

Regular Meeting, Wednesday, April 8, 2015, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Michael L. Shull, Chairman
Carolyn S. Bragg
Jeffrey A. Moore
Marshall W. Pattie
Tracy C. Pyles, Jr.
Larry J. Wills
Patrick J. Morgan, County Attorney
Timmy Fitzgerald, Director of Community Development
Jennifer M. Whetzel, Director of Finance
Patrick J. Coffield, County Administrator
Rita R. Austin, CMC, Executive Secretary

ABSENT: David A. Karaffa, Vice-Chairman

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, April 8, 2015, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 239th year of the Commonwealth....

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Chairman Shull welcomed the citizens present.

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Martha Mikell, Sponsor of SADD Club, of Stuarts Draft High School, announced that Ashlyn is one of the officers and that this club was named "National Club of the Year" last year and brought home a \$25,000 grant from State Farm.

Ashlyn Wolfe, a sophomore, at Stuarts Draft High School, led us with the Pledge of Allegiance. Ashlyn is active in the SADD Club, is in Advanced Choir and recently did a "Be a Friend Campaign," which helps students in her school who are struggling at home, or at school, or with themselves.

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Tracy C. Pyles, Jr., Supervisor for the Pastures District, delivered invocation.

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CLOSED SESSION

On motion of Ms. Bragg, seconded by Mr. Wills, the Board went into closed session pursuant to:

- (1) **the legal counsel exemption under Virginia Code § 2.2-3711(A)(7)**
[consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel, as permitted under subsection (A) (7)];

- A) Courthouse

On motion of Dr. Pattie, seconded by Mr. Pyles, the Board came out of Closed Session and adjourned subject to the call of the Chairman.

Vote was as follows: Yeas: Pattie, Shull, Wills, Moore, Pyles and Bragg
Nays: None
Absent: Karaffa

Motion carried.

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The Chairman advised that each member is required to certify that to the best of their knowledge during the closed session only the following was discussed:

- 1. Public business matters lawfully exempted from statutory open meeting requirements, and

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CLOSED SESSION (cont'd)

- 2. Only such public business matters identified in the motion to convene the executive session.

The Chairman asked if there is any Board member who cannot so certify.

Hearing none, the Chairman called upon the County Administrator/ Clerk of the Board to call the roll noting members of the Board who approve the certification shall answer AYE and those who cannot shall answer NAY.

Roll Call Vote was as follows:

- AYE: Pattie, Wills, Moore, Bragg, Pyles and Shull
- NAY: None
- ABSENT: Karaffa

The Chairman authorized the County Administrator/Clerk of the Board to record this certification in the minutes.

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MATTERS TO BE PRESENTED BY THE PUBLIC

The following speakers spoke in support of keeping the courthouse in Staunton:

Wick Vellines, Susan Read, Donald Judy, Duane Barron and Paula Rau

Mr. Vellines encouraged the Board to get back with the City of Staunton and resolve negotiations in keeping the courthouse in Staunton. He felt that unification of the courts and the savings had not been addressed to the public. "This building has been the most important building in the County (or the City) as being 'the center of justice since 1700's'. It reflects the unique pride that our forefathers have had in the jury system; in the American justice system. This courthouse that we have in the City reflects it as well as any in the State." Mr. Vellines also mentioned that "\$1 million to \$1.5 million, which is potentially available through Tax Credits and the fact that the City has gone forward to put that through, gives both jurisdictions an opportunity to get back at the table and consider what else needs to be done". Mr. Vellines commended the Board on their attention to this issue and asked that they talk further about a solution.

On a point of clarification, Patrick J. Coffield, County Administrator, asked Mr. Frazier, who was in the audience, to clarify the amount available from Tax Credits. Is it \$1.5 million, that Mr. Vellines mentioned, or \$2 million which City Manager Steve Owen had mentioned to him? Mr. Frazier said that it depended on the final budget. The new construction does not qualify for the credits. "It would have to be looked at more carefully."

Ms. Read agreed with Mr. Vellines and thanked the County for its efforts in the past. She noted that the Bar felt that there was a mutual benefit for the two localities to continue to work together. "You all have already invested \$80,000 in the study of keeping the courthouse where it is and making improvements to it. That was good money spent and you came up with a really good plan. We have been talking to the City and working hard to try and get everybody to the table and to do their part to make this a reality."

Donald Judy agreed with Mr. Vellines and Ms. Read and added:

- 1. Bar asked for the localities to consider using a professional mediator at no cost to the public.
- 2. No one has intended to impugn the good faith and honorable motivations of anyone involved.

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MATTERS TO BE PRESENTED BY THE PUBLIC (cont'd)

Mr. Barron endorsed Mr. Vellines' comments and felt that he had expressed the feelings of the Bar and felt that the City's offers have been inadequate. They have been talking to the City trying to encourage them to "provide a more adequate offer that represents the real benefit to the City that the courthouse remains in Staunton".

Ms. Rau, as a property owner and taxpayer, as a lover of the history and culture, felt that the courthouse was the most important building in the whole County. "It is not just a beautiful piece of architecture, but a symbol of what it means to be a resident of the County and all that we believe in. It is a constant reminder where everyone can see the presence of the County in the City." She also expressed tax increase concerns. She felt that the Frazier Report should be accessible to the public for review. She asked what would happen to the courthouse if made vacant and noted that the County had an obligation to maintain that property.

It was noted that these speakers plan on making similar comments to the City tomorrow night (April 9th).

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COURTS COMPLEX NEEDS ASSESSMENT/CONCEPT PLAN

The Board considered selection of A&E firm to prepare Needs Assessment/Concept Plan for relocation of Courts Complex to Government Center.

Candy J. Hensley, Assistant to the County Administrator, advised that, before the Board tonight, is consideration of a contract between Augusta County and Mosely Architects. Before going into the contract, she reviewed to the Board the procurement procedures. On February 27, 2015, Augusta County issued a Request for Professional Services (RFP) for the Augusta County Courts Complex to be located at the Government Center in Verona. Seven proposals were received. A committee of three reviewed the proposals and short-listed to three interviews. Interviews were conducted and ranked. Both the short-listing and the ranking were completed per specific criteria, which was in the RFP. Price was not considered when securing the professional services under the State Procurement Requirements.

Mosely Architects was ranked first by the review committee. Before the Board is a negotiated contract with scope and fee. Task Order #1 is to provide services for all three courts (Juvenile and Domestic Relations Court; General District Court and Circuit Court). This Task Order will include the following:

1. Updated Detailed Space Needs Assessment for 5, 10 and 20-year planning horizons.
2. Block diagram floor plans (based on 10-year horizon with 20-year phasing expansion).
3. Exterior concept plans (based on 10-year horizon with 20-year phasing expansion).
4. Preliminary Budget Estimate.
5. Summary of physical and functional differences between the existing courts and new courts complex.
6. Firm's recommendations.

The cost for Task Order #1 for the conceptual design is \$113,917.

Ms. Hensley added that the contract includes two additional tasks orders if the referendum passes:

1. Task Order #2 – Final Design and Bid.

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COURTS COMPLEX NEEDS ASSESSMENT/CONCEPT PLAN (cont'd)

2. Task Order #3 – Construction Administration.

Ms. Hensley advised that Task Order #1 will provide the necessary information to request referendum by August 14, 2015. Deadline to complete Task Order #1 is July 10th. The schedule included in the RFP is a very ambitious schedule and Augusta County and the Mosely team are committed and established to meet the deadlines.

Mr. Coffield added that this will be brought before the Board on July 20th at its Staff Briefing and considered at July 22nd or August 12th to meet the August 14th deadline of the Circuit Court Judge.

Mr. Wills moved, seconded by Mr. Pyles, that the Board authorize staff to sign the contract with Mosely to do the court study.

Mr. Wills made the following comment:

I appreciate what has been said here tonight. As we look at this process, this was a process we started over a year ago trying to get something done so that we knew whether we could go to referendum this fall or not. We wanted to go this fall because this is the election of every supervisor. The people who are interested in the leaders up here will also be the ones that are at the voting booth come November—the ones that our public needs and deserves to be the ones to make this decision—not this seated Board or the next seated Board. My thoughts on the existing courthouse has probably changed in the last year. As I looked at what is there; looked at the security concerns; looked at the handicapped accessibility . . . we could put in an elevator, but you can't park near the courthouse. What good does that do to get our elderly and our handicapped people easily in the courthouse? I recently took a trip into Texas. I had the opportunity to drive through two towns that had old courthouses that had been renovated. I stopped. The one big thing that I saw on both of those two courthouses was that they were completely surrounded by forty to sixty parking spaces. There is no way you can do that with the courthouse we have in Staunton unless you close the street and tear down buildings on the other side. We can do parking here at Verona. The other one is the electrical. When you go to work in an old building and try to renovate an old building to try to put in the modern conveniences that we have today and the modern technology, it's going to prove almost impossible. I like historical buildings, too, but not at the expense of security and the expense of accessibility. Therefore, I will be supporting the motion for the study.

Mr. Moore made the following comment:

I appreciate everybody being here tonight. The Frazier Study was done in 2012. This thing has been going on. At some point, our Board has to decide what we are going to do. The Judge has told us we have to do something. The study is \$114,000. If we could have worked out something with Staunton, it would mean money that we wouldn't probably have to spend. If we stay in Staunton, the best scenario is probably a 10-year fix. Then, ten years from now, we would be looking at it, again. If you look at how our society has changed over the last 10 or 15 years, some things are not for the good and we are really limited in what we can do there in terms of being able to make it safe and ADA compliant and some of the other things. With moving forward with the study, we get good information. I'm disappointed in hearing that the numbers are \$1.5 million, or possibly \$1 million. I thought we were talking about \$2 million. If there is an option to do something there, that needs to be worked out. I would not be opposed to instructing Mr. Coffield to sign a letter to allow Staunton to pursue tax credits. At this time, I will be supporting the study to get the information so that we can consider going to referendum.

Ms. Bragg made the following comment:

I thank everybody for coming, also. I know it is a very emotional topic. I know that there is a lot of vested interest on both sides. I know that this question has gone on for a very long time and there has been a lot of back and forth, you know, trying to get things moving along, trying to get things done. I truly believe the City has had opportunity after opportunity. Just in the time that I have been on the Board, there has been a number of times we have said 'Here's your deadline,' and the next thing that comes along.

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We really, as a Board, have got to make a decision for our citizens. They deserve the right to have a decision. They deserve the right to be a part of that. Moving forward with the referendum will give them the opportunity to do that. I agree with Mr. Wills. I do support going on with the study. I have lived in historical buildings and I very much appreciate them. At some point, you have to decide do you stay with the historical building or do you really need to focus on the security of our citizens, the security of anybody, such as staff, that is using the facilities. I think you really need to look at the accessibility. These are two big issues. Do you weigh historical buildings versus the rights of our citizens to have access and to be safe in buildings? That is something that is very important to me. I do understand what you are saying about not wanting it to move, but we have worked, and I think we'll continue to work, with them. On the same token, we still have got to make our decisions; we have got to move forward with the study so that we are prepared in the event that things don't work out. That's just the reality. I do support us going ahead with the study.

Mr. Pyles made the following comment:

I hear all of what you are saying. It is funny how negotiations always wait until the last minute. We should have set our deadline five days after we had our meeting and then we might have had it sooner. We really need to find out what it would cost to relocate courts to the Government Center. I don't know, when the study comes back, if it is going to be something that we can swallow; if it is something that the citizens can swallow; but we need to find out what it would all cost and then we can put the value to it. We estimate we will get \$150,000 of additional local revenue by having it up here, which is a far cry from the Staunton's estimate of \$15,000 a year. It seems to be worth more to us than it is to them. And what are the savings we can get in operation and cost of the air-conditioning and the heating and that sort of thing? We need to know that cost. This thing about a mediator or tension. . . I don't have any tension with them. They are good people. Ms. Dull is a lovely lady; Mr. Obenschain is a gentleman. I like the whole Board. They are all good. Deputy City Manager Mr. Rosenberg used to work for us. I was Chairman when we hired him as County Attorney. They are all good folks. We work with them all the time. It is not about tension. It's kind of about money, which is a lot of times it comes down to. Mr. Moore noted signing the tax credits application to allow them to go forward with that. I don't have a problem with that. In fact, I think it is a good idea to find out what is available. Is it \$1 million, \$1.2 million, or is it \$2 million? I would say to Staunton, and they are going to be carrying the ball seeking the tax credits, is that they go ahead and decide what they would do if the tax credits don't go through and what will they do if the tax credits do go through. We've never pulled anything off the table. We just said firmly what we would like to have from them in order to leave the courthouse there. One thing I think may happen is, if we come to an agreement and leave it down there, it is not going to be a win-win for both. Both people feel like it's a loss. The reason I say that is that Staunton doesn't think it's worth that much. If they were to come up with \$5 million, I would think that they thought that they were overpaying, that it was being stuck to their citizens to come up with this money for something that doesn't give them that much value, but they were forced by public pressure and you guys to do something that wasn't financially responsible. By the same token, if we spent the \$5 million, and we put in a courthouse that is just marginally acceptable for us, are we feeling good about that? Is \$5 million, or whatever amount it is, worth it when we know before long that we are going to have to do more? The Frazier Study, while it is terrific information, part of it points out the problems. The Judge wanted two courtrooms; this only has one. The problems with ADA . . . they say, 'You know that can be waived'. Why do we want to waive things? Why don't we want to make it accessible for the disabled? That doesn't seem smart. When we go to our employees down there, they have concerns. The staff at the County Clerk's Office, 'We need more room; this isn't a good workplace; we feel like we're in a fishbowl'. The deputies down there are concerned about the security. Folks, we have people in Augusta County who really squeeze a dollar and they squeeze each one of us, too. They're open to this because they find it very inconvenient to get down there, to park, to walk, to get around, and the different things that they go through. When we look at our citizens, our employees, we look at the future. If we are just marginally okay with security, now, what happens when there is a next shooting at a courthouse? That happens! That happens not infrequently. How do you make it safer for that? If we have taken this courthouse to the best it can be to fit historical preservation and to make it workable for a while, and

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someone says you have to do more, what do we do? How do we do this? They don't give us options on that. If we care about justice and we care about the jury system, we will make sure those folks are safe. We will be sure that the bad elements of our society and their followers aren't mixed and mingled right with each other all the time where tensions can rise. Every time we have somebody of known notoriety going to the court, we all see them on television. That's not safe. That's not smart. Any of you who are old enough, you remember when Jack Ruby shot Lee Harvey Oswald. That was one of things of just walking through and shooting a fellow. We have to have security. We have to have 21st Century security. We need to have 21st Century access for everybody—old and young—disabled and healthy. We need to be able to get to it by parking nearby and not have to press a button to cross the street; the rain comes down and watching for cars—we don't need all of that. We've got to look at it in a very serious way. I think we need to go forward with getting this study and trying to nail down the pricing on a new Courts Complex to see if we can make it work. I think we need to also go forward with the Tax Credits signature but with a note to Staunton what else are you going to do? If this all you have in mind, don't waste your time. That's not tension; that's just negotiation. That's just where we stand and I hope that they can understand that.

Dr. Pattie made the following comment:

I would like to thank you all for coming out here. I appreciate that and your comments tonight. We did a study to look at what it would cost to rebuild the courthouse. I think it only prudent that we do another study to look at what is going to cost to build one out here. I think more information and better information makes better decisions. I will be supporting that, tonight, as well. I would like to thank you all for continuing to ask Staunton to come back with a real offer. I think we all recognize that such a small percent towards the courthouse is not sufficient for the County taxpayers. Again, my preference is to keep it in Staunton, but I can't recommend doing that at such a small amount that Staunton has offered. I also support the Tax Credits. I think those are important. I think that is something that gives us a fuller picture. I think we should support that. Tonight, I think we should reiterate our position of requesting 50% less whatever grant on Tax Credit they get. I think that is a fair request and that is something that benefits both localities.

Chairman Shull made the following comment:

I would like to thank each one of you for coming out and your comments on it. When I've been out here in the public, I have heard both sides from our citizens. I've heard some that says not to pull it out of Staunton; but I have, also, heard some of our citizens that says pull it out of Staunton. I think it is best if we leave it up to the citizens, rather than the magnificent 7 sitting up here, which we're minus one tonight. The only way that we can get citizen input is to put it on a referendum because we'll never get all of the citizens in here. As you have heard, the election is coming up to elect supervisors from each Magisterial District. It's our best chance to hear from the public. In talking to some of the staff at the courthouse about the working conditions, and going into the basement and things, some of them says it's a fire hazard waiting to happen. If we have a fire in that courthouse, we lose the building. The building can be built back. But there are documents—deed books—everything that is in that courthouse and the basement and in the event of a fire, it's gone forever. We will never get those back. The building, we can build back. I think the decision needs to be left up to the public when we're having to utilize tax dollars in the amount that we are discussing. Yes, maintenance has been done in years past, but, when it comes to a major renovation as it needs now, I think we need to leave it up to the public. Does the public want to spend \$30 million, or whatever the study will come up with, to move it down here? Where is the best place to use their tax dollars? We have a Judge right now—I don't know how much longer he has there before retirement—and he is urging both sides try to work together. I look down the road in the next county just a few years ago. Sort of the same scenario was going on there. It went to referendum. The public turned it down. Shortly after the referendum was turned down, the Judge says, 'This courthouse is inadequate for court proceedings. I order a new courthouse to be built'. Rockbridge County has a new courthouse now. The old courthouse is being utilized by W & L. They went in and did some renovations there and they are using that courthouse for office space now. Our courthouse can be re-used if that is where we go. I'm willing to talk. The Judge has to sign and put this on referendum. There is a deadline. The deadline is Election Day. If Staunton has any options or opportunities that they want to deal with us on, that's the deadline. The public will decide. As to consolidating the courts, we haven't really heard anything. I think it's up

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to the plate and do something. I'm going to vote for this study tonight and I'm going to vote for the Tax Credits to show that we're working in good faith. Somewhere down the road, we will need this study. It will be money that is well-spent. I know some people probably won't say that, but a lot of things we do some people agree, some don't. That's just a part of being up here. You are never going to please everybody. I'm ready to move forward with this.

Vote was as follows: Yeas: Pattie, Shull, Wills, Moore, Pyles and Bragg

Nays: None

Absent: Karaffa

Motion carried.

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Mr. Pyles moved, seconded by Dr. Pattie, that the Board authorize Mr. Coffield to sign the Tax Credits Application and inform the City of Staunton the Board's position as to what to expect from Staunton in regards to the 50% and with the understanding that there is no commitment by this Board.

Vote was as follows: Yeas: Pattie, Shull, Wills, Moore, Pyles and Bragg

Nays: None

Absent: Karaffa

Motion carried.

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ACSA – EASEMENTS

The Board considered authorization to advertise for public hearing the granting of easements for water and sewer:

- 1. Hornet Road (Wayne District)
- 2. Bolivar Street (North River District)

Timmy Fitzgerald, Director of Community Development, explained that there were two different requests for water and sewer easements from the Augusta County Service Authority. The first request is on Hornet Road which is in the area where the School Board had given Augusta County the old school board offices buildings. There is existing water and sewer lines in that area that had never been placed into an easement for the Service Authority. The second request is on Bolivar Street near Mount Sidney. It is an old County right-of-way that has a line in the street that does not have an easement on it currently. A public hearing is required. Tonight's request is that the Board approve authorization to advertise for a public hearing on April 22nd.

Mr. Moore moved, seconded by Ms. Bragg, that the Board approve the requests.

Vote was as follows: Yeas: Pattie, Shull, Wills, Moore, Pyles and Bragg

Nays: None

Absent: Karaffa

Motion carried.

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WAIVERS/VARIANCES - NONE

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CONSENT AGENDA

Mr. Wills moved, seconded by Ms. Bragg, that the Board approve the consent agenda as follows:

MINUTES

Approved minutes of the following meetings:

- Staff Briefing Meeting, Monday, March 23, 2015
- Regular Meeting, Wednesday, March 25, 2015
- Budget Work Session Meeting, Monday, March 30, 2015, as revised

CLAIMS

Approved claims paid since March 11, 2015

Vote was as follows: Yeas: Pattie, Shull, Wills, Moore, Pyles and Bragg

Nays: None

Absent: Karaffa

Motion carried.

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MATTERS TO BE PRESENTED BY THE BOARD

The Board discussed the following issues:

Mr. Pyles: Attended Karst Seminar last week at VMI with Dustin Staton, of Community Development, and Jennifer Hoover, from the Service Authority. "Good educational process!" At a recent Service Authority meeting, the Service Authority was recognized for Coles Run, the most improved dam in the State, and what it does to protect the water supply and resources. "These are things that we do to protect our water and try to see that things are done in the right way." Mentioned that the Board has made a request of the Governor to come and discuss their concern and was disappointed that he has been able to come to the area.

Dr. Pattie: Commended Candy Hensley regarding a sign request "that was processed and delivered within 24 hours".

Mr. Wills:

- 1) Mr. Pyles' reference to Governor – The Governor had an interview on WHSV yesterday and said there was no concern regarding the pipeline.
- 2) Rockbridge County citizen request (Ms. Braun) – had asked staff to look into the issue of the VEPCO towers. Was the information given incorrect? Mr. Coffield reported that the original application was shared with the Board. A revised application was also given to the Board. Upon receipt of the letter, it was forwarded to Emmett Toms requesting a response. The Rockbridge County Administrator made the same request. Mr. Wills stated, "As public officials, we depend on information that they give us to be valid information. I would be very disappointed if they deceived us as to what they were actually doing. I think the upgrade of their towers will be beneficial and I don't have any problem with it, but it is just a matter of being the right information and not being told one thing and them doing something else."