

Regular Meeting, Wednesday, May 8, 2019, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Gerald W. Garber, Chairman  
Carolyn S. Bragg-Vice Chairman  
G.L. "Butch" Wells  
Michael L. Shull  
Wendell L. Coleman  
Marshall W. Pattie  
Pam L. Carter  
Timothy K. Fitzgerald, County Administrator  
Jennifer M. Whetzel, Deputy County Administrator  
John Wilkinson, Director of Community Development  
James R. Benkahla, County Attorney  
Angie Michael, Executive Assistant

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, May 8, 2019, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 243<sup>rd</sup> year of the Commonwealth....

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Chairman Garber welcomed the citizens present.

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The following student from Fort Defiance High School led us with the Pledge of Allegiance:

Courtney Begoon is a freshman at Fort Defiance High School. She plays softball and volleyball. Ms. Begoon is the Vice President of the Senior FFA Chapter and an active member in 4-H. She plans to go out west for college and play softball.

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Wendell Coleman, Supervisor for the Wayne District, delivered the invocation.

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**MATTERS TO BE PRESENTED BY THE PUBLIC**

Marc Cyr, 35 Winter Ridge Drive Stuarts Draft, is concerned with the issue of lights on softball fields at County high schools. The Title IX law states that athletic programs for boy and girls should be equal. Currently none of the high school softball fields have lights. All baseball fields, with the exception of Riverheads High School, have lights.

Courtney Begoon and Lillian Berry are both freshman at Fort Defiance High School. A request was made to the Augusta County Board of Supervisors to work with the Augusta County School Board to provide funding for the installation of lights on all of the high school softball fields.

Timothy Fitzgerald, County Administrator, gave an update on the Flow project at Seawright Springs. Over the last several weeks there has been a lot of citizen concerns and requests coming from the citizens for information regarding the project. Mr. Fitzgerald met with the group from Flow to discuss the citizen concerns and confirm the nature of the project and what their plans are. The first issue was the question of zoning. Zoning at Seawright Springs is General Agriculture. In 1996 there was a zoning determination that allowed for the hauling of nine tanker trucks and three trailers

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May 8, 2019, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE PUBLIC (CONT'D)

of water to be removed from the property per day. In 2018 another zoning determination confirmed this was still the allowable use for that property going forward. The letter in 2018 was addressed to the attorneys of the current owners of the property. Currently there is a zoning letter that allows for nine tanker trucks and three trailers to be taken from the spring. Due to the owners stating there is no intention of increasing that load count, the letter from 2018 applies to Flow. A question of whether there should be a Special Use Permit for the property was also raised. A Special Use Permit is not required because the property is being used as it existed before and within the zoning requirements. If at some point Flow would like to expand the use or increase the number of trucks they would have to get a Special Use Permit. Another concern is the water being hauled from the site will come from a borehole well that is located on the property and not the springhouse. Citizens stated that had not occurred in the past. The citizens feel this should constitute a Special Use Permit because that is a change in the way the water was being pulled from the ground. The County received a signed affidavit from the previous owner. The affidavit stated that the borehole well was utilized for the production and filling of tanker trucks at the property when they owned it. Citizens also expressed a concern about a structure that was being built on the property. According to Flow, this structure is built to provide security and protection to the borehole well. Staff reviewed the structure and it was found to be less than the required square footage for a building permit. Square footage requirements for a building permit is 256 square feet by code and this structure is 15x15, which is less than that requirement. The planned use of the Seawright property right now is less than the previous user as far as impact goes. The previous user withdrew the water and also bottled it on site. Flow will not have bottling on site. The water will be removed and hauled to Verona for bottling. The County has made it clear to Flow that any expansion would require a Special Use Permit. Another concern was the truck traffic on the roadway. Since this project did not require a Special Use Permit, it did not trigger a full VDOT review. However, VDOT has looked at the roadway and the number of trips does not justify a Traffic Impact Analysis. VDOT did indicate there were areas where signage could be increased and there was concern with the four way stop. Mr. Fitzgerald spoke with Flow regarding the traffic and school concerns. It was strongly encouraged to find a different schedule that would not interfere with the school day. Flow expressed their desire to work with the County on those issues. Flow is utilizing a local firm to haul the water. This will allow for the drivers to have an understanding of the roadways. Another concern is the hydrology of the spring. There are concerns of wells drying up and what the hydrology looks like. A study from 1978 by the State Water Control Board indicated that the spring produced approximately 1.7 million gallons a day. At the latest meeting with Flow, they indicated there would be less the 100,000 gallons per day from the well. DEQ oversees water quality and how much can be pulled from the ground. A site visit was completed and it was determined that no permits were required at this time. Transparency in Government was a citizen concern. There have been a lot of questions on the project and unfortunately when the questions came in County staff was not in a position to provide a lot of information on the project. The County works with businesses regarding potential economic development projects, whether it be a new project or an expansion of an existing business. The County also works with businesses when they decide to relocate and with potential incentive packages that maybe available to them through the State. These projects are vetted for various things such as increase in tax base and new jobs that they may provide. These incentive packages are approved by the State and or the Board of Supervisors. However, there are a times that a business comes to the County and the County has no involvement. In this case, the County worked with Flow, but would not have had to. The zoning letter that Flow had allowed them to remove water from the property. The zoning at the facility in Mill Place Commerce Park allows them to bottle the water. The County worked with Flow because there was an incentive package available to them. It's also important to note that throughout the economic development process there is a need for confidentiality. The prospects that come to the county looking to invest and provide jobs expect confidentiality because of the potential

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May 8, 2019, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE PUBLIC (CONT'D)

impacts decisions have on their company. For example, if there would be a relocation from one locality to another it could be dramatic to deal with. The disclosure of the project does jeopardize future taxes that may be paid and jobs for the County. Staff is required to sign non-disclosure agreements with the companies to ensure the companies remain confidential. The County is at liberty in reviewing and evaluating proprietary information that the companies have. The need for confidentiality remains even after an incentive package may be approved through the State. The State is often involved and because of that, the official announcement on the project has to come from the State. If the County would announce the project ahead of time the incentives go away. This would impact business opportunities and job growth opportunities in the County. The Flow project was no exception. It was an economic development project like many over the years. The County competed with two other states. When citizens started inquiring about the project, the County was not in a position to be able to give any information out. Once the Governor made the announcement and the project becomes public all information that is available is provided. The State Code of Virginia allows for this confidentiality in Economic Development projects. Another concern that has been mentioned was a question about jobs. The company has committed to fifty-one jobs and currently the company has hired for twenty-five positions. Ninety-eight percent of those positions have been hired within forty-five minutes of Verona. Incentives have also been mentioned and how the incentives were handled. When developing incentives the County works closely with the Virginia Economic Development Partnership to determine what's available through the Governor's Opportunity Fund or the Commonwealth Opportunity Fund. Calculations are made on what the investment will be along with the jobs that will be created. In the case of Flow, the County looked at what the investment was simply in Mill Place Commerce Park and the jobs that were created there. There was no dollars in investment looked at on the property at Seawright Springs.

Aaron Tammi, 826 Burkes Mill Road Mount Sidney, is concerned with pumping from a borehole located on the property and not pumping from the spring. He is not aware of it previously being used and there was no access to it. There was a well rig on the property two months ago for four days. Mr. Tammi expresses concern over if this was used by the previous owner as to why there was a well rig there. The well is tapped into an underground water supply that may or may not be connected to the springs within the springhouse. He also has a concern with zoning. The farm is zoned General Agriculture and this prevents it from being subdivided and selling off to the highest bidder in lots. It also makes him wonder how adjoining properties could be sold to a commercial operation. Any Special Use Permit ends with the transfer of property and they are realizing that these rules apply to citizens but not corporations. Mr. Tammi would like to have a question and answer period after the meeting. He also ask the question of who is the citizen's voice in this matter.

Suzanne Berry, 859 Burkes Mill Road Mount Sidney, is concerned with having nine tankers and three trucks of water hauled per day on the road. The roads are not yellow lined. They are basic country roads. These trucks are a safety concern for school buses and young drivers. The County seems to think it is okay to run the trucks and tankers of water on a 1996 permit. The County has increased by thirty percent. It is sad that the citizens pay their taxes and live by the guidelines set up by the local and state governing bodies, but a decision such as this is not important enough to consider the citizens and their families. Barely meeting guidelines on paper does not exempt the County from doing what is prudent and right.

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May 8, 2019, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE PUBLIC (CONT'D)

Nicole Ocheltree, 63 Valley View Drive Mount Sidney, is concerned with the Flow Beverage project. She feels that the Board of Supervisors does not have the County's interest in mind when doing the project with Flow. The County is concerned with nothing but money. She is concerned with the tanker trucks being on the roads.

Dr. Robin Hawks, 112 Winding Creek Lane Mount Sidney, is concerned with some of the remarks made in Mr. Fitzgerald's statement regarding Flow and Seawright Springs. She would like to know where the twenty-five jobs are. In response to the statement on school activities. School activities take place all day and all evening. To say children would be safe if the trucks only run during non-school activity hours would not be possible. The zoning certificate is willfully inadequate. Water extractions is considered mining at this level. It is not considered an agricultural activity. Sinkholes are also a concern because of fast extraction of water. There has never been a viable operation of water hauling at the Seawright Springs. If the previous owner used the well that would be an expansion of the project from the time that it was originally conceived in 1996 so the previous owner has violated the ordinance. Perhaps there needs to be a violation placed on the previous owner. The citizens would like to have in writing what was stated to Flow regarding expansion. Dr. Hawks is concerned that even though the tanker truck drivers are local they will not be familiar with the roads they will be traveling on. Regarding transparency, confidentiality is only required for the financial negotiation. There is nothing in the laws or Virginia statutes that would preclude the County from discussing the project with the citizens. The property was bought on April 3, 2019 and negotiations were being made up to April 17<sup>th</sup>. The \$250,000.00 award was not received until after the property was already purchased. Dr. Hawks stated that duties and ethics based on the Virginia Constitution and the Bill of Rights states power is vested in and consequently derived from the people. As an elected body the Board has failed to fulfil this right and to do the duty for the people. The Board has failed as representatives of the people of Augusta County. According to certain documents, the Board and Augusta County protected the interest of Flow. While these matters will ultimately be decided in court, the citizens will be watching and asking questions and ensuring the ethical guidelines are followed. According to the Virginia Ethics Code, Conflict of Interest, requires any member of an elected government, employee or member of an advisory board not engage in conflicts of interest. Therefore, it is requested that Richard Halterman be removed from the Economic Development Authority. Mr. Halterman has a building for sale on the Economic Development site and this appears to be an activity that constitutes an ethics violation.

Christopher Simonetti, 128 Seawright Road, commented on the affidavit from the previous owner of tankers trucks hauling from Seawright Springs. No one around the vicinity has seen this. Mr. Simonetti has lived on Seawright Road for the past two owners. The owner before that served time in prison and clear cutted the entire Seawright Spring hill before it was sold. It seems to residents in Mount Sidney that the studies were avoided to fast track the deal with Flow Beverage so that the grant would not be lost. Mr. Fitzgerald stated "If too much information got out before the project was set the State could revoke the \$250,000.00 incentive it is putting towards the project". When asked about the road study in the same interview, Mr. Fitzgerald stated there would not be a traffic study and referred back to 1996 zoning certificate. Mr. Simonetti's argument is the zoning certificate is twenty-three years old. If Flow is going to only haul nine trucks, the citizens want that in writing.

Shaun Mooney, 110 Winding Creek Lane Mount Sidney, has lack of confidence with leadership in the County. The Flow project was accelerated through the process and the process has caused citizens to be angry. Questions have not been answered. County and State officials are using state law to unnecessarily hide their actions and communications. This project is not wanted in the North River District. Officials have not offered a single viable

May 8, 2019, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE PUBLIC (CONT'D)

benefit of this project. Mr. Mooney feels there should not be any further closed doors meetings and the Economic Development Authority Board needs to be evaluated. Focus on community and rebuild trust.

Don Hawks of Mount Sidney addressed Mr. Fitzgerald's statement that was made.

Steve East owns property that adjoins Seawright Springs and has concerns that the water supply will run dry.

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FIRE-RESCUE GRANT FUND

Consider committee's recommendation for funding.

David Nichols, Fire Chief, stated that the Fire-Rescue Grant Committee reviewed the following grant requests in the amount of \$99,124.69:

1) Churchville Volunteer Fire Company for \$50,000.00. The request is for tools and equipment to outfit their new engine. The committee recommends funding the request.

Mr. Wells moved, seconded by Ms. Bragg, that the Board approve the funding request.

Vote was as follows: Yeas: Garber, Bragg, Wells, Shull, Coleman, Pattie, and Carter  
Nays: None

Motion carried.

2) Swoope Volunteer Fire Company for \$49,124.69. The request had two parts: matching grant fund for forestry grant received for forestry equipment, the second part of the request is for updated equipment to outfit their new engine expected in May. The committee recommended funding the request.

Ms. Carter moved, seconded by Mr. Shull, that the Board approve the funding request.

Vote was as follows: Yeas: Garber, Bragg, Wells, Shull, Coleman, Pattie, and Carter  
Nays: None

Motion carried.

Chief Nichols stated that with each request, copies of acceptance and invoices for the item(s) purchased will be forwarded to Augusta County Fire-Rescue prior to sending the agency the Board approved amount.

Ms. Carter moved, seconded by Dr. Pattie, that the Board approve the funding request.

Vote was as follows: Yeas: Garber, Bragg, Wells, Shull, Coleman, Pattie, and Carter  
Nays: None

Motion carried.

May 8, 2019, at 7:00 p.m.

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**FIRE ENGINE PURCHASE**

Consider approval to purchase one fire engine and an agreement with Atlantic emergency Solutions/Pierce Manufacturing.

Funding Source: Capital 70-8000-8057 \$643,774.00

Agenda item will be moved to the Board of Supervisors meeting on Wednesday, May 22, 2019.

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**REFUND REQUESTS**

Consider the following refund requests from the Commissioner of the Revenue:

- 1. Robert W. Dowdell in the amount of \$9,234.22

James Benkahla, County Attorney, stated that Mr. Dowdell has qualified for 100% disability since January 1, 2011. The Commissioner has certified that the sum of \$9,234.22 was overpaid due to the exemption from real estate taxes. Mr. Benkahla has reviewed all paperwork.

Ms. Bragg moved, seconded by Dr. Pattie, that the Board approve the refund requests as presented.

Vote was as follows:           Yeas: Garber, Bragg, Wells, Shull, Coleman, Pattie  
  and Carter  
  Nays: None

Motion carried.

- 2. Alan S. Wilkerson in the amount of \$4,970.58

Mr. Benkahla stated Mr. Wilkerson qualified for 100% disability since April 17, 2012. The commissioner has certified that the sum of \$4,970.58 was overpaid due to the exemption from real estate taxes. All paperwork has been reviewed.

Ms. Bragg moved, seconded by Ms. Carter, that the Board approve the refund requests as presented.

Vote was as follows:           Yeas: Garber, Bragg, Wells, Shull, Coleman, Pattie  
  and Carter  
  Nays: None

Motion carried.

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**WAIVERS -- NONE**

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May 8, 2019, at 7:00 p.m.

MATTERS TO BE PRESENTED BY STAFF

Timothy Fitzgerald, County Administrator discussed the following issues:

1. Mr. Fitzgerald is working with VDOT on the 6-Year Plan. He hopes to have a draft within a couple of weeks.

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ADJOURNMENT

There being no other business to come before the Board, Ms. Bragg moved, seconded by Ms. Carter, the Board adjourn subject to call of the Chairman.

Vote was as follows:            Yeas: Garber, Bragg, Shull, Wells, Coleman, Pattie and Carter

Nays: None

Motion carried.

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Chairman

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County Administrator