

OCTOBER 10, 2006

A regular monthly meeting of the Russell County Board of Supervisors was held on Tuesday, October 10, 2006 at the Russell County Courthouse in Lebanon, Virginia beginning at 6:00 P. M.

PRESENT: Danny L. Brown, Chairman  
 Mike Puckett, Vice Chairman  
 Robert Keene, Member  
 Ralph Maples, Jr., Member  
 Bill Wampler, Member  
 Carter McGlothlin, Member

James A. Gillespie, Clerk of the Board

The Chairman called the meeting to order.

Rev. Scott Suttle led in the invocation followed by the Pledge of Allegiance to the Flag.

**PUBLIC HEARING--ORDINANCE TO CONTROL VICIOUS DOGS**

Pursuant to having advertised in a local newspaper for two (2) successive weeks a Public Hearing was held concerning the adoption of an ordinance to control vicious or dangerous dogs. The Chairman called the Public Hearing to order. The County Administrator conducted the Public Hearing. The floor was open to receive public comments. Odell Musick had a presentation on the need for a Vicious Dog Ordinance. No public comments being received the Chairman closed the Public Hearing.

Motion made by Carter McGlothlin, second by Bill Wampler and duly approved by the Board of Supervisors to approve the following:

§ 2-10. Vicious or dangerous dogs.

1. (a) Definitions. For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them in this section:

Dangerous dog means a canine or canine crossbreed which:

(1) Killed a person; or

(2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of bodily function; or

(3) Continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner or custodian has been given notice of that finding.

(b) Impoundment; euthanization. Any animal warden that has reason to believe that a canine or canine crossbreed within the county is a dangerous or vicious dog shall apply to a magistrate for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner or custodian of the nature of the proceeding and the matters at issue. The animal warden or owner shall confine the animal until such time as evidence shall be heard and a verdict rendered, if the animal poses a substantial risk to humans or other animals. If the animal does not pose such a risk or the owner or custodian can adequately confine the animal without risk of its escape, the animal warden or police officer shall order the owner or custodian to keep the animal confined inside a dwelling or adequate structure so constructed to prevent its escape. Until such a time as evidence may be heard and a verdict rendered, the animal shall not be removed from the owner's or custodian's immediate property and must be secured on a leash no longer than six (6) feet when not confined indoors or locked within an adequate structure. Failure to comply with such an order shall be a violation of this section. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If, after hearing evidence, the court finds the animal is a dangerous dog, the court shall order the animal's owner or custodian to comply with the provisions of this subsection (d). If, after hearing the evidence, the court finds the animal is a vicious dog, the court shall order the animal to be euthanized by the animal warden, in accordance with state law.

(c) Exceptions. No animal shall be found to be a vicious or dangerous dog solely because it is a particular breed. No animal shall be found to be a dangerous or vicious dog if the threat, injury, or damage was sustained by a person who was:

- (1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; or
- (2) Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian;
- (4) Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.

No police dog which was engaged in the performance of its duties at the time of the acts complained of shall be found to be a dangerous or vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner/custodian or the owner's/custodian's property, shall be found to be a dangerous or vicious dog.

(d) Responsibilities of owners or custodians of dangerous dogs.

(1) The owner or custodian of any animal found by a court to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the animal warden for a fee of fifty dollars (\$50.00), in addition to other fees that may be authorized by law. The animal warden shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner or custodian of any animal shall affix the tag to the animal's collar and ensure that the animal wears the collar and the tag at all times. All certificates obtained pursuant to this paragraph shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. If the owner fails to obtain such a certificate within the time allotted, the animal warden shall have the power to seize the animal and euthanize the animal in accordance with state law.

(2) Certificates shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence that:

- a. The animal has current rabies vaccination, if applicable;
- b. The animal is and will be confined in a proper enclosure designed to prevent its escape or is and will be confined inside the owner's or custodian's residence or is and will be muzzled and confined in the owner's or custodian's fenced-in yard with adequate shelter until the proper enclosure can be constructed.

In addition, the owners or custodians who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that:

- a. Their residence is and will continue to be posted with a clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and
- b. The animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implant.

(3) While on the property of its owner or custodian, an animal to be found by the court to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design, with adequate shelter, to prevent its escape and to prevent direct contact with or entry by minors, adults or animals. When off its owner's or custodian's property, an animal found by a court to be a dangerous dog shall be caged or kept securely on a leash no longer than six (6) feet and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(4) If the owner or custodian of a dangerous dog is a unemancipated minor, the custodial parent or legal guardian shall be responsible for complying with all the requirements of this section.

(5) After an animal has been found by a court to be a dangerous dog, the animal's owner or custodian shall, upon learning of the same, immediately notify the animal warden if the animal:

- a. Is loose or unconfined;
- b. Bites or attacks either a person or other animal;
- c. Is sold, given away or dies; or

d. Has been moved to a different address.

(e) Penalty. The owner or custodian of any animal who fails to comply with the requirements of this section shall be guilty of a Class 1 misdemeanor.

The vote was:

AYE: Carter McGlothlin, Bill Wampler, Danny Brown, Mike Puckett, Robert Keene and Ralph Maples

NAY: None

RESOLUTION – ISSUANCE OF BONDS FOR APPALACHIAN  
POWER COMPANY

Motion made by Ralph Maples, second by Mike Puckett and duly approved by the Board of Supervisors to approve the following resolution:

WHEREAS, the Industrial Development Authority of Russell County (the "Authority") has considered the application of Appalachian Power Company (the "Applicant") for the issuance of the Authority's industrial development revenue bonds in an amount not to exceed \$17,500,000 (the "Bonds") to refund through a series of refundings prior bonds issued by the Authority for the benefit of the Applicant for the acquisition, construction, installation and equipping of certain air pollution control facilities for the Applicant in Russell and Giles Counties, Virginia (the "Project"), and has held a public hearing thereon on September 14, 2006;

WHEREAS, the Authority has requested that the Board of Supervisors (the "Board") of Russell County, Virginia (the "County"), approves the issuance of the Bonds to comply with Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"); and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to terms to be agreed upon, a record of the public hearing and a "fiscal impact statement" with respect to the Project have been filed with the Board;

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF RUSSELL COUNTY,  
VIRGINIA:

1. The Board hereby approves the issuance of the Bonds by the Authority for the benefit of the Applicant to the extent required by Section 147(f) of the Code and Section 15.2-906 of the Virginia Code, to permit the Authority to assist in the refinancing of the Project.
2. Approval of the issuance of Bonds, as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code, does not constitute an endorsement of the Bonds or the creditworthiness of the Applicant, but, as required by Section 15.2-4909 of the Virginia Code, the Bonds shall provide that neither the County nor the Authority shall be obligated to pay the Bonds or the interest thereon or the other costs incident thereto except from the revenues and moneys pledged therefore, and neither the faith or credit nor the taxing power of the Commonwealth, the County nor the Authority shall be pledged thereto. Any underwriter of the Bonds, as the initial purchaser thereof, shall purchase such Bonds at its sole risk with the Authority and the Board having no knowledge of or interest in the success of the Project or repayment of the Bonds. Any underwriter of the Bonds, as the initial purchaser thereof, must acknowledge and agree that no representation of any kind as to the Bonds of the Project has been made by the Authority or the County.
3. This resolution shall take effect immediately upon its adoption.

CERTIFICATE OF RESOLUTION

1. A regular meeting of the Board of Supervisors of Russell County, Virginia (the "Board"), was held on October 10, 2006, at which meeting the following duly elected members were present or absent: