
Regular Meeting, Wednesday, August 10, 2011, at 7:00 p.m. Government Center, Verona, VA.

PRESENT: Jeremy L. Shifflett, Chairman
Wendell L. Coleman, Vice-Chairman
David R. Beyeler
Gerald W. Garber
Larry C. Howdyshell
Tracy C. Pyles, Jr.
Nancy Taylor Sorrells
Timmy Fitzgerald, Director of Community Development
Patrick J. Morgan, County Attorney
Patrick J. Coffield, County Administrator
John C. McGehee, Assistant County Administrator
Rita R. Austin, CMC, Executive Secretary

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, August 10, 2011, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 236th year of the Commonwealth....

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Chairman Shifflett welcomed the citizens present.

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Mike Shull, led us with the Pledge of Allegiance.

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

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THE UPPER SHENANDOAH RIVER BASIN WATER SUPPLY PLAN

This being the day and time advertised to consider the adoption of the Upper Shenandoah River Basin Regional Water Supply Plan (Resolution) and Drought Ordinance.

Timmy Fitzgerald, Director of Community Development, advised that at the last Staff Briefing (July 25th), Andrea Terry, from Central Shenandoah Planning District Commission, gave the Board a complete briefing on the Upper Shenandoah River Basin Water Supply Plan. This was a mandate from the State that watershed plans had to be developed. Regionally, the County worked together with 13 different localities: Augusta County, Rockingham, Harrisonburg, Staunton, Waynesboro, Bridgewater, Broadway, Craigsville, Dayton and Elkton, Grottoes, Mount Crawford, and Timberville and developed the regional plan instead of developing individual plans. The plan addresses several items:

- Existing Water Source;
- Existing Water Use Information and projected Water Use in the future;
- Existing Resource Information;
- Water Demand Management, or current conservation practices;
- Drought Response and Contingency Plans, which indicate what should be done in case of a drought;
- Projected Water Demand Information;
- Statement of Need based on the adequacy of existing water sources to meet current and projected water demand over the planning period.

A copy of the plan is available to the public upon request. This plan needs to be adopted by November 2, 2011. It is to be submitted to DEQ and each locality would have to adopt the plan. A resolution indicating adoption of the plan and an updated drought ordinance was included in the agenda package. The current drought

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THE UPPER SHENANDOAH RIVER BASIN WATER SUPPLY PLAN (cont'd)

ordinance, § 24-13, reflects conservation of water during declared water supply emergencies. The majority of the current ordinance has been eliminated with the exception of Paragraphs D and E. A draft of the revised ordinance had been enclosed with the agenda package, which referred things back to the plan and gives guidelines for drought response and mitigation during three phases: 1) a drought watch; 2) a drought warning; and 3) a drought emergency. It indicates actions that localities, individuals and commercial entities would need to take if that type of emergency occurred.

The Chairman declared the public hearing open.

There being no speakers, the Chairman declared the public hearing closed.

Mr. Howdyshell added that he had worked to set up the Upper Shenandoah River to help draft rough guidelines. "Some of these things just don't go quite as far as I would like to see them go. We talk about restricting localities, but we say nothing about Federal and State agencies. These agencies can do whatever they want. Sometimes you need to lead by example." He felt that this was a good plan, but "in some instances, it needed to go a little further."

Ms. Sorrells asked if this could be included in the Legislative Package. She agreed with Mr. Howdyshell, "They need to lead by example and not be able to go off using water when we're in a major crisis."

Mr. Howdyshell added that Ken Fanfoni, Director of Augusta County Service Authority, had a lot of input in this project. He noted there were 140 agencies dealing with water throughout the region. "When water is short, if you don't eat it, you don't water it."

Mr. Coleman moved, seconded by Ms. Sorrells, that the Board adopt the following ordinance and resolution as presented:

DROUGHT ORDINANCE

§ 24-13. Drought Management.

A. This Article shall apply to all Augusta County residents and businesses which are served by the public water system.

B. The Board of Supervisors has adopted by resolution the Upper Shenandoah River Basin Drought Preparedness and Response Plan.

C. The indicators used to indicate drought severity shall be defined in the Upper Shenandoah River Basin Drought Preparedness and Response Plan Drought Response Plan.

D. The drought stages shall be Drought Watch, Drought Warning, and Drought Emergency, as determined by the Board, pursuant to the Upper Shenandoah River Basin Drought Preparedness and Response Plan and State Water Control Board regulation 9 VAC 25-120.

E. The County may declare a drought stage in the absence of a declaration by the Commonwealth of Virginia. The County must declare a drought stage upon declaration by the Commonwealth of Virginia. Upon notification to the Board that a drought stage exists, as defined in Section D of this Ordinance, the Board may issue a declaration of a drought stage.

F. Upon declaration by the Board of a Drought Watch or Drought Warning, voluntary conservation measures will be requested of residents and businesses as set forth in the Upper Shenandoah River Basin Drought Preparedness and Response Plan Drought Response Plan (table A and B below). Upon declaration of a Drought Emergency, mandatory restrictions shall apply as set forth in the Plan (table C below).

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THE UPPER SHENANDOAH RIVER BASIN WATER SUPPLY PLAN (cont'd)**Table A. Guidelines for Drought Response and Mitigation during a Drought Watch**

<u>Stage</u>			
DROUGHT STAGE	ACTIONS		
Drought Watch	Communities/ Localities Need to:	Individuals Need to:	Commercial Entities Need to:
<i>Goal of drought actions in this stage are to reduce use by up to 5%.</i>	<p>Implement Voluntary Conservation Measures</p> <p>Review and/or update Regional Drought Plan</p> <p>Communicate conditions, increase outreach and provide conservation tips.</p> <p>Increase water use efficiency and/or promote use reclaimed water for public facility landscaping.</p> <p>Consider developing increased conservation rate charges or surcharges to respond to drought conditions.</p>	<p>Conduct home water audits and leak detection. Fix leaking faucets and replace faulty fixtures.</p> <p>Implement Voluntary Conservation Measures</p> <ul style="list-style-type: none"> • Convert high water using plumbing to low-flow fixtures. • Water at night or in the early morning to avoid the hottest part of the day • Make sure sprinklers are working properly to reduce overspray • Plant native or drought tolerant plants • Use a bucket when washing cars or go to a commercial car wash • Utilize water harvesting strategies. • Reuse water as much as possible such as reusing dishwater and rinse water for watering indoor and outdoor plants, where allowed by law. 	<p>Implement voluntary water reduction and follow conservation plan.</p> <p>Discontinue use of decorative fountains.</p> <p>Require commercial facilities with monthly demand exceeding a threshold limit to conduct a self-audit.</p>

Table B. Guidelines for Drought Response and Mitigation during a Drought

<u>Warning</u>			
DROUGHT STAGE	ACTIONS		
Drought Warning	Communities/ Localities Need to:	Individuals Need to:	Commercial Entities Need to:
<i>Goal of drought actions in this stage are to reduce use by up to 5% - 10%.</i>	<p>Continue implementation of Voluntary Conservation Measures</p> <p>Begin the reduction or elimination of non-essential uses to reduce</p>	<p>Continue implementation of Voluntary Conservation Measures and follow the items below:</p> <ul style="list-style-type: none"> • Reduce lawn watering to no more than two times per 	<p>Implement water conservation plans.</p> <p>Implement interior retrofit for all high water use faucets and materials.</p>

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	<p>water usage by 5 to 10%</p> <p>Communicate drought level and conditions to public.</p> <p>Increase education on conservation followed by voluntary reductions for communities.</p> <p>Consider implementing a schedule for public lawn watering.</p> <p>Implement increased conservation rate changes or surcharges, as determined by locality.</p>	<p>week between the hours of 9 p.m. and 10 a.m.</p> <ul style="list-style-type: none"> • Reduce vegetable garden watering and water between the hours of 9 p.m. and 10 a.m. • Avoid sprinkler use. Use soil-soakers or drip irrigation • Do not plant new landscaping or grass 	<p>Restrict washing of sidewalks, driveways, parking lots or any other paved surface except in the case of meeting health and safety standards.</p> <p>Prohibit operations of fountains at commercial sites.</p>
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Table C. Guidelines for Drought Response and Mitigation during a Drought Emergency

DROUGHT STAGE	ACTIONS		
Drought Emergency	Communities/ Localities Need to:	Individuals Need to:	Commercial Entities Need to:
<p><i>Goal of drought actions in this stage are to reduce use by up to 10% - 15%.</i></p>	<p>Implement mandatory non-essential water use restrictions to reduce water usage by 10-15%</p> <p>Continue aforementioned conservation measures from watch and warning stages.</p> <p>Communicate conditions, increase outreach and promote conservation tips.</p> <p>Consider the adoption and enforcement of emergency ordinances as necessary to protect public welfare, health, and safety.</p>	<p>Implement mandatory non-essential water use restrictions including the following:</p> <ul style="list-style-type: none"> • No unrestricted lawn irrigation. • No washing of paved areas with any pressurized water source except in the case of meeting health and safety standards. • No washing of autos, trucks, types of mobile equipment except at facilities with wash water re-circulating systems. • No filling or topping off of outdoor swimming pools <p>Continue aforementioned conservation measures from watch and warning stages.</p> <p>Where allowable by law, reuse water:</p> <ul style="list-style-type: none"> • Reuse dishwater for plants. • Capture shower water in buckets for watering plants. 	<p>Implement mandatory non-essential water use restrictions</p> <p>Voluntarily reduce water consumption by at least 10%. This reduction may result from the elimination of other non-essential water uses, application of water conservation practices, or reduction in essential water uses.</p> <p>Follow conservation measures for 'individuals' where appropriate.</p> <p>Discontinue the service of water to the restaurant or other food service establishment customers unless specifically requested by customer.</p>

The above restrictions in tables A, B, and C, or any one of them, shall become effective upon their being printed in any newspaper of general circulation in the county, or broadcast upon any radio or

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THE UPPER SHENANDOAH RIVER BASIN WATER SUPPLY PLAN (cont'd)

television station serving the county. As the water supply system in Augusta County is permitted and operated as several separate systems, the above restrictions may be applied to all systems or to individual systems as required by circumstances at the time of the declaration.

G. Waiver of Restrictions. Upon prior written request by an individual, business, or other water user, the Board, or its designee, may permit less than full compliance with any drought restrictions if good cause can be shown, including evidence that the applicant is affected in a substantial manner not common to other businesses or persons generally. No waiver shall be granted by the Board or its designee unless the Board or its designee determines that the public health, safety, and welfare will not be adversely affected by the waiver. All waivers granted by the Board or its designee shall be reported at the Board's next regular or special meeting.

H. Any person violating any provision of this section or any order of the County Administrator pursuant to the authority granted hereunder shall be guilty of a Class 3 misdemeanor. In addition, the ACSA is hereby authorized to terminate the water service, for the duration of the emergency, to any person convicted of such violation.

I. Nothing in this section shall be construed to prohibit the County Administrator or the Executive Director of the ACSA from rescinding any orders issued hereunder when the conditions creating the need for such orders have abated.

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RESOLUTION

**Adoption of the Upper Shenandoah River Basin
Water Supply Plan**

WHEREAS, the Virginia General Assembly has mandated the development of local and regional water supply programs throughout the Commonwealth and the State Water Control Board has developed regulations 9 VAC 25-780, Local and Regional Water Supply Planning, to implement this planning process; and

WHEREAS, based upon these regulations, county, cities, and towns are required to complete a water supply program that fulfills the regulations by deadlines based on population.

WHEREAS, local governments may elect to join one or more other local governments to develop a regional water supply program for which a deadline of November 2, 2011 has been established.

WHEREAS, the following elements must be included in all local or regional water supply programs:

- A description of existing water sources;
- A description of existing water use;
- A description of existing water resource conditions;
- An assessment of projected water demand;
- A description of water management actions;
- A statement of need;
- An alternatives analysis that identifies potential alternatives to address projected deficits in water supplies;
- A map or maps identifying important elements of the program that may include existing environmental resources, existing water sources, significant existing water uses, and proposed new sources;
- A copy of the adopted program documents including any local plans or ordinances or amendments that incorporate the local program elements required by this chapter;
- A resolution approving the plan from each local government that is party to the plan; and
- A record of the local public hearing, a copy of all written comments and the submitter's response to all written comments received, and

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WHEREAS, it is reasonable and prudent for the following local governments to coordinate and collaborate in the development of a regional water supply program:

- Augusta County
- Rockingham County
- City of Harrisonburg
- City of Staunton
- City of Waynesboro
- Town of Bridgewater
- Town of Broadway
- Town of Craigsville
- Town of Dayton
- Town of Elkton
- Town of Grottoes
- Town of Mt. Crawford
- Town of Timberville

WHEREAS, the County of Augusta is part of the Upper Shenandoah River Basin Regional Water Supply Plan which includes the 13 localities listed above;

WHEREAS, the Upper Shenandoah River Basin Regional Water Supply Plan was developed in accordance with Virginia Regulation 9 VAC 25-780-70 through 9 VAC 25-780-130; and

WHEREAS, on August 10, 2010, the Augusta County Board of Supervisors held a public hearing to accept public comment on the Upper Shenandoah River Basin Regional Water Supply Plan and all written comments submitted have received a written response as required; and

NOW, THEREFORE BE IT RESOLVED that the Augusta County Board of Supervisors hereby adopts the Upper Shenandoah River Basin Regional Water Supply Plan as it pertains to the County of Augusta. Approval and adoption of this regional plan indicates support for and general agreement with the regional planning approach, but does not indicate approval or disapproval of conclusions and recommendations presented in the plan as they pertain to other localities. The County of Augusta reserves the right to comment on specific water supply alternatives in the future even though such alternatives may be recommended in this adopted plan. The County of Augusta will not be limited to specific water supply alternatives in this adopted plan and reserves the right to recommend additional alternatives for consideration in the future.

BE IT FURTHER RESOLVED that the Augusta County Board of Supervisors intends that the Upper Shenandoah River Basin Regional Water Supply Plan shall be revised to reflect changes in relevant data at least once every five years and shall be revised and resubmitted to the Virginia Department of Environmental Quality every ten years in accordance with the regulation and sound planning practice.

Vote was as follows: Yeas: Howdyshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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MATTERS TO BE PRESENTED BY THE PUBLIC- NONE

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RACK'EM SMACK'EM RIBS

The Board considered a request for a dance hall permit for Rack'em Smack'em Ribs located in Verona, Virginia (Beverley Manor District).

Rita Austin, Executive Secretary, reported that a request had been made for a dance hall permit for Rack'em Smack'em Ribs located in Verona and that the applicant has met all qualifications.

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RACK'EM SMACK'EM RIBS (cont'd)

Chairman Shifflett added that it is in his district and reiterated that they have met all requirements; therefore, he supported the request.

Mr. Coleman moved, seconded by Mr. Beyeler, that the Board approve the request.

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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LEGISLATIVE ISSUES

The Board considered 2012 General Assembly Legislative Issues.

John C. McGehee, Assistant County Administrator, reported that Jane Woods, Legislative Liaison, Mr. Coleman and he had drafted the proposed 2012 Legislative Proposals, which included changes that the Board had suggested over the last year. He asked for the Board's direction. He noted the following:

1. Land-use Decisions: Added language and will ask Legislators to introduce legislation on the issue of limiting the need to notify "all" adjoining property owners when the property under consideration is adjacent to the National Forest and could require notification to parcels miles away from property under consideration, such as the floodplain ordinance and the source water protection ordinance.
2. Transportation: Deleted a portion under Transportation section that referred to ABC stores. Mr. McGehee, in talking with Ms. Woods, understands that it will be brought back this year for discussion but unrelated to funding for Transportation.

Mr. Beyeler referred to the language "We also believe that revenue sources should be found that maximize the payments by out-of-state drivers that travel the Virginia transportation system." Mr. Beyeler questioned why an out-of-state driver had to pay more going through our state than what we do. Mr. McGehee explained that it was saying that instead of taking Transportation money out of the General Fund, the recommendation is to take Transportation funding out the Fuel Tax that users would pay whether they were in-state or out-of-state. "There is more money taken out of the General Fund every year for transportation that is supposed to supplement transportation." Ms. Sorrells said that this was because our fuel tax is not equal to all the other states. She further explained that instead of raising the fuel tax to pay for the roads, it keeps coming out of "our other revenues that we're just paying for within the state and not by the out-of-state users of the roads". Mr. Pyles added, "We take money out of the General Fund to go to roads. The concept is that roads ought to pay for themselves from all users. As we subsidize our roads with our sales tax and with our income tax, we are disadvantaging our own citizens in that regard. If you believe in users' fees as opposed to taxes, you would say that people ought to pay the appropriate amount to cover our roads through that tax and not through sales tax or income tax." After further discussion, it was the consensus of the Board to change "out-of-state" drivers to "all" drivers.

3. Water Quality: A statement on the issues with the Chesapeake Bay where the Service Authority was required to upgrade its facilities and infrastructure to meet new laws and regulatory requirements that were only partially funded by state and/or federal funds was deleted. The Service Authority had gotten grants for portions of this work and now there is not enough of money in the fund to honor the grants that were awarded. About 15% of the grant funds are due to the Service Authority (Middle River WWTP - \$22,500; Staunton - \$80,600; Stuarts Draft WWTP - \$130,000; and Fishersville WWTP - \$65,000).

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LEGISLATIVE ISSUES (cont'd)

Mr. Pyles asked the Finance Director if the State has been paid yet. Ms. Whetzel said it did not have to be sent until January 8th. Mr. Pyles suggested deducting the money owed to the Service Authority. Mr. Garber suggested that the Board should make that decision at the Organizational Meeting in January.

4. Payday Lending: It had been suggested to delete. It was the consensus of the Board to keep the language in.
5. Redistricting: It was suggested to delete. Mr. Beyeler said that this needed to be addressed at some time in the future. Mr. Pyles asked if redistricting is final. Mr. McGehee said that the federal lines for the congressional seats have not been resolved; for the state, modification for split precincts is needed. Mr. Pyles noted that there were still problems. The County Administrator added that, for local governmental elections, this problem only happens every 20 years. It was the consensus of the Board to delete.
6. Election Nominating Process: The cost of the primaries issue came up during the year. Ms. Woods felt that this was the best way to proceed. It was Mr. McGehee's understanding, from Ms. Woods, that the incumbents can call for a primary at any time. Mr. Beyeler agreed with the language. Ms. Woods had mentioned a "Super Mass Meeting" that could be held at a certain place, at any time and date, to place a vote.

Mr. Garber said that this was done in Rockingham County on the Sheriff's race.

7. Circuit Court Districts Realignment: President of the Bar Association would be happy to give a presentation regarding the redistricting or Circuit Court lines and boundaries. Staunton has taken the position that they are mainly concerned with being "short-changed with judges that are assigned to the courts". Mr. Beyeler felt that this was a General Assembly issue.
8. State Funding for Mandated and Shared Programs: Mr. Coleman expressed concern of the unfunded mandates. "We keep talking about this, and things don't seem to be getting any better. They just keep passing things and cutting money." Mr. McGehee felt that VACo and VML needed to survey every jurisdiction in the State on their costs with the association of the Line of Duty Act. He surmised that, when you add up all of those premiums that are being charged for every locality, it would far exceed the \$15 million that the State, in the past, was paying for the Line of Duty Act. He questioned if we were really saving money for all taxpayers by doing that. Mr. Pyles said he resented localities getting less from the state and having to pay more. "I don't pay attention to the legislative package. It's just useless. We just don't have any leverage. If the State owes the Service Authority \$100,000, let's send them a check and minus it. Right now, we're just passive. It's not going to change unless we change what we do. Going to a dinner and sending a legislative package has not been successful. I think you've got to start thinking of creative ways to raise your issues to a level that gets attention."
9. Golf Cart Signage: Mr. Beyeler asked the County Attorney if Golf Cart signs had to be at every intersection. Patrick J. Morgan, County Attorney, said that he would have to review the statute. Mr. Fitzgerald said that the current ordinance, which reflects the State Code, requires that signs had to be on "each" street that is designated for golf carts. He emphasized that each street that is approved by the Board of Supervisors would have to have signs posted. Mr. Beyeler disagreed with that requirement. He did not feel that it was needed at every intersection. He felt that it only needed to be posted at the entrance of a subdivision. Mr. Coleman suggested that staff draft language to give the locality the flexibility to make that determination.

Mr. Beyeler moved, seconded by Mr. Coleman, that the Board authorize staff to draft language for the legislative package to give the locality the flexibility to make the determination of placing signage for Golf Carts.

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LEGISLATIVE ISSUES (cont'd)

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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STREET ADDITIONS

The Board considered Community Development's and VDOT's recommendations to adopt resolution for acceptance of the following streets into the secondary road system in accordance with VDOT request:

- 1. Wayne Heights, Section 2 (Beverly Manor District)
- 2. Teaverton, Unit 13 (Wayne District)

Mr. Fitzgerald displayed property on the overhead.

Ebco Circle had been built for quite a while, but seemed to have an issue. Everything has been resolved and VDOT has approved.

Mr. Beyeler moved, seconded by Mr. Howdysshell, that the Board adopt the following resolution:

WAYNE HEIGHTS, SECTION 2 - STREET ADDITION

WHEREAS, that the County and the Virginia Department of Transportation have entered into an agreement on August 26, 1996, for comprehensive stormwater detention which applies to this request for addition.

WHEREAS, VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

BE IT RESOLVED, that the Virginia Department of Transportation is hereby requested to add the following streets in **WAYNE HEIGHTS, SECTION 2** into the secondary road system of Augusta County pursuant to Section 33.1-229 of the Code of Virginia (1950) as amended:

Ebco Circle
 From: Intersection of Route 9030
 To: 0.07 miles east of Route 9030
 Length: 0.07 miles

AND FURTHER BE IT RESOLVED, that the Board does guarantee the Commonwealth of Virginia an unrestricted right-of-way of 50 feet with necessary easements for cuts, fills, and drainage as recorded in Plat Book 1, Instrument #060002916, Page 6548, recorded March 8, 2006.

AND FURTHER BE IT RESOLVED, that the Virginia Department of Transportation will only maintain those facilities located within the dedicated right-of-way. All other facilities outside of the right-of-way will be the responsibility of others.

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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STREET ADDITIONS (cont'd)

Mr. Fitzgerald displayed property on the overhead. He noted that Teaverton 12 had previously been approved. Teaverton 13 had been completed for quite some time. Because of there being two different developers, there had been issues with Unit 12 which did not allow Unit 13 to be approved.

Mr. Coleman moved, seconded by Ms. Sorrells, that the Board adopt the following resolution:

TEAVERTON, UNIT 13 - STREET ADDITION

WHEREAS, that the County and the Virginia Department of Transportation have entered into an agreement on August 26, 1996, for comprehensive stormwater detention which applies to this request for addition.

WHEREAS, VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

BE IT RESOLVED, that the Virginia Department of Transportation is hereby requested to add the following streets in **TEAVERTON, UNIT 13** into the secondary road system of Augusta County pursuant to Section 33.1-229 of the Code of Virginia (1950) as amended:

<u>Abbey Court</u>	
From:	Intersection of Hamshire Way (Route 1424)
To:	End of Cul-de-sac
Length:	0.11 miles

AND FURTHER BE IT RESOLVED, that the Board does guarantee the Commonwealth of Virginia an unrestricted right-of-way of 50 feet with necessary easements for cuts, fills, and drainage as recorded in Plat Book 1, Instrument #040006456, Pages 5933 and 5934, recorded May 18, 2004.

AND FURTHER BE IT RESOLVED, that the Virginia Department of Transportation will only maintain those facilities located within the dedicated right-of-way. All other facilities outside of the right-of-way will be the responsibility of others.

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

Mr. Beyeler mentioned that Unit 13 had met state standards for five or six years. He felt there was need to come up with a system when you have more than one developer in a subdivision that would not prevent one area from being approved. Mr. Fitzgerald advised that this was a VDOT requirement of not taking a street in without the section before it being accepted. In other words, this could not be a private street leading to a state-maintained street in the back. Unit 12 had issues and was a different developer. VDOT granted a few exceptions on Unit 12 which helped with approving Unit 13. Mr. Coffield added that, originally, there was a single owner. The original owner sold to two different developers. Unit 12, when the deal was made with the original owner, should have had some type of protections on the sections in front of him. Unfortunately, everything was not moving at the same schedule.

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WAIVERS/VARIANCES - NONE

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CONSENT AGENDA

Mr. Coleman moved, seconded by Mr. Howdysshell, that the Board approve the consent agenda as follows:

CLAIMS

Approved claims paid since July 13, 2011.

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CONSENT AGENDA (cont'd)

Vote was as follows: Yeas: Howdyshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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MATTERS TO BE PRESENTED BY THE BOARD

The Board discussed the following issues:

Mr. Pyles:

- 1. Pastures District – Has asked Community Development to put together a tour with all persons who have responsibility on rivers to visit several spots in the Pastures District.
- 2. Poultry – Asked for possible zoning changes to allow chickens in residential areas.

Mr. Coleman: Attended Family Dollar Store – ribbon-cutting ceremony which was held on August 6th. Learned that it is WalMart’s biggest competitor. Currently, they have 6,800 stores; 45,000 employees; and sales of \$7.9 billion.

Mr. Garber:

- 1. Poultry – Harrisonburg had issues – suggested to contact them to learn the outcome to determine what was done.
- 2. Augusta County Service Authority – Asked if Mr. Beasley could provide a one-page briefing regarding the unfunded grants.

Mr. Beyeler:

- 1. Augusta County Fair – “Looks good! Best ever been!”

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- 2. Floodplain Overlay Zoning District

The Farleys are present tonight that have property that is in what FEMA considers a floodplain. They wanted to build a building on property that is not in the line, but it is in the 100-foot buffer reflected in the revised ordinance. Mr. Fitzgerald gave a PowerPoint presentation with the following high-lights:

- 1. In order to remain in the National Flood Insurance Program, FEMA needs to approve the County’s Floodplain Ordinance. They have approved the ordinance with the recent change in Sherando; although, FEMA has since notified Augusta County about additional changes that are needed. County ordinance, § 25-475, talks about where buildings and structures can be built. The reason for the 100-foot buffer is because of not being sure if the FEMA line is correct. The 100-foot buffer allows movement in that line. If the building is in that 100-foot buffer, a survey is usually needed.
- 2. Surveys are done to determine exactly where the floodplain is. If the building is outside of that floodplain, then the building can be built in that location.
- 3. A waiver policy is available. If you are in the 100-foot buffer, the Zoning Administrator and County Engineer can view the property. If they are satisfied that there is no way any portion of the proposed development will be within the Floodplain Overlay District, they can approve the building without a survey.

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

Floodplain Overlay Zoning District (cont'd)

4. The Zoning Administrator and County Engineer viewed the site and determined that it was in need of a survey because of the elevation change was not high enough to determine that it was out of the floodplain. The basis of the decision, at the staff level, is that the FEMA maps have not been reviewed in the field. They felt that a survey needed to be done to determine where the actual floodplain limits are.
5. They also looked at the drainage in the area. It has 1,910 acres of drainage that leads into the area, which impacts the floodplain area.
6. The elevation difference between the floodplain line and location of where the building is proposed to be built is minimal – 4 to 6 feet could be achieved. The only cases where waivers have been granted would be if you had extreme elevation changes (20-30'). This difference was not enough elevation change for staff to grant that exception.

Timothy Clay Farley gave a PowerPoint presentation. He stated the following reasons for being here tonight:

1. It is a family farm of 300+ acres on McPheeter's Road and Stingy Hollow Road.
2. Small, family farms must change / grow / adapt to survive.
 - ✓ Must protect equipment from weather to best maintain and protect .
 - ✓ Modern machinery is larger in size, difficult to fit inside many barns built decades ago when 50 horsepower tractors and 5' mowers were the norm.
3. To adapt their farming practices, they need to build machine and hay storage sheds.
4. They now learn that numerous county regulations (enacted in 2010 & based on inaccurate FEMA floodplain map) restrict the entire group of farm structures at 295 McPheeter's Road.

In summary of his presentation:

- FEMA overlays are incorrect (and arbitrary in many respects)
- County ordinances are based on inaccurate FEMA baselines.
- County ordinances unfairly place county staff in a biased position. Not fair to staff, and not fair to citizens.
- County needs to correct floodplain overlay data if regulating based upon it.
- County should consider repealing 100' buffer ordinance.
- At a minimum, the County needs to better structure waiver or exception process to place accountability and responsibility where landowners rights and burdens are equally considered.
- Farmer/small business owner should not be required to pay (for surveys) in order to correct government created errors.

Mr. Beyeler pointed out the location on Mr. Farley's property of a bunker silo and questioned how many farmers would locate a bunker silo in a floodplain? He added that if a survey were needed, it would cost approximately \$2,000. He did not feel a survey was necessary. He noted that this property was in the Riverheads District.

Ms. Sorrells was pleased that Mr. Beyeler had looked at the property because: 1) he was on the Ordinance Committee; and 2) he is a farmer and is familiar with this type of thing. She noted that if the building were to be placed where Mr. Farley wishes, all of the other buildings would be destroyed if a flood occurred. She offered to pay one-half of the survey cost up to \$2,000 (\$1,000) out of her infrastructure cost.

August 10, 2011, at 7:00 p.m.

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

Floodplain Overlay Zoning District (cont'd)

Mr. Pyles asked for a timeframe to have a survey or delete the buffer requirement in the ordinance.

Mr. Fitzgerald advised that this would have to go through a public hearing process.

Mr. Morgan added that, because of it being a zoning ordinance, it would have to go through the Planning Commission, as well as the Board of Supervisors.

Mr. Beyeler understood that the building could be built without getting in the flood area; the problem is the 100-foot buffer. He asked if a waiver could be done pursuant to Board approval.

Mr. Morgan questioned the determination of what staff is allowed to do. He felt that staff had a good standard of what to look at in terms of what is outside of the floodplain.

Mr. Beyeler felt that if the Board could encourage staff to sign-off, it would put the liability on the Board, not staff.

Mr. Pyles said that it needed to be determined if the Board had the authority to do the waiver. "If you ask an engineer to go against his creed, that's wrong." He asked if a Special Meeting could be called with the Planning Commission to move the time table up.

Mr. Morgan said a joint meeting with the Planning Commission could be held to streamline the ordinance consideration.

Ms. Sorrells asked if the Board approved the ordinance change to remove the buffer, would it still have to be approved by FEMA.

Mr. Fitzgerald said it would still have to be approved by FEMA. He felt that FEMA would need to be informed that that change had been made. He explained that FEMA was pleased with the additional 100-foot buffer. When FEMA approved the ordinance, they were happy with the buffer added to the ordinance. He suggested giving a courtesy call informing them of the changes that are going to be made.

Mr. Coleman reiterated that a courtesy call needed to be made to FEMA, but not asking for permission to make the change.

Mr. Beyeler called for the question.

Mr. Garber asked Mr. Morgan for the shortest possible timeframe. Mr. Morgan said you would need advertisement once a week for two successive weeks. If a Joint Planning Commission/Board of Supervisors meeting was held, a decision could be made at the same time. Mr. Fitzgerald reported that the next Planning Commission meeting was September 13th. Advertisement would occur August 31st and September 7th.

Ms. Sorrells mentioned, in regards to the survey, the purpose was to get a waiver for the buffer. She pointed out that they would not have to deal with FEMA with the potential of rejection. She expressed concern of floodplain insurance if the buffer change were to be made.

Mr. Fitzgerald did not feel the removal of the buffer would cause FEMA to deny insurance because it was not a FEMA requirement. He could not guarantee that FEMA would not encourage incorporation of FEMA's original suggestions.

August 10, 2011, at 7:00 p.m.

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

Floodplain Overlay Zoning District (cont'd)

Mr. Garber asked if Mr. Howdysshell would agree to withdraw his motion. Mr. Howdysshell agreed.

Mr. Garber moved, seconded by Mr. Beyeler, that the Board have a joint meeting with the Planning Commission to repeal the 100-foot setback at the earliest legal timeframe.

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

* * *

Ms. Sorrells asked if Mr. Farley needed to get a survey. It was determined that Mr. Farley could make that decision. Mr. Farley said that he would not be getting a survey at this time. He felt that the survey was an unfair expense for the landowner. "I would like to see it fixed, not only for me, but for the entire County." He greatly appreciated Ms. Sorrells' offer.

Mr. Fitzgerald informed the Board that it will take time to revise the ordinance; hopefully, it will be discussed on September 13th. If it cannot be done by September 13th, a special meeting may need to be called to discuss only this item.

Mr. Beyeler apologized to Mr. Farley for the delay. "Just because we pass ordinances from time-to-time, it doesn't say they're necessarily right. This is a prime example when we were wrong."

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

Ms. Sorrells: Augusta County Fair – Augusta County, Recycling Committee, and Service Authority have booths.

Chairman Shifflett: Fuel Reimbursement for Volunteers – Board action needed to implement. May also consider changing the timeframe of payments. Asked Board to place on next Staff Briefing for discussion (August).

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MATTERS TO BE PRESENTED BY STAFF

Staff discussed the following:

1. 2011 CSEMS Regional Award for Outstanding IMS Provider recipient – Heidi Johnston
2. Mayors/Managers Governance Meeting – August 26th
3. EMS Status Report placed in Board of Supervisors' mail slot
4. Shenandoah Valley Partnership Annual Report distributed to Board
5. VDOT Revenue Sharing Program – Six-Year Plan – peak: \$5 - \$6 million; currently, \$250,000. In this year's budget, \$500,000 has been allocated. Will be meeting with VDOT to discuss projects. This probably needs to be discussed in September in order for an October approval. Mr. Pyles referred to the Legislative Package where it stated that sales tax was going to fix roads versus the gas tax. "Now, we've got real estate tax going to do roads. Roads ought to pay for themselves."
6. Central Shenandoah Planning District Commission Presentation – Blue Ridge Parkway/Skyline Drive Gateway Studies – will be presented at next meeting (Monday, August 15th)

August 10, 2011, at 7:00 p.m.

MATTERS TO BE PRESENTED BY STAFF (cont'd)

- 7. Extension Service – a new statewide Extension Director has been hired. Letter distributed to Board reflecting “The restructuring plan that was presented last fall was subsequently withdrawn by President Steger.”

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CLOSED SESSION

On motion of Mr. Coleman, seconded by Mr. Beyeler, the Board went into closed session pursuant to:

- (1) the personnel exemption under Virginia Code § 2.2-3711(A)(1)**
[discussion, consideration or interviews of (a) prospective candidates for employment, or (b) assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific employees]:

A) Boards and Commissions

- (2) 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) Tax Exemption Request

On motion of Mr. Beyeler, seconded by Mr. Coleman, the Board came out of closed Session.

Vote was as follows: Yeas: Howdyshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

* * * * *

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
- 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: Coleman, Garber, Howdyshell, Shifflett, Sorrells, Pyles and Beyeler

NAY: None

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

