

Regular Meeting, Wednesday, April 8, 2020, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Gerald Garber, Chairman
Pam L. Carter, Vice-Chair
Butch Wells
Michael L. Shull
Scott Seaton
Jeffrey Slaven
Steven Morelli
Timothy K. Fitzgerald, County Administrator
Jennifer M. Whetzel, Deputy County Administrator
James Benkahla, County Attorney
Angie Michael, Executive Assistant (Via Electronic)

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, April 8, 2020, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 244th year of the Commonwealth....

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Chairman Garber welcomed the citizens present.

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Mr. Morelli led the Pledge of Allegiance

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Pam Carter, Supervisor for the Pastures District, delivered the invocation.

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LOCAL EMERGENCY DECLARATION-COVID-19 (Coronavirus)

Timothy Fitzgerald, County Administrator, stated that this declaration took effect on March 12, 2020 with the signature of the Chairman as the Director of Emergency Management.

Mr. Carter moved, seconded by Dr. Seaton, that the Board adopt the Local Emergency Declaration-Covid-19 (Coronavirus).

WHEREAS, on March 12, 2020, the Governor of Virginia, by Executive Order NUMBER FIFTY-ONE (2020), declared a state of emergency in the Commonwealth of Virginia with regard to the Coronavirus (COVID-19); and

WHEREAS, due to the outbreak and continued spread of COVID-19, conditions exist such that there is a threat to the public health, safety, and welfare of the residents of the County of Augusta, Virginia; and, that the severity and magnitude of the impact of the COVID-19, is sufficient to constitute an emergency as defined in Virginia Code § 44-146.16, and warrants coordinated local government action to prevent or alleviate the damage, loss, hardship or suffering threatened or caused thereby; and

WHEREAS, circumstances do not permit the Board of Supervisors of the County of Augusta, Virginia to convene to consent to the declaration of a local emergency; and

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LOCAL EMERGENCY DECLARATION-COVID-19 (Coronavirus) (CONT'D)

NOW, THEREFORE pursuant to Virginia Code § 44-146.21, the Director of Emergency Management for the County of Augusta, declares and proclaims the existence of a local emergency in the County of Augusta. This Declaration is effective upon the signature of the Director or Emergency Management, and shall remain in effect, subject to confirmation by the Board of Supervisors at its next regularly scheduled meeting or at a special meeting within forty-five (45) days of this Declaration, whichever occurs first; and

It is further proclaimed and ordered that during the existence of said emergency the powers, functions, and duties of the Emergency Management Director and the Emergency Services Department of the County of Augusta shall be all those prescribed by state law and the ordinances, resolutions, and approved plans of the County of Augusta in order to mitigate the effects of said emergency.

If the Board of Supervisors confirms this Declaration, this Declaration shall remain in full force and effect until such time as the Board of Supervisors determines that all appropriate actions have been taken to address the emergency declared herein, and votes to end the declared emergency as provided by applicable law.

Vote was as follows: Yeas: Garber, Carter, Wells, Shull, Slaven, Seaton
 and Morelli
 Nays: None

Motion carried.

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CONTINUITY OF OPERATIONS ORDINANCE

The Board considered the Continuity of Operations Ordinance.

James Benkahla, County Attorney, stated that this is an emergency ordinance that effects the continuity of Government for Augusta County. The ordinance states legal authority for providing continuity of government. It establishes that the COVID-19 pandemic makes it unsafe to assemble groups of people in one location for purposes in conducting meetings with public bodies. Public bodies are defined as School Boards, Authorities, Commissions, and Committees and authorizes remote electronic meetings with public bodies without a quorum being physically present. It provides procedures for electronic meetings, suspends deadlines until the emergency is over, postpones non-emergency or non-essential public hearings and the ordinance is valid for sixty days. The Board can re-affirm the ordinance and it will be valid for six months.

Ms. Carter asked what is recommended.

Mr. Benkahla stated to start with the sixty days and then it could be extended if necessary.

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CONTINUITY OF OPERATIONS ORDINANCE (CONT'D)

Mr. Shull moved, seconded by Ms. Carter, that the Board adopt the Continuity of Operations Ordinance for the 60 day time period.

Vote was as follows: Yeas: Garber, Carter, Wells, Shull, Slaven, Seaton and Morelli
Nays: None

Motion carried.

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REFUND REQUEST

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

- 1) Branch Banking & Trust Company in the amount of \$31,247.00

Mr. Benkahla stated that this is a request for a refund for Bank Franchise tax for tax years 2012, 2013, and 2014. Bank Franchise tax is collected by the State and distributed to localities. The Department of Taxation performed an audit and found the request to be valid. A statewide refund of \$10 million is due to BB&T with Augusta County's share being \$31,247.00. Because the amount is over \$2,500.00, Board approval is required. Mr. Benkahla has reviewed all documents and agrees with the refund request.

Ms. Carter moved, seconded by Mr. Shull, that the Board approve refund request as presented.

Vote was as follows: Yeas: Garber, Carter, Wells, Shull, Slaven, Seaton and Morelli
Nays: None

Motion carried.

- 2) Supply One Weyers Cave, Inc. in the amount of \$35,893.35

Mr. Benkahla stated that the company was being taxed as a retailer. The Commissioner of the Revenue's office did a site visit and determined that the business should have been taxed as a wholesaler, which is a lower tax rate. A refund of \$35,893.35 is due for business license tax years 2017, 2018, 2019, and 2020. Mr. Benkahla has reviewed all documents and agrees with the refund request.

Mr. Shull moved, seconded by Mr. Wells, that the Board approve refund request as presented.

Vote was as follows: Yeas: Garber, Carter, Wells, Shull, Slaven, Seaton and Morelli
Nays: None

Motion carried.

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FLOOD CONTROL DAM-HEARTHSTONE LAKE

Consider amendment to agreements.

Jennifer Whetzel, Deputy County Administrator, stated that Hearthstone Dam is a flood control dam in Augusta County. This project has been worked on for a number of years. Howdyshell Excavating is nearing the end of the work. It is expected to be completed by the end of May, 2020. This is a \$3.9 million project and the Federal Government reimburses 65% of the cost. It is before the Board to extend the agreements for funding from the April 30, 2020 deadline to October 30, 2020 deadline.

Ms. Shull moved, seconded by Mr. Carter, that the Board approve extending the deadline for this agreement.

Vote was as follows: Yeas: Garber, Carter, Wells, Shull, Slaven, Seaton and Morelli
Nays: None

Motion carried.

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AUGUSTA COUNTY BUDGET

- 1. Consider FY20 revised and FY21 original budget for public hearing advertisement.
- 2. Consider tax rate for public hearing advertisement.

Mr. Fitzgerald stated this year was unique in how the budget was presented to the Board. This year's fiscal year budget for 2021 is approximately \$104 million which is an increase from fiscal year 2020 of approximately 3%. In order to present a balanced budget, \$7.2 million of agency requests were cut from the budget. This budget has been a work in progress since January and the revenues that are reflected in the budget are pre covid-19. There are several items in the budget that can be adjusted if need be due to CODVID-19. There may be State funding issues that will require adjusting to, along with legislation that was passed during the last General Assembly session.

Real Estate revenue had a 1% increase. Personal Property was estimated at a 3% increase. The public service rate was down slightly because of the assessments that are run through the state. Mobile homes were flat and machinery and tools were kept flat for the purpose of this budget. The State funding in the budget is something that is relied on and is approximately \$12 million of the budget or 11% over all. This is something that will continue to be monitored as the State considers their budget going forward and how it may impact our local budgets.

The balanced budget recommends a 2% increase for all full and part-time employees. This will be based actual revenues going forward after COVID-19. Health insurance is expected to increase 10.8%. This increase is covered within the budget with the use of operating dollars and the use of the health insurance reserve. The Virginia Retirement System will have an increase to 10.6% and that is also included in the balanced budget. During the budget process there were 27 positions requested from Department Heads. All were good requests, but there is only enough revenue for a few of them. Included in the budget are four new EMS only positions. This is emergency medical providers for ambulance transports. These positions will be funded through Revenue Recovery for the transports. A Parks and Recreation Cooridinator has been requested. This position is offset by revenue that is generated through programs of the department. This position will be put on hold until further notice. An Associate Planner position has been requested. This

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AUGUSTA COUNTY BUDGET (CONT'D)

Mr. Garber stated that he anticipates the next meeting to be held similar to this meeting. There is a deadline by state law on passing the budget so meetings need to be held. The public hearing is scheduled for April 22, 2020 and approval is tentatively set for May 13, 2020.

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WAIVERS

Consider a waiver request from Jeff and Jean Link from the requirement to connect to public sewer.

Mr. Fitzgerald stated that dwellings on new lots in minor subdivisions that are in Urban Service Areas are required to connect to public water and sewer if available from the Augusta County Service Authority. Jeff and Jean Link are requesting a waiver from this requirement in order to create a new lot to build a dwelling. The applicant will be connecting the new house to public water, but the sewer line is located along Riverview Drive, which would require an easement from one of the adjacent neighbors in order to extend the public sewer line to their property. The Service Authority acknowledges this connection would be difficult without access through the neighboring properties and has provided documentation stating they have no objection to this waiver request.

Mr. Slaven moved that the Board approved the waiver request as presented.

Vote was as follows: Yeas: Garber, Carter, Wells, Shull, Slaven, Seaton
 and Morelli
 Nays: None

Motion carried.

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CONSENT AGENDA

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

MINUTES

- Consider minutes of the following meetings:
- Regular Meeting, Wednesday, February 12, 2020
- Staff Briefing, Monday, February 24, 2020
- Regular Meeting, Wednesday, February 26, 2020
- Regular Meeting, Wednesday, March 11, 2020

CLAIMS

Considered claims paid since March 1, 2020

Vote was as follows: Yeas: Garber, Carter, Wells, Shull, Slaven, Seaton
 and Morelli
 Nays: None

Motion carried.

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Mr. Shull echoed Mr. Wells and Ms. Carter comments. He also agrees with looking at possibilities for tax deadlines and waiving penalties and fees.

Ms. Carter stated that there has been a task force created by the Community Foundation to address community needs. There have been considerable donations made to be used as grant money. If you know of anyone in need or assistance, contact Mr. Fitzgerald for information. Mary Baldwin University opened a residential hall for the homeless.

Mr. Garber stated that we are doing the best we can considering circumstances.

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MATTERS TO BE PRESENTED BY STAFF

Timothy Fitzgerald, County Administrator discussed the following issues:

- 1) Every department has a Continuity of Operations Plan, which flows into an overall Continuity Operations Plan for the County and the Board of Supervisors. This ensures consistent workflow.
- 2) Leslie Tate, Senior Planner will present the full report from the Solar Committee will presented at last meeting in April.
- 3) The County is the pre-application period for Smart Scale VDOT projects. An application can be submitted for funding every other year. Under the pre-application period, an application can be submitted for up to six projects. The final applications can only be for four projects. The six projects include Route 256 widening, Route 254 intersection safety improvements, Wilson workforce and Rehabilitation Center secondary facility access, US 250 access management improvements and US 11 access management improvements. The final applications are due by August 1, 2020.
- 4) Spring Clean-Up is postponed due to COVID-19.
- 5) Reviewed actions taken by each department during the COVID-19 pandemic.
 - The Commissioner of the Revenue has called every homeowner that qualified tax relief for the elderly and handicap from last year to make sure the forms were in on time. Personal property forms have gone out. Due to the building not being open to the public, they have been handled in different ways to be processed.
 - The Treasurer's Office has been doing a good job of operating the drive thru window for the Government Center.
 - Human Resources has been busy with the Family First Coronavirus Response Act.
 - IT has been busy with preparations to allow staff to work from home.
 - The libraries have been closed for a while, but Fishersville, Stuarts Draft and Churchville offered curbside pickup. With new guidelines in place that service has been forced to stop. There have been doing daily postings of programs, book talks, and how-to videos offered for the citizens. Library staff have been using the 3D printer to make facemasks and shields. A member of the community donated a new 3D printer to help with the task of making facemasks and shields.
 - Parks and Recreation has had significant impact on programs. All programs have been cancelled through June 10. The Summer Kids Camp is a big concern. They are hopeful it can continue for the summer. The original start date was to be prior to June 10, but there are plans to adjust the start date and lengthen the program. The Summer Activities Guide is

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MATTERS TO BE PRESENTED BY STAFF (CONT'D)

not being produced. The cost of producing the activities guide is approximately \$17,000.00 and 50% of the cost is typically covered based on programs. There are 20 part-time staff affiliated with the RecCreate Program (After school) that have been off or out of work since March 16.

- Community Development/Building Inspection workload has increased in March compared to March 2019.
- Administration compiled the Continuity of Operations Plans for County departments. The budget has been worked on daily. Communications have been diligently working to keep things up-to-date.
- Animal Control has had some changes to the way operations are done. Emergency Communication Center is taking all of the Animal Control calls. Animal Control calls are up. Traps will not be loaned to the public.
- Maintenance Department has been working on cleaning and getting supplies along with other projects already in progress throughout the county.
- ECC has been busy. Donna Good is emergency manager and has been busy keeping track of local cases. Exposure to the 911 center is limited in an effort to keep everyone safe.
- Economic Development released the Augusta County Disaster Relief Loan Fund information. The Tourism operation has shifted its focus to more of a support local business during this time. Nick Grow has been hired as the new Project Manager. His official start date is April 16.
- A complete, very specific layout for Augusta County Fire and Rescue was provided to the Board for their review.

Mr. Fitzgerald stated that every department is effected by COVID-19 and everyone has done an outstanding job of adjusting and doing what it takes to serve the citizens of Augusta County.

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MATTERS TO BE PRESENTED BY THE PUBLIC

Tracy Pyles of Churchville emailed the following statement:

In 1996 when I began serving as the Pastures Supervisor the Real Property Tax Rate was \$.58 per \$100 of value. When I left office in 2018 the rate was still \$.58. The only variation was the lowering of that rate, initiated by me, during the Great Recession.

Augusta County thrived at \$.58. All that needed to be done was done---schools, emergency services, industrial park, water systems, libraries, parks. The economy was always better here than nearly any place else. I submit Augusta County had enduring success not despite a modest tax rate but because it had a modest tax rate.

The last two years, with my leaving, there have been back to back tax increases, first by rate and then by value. The people of the Pastures District were misled. They were told my fiscal sensibilities would not just be continued but improved on. This has not happened.

These aberrations from what has served the people best cannot be allowed to stand during this difficult time. This country's birth came in revolt to an indifferent sovereign's demand for more and more from his "subjects". We are not "subjects" but rather simply hardworking citizens struggling to get ahead, or just stay afloat. Making this harder and harder should not be the agenda of you elected to serve us.

Understand that 21% of Augusta County residents are on Social Security. The cost of living increases since I retired in 2010 are cumulatively less (15%) than the 18% net increases in Augusta County property tax increases in just the last two years.

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

My company pension of course is fixed at the value set in 2010. Most of us seniors find ways to adjust to “more month than money” but it isn’t easy. If we never buy a new car, (each of my vehicles are over 10 years old and carrying more than 100,000 miles) our personal property tax will go down. And when we stay home we avoid sales tax, lodging tax, sales tax. We hold the line as best we can.

But two of you (Garber-Carter) chose to attack us even where we shelter in place. The inflationary increases of reassessment should have been sufficient to meet County needs. (It always has) Instead the rate was also raised to fund a “want” already rejected by those you were elected to serve: a monstrous courthouse irrationality.

If the needs of the seniors are of no concern to you; what about our agriculture community? Mr. Slaven should be able to give a present day account of beef prices. Their crashing means all those beautiful angus grazing in our county have become liabilities instead of appreciating assets.

Those fortunate enough to have money in the stock market, and not the livestock market, have seen losses in excess of 20%. Our everyday people are losing their incomes as the unemployment rate is heading to heights not seen since the Great Depression.

This Board must show it understands the moment at hand. The \$.05 vanity tax increase of Chairman Garber and Vice Chairman Carter in 2018 must be rescinded. And any of you who now support the \$.63 tax rate are as guilty of abusing our taxpayers today as they were two years ago.

Just ending Mr. Garber’s quest for a Courthouse to bear his name for a Century, will allow the Budget expenditures to stay as proposed. If you don’t understand how to do this, call me. With me we lived within our means for 22 years, without me it became easier to raise taxes than to do the work of putting the people first.

Lower the tax rate to at least \$.58. Anything less is your own “let them eat cake” moment.

Shaun Mooney of Mt. Sidney made the following statement:

I’m speaking tonight on the budgetary process. We are currently facing a health crisis and will shortly grapple with an economic and budget crisis. The impacts of the current crisis will be felt in many ways for years to come. Compounding the immediate crisis is a history of questionable budget decisions and a lack of vision and leadership from a number of our elected officials in Augusta County. There are examples where the personal views and preferences of board members both past and present have superseded the public interest: the courthouse, the middle river regional jail, economic development projects, road construction, zoning decisions, fire and rescue personnel issues. The list is long. This board cannot escape past decisions. But the board can act to change how business is conducted in Augusta County and make decisions that place the interest of the public first.

1. We should start with how we budget. First, budgets are moral documents. They prioritize and highlight the values of your community. The budget submitted should reflect not only the priorities of county departments, leaders and elected officials, but also consider input from the public. The City of Virginia Beach has an interactive website where citizens can submit budget proposals and suggest increases or decreases to line items based on actual budget data. The County of Chesterfield has conducted numerous online outreach efforts to collect citizen comments on their revised budget for 2020-2021. (Not their proposed budget but the revised version that includes 50 million in cuts.)

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

Augusta County should implement measures where residents can participate in the process. More voices in the process better align spending to the public's priorities.

2. Best estimates by the Federal Reserve Bank of Richmond indicate at minimum a 2-billion-dollar hole in the state budget right now. There are no accurate estimates for next year. However, it will be substantial. Unemployment claims in Augusta County for the week ending March 28 exceeded 700 individuals. We can expect much higher number for this week's report. A quick recovery appears less likely, although let's hope for one. With 53% of the county budget based upon state funding, local revenues and other fees and collections 5/10/15 percent budget reduction scenarios should be prepared and presented to the public for input prior to any adoption hearing. A revised budget should focus on continuity of government operations and eliminate all new spending including items added in 2019/2020 that require additional expenditures next year. The budget will face significant pressure from loss of state revenue and local revenue. We simply cannot afford the most recent expenditures.
3. Currently the county has 28 million dollars set aside in an infrastructure account. This money is there as a result of the last tax increase with half the revenue shared with the school system and the county keeping half. The board should utilize these funds to insulate our school system, EMS and social service systems from the worst impacts of budget reductions.
4. The Augusta County Courthouse project should be halted with no further expenditures. In addition, a good faith effort to reopen negotiations with Staunton on a combined courts complex is the pathway forward. Revisiting the 2012 proposal and creating a realistic and prudent financial plan removes a contentious political problem and solves a long-term budget challenge. Let's not forget that the Middle River Regional Jail, landfill, and school construction needs are also looming over the county.
5. We need vision and strategy. Guided and led by citizens of all backgrounds not consultants. Even before the pandemic crisis the county was not on a sustainable financial pathway. A goldilocks economy was required to keep the county budget and plans on track. But our bowl of porridge is looking more empty than full. Take a minute, step away from your personal priorities and vision and consider the public interest moving forward.

Robin Hawks of Mt. Sidney emailed the following statement:

I agree with Shaun's comments so I will not reiterate them here.

As you are well aware, my call to action has focused on the need for transparency and citizen participation in the governmental process. In your proposed budget, --the voters are at the top of the organizational chart. As difficult as COVID 19 has been and will likely continue to be, this is also a time where we as a county have the opportunity to refocus and reevaluate what is important to the citizens. Knowing what is important to the citizens is of critical importance. You as the leaders need to discover from the citizens as what is most important to them given that the money is limited. This discovery does not come from talking to your friends or the circle of individuals around you. Discovery comes from anonymous surveys that allow people (even your friends) to express their opinions. I know the 70 Million dollar courthouse is no longer financially feasible. My eye on Augusta poll demonstrated with 95% confidence that 82% of the people of Augusta County do not want a 70 million dollar courthouse. While there was a 10% error margin, the data is still significant. The history of board action has been to move forward on projects that you deem as important even when

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

the citizens do not agree. But the history does not have to be the future.

Present a revised budget that is based on facts not on wishful thinking. We need to budget on what money we likely have-- not what money we hope to have. There is no point to bring the citizens of this county to a public budget hearing where the budget is not within the realm of possibility. I am suggesting that you the officials bring to the budget hearing-- definitive data regarding the needed cuts. Project cut, and if there is more money available after COVID-19 is over, you can add funds. Presenting a fantasy budget only robs the citizens of having any real or factual information about what is likely to happen.

We know that members of the board have wanted a tax increase. Some BOS want to be on parity with Rockingham County. But we are not. They made different decisions for many years. A tax increase at this time would be cruel to the citizens, particularly those who have lost their jobs and maybe their health insurance. You must do what is right for the people.

4-9-2020 post script- Thank you for recognizing that this is not the right time to raise taxes and for considering a plan for people who may have difficulty paying their real-estate taxes. Maybe it would be helpful to follow Chesterfield or Virginia Beach in considering how to get input from the public.

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CLOSED SESSION

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

- (1) **the real property exemption under Virginia Code § 2.2-3711(A)(3)**
[discussion of the acquisition for a public purpose, or disposition, of real property]:
 - a) Ladd Elementary
- (2) **the economic development exemption under Virginia Code § 2.2-3711(A)(5)**
[discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of its interest in locating or expanding its facilities in the county]:
 - a) Proposed Office space, flex space, storage facilities, manufacturing facilities, utility and mixed use development.
- (3) **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, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.
 - a) Hershey Chocolate of Virginia, Inc. v. County of Augusta, Virginia
 - b) McKee Foods Corporation v. County of Augusta, Virginia
- (4) **the legal counsel exemption under Virginia Code § 2.23711(A)(8)**
Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to

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CLOSED SESSION (CONT'D)

permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

- a) Hershey Chocolate of Virginia, Inc. v. County of Augusta, Virginia
- b) McKee Foods Corporation v. County of Augusta, Virginia

On motion of Mr. Shull, seconded by Ms. Carter, the Board came out of Closed Session.

Vote was as follows: Yeas: Garber, Carter, Wells, Shull, Slaven
 Seaton and Morelli
 Nays: None

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:

Public business matters lawfully exempted from statutory open meeting

- 1. requirements, and
- 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.

Vote was as follows: Yeas: Garber, Carter, Wells, Shull, Slaven
 Seaton and Morelli
 Nays: None

Motion carried.

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

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ADJOURNMENT

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

Vote was as follows: Yeas: Garber, Carter, Wells, Shull, Slaven
 Seaton and Morelli
 Nays: None

Motion carried.

Chairman

County Administrator