.G. Pruitt construction project schedule was stopped or delayed for approximately six weeks, they are only requesting a 30 day contract extension since some time has been caught up in the field. Also, the actions taken by the County's engineer, VHB, and the County's third party geotech for the project, Froehling and Robertson, reduced was believed to be a potential pavement change order of \$100,000 to a credit of \$16,061.55 and a potential \$50,000 traffic control change order to \$18,545. This resulted in a net change order of only \$2,483.45 as shown on the attached change order.

The Board approved a road project change order contingency fund of \$155,730 at the August 4, 2009, Board Workshop. Therefore, no funds need to be transferred to the Commerce Park Road Project to cover the \$2,483.45. Since we do not anticipate any further change orders for the Commerce Park Road Project, there should be a balance of \$153,246.55 left in the Road Project Change Order Contingency Fund.

LAST BOARD ACTION

On August 4, the Board of Supervisors of Dinwiddie County, Virginia, authorized an appropriation transfer of \$415,000 from the Ford Volunteer Fire Department project to the Commerce Park Project in the CIP fund.

REQUESTED ACTION

Staff is asking for the approval of the following resolution.

Upon motion of Ms. Moody, seconded by Mr. Moody,

BE IT RESOLVED that the Board of Supervisors of Dinwiddie County, Virginia, does hereby authorize W. Kevin Massengill, County Administrator, to execute the necessary documents to extend the contract with F. G. Pruitt for a project completion date of November 24, 2009. F.G. Pruitt will incur liquidated damages if the entire project is not totally complete on November 24, 2009.

Ayes: Mr. Talmage, Ms. Moody, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

7.C. ACTION ITEM: VOTING CREDENTIALS FOR VACo ANNUAL BUSINESS MEETING

Upon motion of Ms. Moody, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Harrison A. Moody is authorized to cast Dinwiddie County's vote at the 2009 Annual Meeting of Virginia Association of Counties on November 10, 2009; and John V. Talmage is the authorized as the alternate voting designee in Mr. Moody's absence.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

7.D. ACTION ITEM: CONTRACT APPROVAL FOR 21B STONE FOR SPORTS COMPLEX

The Board received the memo below from Anne Howerton, Division Chief of Finance and General Services.

BACKGROUND

Construction of a County recreation park was first authorized by the Board of Supervisors with the FY 2006 CIP budget, with additional funding provided by the FY 2009 and FY 2010 CIP budgets. Site work performed by Southside Virginia Community College has been on-going at the park, and installation of underground utilities (water, sewer, storm sewer and related appurtenances) began on August 31st and should be completed any day now. The next step in the process is to begin spreading stone underneath pads, sidewalks, paving in the parking

areas and road. This work is to be performed by Southside Virginia Community College, under the supervision of the County's project manager, Gene Jones.

CONTRACT NEGOTIATIONS

On October 4, 2009, the County released an Invitation For Bids to furnish and deliver 21 B Stone to the recreation park site at 5850 R. B. Pamplin Driver, Sutherland, Virginia for the purposes stated above. Five vendors responded to the IFB by the due date of October 16, 2009. The bid prices ranged from \$12.25 to \$16.05, per ton, delivered, with Vulcan Materials Co. being the lowest responsive and responsible bidder. Under the terms and conditions of the IFB, the stone is to be delivered to the recreation park site at 5850 R. B. Pamplin Drive, Sutherland as needed on a "will-call" basis. Though not a guaranteed total amount, it is anticipated that an approximate total of eight thousand (8,000) tons of stone will be needed over the course of the next nine (9) months. Based on the above unit price of \$12.25 per ton delivered, eight thousand (8,000) tons of stone would cost ninety-eight thousand dollars (\$98,000.00) total. Further details on this procurement can be found on the County website at www.dinwiddieva.us, under the Purchasing tab.

Attached is a proposed contract for your review.

REQUESTED ACTION

We are asking for approval of the following resolution.

Upon motion of Mr. Talmage, seconded by Ms. Moody,

BE IT RESOLVED that the Board of Supervisors of Dinwiddie County, Virginia, does hereby authorize and direct the County Administrator to execute a contract with Vulcan Materials Co. to furnish and deliver 21 B Stone as needed, on a "will-call" basis for the unit price of \$12.25 per ton delivered.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

CONTRACT

21 B Stone- Furnished and Delivered

The Agreement is made this 20th day of October, 2009, by and between **Vulcan Materials Company** of 5601 Iron Bridge Parkway, Chester, Virginia 23831 (party of the first part, and hereinafter known as "Contractor"), and the County of Dinwiddie, Virginia (party of the second part, and hereinafter known as "County").

WHEREAS, pursuant to the Virginia Public Procurement Act, County solicited bids to furnish and deliver 21 B Stone as needed on a "will-call" basis to 5850 R. B. Pamplin Drive, Sutherland, Virginia; and

WHEREAS, Contractor submitted a bid for same, consistent with the specifications in the Invitation for Bids; and

WHEREAS, Contractor was selected as the lowest responsive and responsible bidder; and

WHEREAS, County has selected Contractor to furnish and deliver 21 B Stone as needed on a "will-call" basis to 5850 R. B. Pamplin Drive, Sutherland, Virginia, according to the specifications in the Invitation to Bid;

NOW THEREFORE, in consideration of the mutual benefits, promises, and undertakings, the sufficiency and receipt of which are acknowledged, the following terms and conditions are agreed to by the parties to this Contract:

1. **Incorporation by Reference.** County's Invitation For Bids (IFB #10-100409, release date October 4, 2009), including all related appendices and addenda; and Contractor's bid response in its entirety dated October 14, 2009 are made a part hereof as if the same were fully set forth. If any discrepancies arise between County's Invitation For Bids and Contractor's bid response, Contractor agrees to abide by County's Invitation For Bids.

2. **Time of Performance.** The term of this Contract shall be for nine (9) months, from October 20, 2009 through July 20, 2010.
3. **Costs.** Contractor agrees to furnish and deliver the 21B Stone as needed on a "will-call" basis pursuant to this Contract for a sum no greater than TWELVE and 25/100 (\$12.25) per ton, delivered (the "unit price"). Payment shall be made to Contractor at its Chester, Virginia office within thirty (30) days after receipt of invoice with proper documentation.
4. **Notices.** Any notices required shall be in writing, unless otherwise permitted hereunder, and shall be deemed received five (5) days after mailing of same in the U. S. Mail with postage prepaid at the addresses set forth below or upon actual receipt:

| | |
|--|--|
| <u>Notice to County shall be made to:</u> W. Kevin Massengill County Administrator P. O. Drawer 70 Dinwiddie, Virginia 23841 (804) 469-4500 | <u>Notice to Contractor shall be made to:</u> Vulcan Materials Company Attn: E. Wayne Mears 5601 Iron Bridge Parkway Chester, Virginia 23831 (804) 717-5776 |
|--|--|

5. **General Terms and Conditions.** During the term of this Contract, Contractor agrees to procure and maintain insurance which meets all County's requirements in the Invitation For Bids documents.
6. **Miscellaneous.** This Contract shall be governed by the laws of the Commonwealth of Virginia. Venue for any action arising out of the performance of this Contract shall be with a state or federal court with jurisdiction in Dinwiddie County, Virginia. All pronouns used herein shall refer to every gender. Headings or titles in this Contract are only for convenience and shall have no meaning or effect upon the interpretation of the provisions of this Contract. This Contract is the entire agreement between the parties and may not be amended or modified, except by writing, signed by each party. If any provision of this Contract is determined to be unenforceable, then the remaining provisions of this Contract shall be interpreted as in effect as if such unenforceable provision were not included therein.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day first written above.

Dinwiddie County, Virginia

Vulcan Materials Company

By: _____
 W. Kevin Massengill
 County Administrator

By: _____
 Title: _____

Attest: _____

Attest: _____

Approved as to form:

 John C. Blair II
 County Attorney

8. CITIZEN COMMENTS

The Chair opened the citizen comments period.

1. David Dudley – 25907 Smith Grove Road – Petersburg – said that he hoped the temporary medical building that was on the public hearing for this meeting would be approved. He added that the citizens of Dinwiddie would like for the County to try to bring in an additional medical facility.
2. Anne Scarborough – Dinwiddie – said that there is an urgent need for a medical center for family doctors now that Dr. Harrison has closed her practice. Many doctors who are accepting new patients are not accepting Medicare patients. She said that when the clinic opens, it will not be able to absorb Dr. Harrison's patients. She said that it is requested that the County build a center and to begin today to actively

pursue this course. Ms. Scarborough handed Mr. Haraway a note from an individual who was not able to attend the meeting but had requested that it be read.

Mr. Haraway read the note below dated October 8, 2009.

To Whom It May Concern:

As a 26-year resident of Dinwiddie County I have observed the continuous growth of the community. For this reason I join the effort to accommodate a new doctor's facility in the county. This area has so much to offer, but a proper medical facility is logically required.

Lucy S. Smith

3. Robert O'Day – 9202 Gibson Drive – Sutherland – said that when he first came to Dinwiddie County he had a farm in McKenney. He stated that thanks to a doctor who had a practice in McKenney at the time, he still had the three fingers of one hand and his left leg after being treated for a farm accident in which he almost lost them. He said if the doctor had not been there he would have never made it to the hospital.
4. John Scarborough – Boydton Plank Road – Dinwiddie – said that 65-70 years ago three doctors lived in Dinwiddie and practiced family medicine in three different locations in the county. He said that he wants something that will serve 100% of the citizens in the county. He asked that the County use some of the tax dollars to build a family medical center, and to recruit doctors with the same vigor as used to induce industry.
5. John Wamsley - 2619 Oxford Drive – Sutherland - said that he agreed with what had already been said. He said the county needs a medical center and good doctors.
6. J. S. Major – 22915 Old Vaughn Road – spoke in favor of having a doctor in the county with roots in the county who would stay in the county. He said if a medical center was built that was owned by the County, it would be something that would attract a doctor. He said he was sure there would be people in the county who would be interested in buying interest free shares in a doctor's office. He said one was needed in McKenney as well.
7. Phyllis Young – 3002 Oxford Drive – Sutherland – said that if citizens are required to show their driver's license at the manned sites, that would be all that would be needed.

A. L. Klaas was signed up but was not present to speak.

As no one else was signed up to speak, the Chair closed the citizen comment period.

9. COUNTY ADMINISTRATOR COMMENTS

W. Kevin Massengill, County Administrator, made a few comments regarding health care. He stated that this subject came to a head several months ago when in a impromptu meeting with McKenney Town Council it was found out that the doctor's office in McKenney would be closing. He stated that there are two areas that he has some concerns about: 1) the general lack of health care of the county; and 2) special services such as pediatricians, geriatrics, lab work, etc. He said also there is a need for urgent care. Mr. Massengill stated that in the spring of 2007 Southern Dominion Health System came before the Board and asked if the County would file (at no cost to the County) an application with the Virginia Department of Housing and Community Development for a Community Development Block Grant. Southern Dominion wanted to move from the basement of the facility they were in, and to expand their operations because they recognized the need. The Bank of McKenney donated the site and the County was very optimistic that this would be a strong application. In mid-January of 2008 the County received a \$700,000 grant through the office of Housing and Community Development that would go toward building a new facility. He stated that the role of the County pursuant to the grant is that the County Administrator is responsible, at the Board's direction, to get this facility off the ground and to make sure that it can be turned over to Southern Dominion (as it is governmental funds being used, the funds could not be given to a private for-profit entity). He said when the water main break occurred at the current medical facility, and being as they have not been able to move forward with the actual construction of the new facility, it was recognized that there was the need to get something up and running quickly. The public hearing for the temporary facility is on the public hearing agenda for the 7:00 p.m. portion of this meeting

Mr. Massengill stated that the new facility is 5800 square foot. There are two physicians proposed, a pediatrician and a new dentist. He added that there should be onsite dental and x-ray equipment, and the ability to do some lab work there.

Mr. Massengill stated there have been several conversations with physicians, Bon Secours, and others. He said that some of the Board members had talked to COO's and CEO's of hospitals about trying to get more doctors here in Dinwiddie.

Mr. Massengill also discussed the following: October 28th he and Mr. Clark, Acting School Superintendent, will hold the first Rohoic Future Use Committee meeting with a group of stakeholders; October 22nd Dean McCray is chairing a committee meeting regarding the LED message signs; the next Board of Supervisors Workshop is scheduled for November 3rd. As that is Election Day, that meeting would be moved to the following Tuesday, November 10th; in the next couple of meetings there will be several human resources policies coming before the Board; there will be an increase in the number of reports as in getting closer to budget time the nearly 30 outside agencies that the County supports financially will be coming before the Board; he and the Sheriff will be attending a meeting on October 21st at the Board of Corrections regarding the Meherrin River Jail Authority; and Mr. Massengill discussed the construction updates.

10. BOARD MEMBER COMMENTS

Mr. Moody stated that he was on the Tobacco Commission, and the previous Tuesday the subcommittees had met – the Southside and the Education Committees. He said the Southside Committee had recommended a grant for Dinwiddie County to be approved at the meeting of the full commission that will be held next Tuesday. Hopefully, that will be for two projects that have been approved in Dinwiddie County for \$1.3 million. He added that The Education Committee approved a recommendation to the full committee of a \$35,000 Skill Streams for Success grant.

Mr. Moody added that the workshop on November 10th may not work because he and Mr. Talmage won't be getting back from the VACo Conference until that day. He also thanked the Acting Superintendent of Schools for being present at the meeting. He said it would be good to have him on the agenda of one of the Board meetings.

Mr. Haraway stated that he wanted to make some comments about the medical center problem that had been presented by the citizens at this meeting. He stated that he had 42 years experience in the medical field. He said it would be quite nice if the County could have three Dr. Ashbys – 30 years old and placed in the county. He said that nothing would please him more than to be able to do that. He stated that, however, things have changed. He said there are very few Dr. Ashbys left. When Dr. Ashby was coming along he worked 70 hours a week. Mr. Haraway said that young doctors today want a 40 hour work week. There is a shortage of primary care physicians, not only because the supply is short, but every time a Dr. Ashby retires who has been working 70 hours a week – it takes two doctors to replace him.

Mr. Haraway stated that three weeks ago he had a meeting with a hospital administrator to discuss getting doctors into Dinwiddie County. The administrator said that he was for it, but he did not want to be in competition with Southern Dominion Health Systems. He said that 5 physicians would probably work in Dinwiddie County, but not all 5 at the Courthouse area. He said he knew that people didn't want to hear it, but McKenney cannot support a full time doctor. They can support a part-time doctor. He stated that he had figures to back up this statement because he used to oversee a medical operation in McKenney. He stated that he hoped they could get someone for McKenney, but he was just saying that it was going to be very difficult to get a full time physician in McKenney.

He said that one other problem that no one wants to talk about is that when talking about placing doctors in Dinwiddie, what they don't want to look at is the payer mix. He said that payer mix is the percentage of Medicare, Medicaid, self-pay (which some people call no pay), Blue Cross, etc. Unfortunately, when people ask for these figures, the Medicaid and self-pay is a high percentage in Dinwiddie which is an obstacle. He said the County is not giving up; however doctors are not "dropping out of the sky". There is a critical need for primary physicians in this whole country. He said that he had heard one hospital administrator say that every time they have an opening, there are five vacancies. He said it was impossible to keep a hospital fully staffed. He said the problem the County is having is no different than that of a 300 or 400 bed hospital – even in emergency rooms.

11. CLOSED SESSION:

At 4:40 p.m. upon motion of Mr. Moody, seconded by Mr. Talmage,

The Board of Supervisors of Dinwiddie County, Virginia convened in a closed meeting under:

- a. §2.2-3711 (A) (1) Personnel Matters
 - Appointments
 - Virginia's Gateway Region
 - John Tyler ASAP Board
 - Dinwiddie County Board of Zoning Appeals
 - Industrial Development Authority
- b. §2.2-3711 (A) (5) Business and Industry Development:
 - Prospective Business & Industry
- c. §2.2-3711 (A) (7) Legal Matters:
 - Possible Litigation – Transportation
 - Contract Negotiations
- d. §2.2-3711 (A) (3) Real Estate:
 - Disposition of Real Property

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway

Nays: None

Absent: Mr. Stone

At 6:35 p.m. upon motion of Mr. Moody, seconded by Ms. Moody the Board reconvened into open session.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway

Nays: None

Absent: Mr. Stone

CERTIFICATION

WHEREAS, this Board convened in a closed meeting under:

- a. §2.2-3711 (A) (1) Personnel Matters
 - Appointments
 - Virginia's Gateway Region
 - John Tyler ASAP Board
 - Dinwiddie County Board of Zoning Appeals
 - Industrial Development Authority
- b. §2.2-3711 (A) (5) Business and Industry Development:
 - Prospective Business & Industry
- c. §2.2-3711 (A) (7) Legal Matters:
 - Possible Litigation – Transportation
 - Contract Negotiations
- d. §2.2-3711 (A) (3) Real Estate:
 - Disposition of Real Property

AND WHEREAS, no member has made a statement that there was a departure from the lawful purpose of such closed meeting or the matters identified in the motion were discussed,

NOW BE IT CERTIFIED, that only those matters as were identified in the motion were heard, discussed or considered in the meeting.

Upon motion of Mr. Talmage, seconded by Mr. Moody, this Certification Resolution was adopted.

Ayes Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway

Nays: None
Absent: Mr. Stone

The Chair called a recess until 7:00 p.m.

7:00 P.M.

12. PRESENTATION: J. BRYAN COBB

Chairman Donald Haraway presented the resolution below to Mr. Bryan Cobb.

Upon motion of Mr. Moody, seconded by Mr. Talmage,

MR. J. BRYAN COBB

WHEREAS, J. Bryan Cobb served as a Planning Commissioner for three years and nine months from February 2005 to December 2008 and in 2008 served as the Chairman of the Planning Commission handling zoning and subdivision cases and land use planning issues with distinction, integrity, and foresight; and

WHEREAS, the Board of Supervisors on this 20th day of October is desirous of acknowledging these qualities and further to express its appreciation for this work on behalf of the County of Dinwiddie; and

WHEREAS, J. Bryan Cobb greatly contributed to planning for the development and growth of the County involving all related local community and government concerns to the benefit of the citizens and the County. Mr. Cobb has participated in the development of two Comprehensive Land Use Plan updates and has served on several Planning Commission Committees addressing a variety of planning issues; and

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of Dinwiddie County, Virginia, hereby commends J. Bryan Cobb for his contributions and devoted service to the County of Dinwiddie and its citizens; and

BE IT FURTHER RESOLVED, by the Board of Supervisors of Dinwiddie County, Virginia, that this resolution be presented to J. Bryan Cobb, and a copy spread upon the minutes of this meeting for eternity.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody
Nays: None
Absent: Mr. Stone

Mr. Cobb thanked the Board for the resolution and stated that he was his pleasure to serve the county. He stated that he urged the Board to stay in touch with the Planning Commission and make sure that they know where the Board wants the county to go. He encouraged them to continue to work together as a team to better Dinwiddie County as a whole.

13.A. PUBLIC HEARING: AP-09-3, SOUTHERN DOMINION HEALTH SYSTEM AND BANK OF McKENNEY

Mark Bassett, Director of Planning, presented the information below.

The Chair opened the public hearing in this matter.

As there was no one signed up to speak, the Chair closed the public hearing in this matter.

Planning Summary Report

File #: AP-09-3
Applicants: Bank of McKenney and Southern Dominion Health System, Inc.
Proffer Amendment: To permit a temporary building to be placed on a portion of the existing 2.62 acre parcel in accordance with a temporary site plan
Current Zoning: Business, Limited, B-1
Property Address: 13812 Boydton Plank Road

Tax Map & Parcel #: 45D (1) 29B and 45D (1) 29C
Magisterial District: Rowanty District
Property Size: Approximately 2.62 acres
Related Cases: P-94-2, BOS approved May 4, 1994, AP-07-1, BOS approved April 17, 2007, AP-08-1, BOS approved February 19, 2008

CASE OVERVIEW

The applicants, Southern Dominion Health System, Inc., and the Bank of McKenney, are requesting to amend and restate in their entirety the proffers related to Tax Map Parcels 45D-1-29B and 45D-1-29C, accepted by the Board of Supervisors on May 4, 1994, and accepted as amended and restated in their entirety on April 17, 2007 and February 19, 2008, to permit a temporary building to be placed on a portion of the existing 2.62 acre parcel in accordance with a temporary site plan. The temporary building would be used for medical and physician offices and would remain on the parcel for the shorter of (1) two years, or (2) until such time as a permanent building is constructed and the site is developed, as required by the proffers currently on record. The property is located at 13812 Boydton Plank Road, Dinwiddie, Virginia 23841 on the west side of the intersection of Boydton Plank Road (Route 1) and Carson Road and is zoned B-1, Business, Limited, which allows for low intensity neighborhood business development. As set forth in the Dinwiddie County Comprehensive Land Use Plan, the subject property is located within the Planned Growth Area, which recommends medium density commercial development for this general area. The Route 1 Corridor Enhancement Study encourages infill development with mixed commercial uses with complimentary building facades.

ATTACHMENTS

- Proffer Amendment Application
- Third Amended Proffers
- Amended Proffers February 14, 2008 and BOS Minutes (February 19, 2008)
- Amended Proffers March 26, 2007 and BOS Minutes (April 17, 2007)
- Original Proffers and BOS Minutes (1994)

THIRD AMENDED PROFFERS

The applicant has submitted Third Amended Proffers to restate the latest amended proffers in their entirety. In the Third Amended Proffer Conditions, the applicant is proposing a temporary building to be placed on a portion of the existing 2.62 acre parcel in accordance with a temporary site plan. The temporary building would be used for medical and physician offices and would remain on the parcel for the shorter of (1) two years, or (2) until such time as a permanent building is constructed and the site is developed, as required by the proffers currently on record.

Staff Recommendation:

The planning staff has reviewed the Third Proffer Amendment and is satisfied that the applicant has addressed the impacts of amending the previously Amended Proffers to allow a temporary building on the subject property for a period of up to two years or until the permanent building is constructed as set forth in the proffers approved by the Board on February 19, 2008.

Staff recommends APPROVAL of the request to amend the Amended Proffers adopted on February 19, 2008 based on the following reasons:

1. Locating the temporary building on the property is compatible with the surrounding development pattern and does not change the original intent of the 2008 request to build a medical office building that is compatible with the existing bank building in bulk and complimentary design;
2. The request does not change the original fact that medical office uses conform with the underlying uses outlined in the Dinwiddie Courthouse Community Planning Area set forth in the Comprehensive Land Use Plan and Route 1 Corridor Enhancement Study;
3. The applicant has provided signed proffers addressing the impacts of the proposed uses on the subject property; and
4. Subject to the Third Amended Proffers being approved the applicant has submitted a site plan for the medical office site that has the approval of the planning staff and Land Development Committee.

Upon motion of Mr. Moody, seconded by Mr. Talmage,

BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, that Proffer Amendment AP-09-3 is approved by the Board of Supervisors.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

Chairman Haraway stated that he would like to publically thank Dominion Health System for taking on this project in Dinwiddie County. He said that in this day and time it is not easy to attract physicians.

13. B. PUBLIC HEARING: P-09-1, FIRST MANAGEMENT COMPANY, LLC

Brian Mitchell of Townes Engineering spoke as representative of the applicant. He stated that as Mr. Stone was not present at this meeting, the applicant was requesting a deferral until the November regular meeting in order for the matter to be heard before a full board. He added that the applicant would accept the cost incurred in advertising for public hearing in November.

The Chair opened the public hearing in case someone had come to this meeting to address the matter that would not be able to attend the November meeting.

Two individuals were signed up to speak but chose to wait until the November public hearing on this matter.

The Chair closed the public hearing in this case.

Upon motion of Mr. Talmage, seconded by Mr. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia to accept the request made by the Applicant to defer P-09-1 until the next regular Board meeting on November 17, 2009.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway
Nays: None
Absent: Mr. Stone

13.C. PUBLIC HEARING: PROPOSED AMENDMENTS OF THE ZONING ORDINANCE OF DINWIDDIE COUNTY CONCERNING THE KEEPING OF COMPANION BIRDS

Mark Bassett, Director of Planning, presented the information below.

The Chair opened the public hearing in this matter.

As no one else was signed up to speak, the Chair closed the public hearing in this matter.

Background

On March 6, 2008, the Codes Compliance Officer, Mr. Harris, observed a zoning violation occurring at 25610 Walkers Landing Court further defined by the Commissioner of Revenue's office as tax map parcel 9J-1-8. Mr. Harris sent a zoning violation letter citing that the Dinwiddie County ordinance does not allow the keeping of livestock associated with agriculture within the Residential Limited, R-1 zoning district.

The property owners, Qi and Xiu Xia Huang, request a zoning violation determination from the Zoning Administrator stating that the pigeons kept on the property were not for agricultural purposes but rather were companion birds.

In the letter dated April 15, 2008, the Zoning Administrator found that "agriculture" is not a permitted use in the R-1 zoning district. Section 22-1 of the Zoning Ordinance defines "agriculture" as "the tilling of the soil, the raising of crops, horticulture, forestry and gardening, including the keeping of animals and fowls, and including any agriculture industry or business,

such as fruit packing plants, dairies or similar uses.” By definition, the current activities on your property constitute an agriculture use. Agriculture is not a permitted use in the R-1 zoning district.

The applicants were told they could apply for an amendment to the Zoning Ordinance in order to provide for the keeping of companion birds. Our ordinance does not currently distinguish between the keeping of fowl and companion birds.

The property owner filed an Ordinance Amendment application and fee and proposed the changes to Chapter 22, Zoning of the Dinwiddie County Code to allow for the keeping of Companion Birds outdoors.

Proposed Ordinance Amendments

After considering the proposed text amendment at the June 10 Planning Commission meeting, the Planning Commission recommended that staff consider allowing the keeping of companion birds outdoors in residential districts as a use permitted with a conditional use permit. The following proposed Ordinance amendment has been drafted to define “companion bird” and “domestic fowl”, and to regulate the keeping of companion birds outdoors, including where the birds may be kept, the shelter which must be provided for them, and the responsibilities of the owner. The proposed amendments to Sections 22-59, 22-71, and 22-84 add the keeping of companion birds as a use permitted by-right in zoning districts A-1, A-2, and R-R, respectively. The proposed amendments to Sections 22-96, 22-114, and 22-127 add the keeping of two or fewer companion birds as a use permitted by-right, and the keeping of three or more companion birds as a use requiring a conditional use permit, in zoning districts RR-1, R-1, and R-1A, respectively.

For the complete Ordinance language, see the attached Ordinance amendments.

Requested Action

Staff recommends approval of the zoning ordinance amendments as submitted in order to allow the keeping of companion birds outdoors as a use permitted by-right in zoning districts A-1, A-2, and R-R, respectively, and to allow the keeping of two or fewer companion birds as a use permitted by-right, and the keeping of three or more companion birds as a use requiring a conditional use permit, in zoning districts RR-1, R-1, and R-1A, respectively.

Planning Commission Recommendation

At their September 9, 2009 Planning Commission meeting, the Planning Commission unanimously recommended approval of the Companion Bird Ordinance Amendments to the Board of Supervisors by a vote of 6-0.

The Planning Commission Chair, Mr. Samuel Hayes, was present at the meeting and spoke to the Board. He stated that the Planning Commission felt very strongly that this should not be looked at as a “by right” and felt each case should be considered individually. He said that since the applicant had come to the Planning Commission in good faith, thinking they could get this to a vote that he wanted to reaffirm what had been said by Mr. Bassett and strongly recommend that any subsequent fee be waived for the applicant.

Upon motion of Ms. Moody, seconded by Mr. Talmage,

WHEREAS, in accordance with Va. Code §§ 15.2-2285 and 15.2-2286, the Dinwiddie County Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of the following amendments:

NOW, THEREFORE, BE IT RESOLVED that the Dinwiddie County Board of Supervisors does hereby approve the Zoning Ordinance amendments as presented.

Ayes: Mr. Talmage, Ms. Moody, Mr. Moody, Mr. Haraway

Nays: None

Absent: Mr. Stone

**AN ORDINANCE TO AMEND THE
CODE OF THE COUNTY OF DINWIDDIE, 1985, AS AMENDED,
BY AMENDING SECTION 22-127, PERMITTED USES.
CHAPTER 22, ZONING, ARTICLE IV, DISTRICT REGULATIONS.**

BE IT RECOMMENDED by the Planning Commission of Dinwiddie County:

(1) That Chapter 22 of the Code of the County of Dinwiddie, 1985, as amended by inserting the following language shown underlined and deleting the following language marked as strikethrough:

Sec. 22-127. **Permitted uses.**

(12) The keeping of two (2) or fewer companion birds outdoors, subject to the requirements of Sec. 22-244.

(13) The keeping of three (3) or more companion birds outdoors with a conditional use permit, subject to the requirements of Sec. 22-244.

(2) *That this ordinance shall become effective immediately upon adoption.*

14. OLD / NEW BUSINESS: APPOINTMENTS

W. Kevin Massengill, County Administrator, stated that at the September regular meeting the Board appointed Michael W. Stone to the board of the Virginia Gateway Region; and reappointed Milton Hargrave to the same board for terms expiring September 30, 2009. After that meeting it was conveyed through the executive director that the terms are now by calendar year. Therefore, for administrative clarity, Mr. Moody will continue to serve on Virginia Gateway Region until December 31, 2009. Mr. Stone will serve January 1, 2010 through December 31, 2010. Mr. Hargrave will serve a term expiring on December 31, 2010.

Upon motion of Mr. Moody, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Marie Grant is reappointed to the John Tyler Alcohol Safety Action Program (ASAP) Board for a term expiring December 31, 2012.

Ayes: Ms. Moody, Mr. Talmage, Mr. Moody, Mr. Haraway

Nays: None

Absent: Mr. Stone

15. CITIZEN COMMENTS

The Chair did not open the citizen comment period as no one was signed up to speak.

16. ADJOURNMENT

Upon motion of Mr. Moody to adjourn, seconded by Ms. Moody,

Ayes: Mr. Talmage, Ms. Moody, Mr. Moody, Mr. Haraway

Nays: None

Absent: Mr. Stone

The meeting was adjourned at 7:26 p.m.

Donald L. Haraway
Chairman

ATTEST: _____

W. Kevin Massengill
County Administrator
Clerk to the Board

/wjn