

Regular Meeting, Wednesday, February 13, 2008, 7:00 p.m. Government Center, Verona, VA.

PRESENT: David R. Beyeler, Chairman
Tracy C. Pyles, Jr., Vice-Chairman
Wendell L. Coleman
Gerald W. Garber
Larry C. Howdyshell
Jeremy L. Shifflett
Nancy Taylor Sorrells
G. Chris Brown, Interim County Attorney
Becky Earhart, Senior Planner
Jennifer M. Whetzel, Director of Finance
John C. McGehee, Assistant County Administrator
Patrick J. Coffield, County Administrator
Rita R. Austin, CMC, Executive Secretary

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, February 13, 2008, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 232nd year of the Commonwealth....

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Chairman Beyeler welcomed the citizens present and reminded them to remove their hats and turn off their cell phones.

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The Chairman introduced the following students in Math, Science, Technology, and Visual Art, at the Central Shenandoah Valley Regional Governor's School located at Fishersville, Virginia, to conduct the Pledge of Allegiance:

Jeremy Clawson, a senior at Stuarts Draft High School, hopes to attend Virginia Tech and major in Wildlife Management and play rugby.

Christine Coffield, a junior at Wilson Memorial High School, hopes to attend University of Virginia and major in Media Communications.

Julia Aronson, a junior at Wilson Memorial High School, hopes to attend University of Virginia.

Kurt Brill, a senior at Buffalo Gap High School, hopes to go to a college and major in Physics and Aeronautics.

Travis Coyner, a senior at Riverheads High School, hopes to attend Virginia Tech and major in Business.

Thomas Bell, a senior at Robert E. Lee High School, hopes to attend University of Virginia.

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

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INTRODUCTION OF COUNTY ATTORNEY

Chairman Beyeler introduced Patrick J. Morgan as County Attorney, effective March 17, 2008. Mr. Morgan currently serves as County Attorney in the County of Louisa, a position he has held since November 1998. Prior to that time, from 1996 until 1998, he practiced law with a firm in Richmond, Virginia. Mr. Morgan is a graduate of The John Marshall Law School. He also holds a BA in political science from Old Dominion University and an MA in history from the University of Notre Dame.

INTRODUCTION OF COUNTY ATTORNEY (cont'd)

February 13, 2008, at 7:00 p.m.

Mr. Morgan introduced his wife of 31.5 years, Cinda, and stated that he was looking forward to working with the Augusta County team.

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MATTERS TO BE PRESENTED BY THE PUBLIC

ADULT BUSINESS

Jeff Jordan, Bev Cundiff and John Erie asked that the Board strongly support strict zoning against adult businesses.

John Wilkinson, Zoning Administrator, advised that he had met with the Planning Commission last night (Tuesday, February 12th) and they looked at the draft ordinance. The Planning Commission recommended that it be sent back to the Board of Supervisors for consideration. Patrick J. Coffield, County Administrator, explained that it would be brought back to the Board at the February 25th Staff Briefing for discussion and to consider advertisement.

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MATTERS TO BE PRESENTED BY THE BOARD

The Board discussed the following issues:

Mr. Coleman: Fishersville Small Area Plan meeting is scheduled for Tuesday, February 19, at 7:00 p.m. at Wilson Middle School.

Mr. Pyles:

1. COUNTY ATTORNEY APPOINTMENT

Mr. Pyles moved, seconded by Mr. Coleman, that the Board appoint Patrick J. Morgan as the County Attorney, effective March 17, 2008.

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

Nays: None

Motion carried.

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2. Augusta Springs – Study for grant program for an evaluation on needs.

Mr. Pyles moved, seconded by Mr. Garber, that the Board authorize staff to submit a letter to evaluate the area for a potential grant.

Mr. Pyles noted that, at this point, it does not obligate the Board to match or fund a grant in any way, but just to begin the process of getting support from the state.

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

Nays: None

Motion carried.

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February 13, 2008, at 7:00 p.m.

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

- 3. Cell phone service in Deerfield –a need to construct a tower for better cell phone service.

He would like to explore the possibility of using infrastructure to help construct a tower. He foresaw the problems of getting involved with a private enterprise and competition with others.

Mr. Pyles moved, seconded by Ms. Sorrells, that the Board approve Mr. Pyles investigating what is needed to make cell phone service operational in Deerfield such as the location of a cell tower that may be aided by government funding.

Mr. Howdysshell understood Mr. Pyles' problem and mentioned that when cell towers began, it was only to represent about 80% of the population. To make things worse, he noticed in Expenditures that \$3,200 was spent for a study. He said there were dead spots everywhere in the County for cell service and that technology is changing rapidly. Mr. Garber did not know if there were any technology close that may be making the cell phone tower obsolete. He thought it to be a great idea to investigate. Mr. Pyles mentioned that they had considered satellite service previously.

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

Nays: None

Motion carried.

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- 4. Blackburn Area – Potential development – public sewer and water

Mr. Pyles advised that a study had been done to determine if service could be supplied from Verona cost-prohibitive. Staunton was unable to provide service. Kenneth Fanfoni, Executive Director for Augusta County Service Authority, is evaluating what Loudoun County is doing as far as community "septic fields" or other things that are not as intensive with the anticipation that if it is acceptable in Loudoun County, then it could possibly be built by the developer and then assigned to the Service Authority to meet the technical requirements that it be a public system. To be a public system would keep the smaller ones from developing and then being dropped by the private ownership and then the County being responsible.

- 5. PLANNING COMMISSION – RESIGNATION

Mr. Pyles moved, seconded by Ms. Sorrells, that the Board accept the resignation of Justine Tilghman from the Planning Commission.

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

Nays: None

Motion carried.

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

6. PLANNING COMMISSION – APPOINTMENT

Mr. Pyles moved, seconded by Mr. Coleman, that the Board appoint Taylor Cole to serve an unexpired four-year term on the Planning Commission, effective immediately, to expire December 31, 2010.

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

Nays: None

Motion carried.

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

Ms. Sorrells:

- 1. Blue Ridge Log Homes – attended ribbon cutting ceremony.
- 2. Jamestown Committee – Wrapping up. Report distributed to Board. Play being reproduced on March 13, 14, and 15 at Blue Ridge Community College.

Mr. Shifflett: A meeting at Stuarts Draft High School with the new principal was postponed. He hopes to present a report at the next meeting.

Mr. Garber: To the students in the audience, he reflected on a visit by a Presidential candidate at the Airport this week (Huckabee). Mr. Garber mentioned one thing said that he felt was interesting. Mr. Huckabee said, when he was a kid, his father took him to see the Governor. His father said, "Son, this might be the only time in your life that you will get to see a Governor because they don't come up here in this part of the state very often." He said that his father would have no way of knowing that he would serve that state ten and one-half years. Mr. Garber stated to the students: "Anything is possible!"

Chairman Beyeler: Regional meeting with Waynesboro, Staunton and Augusta County members. It was suggested that a dinner meeting be scheduled with no particular agenda to learn about each other. Three meetings were proposed – one in April, July (after elections), and Fall. A different locality would be responsible for each meeting. Chairman Beyeler suggested April 29th or 30th. After much discussion with the Board, it was decided that a meeting should be scheduled at the end of May after the election with the newly elected City Council member (possibly May 29th). Chairman Beyeler mentioned that he and Mr. Coffield will be having a Governance meeting with Staunton and Waynesboro this Friday and will discuss a date.

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LIGHTING ORDINANCE WAIVER – RIVERHEADS HIGH SCHOOL

The Board considered School Board request for a waiver from spillover related to soccer field lighting project (Riverheads District).

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LIGHTING ORDINANCE WAIVER – RIVERHEADS HIGH SCHOOL (cont'd)

John Wilkinson advised that the School Board has requested a waiver from the ordinance requirements in order to install lighting on the soccer field at the Riverheads High School. An aerial was displayed of the school and the soccer field. Section 25-63 of the Lighting Ordinance states that “the spillover of lighting from outdoor luminaries onto public streets and property within a residential or agricultural zoning district or used for residential or agricultural purposes shall not exceed 0.5 foot candle.” Documentation from the lighting engineer shows that the site cannot meet the requirements of the lighting ordinance and provide the required amount of light for the facility due to light spillover onto Don Hanger Circle. The Lighting Ordinance provides an option of applying for a waiver from the Board of Supervisors and states “Upon finding that an outdoor luminaire, or system of outdoor luminaries required for an athletic facility cannot reasonably comply with the standard and provide sufficient illumination of the facility for its safe use, as determined by recommended practices adopted by the Illumination Engineering Society of North America for the type of facility and the activity to be conducted in such facility.”

Ms. Sorrells noted the way the Ordinance is written you are required to send out a number of letters to the adjoining property owners. She asked if Mr. Wilkinson had received any response. Mr. Wilkinson said he received no responses.

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

Mr. Howdyshell added that this is one of the unintended consequences that you have with an ordinance and hoped that the same courtesy is extended if someone else requests a waiver. Ms. Sorrells pointed out that the waiver would not have been necessary with some “commonsense adjustment to the wording of the ordinances”.

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

Nays: None

Motion carried.

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ORDINANCES REVIEW PROJECT

The Board considered approval of contract for ordinances review services.

Funding Source: Operating Budget Account (#11010-3125) \$176,140

Jennifer Whetzel, Director of Finance, reported that the County received proposals for consulting services for analysis and revision of the County’s zoning, subdivision and stormwater ordinances. A selection committee, consisting of Mr. Howdyshell, Ms. Sorrells, James Curd, Steve Rosenberg and Becky Earhart, interviewed the three responding offerors. The committee entered into negotiations with the top ranked firm, Duncan Associates. Duncan is proposing to complete the project with assistance from Land Design and attorney Sharon Pandak. The contract included in the agenda packet breaks the project into four phases (or tasks). The County can terminate the project after the completion of any phase (or task) of the project. Total contract is for \$176,140. Estimated project completion is 15 to 18 months. Chris Brown, Interim County Attorney, has reviewed the contract and noted a few revisions (distributed to the Board). Upon approval of the contract by the Board of Supervisors, negotiations with Duncan Associates will cease and the Finance Department will post the Notice of Intent to Award.

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ORDINANCES REVIEW PROJECT (cont'd)

Mr. Brown noted the following revisions:

1. Venue clause added so that any action or litigation arising from this agreement shall be proper only in the Circuit Court for Augusta County, Virginia.
2. Incorporated provisions from the Request for Proposals to make sure that they were part of the contract (standard contractual language required by the Virginia Code).
3. Added copyright language to make sure that the final work product received is owned by Augusta County.

Ms. Sorrells added that the contract indicates a seven-day back-out clause should the County wish the work stopped. She felt that this project will allow common sense change to be made to the ordinances and makes them more user-friendly.

Mr. Howdyshell liked the idea of it being a cut and paste type deal in that the Board can choose which sections they want to amend. He expressed concerns of hand-picking groups to be involved in the process. He felt that Duncan should have the latitude of searching the groups that he wished to interview.

Chairman Beyeler referred to Exhibit B and asked about “additional time” for the attorney—if it were within the cost or if it were additional cost. Becky Earhart, Senior Planner, said that they have assigned an hourly rate if additional legal advice is needed.

Ms. Earhart felt that an hourly rate needed to be noted upfront. Chairman Beyeler expressed that there are areas in the County where website services are not available to the public and that printed material needed to be made available. Ms. Earhart explained that it would be up to the County to make hard copies of the ordinance.

Mr. Pyles pointed out that two things are done to the public: 1) take their money; and 2) restrict them as to what they can do. He felt that the ordinances should be reviewed very carefully and apply personal experiences to them. “We need to review these, but we really need to put our heart and soul to it to see that we make them fair, clear and no more than necessary.”

Mr. Garber asked if the Scope of Services (Exhibit A) was part of the contract. Mr. Brown said it is a unified contract—a contract which incorporates the Scope of Services and the Compensation (Exhibit B). Mr. Garber, as an outsider watching the process of the Comprehensive Plan, felt that there was a lot of time wasted. He felt that some of the Board members needed to be more involved from the very beginning and determine what was necessary and not to waste time on things that were not needed. He suggested that the Chairman and Vice-Chairman serve as liaisons and discuss “as you go”. Chairman Beyeler asked if Mr. Pyles was willing to serve. Mr. Pyles said he would be happy to.

Mr. Shifflett agreed that two members of the Board should be included.

Ms. Earhart clarified that the intent of the contract is that the first stage of the project is to meet with the Board of Supervisors, staff and stakeholder groups to determine what is needed. The next phase is to bring the proposal before the Board for discussion; the Board will decide what to proceed with. It is not in the scope to draft anything until approved by the Board.

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ORDINANCES REVIEW PROJECT (cont'd)

Mr. Garber moved, seconded by Mr. Shifflett, that the Board accept the agreement as stated, and appoint the Chairman and Vice-Chairman to serve as liaisons and keep the Board well-informed.

Chairman Beyeler asked Mr. Brown to revise, if necessary, the agreement to reflect the motion. Mr. Brown indicated he would.

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

Nays: None

Motion carried.

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CRAIGSVILLE TOWN HALL

The Board considered agreement between County and Town regarding Town Hall funding.

Mr. Coffield stated that the Board received a recommendation from Mr. Pyles on October 24th on the development of a Town Hall in Craigsville. The Board had approved providing the funding contingent upon an agreement being drafted and brought back to the Board for action. The agreement was drafted by the Craigsville Town attorney after consultation. It has been approved by the Craigsville Town Council.

Mr. Pyles stated that the agreement protects the County and insures that the funds will be used to construct the Town Hall.

Mr. Pyles moved, seconded by Mr. Howdyshell, that the Board accepts the contract in the form presented to the Board with such changes as are approved by the County Administrator and the County Attorney and authorize execution of the final documents by the County Administrator.

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

Nays: None

Motion carried.

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GREENVILLE STREETLIGHT

The Board considered installation of streetlight on Route 11 at I-81 ramp to increase visibility of turning movement.

Funding Source: Riverheads Infrastructure Account (#80000-8015-42) \$6,112

Ms. Earhart advised that there has been an ongoing discussion about how to improve the safety at this intersection. The recommendation from Dominion Power is to put a streetlight where the trucks are making their left turns back on to the Interstate on Route 11. Dominion Power has provided an estimate of \$6,112 that will be flexible until the Board authorizes the contracts, at which time an exact cost will be given.

February 13, 2008, at 7:00 p.m.

MATTERS TO BE PRESENTED BY STAFF

Staff discussed the following:

1. Motor Vehicle License Decal Ordinance – Draft ordinance distributed to Board. Will be discussed at Staff Briefing on February 25, 2008. He reminded the Board that a Committee had discussed this and presented different options to the Board for consideration. Mr. Coffield asked that the Board review this draft to determine if it represents the Board's recommendations. Ms. Sorrells explained to the public that the Committee looked at all the different options, including the pros and cons of keeping the decals, getting rid of the decals, having a permanent decal (instead of an annual decal). If the decal was eliminated, potential options were considered in how to make it a revenue-neutral plan. A number of options were considered including adding it to the real estate tax. That option was objected wholeheartedly by the Board.
2. Byrd Hill Boundary Adjustment Line – announcement at last meeting of documents circulating and would be brought back to the Board in the near future for consideration. This will be delayed for a while for further discussion with Augusta County Service Authority and the City of Staunton.
3. General Assembly Legislative Update given by John C. McGehee, Assistant County Administrator. Highlights mentioned: 1) Legislative Day – went very well! 2) Machinery and tools tax bill killed. 3) Homestead Act Bill – has to pass General Assembly two consecutive years – Amendment passed last year; Senate version killed this year. 4) Governor revised revenue estimates – down another \$300 million – going to try to protect “K-12” but is going to take money from the lottery proceeds (construction money). 5) SB768 – Impact Fee Bill passed Senate 21-19; will go to House. One provision exempts all counties that have the urban county executive form of government (Fairfax, Prince William, Henrico, and Albemarle). If this bill is passed, some counties would be treated differently; Mr. McGehee did not agree with this. “If it's good for the Commonwealth of Virginia, it should be good for all localities, not just some of them.” He also noted that the County does not take cash proffers, but do receive voluntary things from the developers for certain issues. This can be done up to 2009. Ms. Earhart agreed that they can accept them until 2009, but at that cut-off, you would have to give them back the money that has not been collected and revert to the cash proffer for the unit. You would be limited to non-cash proffers for on-site conditions. The one thing we get now – money for off-site traffic improvements, participation in traffic lights that is not technically on their site, but is definitely identified as being development-driven costs could be a problem. There are several instances where somebody is offering to pay 50% of a traffic light; those would no longer be allowed to be collected. The process for getting cash proffers would be burdensome both for the developer as well as the increased work required by the County. She felt it was going to be more attractive to develop in the Ag area because you would not have to pay the fee. An impact fee area is going to have to be developed. “You can have them all over the county, but every time you have one, you're going to have to develop public facility plans for the roads, schools, and Fire and Rescue, and the Sheriff's Department, and the money can only be used for the improvements that are in those plans. The other concern is that it is capped at \$7,500 a unit and then in 2012, it becomes 2% of the value of your new construction. As the price of housing fluctuates, it is going to impact what the number is that you can collect. That will be a yearly figure and you would not know what revenue to expect from any given project.” 6) HB1009 – Limit local government's process in reassessment. Looks like it is going to pass the House. He noted that the rate is required at the same time the reassessment notices come out.
4. Mr. Pyles asked for the Budget schedule – Work Sessions (March 31 and April

