

October 24, 2007

A Regular Meeting of the Rockingham County Board of Supervisors was held at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1  
CHARLES W. AHREND, Election District #2  
DEE E. FLOYD, Election District #3  
WILLIAM B. KYGER, JR., Election District #4  
MICHAEL A. BREEDEN, Election District #5

Also present:

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

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

Chairman Kyger called the Regular Meeting to order at 6:00 p.m.

Girl Scout Group 442 led the Pledge of Allegiance, and Supervisor Breeden gave the Invocation.

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**APPROVAL OF MINUTES.**

On motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the minutes of the Regular Meeting of October 10, 2007.

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**RESOLUTION NO. 07-28 - JUDITH E. HEVENER RETIREMENT.**

On motion by Supervisor Breedon, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution in recognition of Judith E. Hevener on her retirement from the Information Systems Department after 30 years of service. The Board presented Ms. Hevener with a framed copy of the Resolution and a commemorative clock.

R E S O L U T I O N

WHEREAS, Judith E. Hevener, Computer Resource Specialist in the Rockingham County Information Systems Department, was hired as a Computer Operator on August 1, 1977; and

WHEREAS, since that time, Ms. Hevener, an untiring and committed public employee who has served Rockingham County with distinction for 30 years, as a member of the Data Processing Department, later to become the Information Systems Department; and

WHEREAS, Ms. Hevener will retire from County service on November 1, 2007, after 30 years and 3 months; and

WHEREAS, Ms. Hevener, a dedicated public servant and a highly-valued friend and co-worker, has earned the respect and admiration of her colleagues; and

WHEREAS, during the past 30 years, she has seen many changes take place in the County's technology systems, including changes from a room-size computer to one of networked desk top computers and specialized servers; and

WHEREAS, during those years while these many changes were taking place, Ms. Hevener has maintained her pleasant, gentle manner, and has been a bright and cheerful team member;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Rockingham, Virginia, that

said Board does hereby recognize and congratulate Ms. Hevener as she celebrates her retirement; and

BE IT FURTHER RESOLVED that the Board of Supervisors expresses its sincere gratitude to Ms. Hevener and wishes her well in the coming years.

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**RESOLUTION NO. 07-29 - DONALD PITTINGTON RETIREMENT.**

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution in recognition of Donald Pittington on his retirement from the Virginia Department of Transportation after 42 years of service. The Board presented Mr. Pittington with a framed copy of the Resolution.

**R E S O L U T I O N**

**WHEREAS**, Donald Pittington was hired in the position of Operator A for the Virginia Highway Department in 1965; and

**WHEREAS**, Mr. Pittington has seen many changes over his 42 years including the change in the name of the Highway Department to the Virginia Department of Transportation, and the addition of many lane miles, new and improved roads and bridges; and

**WHEREAS**, Mr. Pittington is a valued member of the team that maintains our roads in the northern Rockingham County area, ensuring that the traveling public can safely traverse in all types of weather conditions; and

**WHEREAS**, Mr. Pittington has worked for 3 residency administrators including Don Komara, Jack Osborne and Grayson Alexander; and

**WHEREAS**, Mr. Pittington, an untiring and committed public employee who has served with distinction for 42 years, is retiring from his position with state government;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Rockingham, Virginia, that said Board does hereby recognize and congratulate Mr. Pittington in the celebration of his retirement; and

**BE IT FURTHER RESOLVED** that the Board of Supervisors expresses its sincere gratitude to Mr. Pittington for his years of dedicated service and wishes him well in the coming years.

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**TRANSPORTATION DEPARTMENT.**

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

Mr. Komara reported on progress on the Bridgewater Bypass. He showed renderings of the proposed routes and noted that other options could be considered. He said a public hearing on this subject will be advertised and held at Turner Ashby High School in mid-January 2008.

In response to a question from Chairman Kyger concerning the one-lane bridge on Route 704, Mr. Komara explained that the Route 704 project would be completed prior to the Bridgewater Bypass project and the two would tie in together.

Supervisor Breeden said Merck officials wanted signage on Captain Yancy Road saying all deliveries must come through Route 340. Mr. Komara said he was expecting to receive an update on that request "at any time."

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board asked that VDOT, in preparing the Six-Year Plan, make the projects for Route 842 and Blazer Drive safety improvements part of the Six-Year Plan and include them in the budget items to be considered later in the year.

Supervisor Floyd asked Mr. Komara to look into the possibility of installing a stop sign at the entrance and exit of the new Crossroads Subdivision.

Supervisor Cuevas asked if the two stoplights in close proximity to each other in Timberville be synchronized for the convenience of motorists in that area.

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**PUBLIC HEARING - DEED OF TRUST, LEASE OF 25 ACRES OF COUNTY PROPERTY WITH IMPROVEMENTS TO SRI INTERNATIONAL.**

At 6:50 p.m., Chairman Kyger opened the meeting for a public hearing regarding the County's intent to enter into one or more of the following transactions: convey a deed of trust for the benefit of SunTrust Leasing Corporation (SunTrust) to secure the payment of up to \$20 million obligations to be issued to SunTrust by the Industrial Development Authority of Rockingham County, Virginia with respect to certain Property (described below); make an assignment of rents and leases for the benefit of

SunTrust with respect to the Property, and; to lease to SRI International (SRI) the following described Property:

Up to Forty Thousand (40,000) square feet of office space and laboratory space in the Rockingham Center for Research and Technology to be constructed at 140 Research Drive, Harrisonburg, Rockingham County, Virginia 22802, such real estate parcel consisting of 25 acres, more or less.

The lease price for the Property starts at \$28.20 per square foot for the first year of the lease to SRI, with increases as specified in that certain Lease with Option to Purchase to be executed between the County and SRI.

Mr. Paxton made the following statement. "The County is entering into a lease with SRI International to include a facility at the Rockingham County Center for Research and Technology. The facility will be built in two phases to accommodate the activity that SRI anticipates at the facility over the next several years. It will open with between 25 and 40 employees. That portion of the facility will be complete in mid-2009. At that time, we will begin construction build-out. That portion will be complete around the middle of 2010. The early-on estimated cost was between \$18 and \$20 million. The advertisement shows an aggregate amount of up to \$20 million. It looks now like that number can be reduced to \$17.5 million because of the type of financing structure. SunTrust Bank will loan the money to Rockingham County Industrial Development Authority (IDA). The IDA will enter into a lease with Rockingham County to lease 25 acres and provide back to us a facility of 40 thousand square feet. We will act as the IDA's agent in building the building, similar to what we did with the jail and other County buildings. The County will then turn around and lease the building to SRI over a 30-year period and will allow the County to recover all of its costs. It is an opportunity for the County to obtain the first tenant, a cornerstone to that property that we hope will attract other similar businesses."

There were no requests to speak on this matter.

At 6:58 p.m., Chairman Kyger declared the public hearing closed and called the regular session back to order.

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**RESOLUTION 07-30 TO AUTHORIZE FOR SRI PROJECT:  
BOND PURCHASE AND ESCROW AGREEMENT  
LEASE - LEASEBACK COUNTY AND IDA  
ASSIGNMENT OF LEASES  
LEASE WITH SRI INTERNATIONAL.**

On motion by Supervisor Ahrend, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD -

AYE; KYGER - AYE; the Board adopted the following resolution, with staff authorized to make non-substantive changes if necessary.

#### RESOLUTION

**WHEREAS**, Rockingham County, Virginia (the "County") has requested the Industrial Development Authority of Rockingham County, Virginia (the "Authority") to issue its Aggregate \$20,000,000 Industrial Development Authority of Rockingham County, Virginia Lease Revenue Bonds, Series 2007 (collectively, the "Bonds"), namely, the \$12,000,000 Tax-Exempt R-1 Bond and the \$8,000,000 Taxable R-2 Bond, in order to assist the County to finance the costs to construct and equip a research and educational facility for the benefit of and use by SRI International ("SRI"), a not-for-profit public benefit research institution (formerly known as Stanford Research Institute) created under the laws of and headquartered in the State of California, all as required under that certain Memorandum of Agreement, dated as of December 14, 2006 (the "MOA"), by and among the County, SRI, the Virginia Economic Development Partnership (a political subdivision of the Commonwealth of Virginia), the City of Harrisonburg, Virginia (the "City"), and James Madison University (a state-supported institution of higher education located in the City).

**WHEREAS**, pursuant to the MOA, among other things, the County has agreed to construct long-term facilities for use by SRI to be located in the County at its Rockingham Center for Research and Technology, on State Route 11 North of the City of Harrisonburg, on a parcel consisting of approximately 25 Acres (the "Project Land"), and such facilities shall include a minimum of 40,000 square feet and shall be designed to permit expansion to 100,000 square feet, for office and laboratory space (the "Project").

**WHEREAS**, SunTrust Leasing Corporation (the "Bondholder"), by letter dated October 2, 2007, has offered to purchase the Bonds in accordance with the terms and provisions therein (the "Commitment Letter"). (A copy of the Commitment Letter is on file with the County's records in connection with the financing plan for the Project.)

**WHEREAS**, to accomplish the financing for the Project and satisfy the requirements of the Bondholder as set forth in the Commitment Letter, the County has held a duly noticed public hearing immediately prior hereto in connection with the mortgage, assignment and lease of such Project Land and the Project pursuant to the terms of that certain Deed of Trust, to be dated November 15, 2007, in favor of Bondholder (the "Deed of Trust"), an Assignment (defined below), and the SRI Lease (defined below).

**WHEREAS**, in addition, the County desires to enter into certain lease revenue arrangements with the Authority in order to accomplish the financing for the Project, and, accordingly, shall enter into, execute and deliver the following core documents, among other certificates, agreements and instruments as may be advised by counsel:

(i) A Bond Purchase and Escrow Agreement (the "Agreement"), to be dated as of November 15, 2007, among the Authority, SunTrust Bank (as Escrow Agent thereunder), the Bondholder, and the County;

(ii) A Lease of the Project Land from the County to the Authority, dated as of November 15, 2007 (the "Lease");

(iii) A Financing Lease between the Authority and County, to be dated as of November 15, 2007 (the "Financing Lease"), under which the Authority would lease the Project Land and the Project back to the County, and the County, among other things, shall agree to accomplish the Project and pay rental to the Authority, subject to sufficient annual appropriations by the Board of Supervisors of the County from time to time therefor, in order to pay the Bonds and the obligations in connection therewith;

(iv) An Assignment of Rents and Leases from the Authority and the County in favor of the Bondholder, to be dated November 15, 2007 (the "Assignment"); and

(v) A Certificate as to Nonarbitrage of the Authority and the County, with the attached Tax Certificate of SRI thereto, to be dated as of the closing date of the Bonds.

For convenience, all such documents, including the Deed of Trust and any and all such other certificates, agreements and instruments in connection with the Bonds as may be reasonably required by the Bondholder or advised by counsel are collectively referenced, the "Basic Documents".

**WHEREAS**, pursuant to the terms of the Basic Documents, and subject to (i) the priority security liens of the Bondholder as described in the Deed of Trust and the Assignment, and, further, (ii) the terms and provisions of the Lease and the Financing Lease, the County shall accomplish the Project, as required under the MOA, and, shall lease the Project Land and the Project to SRI for its research and educational purposes, among others, pursuant to the provisions of that certain Lease, with Option to Purchase (the "SRI Lease"), all as set forth therein.

**WHEREAS**, it is reasonably anticipated that the Authority, at its meeting on October 30, 2007, after the holding of a duly noticed public hearing therefor, will approve a resolution authorizing, among other things, the issuance of the Bonds by the Authority and the execution and delivery of the Basic Documents to which it is a party (the "Authorizing Resolution").

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

**1. Issuance of the Bonds.** The Board of Supervisors hereby affirms its desire to obtain financing for the

Project pursuant to the terms and provisions of the Commitment Letter, and confirms its request for financing assistance by the Authority, as described above, by the issuance of the Bonds to be paid from revenues derived from Rental Payments (as described in the Financing Lease) to be made by the County, under the terms and conditions all as set forth herein and in the Basic Documents and the Authorizing Resolution.

**2. Authorization of Basic Documents and SRI Lease.**

The Basic Documents and the SRI Lease are hereby approved and confirmed in substantially the forms described at this meeting and filed with the County Administrator, with all such changes, insertions or omissions (including, without limitation, changes of the dates thereof) as may be advised by counsel and approved by the Chairman or Vice Chairman of the Board or the County Administrator, any one or more of whom may act, whose approval shall be evidenced conclusively by the execution and delivery of the Basic Documents and the SRI Lease. The execution and delivery of and performance by the County of its obligations under the Basic Documents and the SRI Lease are approved and authorized in all respects.

**3. Execution of Basic Documents and SRI Lease.**

The Chairman or the Vice-Chairman of the Board or the County Administrator or the County Finance Director, any one or more of whom may act, are each authorized to execute and deliver on behalf of the County the Basic Documents and the SRI Lease, and, if required, the Clerk or any Deputy Clerk of the Board is authorized and directed to affix or to cause to be affixed the seal of the County thereto and to attest such seal. Such officers or their designees are authorized to execute and deliver on behalf of the County all such further instruments, documents or certificates, and to do and perform such things and acts, as they shall deem necessary or appropriate to carry out the transactions authorized by this Resolution or otherwise contemplated by the Basic Documents or the SRI Lease. All of the foregoing, previously done or performed by such officers or agents of the County, and all actions previously taken in furtherance of the intent set forth in this Resolution, are in all respects approved, ratified and confirmed, in their entirety.

**4. Nature of the County's Obligations; Moral Obligation Pledge of County Therefor to Fullest Extent Permitted By Law.**

Nothing in this Resolution, the Bonds (including the Authorizing Resolution therefor to be approved by the Authority) or the Basic Documents shall constitute a general obligation debt of the County or the Authority within the meaning of the Virginia Constitution or Virginia statutory law. Further, it is to be expressly understood the Authority shall not be obligated to make any payments under the Bonds or the Basic Documents except from payments made by or on behalf of the County under the Financing Lease; provided, however, the obligations of the County, as set forth therein, shall not include any binding commitment

beyond the current fiscal year of the County, as provided by law. Furthermore, the County's obligations to pay the cost and expense of performing its obligations under the Bonds, the Basic Documents, and the SRI Lease, including without limitation its obligation to pay all Rental Payments (as described in the Financing Lease) and any other payments under the Basic Documents, under all circumstances, are subject to and dependent upon appropriations being made from time to time by the Board for such purposes.

To this end, the Board hereby directs the County Administrator or other appropriate officer to include in the budget for each fiscal year of the County during the term of the Financing Lease a request that the Board of Supervisors appropriate each fiscal year, while the Bonds shall remain outstanding, the amount of such Rental Payments and any other payments due from the County under the Financing Lease or other Basic Documents during such ensuing fiscal year.

Accordingly, no later than May 15 of each year, beginning May 15, 2008, the County Administrator shall notify the Board of the amount reasonably expected to be needed to pay Rental Payments (as defined in the Financing Lease), as when due during the County's fiscal year beginning the following July 1. The County Administrator shall include such aggregate amount in his budget submitted to the Board for the following fiscal year as an amount to be appropriated in connection with the Bonds and the Basic Documents. The County Administrator shall deliver to the Bondholder within ten (10) days after the adoption of the County's budget for each fiscal year, but no later than July 15 of each year, a certificate stating whether the Board has appropriated an amount equal to the Rental Payments and any other payments as may be due under the Financing Lease or other Basic Documents.

It is to be understood that, if at any time during the term of the Bonds a deficiency in such Rental Payments shall arise, the County Administrator shall notify the Board of Supervisors of the amount of such insufficiency and shall request a supplemental appropriation from the Board in the amount necessary to make such payment(s). The Board shall consider such request at its next regularly scheduled meeting at which it is possible to satisfy any applicable notification requirement. Promptly after such meeting, the County Administrator shall notify the Bondholder as to whether the amount so requested was appropriated. If the Board shall fail to make sure appropriation, the County Administrator shall add the amount of such requested appropriation to the report by the County Administrator for the County's next fiscal year.

The Board of Supervisors affirms its prior determinations that the Project and the SRI Lease, and the transactions contemplated thereby, shall substantially increase the health, welfare and prosperity of the inhabitants of the County and the Commonwealth of Virginia,

and, accordingly, hereby undertakes a non-binding obligation to appropriate such amounts as may be requested from time to time as described herein, to the fullest degree and in such manner as is consistent with the Constitution and laws of the Commonwealth of Virginia. The Board, while recognizing that it is not empowered to make any binding commitment to make such appropriations in future fiscal years, hereby states its intent to make such appropriations in future fiscal years, and hereby recommends that future Boards of Supervisors do likewise. Nothing herein contained is or shall be deemed to be a lending of the credit of the County to the Bondholder or to any other person, and nothing herein contained is or shall be deemed to be a pledge of the faith and credit for the taxing power of the County, nor shall anything herein contained legally bind or obligate the Board to appropriate funds for the purposes described herein.

**5. Further Actions.** The Chairman or Vice-Chairman of the Board of Supervisors, either of whom may act, the County Administrator, the County Finance Director, and such officers, employees, and agents of the County as may be necessary or convenient, any one or more of whom may act, shall coordinate with the Authority and SRI in order for the County to take all such further actions as may be required by law or otherwise necessary or convenient in order to carry out the intent and purposes of this Resolution, all as contemplated herein and in the Basic Documents and the SRI Lease, in order for the County to accomplish the Project, as required under the MOA and the SRI Lease.

**6. Effective Date.** This Resolution shall take effect immediately.

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**PUBLIC HEARING - SPECIAL USE PERMITS.**

At 7:00 p.m., Chairman Kyger declared the meeting open for a public hearing on the following special use permit requests. Ms. Stultz reviewed the background on each request.

S07-49 Serhiy Bohdan, 2149 Cecil Wampler Road, Mt. Crawford for a welding shop on property located on the southwest side of Pleasant Valley Road (Route 679) and Cecil Wampler Road (Route 704), Election District #3, zoned A2. Tax Map #124-(A)-94

The applicant was present to answer questions.

Ted Grandle said the property was an "eyesore" with a large amount of "junk" on site. He described boxes filled with what appeared to be rocks. He showed the Board photographs he had taken of the property. He

expressed concern that tractor trailer trucks had blocked Pleasant Valley Road when they were unloading at this site.

Donald Heatwole said he was "concerned about the stuff outside the building." He said he did "not have a problem with the request" if the materials were stored inside the building.

Mr. Bohdan said the boxes of materials belonged to a friend who planned to build a house. He noted that he would be able to store everything inside when his building was erected.

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S07-50 Eastside Self Storage, LLC, 11658 Model Road, Elkton for outside storage of RVs and boats at existing self storage facility located on the south side of Model Road (Route 640) approximately 500' southeast of Spotswood Trail (Route 33), Election District #5, zoned B1. Tax Map #129-(A)-75.

Ms. Stultz reported that staff received a complaint concerning runoff from the property and Shelby Hertzler investigated. She presented the Board with a copy of Mr. Hertzler's report back to her. She noted that any proposed development would require an engineering storm water management and erosion control plan and may require a drainage easement. She said staff would want to add conditions concerning storm water and that no junk would be allowed outside.

Kenneth Wood, owner, said Massanutten asked that he "look into this to see what was available." He said there was a need for such storage in the area. He said he would not allow junk vehicles on the site. He said he did not want to fence the property because he did not know if RV storage would be successful; if it were not, he said he would have to remove the fence. He noted that screening had been provided on one side.

There was no opposition expressed.

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S07-51 Nelson R. Martin, 4826 Linhoss Road, Dayton for expansion of lumber mill (machine/storage shed) on property located on the east side of Linhoss Road (Route 735) approximately 850' south of Swope Road (Route 736), Election District #4, zoned A2. Tax Map #107-(A)-148.

There were no requests to speak.

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S07-52 Paul Cline, 2828 Brookshire Drive, Harrisonburg for a second residence (for owner) on property located on the northwest side of Cromer Road (Route 765) approximately 8/10 mile west of Harpine Highway (Route 42), Election District #2, zoned A2. Tax Map #78-(A)-112C.

There were no requests to speak.

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At 7:24 p.m., Chairman Kyger closed the public hearing and called the regular meeting back to order.

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On motion by Supervisor Floyd, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled S07-49 Serhiy Bohdan, 2149 Cecil Wampler Road, Mt. Crawford for a welding shop on property located on the southwest side of Pleasant Valley Road (Route 679) and Cecil Wampler Road (Route 704), Election District #3, zoned A2.

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On motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled S07-50 Eastside Self Storage, LLC, 11658 Model Road, Elkton for outside storage of RVs and boats at existing self storage facility located on the south side of Model Road (Route 640) approximately 500' southeast of Spotswood Trail (Route 33), Election District #5, zoned B1.

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On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S07-51, Nelson R. Martin, 4826 Linhoss Road, Dayton for expansion of lumber mill (machine/storage shed) on property located on the east side of Linhoss Road (Route

735) approximately 850' south of Swope Road (Route 736), Election District #4, zoned A2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) As required by the Health Department, no building or parking area shall be within ten feet of any existing sewage disposal system.
- (5) As required by the Health Department, if building is termite treated, it shall be a minimum of 50 feet from any well.
- (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) 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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On motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S07-52, Paul Cline, 2828 Brookshire Drive, Harrisonburg for a second residence (for owner) on property located on the northwest side of Cromer Road (Route 765) approximately 8/10 mile west of Harpine Highway (Route 42), Election District #2, zoned A2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) As required by VDOT, the board fence on the southwest side of the entrance (right side as you exit the property) shall be moved out of the line of sight. VDOT will inspect the entrance prior to issuance of a certificate of occupancy to assure this has been done.

- (4) This permit is contingent upon applicant obtaining a sewage disposal system permit from the Health Department. A copy of said permit shall be presented to the Community Development Department prior to deed exception approval.
- (5) Neither the new residence nor the existing residence shall be used for rental purposes.
- (6) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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**PUBLIC HEARING - AMENDMENT TO ROCKINGHAM COUNTY CODE,  
CHAPTER 17 (ZONING ORDINANCE) PERTAINING TO  
TELECOMMUNICATION FACILITIES.**

At 7:30 p.m., Chairman Kyger declared the meeting open for a public hearing on a proposed amendment to the Rockingham County Code, Chapter 17, Zoning Ordinance, regarding telecommunication facilities.

Ms. Stultz reviewed the proposal. She noted that adding the residential districts would open up areas where there may be a need for short towers or stealth towers that would service an area that had little or no coverage. She pointed out that requiring special use permits for telecommunication facilities would give the Board of Supervisors the opportunity to evaluate the request with regard to height, necessity, and whether there are other locations or stealth systems that could be used instead of a tower.

The Planning Commission recommended approval of the amendment limiting the type facility to stealth or adaptive support structure.

Leonard Greisz, Shentel, noted that the proposed amendment provides for the installation of telecommunications facilities in various zoning districts, by Special Use Permit; but, limits such installations to stealth structures and adapted support structures. He stated, "As a major wireless telecommunications provider serving the area of Rockingham County, Shentel recommends the County not limit itself to considering only stealth structures and adapted support structures, as there are times when a "regular" telecommunications structure may be more appropriate. The County always has the right, under the Special Use Pennit process, to approve the structure of its choice. As an alternative, perhaps, the County could put telecommunications providers on notice that stealth structures and adapted support structures are preferred, by amending the language to

say, 'Telecommunications facility by special use permit as provided by Article 7, Division 6A of this chapter, with stealth structures and adapted support structures preferred.'"

Ed Chappel said the communications towers were like a "Trojan horse," and the statute should be adopted as recommended by the Planning Commission.

Tom Wright expressed concern that, if the possibility of free-standing towers is retained, residents will not have "peace of mind" and will have to keep returning to public hearings to try to keep such towers out of their neighborhoods.

Kevin Rose of Botkin & Rose said that, while communications facilities were necessary, he wanted to request that they be "no higher than necessary." He said the applications should show that the "height is no higher than necessary."

Supervisor Cuevas noted that the County's consultant gives the Board an assessment of each request so that the Board can "structure the conditions on each request."

Betty Chappel said the consultant recommended a 225 foot tower for the Bridlewood Subdivision.

Mr. Vaughn explained that the County utilized the County's consultant to review the applications from a technical aspect, to see whether the height requested was a "legitimate" height. Following that review, he stated that the staff shared with the Board the "protection of the visual quality." He noted that the Board has tried to encourage colocations and that the Board, not the consultant, makes the final decision.

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At 8:04 p.m., Chairman Kyger closed the public hearing and called the regular meeting back to order.

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On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following amendment to the County Code.

**AMEND:**

**Article 6. Uses in Districts.**

**DIVISION 7.**

**LOW DENSITY RESIDENTIAL DISTRICT R-1**  
**Sec. 17-51. Special uses.**

- (e) Telecommunications facility as provided by Article 7, Division 6A of this chapter but limited to stealth structures and adapted support structures.

**DIVISION 8.**  
**MEDIUM DENSITY RESIDENTIAL DISTRICT R-2.**  
**Sec. 17-55. Special uses.**

- (e) Telecommunications facility as provided by Article 7, Division 6A of this chapter, but limited to stealth structures and adapted support structures.

**DIVISION 9**  
**GENERAL RESIDENTIAL DISTRICT R-3.**  
**Sec. 17-59. Special uses.**

- (k) Telecommunications facility as provided by Article 7, Division 6A of this chapter but limited to stealth structures and adapted support structures.

**DIVISION 11.**  
**PLANNED RESIDENTIAL DISTRICT R-5**  
**Sec. 17-79. Permitted uses.**

- (h) Telecommunications facility by special use permit as provided by Article 7, Division 6A of this chapter but limited to stealth structures and adapted support structures.

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**APPOINTMENTS.**

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board reappointed George Homan to the Disability Services Board for a three-year term expiring on December 31, 2010.

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board reappointed Wallace Hatcher to the Industrial Development Authority, for a four-year term beginning on January 1, 2008, and expiring on December 31, 2011.

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board reappointed Garland Wise to the

Recreation Commission to a four-year term beginning on January 1, 2008, and expiring on December 31, 2011.

On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board appointed Dr. Phillip Wishon to the Community Services Board for a four-year term which will expire on June 30, 2011.

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**COUNTY ADMINISTRATOR'S STAFF REPORT.**

The Board received and reviewed Mr. Paxton's staff report dated October 19, 2007, including information on the burning ban declared by the Governor; school tours scheduled for October 29, 2007; a cash proffer workshop scheduled for October 31, 2007; and an SRI Disciplines of Innovation workshop for the County and City of Harrisonburg management teams scheduled for November 1 and 2, 2007.

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**COUNTY ATTORNEY'S STAFF REPORT.**

Mr. Miller reported that the sale of the Keezletown School property has been completed, and he noted that he would have information for a Closed Meeting later in the evening.

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

The Board received and reviewed Public Works Director Heidt's staff report dated October 10, 2007, including information concerning the schedule for Penn Laird Drive and Water Tower Road sewer (project is 50% complete and on schedule); McGaheysville WWTP (survey work to begin this month); Phase III/IV Landfill expansion (DEQ final inspection completed); Three Springs Water system (staff to prepare recommendation on this matter after receiving Rockingham Memorial Hospital comments); Pleasant Run Sewer Interceptor and Water Supply Line (two months ahead of schedule); Lilly Gardens (public hearing to be held this date by Lilly Gardens Subdivision Sanitary District Board); City of Harrisonburg Waste to Energy Plant; Landfill Pro-Forma Study & Landfill Gas Utilization Feasibility Study;

and Highland Park and Belmont Sewage Lift Stations (under review by Public Works Committee).

Chairman Kyger asked for a report on the number of private wells being drilled as a result of the drought.

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Public Works Committee, the Board approved a change order in the amount of \$82,690 to be applied to immediate vegetative stabilization needs associated with the construction phase of the Rockingham County landfill expansion.

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

The Board received and reviewed Community Development Director Vaughn's staff report dated October 24, 2007, including information concerning priority projects underway, a Board of Zoning Appeals vacancy, tabled requests, and upcoming requests.

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**RECESS.**

At 8:46 p.m., Chairman Kyger declared the meeting recessed for a meeting of the Lilly Gardens Subdivision Sanitary District Board.

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**CALL TO ORDER AND CLOSED MEETING.**

Chairman Kyger called the regular meeting back to order at 8:48 p.m.

On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 8:48 p.m. to 9:24 p.m. in accordance with State Code Section 2.2-3711(A)(7) consultation with legal counsel and Section 2.2-3711(A)(1)

discussion of personnel matters; and contractual matters  
Section 2.2-3711(A)(14).

At 9:24 p.m., Chairman Kyger called the meeting back  
to order and the following motion was adopted.

MOTION: SUPERVISOR FLOYD NO: X07-21  
SECOND: SUPERVISOR CUEVAS MEETING DATE: Oct. 24, 2007

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: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER  
NAYS: NONE  
ABSENT: NONE

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**ADJOURNMENT.**

On motion by Supervisor Breeden, seconded by  
Supervisor Ahrend, and carried unanimously, the meeting was  
adjourned at 9:25 p.m.

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Chairman