

February 13, 2008

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, February 13, 2008, at 3:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1  
DEE E. FLOYD, Election District #3  
WILLIAM B. KYGER, JR., Election District #4  
MICHAEL A. BREEDEN, Election District #5

\*FREDERICK E. EBERLY, Election District #2 joined the meeting at 3:20 p.m.

Also present:

JOSEPH S. PAXTON, County Administrator  
THOMAS H. MILLER, JR., County Attorney  
STEPHEN G. KING, Deputy County Administrator  
JAMES L. ALLMENDINGER, Director of Finance  
WENDELL J. EBERLY, Director of Recreation and Facilities  
WARREN G. HEIDT, Director of Public Works  
FRANKLIN P. O'BYRNE, Director of Information Systems  
STEPHEN N. RIDDLEBARGER, Director of Human Resources  
DIANA C. STULTZ, Zoning Administrator  
ROBERT A. SYMONS, Fire and Rescue Chief  
WILLIAM L. VAUGHN, Director of Community Development  
TAMELA S. GRAY, Deputy Clerk  
DONALD F. KOMARA, Residency Administrator  
Virginia Department of Transportation

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**CALL TO ORDER  
PLEDGE OF ALLEGIANCE  
INVOCATION.**

Chairman Floyd called the meeting to order at 3:00 p.m.

Deputy Administrator King led the Pledge of Allegiance. Chairman Floyd gave the Invocation.

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**APPROVAL OF MINUTES.**

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 4 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE;

EBERLY – ABSENT; FLOYD - AYE; KYGER - AYE; the Board approved the minutes of the regular meeting of January 23, 2008.

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**TRANSPORTATION DEPARTMENT.**

The Board heard Mr. Komara's report on the activities of the Transportation Department.

Mr. Komara stated that he would provide the Revenue Sharing Program information to the Board at the February 27, 2008 meeting. Mr. Komara noted that the "No Thru Trucks" proposal was sent to the central office in Richmond for approval and he hoped to hear back from Richmond shortly.

- a. Stone Spring Road Project – This matter was delayed and will be discussed at the February 27, 2008 meeting.
- b. Bridgewater Bypass – VDOT continues to gather data and review comments. On January 23, 2008, Supervisor Kyger requested a report from the towns of Bridgewater and Dayton regarding their recommendations for the proposed Bridgewater Bypass. Mr. Paxton stated Bridgewater officials preferred Option A; Mr. Komara said Dayton officials favored A more than B, but wanted VDOT to look at another alternative on Route 704. Mr. Komara will provide the summarized comments to the Board of Supervisors at the February 27, 2008 meeting.

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**PRESENTATION – SERVICE WEAPON – CAPTAIN WES JORDAN.**

On behalf of the County, Sheriff Don Farley presented Captain Wes Jordan with his service weapon. Mr. Jordan plans to retire in June 2008, after serving in the Sheriff's Office since October 1977.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 4 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – ABSENT; FLOYD - AYE; KYGER - AYE; in accordance with Virginia Code Section 59.1-148.3, the Board declared as surplus:

Glock 27, Serial # FTU791 – 40-caliber service weapon used by Captain Wes Jordan.

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**INTRODUCTION OF STUDENT.**

Supervisor Kyger introduced Shannon Beydler from Turner Ashby High School.

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At 3:20 p.m., Supervisor Eberly arrived for the meeting.

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**PRESENTATION – MASSANUTTEN REGIONAL LIBRARY.**

Phil Hearne, Director of the Massanutten Regional Library, provided an update on the Massanutten Regional Library system. Mr. Hearne noted that the Massanutten Regional Library was the largest and busiest library system between Loudon County and Roanoke.

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**RESOLUTION AND DECLARATION OF OFFICIAL INTENT –  
AUTHORIZATION TO SUBMIT APPLICATION TO VIRGINIA PUBLIC  
SCHOOL AUTHORITY FOR \$12,400,000 IN SCHOOL BONDS FOR RIVER  
BEND ELEMENTARY SCHOOL.**

Administrator Paxton presented a Resolution and Declaration of Official Intent which was the second of three financings for three school projects. This financing was primarily for River Bend Elementary School, but some of the funds will go toward the new high school project. In the fall, the Board will determine whether to issue the balance of the funds or issue part of the funds in the fall and the remainder in the spring.

On motion by Supervisor Breeden, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution:

**February 13, 2008**

**Board of Supervisors of Rockingham County, Virginia**

**River Bend Elementary School: \$12.4 Million Loan Application  
VPSA 2008 Spring Pooled Bond Sale**

**APPLICATION RESOLUTION  
AND DECLARATION OF OFFICIAL INTENT**

**WHEREAS**, the Virginia Public School Authority (the “VPSA”) has been authorized by the Virginia General Assembly to purchase local school bonds from time to time in order to finance capital projects for school purposes; and

**WHEREAS**, the School Board (the “School Board”) of the County of Rockingham, Virginia (the “County”) has duly approved a resolution at its meeting held on February 13, 2007, as required by law, to request and consent to the issuance of up to aggregate \$90,000,000 general obligation school bonds to be issued and sold by the County to the VPSA, in one or more series and from time to time, in order for the County to provide funds to pay capital costs for school purposes including the reimbursement of prior expenditures therefore by the School Board and/or the County, as the case may be; and

**WHEREAS**, pursuant to a resolution duly adopted by the Board of Supervisors of the County (the “Board”) on February 15, 2007, the Board called for a public hearing, and appropriate notices in connection therewith, regarding the issuance by the County of up to aggregate \$90,000,000 general obligation school bonds of the County, in one or more series and from time to time; and

**WHEREAS**, on March 14, 2007, the Board held a public hearing and approved an initial resolution authorizing the issuance of up to \$90,000,000 general obligation school bonds, from time to time, in order to finance the capital costs for school purposes in the County (the “\$90 Million Initial Resolution”); and

**WHEREAS**, it is anticipated that the VPSA will approve the purchase of local general obligation school bonds in connection with the 2008 Spring Pooled Bond Sale by the VPSA; and

**WHEREAS**, further, the School Board has duly approved a resolution at its meeting held on February 12, 2008, to request the Board to authorize a loan application to the VPSA in connection with the 2008 Spring Pooled Bond Sale for the purchase of up to **\$12,400,000** general obligation school bonds of the County in order to provide a portion of the funds needed for the construction and equipping of capital projects including the new River Bend Elementary School (all capital projects for school purposes in the County being collectively referenced hereinafter as the “Project”); and

**WHEREAS**, the County now desires to authorize the submission of a loan application to the VPSA in order to provide funds to pay a portion of the costs of the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ROCKINGHAM, VIRGINIA, as follows:**

1. The Board hereby ratifies, approves and confirms, in all respects, the \$90 Million Initial Resolution regarding the issuance by the County of its up to \$90,000,000 general obligation school bonds, in the aggregate, in one or more series and from time to time, all as described therein.

2. In particular, the Board hereby consents to and authorizes the submission of a loan application to the VPSA consistent with the intent herein, all as described above, with respect to general obligation school bonds of the County in an aggregate principal amount not to exceed **\$12,400,000** (the "Bonds"), to be issued by the County in connection with the 2008 Spring Pooled Bond Sale by the VPSA, in order for the County to provide funds to pay a portion of the costs of the Project.

3. All officers of the County are hereby authorized and directed to take all such further actions as may be necessary or convenient in order for the County to carry out the purposes and intent described herein.

4. This Resolution shall be effective immediately.

PASSED AND ADOPTED this 13<sup>th</sup> day of February, 2008.

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**CONTENT MANAGEMENT SOLUTION PROPOSAL.**

Director of Information Systems Frank O’Byrne and Network Administrator Terri Perry presented a proposal for content management software. This is next generation software which expands on document imaging, and includes search and retrieval capabilities for all electronic and paper documents.

Deputy Administrator King reviewed the financial cost and implementation plan for the content management software. \$120,000 is included in the capital portion of the approved 2007-2008 budget to begin work on this project. The cost of the software includes employee training.

Following a lengthy discussion regarding security issues, staff noted there will be security standards established for each department and confidential information can be redacted. Additionally, employees who scan or enter data have the same responsibility for confidentiality, and will suffer the same disciplinary consequences, as they would by mishandling paper documents.

On motion by Supervisor Eberly, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board authorized entering into a contract for the content management solution software. If the software performs as anticipated, the implementation plan will be as follows:

**County-wide Document Imaging Project**

**FY 2007-2008** **\$119,715** \*

Administration  
Human Resources  
Information Systems

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**\* -- The purchase in FY 2007 - 2008 includes all costs of software except licenses for additional departments**

<b>FY 2008-2009</b>	<b>\$150,975</b>	
Community Development		
Finance		
Commonwealth's Attorney		
Public Works		
<b>FY 2009-2010</b>	<b>\$80,915</b>	
Parks & Recreation		
Fire & Rescue		
Court Services		
<b>FY 2010-2011</b>	<b>\$206,955</b>	
Jail		
Treasurer		
Commissioner of the Revenue		
Voter Registrar		
<b>FY 2011-2012</b>	<b>\$6,000</b>	<b>(Required Training only)</b>
<b>Total Cost of Implementation</b>	<b>\$564,560</b>	
<b>Less 2007-2008 Appropriation</b>	<b>\$119,715</b>	
<b>Cost of Further Implementation (2008 - 2012)</b>	<b>\$444,845</b>	
<b>Estimated On-going Support Costs are 18% of Licenses Owned</b>		
FY 2008 - 2009	<b>\$19,530</b>	
FY 2009 - 2010	<b>\$41,908</b>	
FY 2010 - 2011	<b>\$50,656</b>	
FY 2011 - 2012 forward	<b>\$78,649</b>	

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**COUNTY ADMINISTRATOR'S STAFF REPORT.**

The Board received and reviewed Administrator Paxton's staff report dated February 6, 2008, including information on the Human Services facility and Central Shenandoah Juvenile Detention Home.

The Community Services Board, Social Services, and Health Department are working together to attract health research grant funding to expand a State and Federal initiative for the elderly called "No Wrong Door," to include families and youth. The County has approached SRI International, which has a health services research unit, to help develop the grant.

Administrator Paxton reported that the Detention Home Commission plans to modify the Central Shenandoah Juvenile Detention Home in Verona, which is not operating at capacity, to allow a portion of the facility to be used for a less secure facility. He explained this renovation and addition will permit the Comprehensive Services Act (CSA) program to use the home to house 20-24 youth for evaluation to determine the level of services required, rather than sending the children to facilities out of the area. The cost will be \$75,000 for room, board and education per child per year versus the \$150,000 - \$190,000 per year the County currently pays to send a child to a facility out of the area. The cost for the building modification is expected to be \$500,000 and the savings per year per child would be \$125,000. The Commission has funds which would be used to begin the project and they are negotiating with the bank to increase the Commission's debt, lower the rate, and extend terms so the facility will not directly cost the localities any money. This proposal is a better option for the children and families, and the County's overall costs will be lowered because the fixed cost will be spread over

more children. No action was required, but Administrator Paxton expects action will be necessary at the February 27, 2008 meeting.

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**COUNTY ATTORNEY'S STAFF REPORT.**

The Board received and reviewed Mr. Miller's report.

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**DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.**

The Board received and reviewed Mr. King's report dated February 7, 2008.

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board authorized the purchase of Firesolv solution software for Fire and Rescue, and approved a supplemental appropriation to 001-03201, Fire and Rescue, in the amount of \$24,500 with funds from the General Fund reserve.

The bid summary for the software is as follows:

	<b>Bid</b>
Deccan International	\$83,400
Omega View	\$35,000
<b>ARCBridge's Firesolv</b>	<b>\$24,500</b>

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**FINANCE DIRECTOR'S STAFF REPORT.**

Mr. Allmendinger did not have a written report but was present to answer questions.

Administrator Paxton informed the Board that the County received the Governor's proposed reduction for the downturn in the economy. Counties and cities were not affected in the first round of cuts. However, general funds for school construction grants will be reduced \$27.5 million each of the next two years; Rockingham County has received \$600-\$700 thousand in construction funds each year. Additionally, the Governor is proposing to transfer 50% of the local lottery proceeds that the County receives for education directly into operations to cover a portion of the state's share of Basic Aid. Currently, the County uses half of the lottery proceeds to reduce the amount of money borrowed for school construction and the other half goes toward school operations. Administrator Paxton stated the County will see a reduction in state funding for education unless we do not use money for school construction. Over the next two years (2009 and 2010) agencies funded by local government will see a reduction of 4-5% in their funding. The impact on each agency and constitutional officer will vary.

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**FINANCE COMMITTEE REPORT.**

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by the following vote: BREEDEN – AYE; CUEVAS – AYE; EBERLY – AYE; FLOYD - AYE; KYGER – AYE; the Board approved the following Finance Committee requests:

- Reallocating personnel costs of \$83,000 from salaries and wages to cover overtime expenses. The reallocation is within the Fire and Rescue departmental budget as follows:

\$83,000 GL Code: 001-03201-000-1200-000 Overtime  
 \$83,000 GL Code: 001-03201-000-1100-000 Salaries & Wages

- Supplemental appropriation requested by Fire and Rescue for the purchase of five capnography monitors. The Office of Emergency Medical Services awarded a grant which will cover 80% of the cost of these monitors. The County’s share of the purchase (\$13,800) was previously budgeted and requires no additional local funding.

\$55,194 GL Code: 001-03201-000-6065-000 Minor Equipment  
 \$55,194 GL Code: 001-02404-3600 OEMS Consolidated Grant Program

- Financing of a 3-ton blower coil to replace the existing blower coil for the Juvenile & Domestic Relations Court cooling system in the District Courts Building. This expenditure was not in the budget.

\$ 9,850 GL Code: 001-04310-000-8305-000 Site Improvements  
 \$ 9,850 GL Code: 001-09110-000-5800-000 Contingency

- Increasing the mileage reimbursement rate from \$0.485 to \$0.505 per mile effective February 13, 2008.

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On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by the following vote: BREEDEN – AYE; CUEVAS – AYE; EBERLY – AYE; FLOYD - AYE; KYGER – AYE; the Board authorized the following public notice to amend the FY2007-2008 budget for a public hearing on February 27, 2008.

**PUBLIC NOTICE**

The Board of Supervisors of the County of Rockingham, Virginia will hold a public hearing on Wednesday, February 27, 2008 at 7:00 pm in the Board of Supervisors' Meeting Room, 20 East Gay Street, Harrisonburg, to consider an amendment to the Fiscal Year 2007-2008 Rockingham County budget. The purpose of this amendment is to appropriate funds for the permanent financing for the new Cub Run Elementary School, permanent financing for the SRI International building, and establish a fund for the self-insured health insurance plan.

The Board of Supervisors will consider adoption of this amendment following the public hearing.

Proposed Amendment  
 Fiscal Year 2007-2008 Adopted Budget

Revenue:

General Fund	
Proceeds from Permanent Loan	\$17,500,000
Proceeds from Permanent Loan	<u>6,708,062</u>
	\$24,208,062
Capital Projects Fund	
Transfer from General Fund	\$17,500,000
School Capital Projects Fund	
Transfer from General Fund	\$ 6,708,062
Self-Funded Health Ins Plan Fund	
Health Ins Premiums	<u>\$14,069,704</u>
Total Revenue	\$62,485,828

Expenditure:

General Fund	
Transfer to Capital Projects Fund	\$17,500,000
Transfer to School Capital Projects Fund	<u>6,708,062</u>
	\$24,208,062
Capital Projects Fund	
Building Construction	\$17,500,000
School Capital Projects Fund	
Building Construction	\$ 6,708,062
Self-Funded Health Ins Plan Fund	
Professional Health Services	<u>\$14,069,704</u>
Total Expenditure	\$62,485,828

A copy of the proposed amendment is available for inspection in the County Administrator's Office at the Rockingham County Administration Center, 20 East Gay Street, Harrisonburg, Virginia.

Rockingham County Board of Supervisors

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**HUMAN RESOURCES DIRECTOR'S STAFF REPORT.**

Mr. Riddlebarger did not have a written report.

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**PUBLIC WORKS DIRECTOR'S STAFF REPORT.**

The Board received and reviewed Mr. Heidt's staff report dated February 13, 2008, which stated the following:

- Penn Laird Drive and Water Tower Road Sewer – project is on weather hold to complete paving of open cut areas;
- McGaheysville WWTP – final design submitted to DEQ for review; approximately twenty easement letters were sent to property owners along the first phase of the project;
- Phase III/IV of landfill expansion – requires Board approval of an \$80,393 change order on the gas system expansion project;
- Pleasant Run Sewer Interceptor and Water Supply Line – sewer line is under construction and scheduled for completion by July 1, 2008;
- Lilly Gardens – formal bids were received January 23, 2008 and Board approval is required to initiate a contract;
- Highland Park Sewage Lift Station – construction began January 21, 2008.

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**PUBLIC WORKS COMMITTEE REPORT.**

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by the following vote: BREEDEN – AYE; CUEVAS – AYE; EBERLY – AYE; FLOYD - AYE; KYGER – AYE; the Board approved a change order in the amount of \$80,393 to complete the landfill gas system upgrade project.

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**COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.**

The Board received and reviewed Mr. Vaughn's staff report dated February 13, 2008.

At the request of Chairman Floyd, on motion by Supervisor Eberly, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board removed from the table S07-65, Kenneth R. Moran, 6072 Spotswood Trail, Penn Laird for a welding shop, northwest side of Lawyer Road (Route 655) and Spotswood Trail (Route 33), Election District #3.

Chairman Floyd stated that commercial uses adjoining this property make the property better suited for commercial use than residential use. If the special use permit is approved, the County can require the applicant meet specific conditions.

At the request of Chairman Floyd, on motion by Supervisor Eberly, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board approved S07-65 special use permit request of Kenneth R. Moran, subject to the following conditions.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) A change of use building permit shall be obtained to convert the building from a private garage to a welding shop.
- (3) As this is a commercial operation, a commercial entrance permit shall be obtained from VDOT's Residency Office and shall be submitted to the Department of Community Development prior to obtaining final zoning approval for building permits.
- (4) As required by VDOT, this entrance shall be off of Lawyer Road.
- (5) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (6) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (7) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (8) Off-street parking shall comply with the Rockingham County Code.
- (9) All work shall be done inside the building, and there shall be no accumulation of parts, equipment, etc. outside the building.
- (10) No junk, trash or debris shall be allowed to accumulate on the property.
- (11) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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**INFORMATION SYSTEMS DIRECTOR'S STAFF REPORT.**

The Board received and reviewed Mr. O'Byrne's staff report dated February 6, 2008, including information about permit and parcel software implementation (CityView), Windows server migrations, Windows XP, Supreme Court access for the Court Services Unit, Eden Gold software update, Treasurer's system access, ICHRIS, 2008 personal property data, equipment installations and the Information Technology Advisory Committee.

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**FIRE & RESCUE CHIEF'S STAFF REPORT.**

The Board received and reviewed Chief Symons' staff report dated February 4, 2008.

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**RECREATION AND FACILITIES DIRECTOR’S STAFF REPORT.**

The Board received and reviewed Mr. Eberly’s staff report dated February 6, 2008. Mr. Eberly reported the sign and plaque were installed at the Charles W. Ahrend Picnic Shelter at the Singers Glen Community Center to commemorate Mr. Ahrend’s years of service on the Board.

Mr. Eberly noted that financing was approved for the replacement blower coil for the District Courts Building earlier in the meeting; therefore, Mr. Eberly requested approval to award the bid to perform the work.

On motion by Supervisor Eberly, seconded by Supervisor Cuevas and carried by the following vote: BREEDEN – AYE; CUEVAS – AYE; EBERLY – AYE; FLOYD - AYE; KYGER – AYE; the Board awarded the blower coil replacement project for the District Courts Building to Webb Technologies.

The bid summary for the blower is as follows:

	<b>Bid</b>
Riddleberger Brothers, Inc.	\$18,021
Blauch Brothers	\$15,430
Mountain Valley Home Comfort	\$12,984
<b>Webb Technologies</b>	<b>\$9,850</b>

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**BUILDING AND GROUNDS COMMITTEE REPORT.**

Mr. King noted in the Building and Grounds Committee report that County staff has expressed interest in the surplus materials in the Goodyear building. Since the memo was sent to the Board, three citizens have expressed interest in the surplus materials. The County salvaged everything from the Goodyear building that is believed to be of value; the cost to remove the remaining items is more than their value. Mr. King stated that as long as the remaining materials can be salvaged safely and without delaying the contractor, allowing removal of the items will eliminate sending the materials to the landfill.

On motion by Supervisor Kyger, seconded by Supervisor Eberly and carried by the following vote: BREEDEN – AYE; CUEVAS – AYE; EBERLY – AYE; FLOYD - AYE; KYGER – AYE; the Board declared the building materials in the Goodyear building as surplus property. Staff or citizens can remove the surplus materials for their personal use, not for resale. If staff removes surplus items, it is to be done on their own time. Mr. Allmendinger will work with Mr. Eberly to dispose of the items.

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**RECESS.**

At 4:45 p.m., Chairman Floyd declared the meeting recessed for a meeting of the Lilly Gardens Subdivision Sanitary District Board.

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**CALL TO ORDER.**

Chairman Floyd called the regular meeting back to order at 4:48 p.m.

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**RECESS FOR DINNER.**

At 4:49 p.m., Chairman Floyd declared the meeting recessed for dinner, which was provided by Rockingham County 4-H Foods Committee, 4-H Ambassadors, 4-H County Council, and the Rockingham County Extension Office.

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**CALL TO ORDER.**

At 7:00 p.m., Chairman Floyd declared the meeting open.

On motion by Supervisor Kyger, seconded by Supervisor Eberly and carried by the following vote: BREEDEN – AYE; CUEVAS – AYE; EBERLY – AYE; FLOYD - AYE; KYGER – AYE; the Board dispensed with the remaining Committee Reports to allow staff members to leave.

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**PUBLIC HEARING – SPECIAL USE PERMIT REQUESTS.**

At 7:01 p.m., Chairman Floyd declared the meeting open for a public hearing and Zoning Administrator Stultz reviewed the following special use permit requests:

S08-05, Shenandoah Mobile Company, P.O. Box 459, Edinburg, for a telecommunications facility (150' stealth flag monopole) with accessory equipment on property located on the northeast side of Hilltop Road east of Woodland Drive, Election District #3, zoned R-5. Tax Map #126G-(2)-11.

Ms. Stultz informed the Board that she received a letter from an attorney questioning whether the pole should be considered a public utility and should go before the Planning Commission. Staff recommended holding the hearing and then tabling the request to determine if such towers are public utilities which must comply with the Comprehensive Plan.

Paula Figgatt, speaking on behalf of Shenandoah Mobile Company (ShenTel), provided additional information on the proposed site. She stated the goal of ShenTel was to provide coverage along Route 33.

Kevin Webb said Fred Holbrook, Executive Director at Massanetta Springs, originally contacted ShenTel because Massanetta Springs guests were not able to use their cell phones. Mr. Webb stated that residents in the Massanetta Springs area received adequate cell service through other providers. He suggested that ShenTel find a different solution in another location such as locating their tower on the 100-foot clock tower at Preston Lake or utilizing smaller flagpoles in Massanetta Springs or Preston Lake.

Tom Wright noted that this was not a stealth flagpole as it will be clearly visible. He said a flag should be 1/3 to 1/4 the size of the pole; therefore, a 35-foot flag would be required. He noted that current plans were to put a church flag on the pole rather than an American flag so it would not need to be raised and lowered. Mr. Wright stated the flag would be tattered within a few months and he thought it would probably be taken down and not replaced.

Ronald Wine, a new neighbor to Bridlewood, stated he understood Preston Lake was an alternative, which he supported.

Steven Harper indicated he attended a meeting held by ShenTel representatives to find out if there were other alternatives to the proposed tower. Mr. Harper stated the ShenTel representative indicated this was their only option and that they had not researched other tower locations.

Attorney Kevin Rose spoke on behalf of his clients, Bob and Ingrid Moran. He and his clients believed this request should go before the Planning Commission. Mr. Rose said the Board amended the ordinance to allow only a stealth tower in this area but a tower sixty feet above the tree line does not meet the definition of stealth in the County's ordinance. Mr. Rose questioned whether the tower would assist visitors if they do not have ShenTel or NTELOS service and stated that local residents do not have cell phone problems in this area.

Curt Schwalbach, President of the Bridlewood Homeowners Association and a telecommunications executive, questioned how many subscribers would be impacted. He questioned if this was a community need or the need of a few people and whether this was a carrier-specific dead zone since other carriers had strong signals in this area. He also raised concerns regarding safety issues if the tower were to fall due to high winds or a plane hitting the pole.

Jim Mannion from Singers Glen said if an American flag was flown on the pole, the flag would need to be 25' x 35' to be proportional with the flagpole and the flag would tatter and needs to be illuminated at night. He stated that flying an American flag incorrectly was in direct violation of the law and that the American flag should not be used for commercial purposes.

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S08-06, Blue Ridge Communication, 2617 Grace Chapel Road, Harrisonburg for replacement communication tower and ancillary building (increasing the height of the tower from 135' to 165') on property located on the northwest side of Mayberry Road (Route 773) approximately 3,000 feet northeast of Sparkling Springs Road (Route 772), Election District #2, zoned A-2. Tax Map #62-(A)-28.

Ms. Stultz stated that the County has not received a complete report on the tower, including the one to be removed. Alltel showed our consultant the wrong tower and the applicant submitted additional engineering work which was also incorrect. She said there may be or may have been up to six towers on this property but permits were only located for two towers and no permits were located for either of the towers BR Communications has requested to work on.

Samuel Lilly submitted a letter offering to build the new tower once it was approved and remove both the old towers, for which permits were never obtained, within three months of completion of the new tower, according to Ms. Stultz. Ms. Stultz indicated the applicant was asked to withdraw their request until the site could be re-evaluated, but since the applicant did not want to withdraw their request, Ms. Stultz said staff recommended tabling the special use permit request to determine if it needed to go to the Planning Commission (for the same reason as S08-05) and to allow time for the proper engineering report to be submitted, reviewed and provided to Board members.

Administrator Paxton questioned whether the public hearing should proceed since an engineering report is required in advance of the hearing or if it should be delayed until the application is complete and then re-advertise the public hearing. He stated it is difficult to proceed without complete information. Administrator Paxton said this could set a precedence that the Board will conduct public hearings on incomplete applications.

Ms. Stultz noted that the County normally does not conduct more than one public hearing. If the engineering report is completely different, Ms. Stultz believed the public had the right to be able to speak about the new report.

Supervisor Kyger questioned whether it is possible to conduct a public hearing with the people present and recess the hearing until the application was complete.

Administrator Paxton indicated the Board could do this, but the continuation of the public hearing will need to be advertised. He stated the two people present for

this public hearing may want to come back and speak to the new report anyway. Supervisor Cuevas suggested waiting until additional information was obtained and re-notifying the eleven property owners who were originally notified.

Supervisor Eberly indicated he was prepared to table the request and suggested recessing this section of the public hearing until the proper supporting documentation is received.

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**RECESS.**

At 7:55 p.m., Chairman Floyd recessed the public hearing and called the regular meeting back to order.

On motion by Supervisor Cuevas, seconded by Supervisor Eberly and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board continued the public hearing on special use permit S08-06 for Blue Ridge Communication for replacement of a communication tower and ancillary building on property located on the northwest side of Mayberry Road (Route 773) approximately 3,000 feet northeast of Sparkling Springs Road (Route 772), Election District #2 until the application is complete, with the condition that all the property owners will be notified in writing of the new hearing date.

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**RECONVENE PUBLIC HEARING.**

At 7:56 p.m., Chairman Floyd reconvened the public hearing. Ms. Stultz reviewed the remaining requests.

S08-07, Randy Cosner, P.O. Box 609, Broadway, for a private aircraft runway and hangar on property located on the west side of Wentworth Drive (Route 873) approximately 1,700 feet southwest of Mayland Road (Route 259), Election District #1, zoned A-2. Tax Map #52-(A)-134, 140A1 and 140B.

Ms. Stultz stated the application is for a private runway for the applicant's use only except for emergency landings and use by emergency medical helicopters. She said no nighttime flying will be permitted and the Emergency Services tower near this property shall not be required to be illuminated. Ms. Stultz explained that if the FAA required lighting of the tower because of this runway, the special use permit will become null and void. She said a condition was requested by the Emergency Communications staff that departure be to the north and approach from the north to eliminate problems with the Emergency Services tower.

Randy Cosner provided additional documentation to the Board listing specifics for one of his current aircraft, as well as the future aircraft he might own. He provided information regarding his proposed runway compared to the New Market Airport runway. Mr. Cosner noted that with his current planes he will use less than 1/3 of the runway and was willing to proffer that the maximum weight of any aircraft he would own would be 7,500 pounds, and would use less than half the runway. In response to neighbor's concerns regarding noise, the applicant stated that it takes 30 seconds for his plane to take off from the runway, and he only planned to fly once a week or once every other week. The property where the runway is proposed currently contains cattle and horses which Mr. Cosner said will remain. Mr. Cosner also indicated property values should not be an issue as there was enough buffer between the runway and surrounding property.

Eric Hoover questioned whether aviation fuel will be stored in the hangar. The applicant indicated no fuel will be stored on site and he planned to refuel at other airports.

Attorney Steven Blatt, who represented Mr. Halterman, Mr. Hoover, Darnice Pettigrew and Wayne and Sandy Mongold, provided the Board with a petition signed by 72 landowners living in close proximity to the proposed site. Mr. Blatt expressed concern over putting a runway on a hill and noted he believed there was no reason to expose people that lived in the area to this danger when there were numerous airports in the area. Mr. Blatt expressed concern over operating aircrafts during poor visibility and noted there was nothing in the application indicating the proposed site met the minimum design standards the FAA recommended. He also expressed concern over wind cross currents during takeoff and landing.

Robert Halterman, who lived in a three-story house on the east side of the proposed runway, noted there were poles and electrical lines across the road from his home that he was worried about. Mr. Halterman also expressed concern about run-off water after the landscape was altered to put in the runway.

Darnice Pettigrew, an adjacent landowner south of the proposed runway, stated she was concerned about noise and the close proximity of the proposed runway to her property line. She wondered how the County will enforce its use by only Mr. Cosner. She also expressed concern that Mr. Cosner may request lights at a later date.

Richard Juarez expressed concern over noise created by both construction of the runway and use of the air strip. He stated the area often had high winds and he was concerned about the potential danger of Mr. Cosner taking off and landing in the hilly area when it was windy.

Daniel Fraser, who lived south of the proposed runway and Emergency Services tower, often heard planes flying into New Market Airport. He believed their visibility may be limited by Mr. Cosner taking off or landing.

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S08-08, Richard K. & Kay G. Early, 5379 Klines Mill Road, Linville for on-site catering and banquet events and food preparation for off-site catering on property located on the east side of Klines Mill Road (Route 784) approximately 9/10 mile west of Harpine Highway (Route 42), Election District #2, zoned A1. Tax Map #64-(A)-40D.

Ms. Stultz noted that the applicants were granted a special use permit in February 2005, which expired without the required work being completed. Ms. Stultz said when the Earlys requested the special use permit, it was noted that they recently purchased land across from their home resulting from an illegal division of land. Ms. Stultz stated staff needs an immediate site plan approved for the existing barn in order for Mrs. Early to continue holding events on the property. She said if the request is approved, the County needs to determine whether functions should continue until a commercial entrance permit is obtained from VDOT. Staff work is needed to determine if that the barn is safe and meets building and fire codes. She also noted that the deed needs to be corrected to bring the illegal division into compliance.

Mrs. Early stated she and her husband lived on this property and operated Early catering out of the Ramada Inn. She stated that in addition to re-applying for the special use permit, they were requesting a change of use permit for the existing barn which can hold 100 people. Mrs. Early said they want to expand the barn to hold 300 to 350 people. She said if an event with over 125 people is held, they will utilize a tent to house the additional people.

In response to a question from County Attorney Miller, Mrs. Early said she will stop the current use of the barn until the application is approved and requested that someone walk her through the steps necessary to obtain the change of use.

She indicated they probably will not begin the new facility until the fall so they would like the change of use permit.

Ms. Stultz said if the request is approved, a condition should be added that the applicant obtain a permit for use of a tent if one is required for a function. The requirement for a permit depends on the size of the tent.

Louis Van Der Eems was an adjoining property owner. He and his wife purchased 22 acres in this area to have a peaceful environment, but have experienced excessive noise during functions at the Earlys. Mr. Van Der Eems stated that the Earlys were provided with conditions when the first special use permit was granted, but they continued to hold events. He asked whether this special use permit will address parties held in the Earlys' home.

Mr. Van Der Eems requested that this special use request be denied, but if it was approved, he would like a condition that events be reduced to 10-15 a year or one every other weekend during good weather. He said the original request covered occasional events but the Earlys held 25-30 events a year.

In response to Mr. Van Der Eems' concerns, Mrs. Early stated that use of the banquet room in her home is a totally different use. Mrs. Early said she and her husband also wanted to live in a peaceful, quiet neighborhood so she was happy to agree to the conditions of the special use permit. However, if events were limited to 10 a year, they will not be able to pay for the facility. She estimated hosting 20-25 events at this location each year. She noted the illegal land division is on property purchased across the road and the closing was handled by an attorney. The Earlys were not aware of the illegal land division until they applied for this special use permit. Their attorney contacted Ms. Stultz and hopefully this issue will be corrected soon.

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S08-09, Glenda J. Kesner, 162 South Avenue, Harrisonburg for a double-wide manufactured home on property located on at the dead end of Shenk Drive (private) approximately 875 feet southwest of Kieffer Road (Route 876), Election District #2, zoned RR-1. Tax Map #63-(8)-4.

Ms. Stultz provided the Board of Supervisors with a petition she received today (February 13, 2008).

Dennis Kiracofe, an adjacent landowner speaking on behalf of Glenda Kesner, stated the lot across from his has a modular home. He said the manufacturer offered a modular that looked the same as Ms. Kesner's double-wide with the same floor plan, but the price of the modular home and installation were higher. Mr. Kiracofe stated Ms. Kesner's home will be on a permanent foundation and meets all the restrictive covenants of this subdivision.

Jim Mannion stated that this subdivision was zoned RR1, residential development of an exclusive nature, and a double-wide manufactured home was not compatible with the other homes in the subdivision. He said there were three other lots remaining to be developed, and approval of this manufactured home could set precedence for double-wide manufactured homes on the remaining lots.

Robert Groome lived in a modular home in this subdivision. He stated he was informed of the covenants when he bought his home.

In response to a question from Supervisor Cuevas, Ms. Stultz stated this subdivision was developed in the 1980s and the Board approved the RR1 zoning prior to that. Ms. Stultz explained that RR1 zoning by special use permit did allow a double-wide, so this home met the County's requirements. Ms. Stultz said the purchaser should have been made aware of the covenants when she

purchased the property. She noted that the County does not enforce restrictive covenants; only the landowners could enforce them.

Dennis Kiracofe explained that a modular home is set off the frame and a manufactured home is set on a frame but is on a permanent foundation. He stated that the restrictive covenants do not directly address modular or manufactured homes, but indicated the outside of the home needed to be made of natural material (wood or stone) and be at least 1500 square feet. In response to a question from Supervisor Eberly, Mr. Kiracofe indicated the installation price for a modular home was more because a crane was needed to lift the home into place.

Glenda Kesner informed the Board that she sold her town house in Harrisonburg, has purchased her home from Clayton Homes, and put in a well, septic system and driveway, so she needs the special use permit.

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At 9:13 p.m., Chairman Floyd closed the public hearing and called the regular meeting back to order.

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The supervisors discussed the fact that there were other alternatives and a 150-foot flagpole stealth tower was not in keeping with the surrounding area.

At the request of Chairman Floyd, and based on the Board's discussion, on motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board denied S08-05, Shenandoah Mobile Company, P.O. Box 459, Edinburg, for a telecommunications facility (150' stealth flag monopole) with accessory equipment on property located on the northeast side of Hilltop Road east of Woodland Drive, Election District #3, zoned R-5. Tax Map #126G-(2)-11.

In response to questions from Supervisors Cuevas and Kyger, the County's engineering consultant, George Condyles, indicated ShenTel was on most of the towers in the area for the mobile network but now they wanted in-building penetration for customers to use PDAs and wireless laptops. He said this was the best site, but a series of smaller towers was an option for ShenTel. He said the height requirement was driven by additional co-locators but the 150-foot stealth (three panel) tower was more expensive than a 180-foot monopole. Mr. Condyles noted that if the applicant were to utilize individual mini or micro cells, the cost per tower would be one-half of the current application requested but would require two to three more sites to address ShenTel's needs. He said ShenTel needs a minimum of a 140-foot tower if no additional co-locators are installed.

Supervisor Kyger stated that decisions regarding cell towers were getting tough due to the number of people no longer using land lines in their homes. He foresaw telephone companies not finding it beneficial to provide land lines at some point in time. Supervisor Kyger said citizens did not want cell towers near their homes, which meant they may not have phone service in the future. Supervisor Kyger stated that the County did not want to restrict cell phone providers' opportunity to do business because competition kept costs lower. Supervisor Kyger indicated the County's co-location rules were causing some problems and the County needs to look at this. Supervisor Kyger stated he was agreeing to deny this request because there seemed to be alternatives for ShenTel to accomplish their goal.

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On a motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled S08-07, Randy Cosner, P.O. Box 609, Broadway, for a private aircraft runway and hangar on property

located on the west side of Wentworth Drive (Route 873) approximately 1,700 feet southwest of Mayland Road (Route 259), Election District #1, zoned A-2. Tax Map #52-(A)-134, 140A1 and 140B.

Supervisor Cuevas said he was scheduled to fly over the runway site to complete his research. He expects action to be taken at the February 27, 2008 meeting.

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Supervisor Eberly asked Ms. Stultz if staff had a recommendation on the Richard and Kay Early request. Ms. Stultz noted that staff does not provide recommendations for special use permit applications, however she noted that if approved, the applicant needs to have the deed corrected, stop conducting events until the site plan is approved, and obtain a certificate of occupancy.

Supervisor Eberly made a motion to table Richard and Kay Early's request and Supervisor Cuevas seconded the motion.

Administrator Paxton advised Supervisor Eberly that if his intent was to allow the pending matters to be addressed before the permit is granted, that the site plan could not be filed or further action taken by the Earlys until the Board of Supervisors takes action on the permit.

Supervisor Kyger suggested approval so the applicant could move forward.

Supervisor Eberly withdrew his previous motion to table this request.

On a motion by Supervisor Eberly, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board approved S08-08, Richard K. & Kay G. Early, 5379 Klines Mill Road, Linville for on-site catering and banquet events and food preparation for off-site catering on property located on the east side of Klines Mill Road (Route 784) approximately 9/10 mile west of Harpine Highway (Route 42), Election District #2, zoned A1. Tax Map #64-(A)-40D contingent on the deed correction and obtaining a permit for tents, if necessary, and subject to the following conditions.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) The addition shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) A change of use building permit shall be obtained to convert the existing barn to a commercial use. Prior to obtaining the building permit, applicant shall present to the Community Development Department a statement from an engineer licensed to do business in the Commonwealth of Virginia as to the structural load requirements for the use intended. If the structure is not structurally safe, the special use permit shall become void unless applicant is able to make the building structurally safe. A copy of this statement shall be placed in the special use permit file.
- (4) In accordance with VDOT regulations the entrance shall be upgraded to a 30' commercial width for a distance of 25' from edge of road A permit shall be obtained from VDOT for the upgrades and shall be submitted to the Community Development Department prior to issuance of a building permit.
- (5) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (6) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community

Development and no work shall be done on the property until such time as a site plan is approved.

- (7) Off-street parking shall comply with the Rockingham County Code.
- (8) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (9) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (10) If there are any outdoor activities associated with this use that involve music, a special entertainment shall be required each time there is such activity and application should be submitted to the Community Development Department a minimum of thirty days prior to the event. Any music originating outdoors shall cease no later than 10:00 p.m.
- (11) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.
- (12) All activities permitted hereunder, other than those mentioned in Condition #10 above, shall cease no later than midnight.
- (13) There shall be no outside music except as permitted pursuant to Condition #10 above.
- (14) Maximum capacity shall not exceed the limits set by the Rockingham County Fire Marshall.
- (15) Applicants shall plant additional cedar or other appropriate trees necessary to create a screen between applicants' property and the adjoining landowner to the east.
- (16) No portable toilets shall be permitted for use with any of the permitted activities.
- (17) This special use permit shall remain in effect only for as long as the applicants own the property.
- (18) This permit is contingent upon applicant obtaining deed exception approval for the illegal division that was made of land joined to this property. No building permits or change of use permits shall be issued by the County until such time as the deed exception is approved.
- (19) For any event in which a tent is to be erected that requires a permit in accordance with the Uniform Statewide Building Code, the applicant shall obtain a building permit and have the necessary inspections prior to using the tent.
- (20) The existing barn shall not be used for any additional functions or events nor shall the new addition be put into operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all conditions of this permit are met.

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Supervisor Eberly made a motion to approve Glenda J. Kesner's special use request and Supervisor Breeden seconded the motion.

Supervisor Cuevas questioned if it was proper for this structure to be permitted in this particular subdivision. If approved, Supervisor Cuevas questioned if the County could justify denying a similar request in the future. Supervisor Kyger indicated each request needed to be evaluated on its own merits.

Supervisor Breeden suggested that Supervisor Eberly withdraw his motion from the table and the Board members visit the site to determine if it was compatible with surrounding land use.

Supervisor Eberly withdrew his original motion to approve Glenda Kesner's special use permit and Supervisor Breeden withdrew his second.

On a motion by Supervisor Eberly, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled S08-09, Glenda J. Kesner, 162 South Avenue, Harrisonburg for a double-wide manufactured home on property located on at the dead end of Shenk Drive (private) approximately 875 feet southwest of Kieffer Road (Route 876), Election District #2, zoned RR-1. Tax Map #63-(8)-4.

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**CALL TO ORDER AND CLOSED MEETING.**

Chairman Floyd called the regular meeting back to order at 9:50 p.m.

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by the following vote: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board recessed the meeting from 9:50 p.m. to 10:36 p.m., for a closed meeting pursuant to Section 2.2-3711(A)(3), discussion of acquisition of real property where discussion in an open meeting would adversely affect the negotiating strategy; (7) consultation with legal counsel and staff members pertaining to actual or probable litigation.

MOTION: SUPERVISOR CUEVAS            RESOLUTION NO: X08-02  
SECOND: SUPERVISOR BREEDEN        MEETING DATE: FEB. 13, 2008

**CERTIFICATION OF CLOSED MEETING**

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham 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 Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:  
AYES:            BREEDEN, CUEVAS, EBERLY, FLOYD, KYGER  
NAYS:            NONE  
ABSENT:        NONE

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**RECONVENE MEETING.**

At 10:38 p.m., Chairman Floyd reconvened the regular meeting.

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**APPOINTMENT.**

On a motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board recommended the Circuit Court appoint Graham Lilly to the Board of Zoning Appeals.

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**ADJOURNMENT.**

By consensus, the Board adjourned the meeting at 10:40 p.m.

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Chairman