

Regular Meeting, Wednesday, September 9, 2009, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Gerald W. Garber, Vice-Chairman
David R. Beyeler
Wendell L. Coleman
Tracy C. Pyles, Jr.
Nancy Taylor Sorrells
Patrick J. Morgan, County Attorney
Jennifer M. Whetzel, Director of Finance
Melissa Meyerhoeffer, Assistant Director of Finance
John C. McGehee, Assistant County Administrator
Patrick J. Coffield, County Administrator
Jessica Staples, Administrative Secretary

ABSENT: Larry C. Howdysshell, Chairman
Jeremy L. Shifflett

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, September 9, 2009, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 234th year of the Commonwealth....

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

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Katie-Jo Reeves, a senior at Buffalo Gap High School, led the Pledge of Allegiance. Katie-Jo stated she is enrolled in Advanced Placement (AP) classes, as well as President of the National Honor Society, Vice President of the Student Council Association, the Senior Class, and the Latin Club. In addition, she stated she participates on the Academic and Forensics Teams, and spring track and field. After graduation, she plans on attending and graduating with honors from a private Christian college and further pursuing a Master's Degree.

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

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MOTOR VEHICLES AND TRAFFIC - ORDINANCE

This being the day and time advertised to consider an ordinance incorporating provisions and requirements of Section 46.2 of the Code of Virginia into the Code of the County of Augusta, Virginia relating to State Motor Vehicles and Traffic.

Patrick J. Morgan, County Attorney, stated the County was approached by the Sheriff's Department requesting the County adopt the State Motor Vehicle Code. The reason for the request was to ensure that the County receives fines when the local Sheriff's Department works the traffic case.

The Vice-Chairman declared the public hearing open.

There being no one present to speak for or against, the Vice-Chairman declared the public hearing closed.

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

September 9, 2009, at 7:00 p.m.

MOTOR VEHICLES AND TRAFFIC – ORDINANCE (cont'd)

AN ORDINANCE

INCORPORATING PROVISIONS AND REQUIREMENTS OF SECTION 46.2 OF THE CODE OF VIRGINIA INTO THE CODE OF THE COUNTY OF AUGUSTA, VIRGINIA

WHEREAS, §46.2-1313 authorizes counties to adopt ordinances incorporating the provisions and requirements of the laws of the Commonwealth contained in Title 46.2 and Article 2, (Section 18.2-266, *et seq.*) of Chapter 7 of Title 18.2 of the Code of Virginia, 1950, as amended, except the violations of provisions and requirements which constitute a felony into The County Code of the County of Augusta, Virginia;

WHEREAS, The County Code of the County of Augusta, Virginia currently contains provisions and requirements of a portion of 46.2 of the Code of Virginia in Articles III, VI and VII of Chapter 14;

WHEREAS, IT IS NOW IN THE BEST INTEREST OF THE CITIZENS OF Augusta County to amend The County Code of the County of Augusta, Virginia to incorporate all the provisions of Title 46.2 of the Code of Virginia so as to reflect and parallel the amendments to the entire section under Article I and to repeal Articles III, VI and VII currently in effect;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Augusta County, Virginia, that:

1. Article III, entitled "Reckless Driving and Improper Driving", of Chapter 14, titled "Motor Vehicles and Traffic," of The County Code of the County of Augusta, Virginia, is repealed.
2. Article VI, entitled "Abandoned and Inoperable Motor Vehicles", of Chapter 14, titled "Motor Vehicles and Article III, entitled "Reckless Driving and Improper Driving", of Chapter 14, titled "Motor Vehicles and Traffic," of The County Code of the County of Augusta, Virginia, is repealed.
3. Article VII, entitled "Speed", of Chapter 14, titled "Motor Vehicles and Traffic," of The County Code of the County of Augusta, Virginia, is repealed.
4. A new § 14-6 of Article I of Chapter 14 is enacted as follows:

CHAPTER 14.
MOTOR VEHICLES AND TRAFFIC

ARTICLE I. In General.

(The following is all new language)

§ 14-6. Incorporation of Provisions from Code of Virginia. Pursuant to the authority of section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the commonwealth contained in title 46.2 of the Code of Virginia, as amended, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which by their very nature can have no application to or within the county are hereby adopted and incorporated in this chapter by reference and made applicable within the county. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the highways and other public ways within the county. Such provisions and requirements are hereby adopted, *mutatis mutandis*, and made a part of this chapter as fully as though set forth at length herein; and it shall be unlawful for any person, within the county, to violate or fail, neglect or refuse to comply with any provision of title 46.2 of the Code of Virginia, which is adopted by this section; provided, that in no event shall the penalty imposed or the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.1 of the Code of Virginia. This adoption of the provisions of title 46.2 of the Code of Virginia shall include all future amendments of such provisions by the Commonwealth of Virginia; provided, however, that any resulting amendment to The Augusta County Code shall not become effective until the effective date of the applicable state law.

5. This ordinance shall become effective upon enactment.

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MOTOR VEHICLES AND TRAFFIC – ORDINANCE (cont'd)

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

Nays: None

Absent: Howdysshell and Shifflett

Motion carried.

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COYOTE BOUNTY - ORDINANCE

This being the day and time advertised to consider an ordinance to amend the Code of Augusta County, Virginia, to adjust the bounty for killing of coyotes.

Mr. Morgan explained the changes to the ordinance to reduce bounty from \$75 to \$50 during the whelping season were brought on by budget considerations. He also noted the current ordinance requires landowners to bring the coyote carcass to the Government Center. Mr. Morgan stated if the proposed ordinance is adopted, anyone who kills a coyote will only be requested to present it to an animal control officer.

The Vice-Chairman declared the public hearing open.

Leo Tammi, 102 Burke’s Mill Road, Mount Sidney, stated he is a livestock producer, primarily sheep, and he is opposed to the bounty on coyotes. Mr. Tammi stated he feels this bounty is a misdirected allocation of resources. He stated he recalls when the Board adopted this ordinance the purpose was to reduce the predation of coyotes. However, Mr. Tammi stated the problem with coyotes and livestock has actually gotten worse because the problem animals are not being targeted. Mr. Tammi gave an example of a neighbor who had a pair of coyotes living in the vicinity of his sheep flock. He explained the pair of coyotes was not a problem to his flock. During the intervening hunting season Mr. Tammi explained, the coyotes were killed and now other coyotes have become a problem to this landowner’s flock. Mr. Tammi requested that it be moved that funds be directed into the existing Federal and State Co-operative program that hires wildlife biologists and trappers to target and assist producers with the problem animals.

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

Ms. Sorrells stated she received a call from Jason Carter, Certified Director of the Augusta County Virginia Co-operative Extension. Due to the budget cuts from Governor Kaine, Ms. Sorrells stated the picture has “turned”. She stated approximately two months ago, the Agriculture Industry Board requested the Board of Supervisors discontinue the coyote bounty for the reasons as Mr. Tammi discussed, but there were no suggestions on where the funds should be spent if this program were eliminated. Ms. Sorrells further stated the state matching portion of the coyote co-operative program has been suspended at least until the new fiscal year affecting the USDA trapper program through Virginia Tech. She explained Mr. Carter has sent an email to Congressman Goodlatte. Ms. Sorrells presented the email to board members. Ms. Sorrells further stated Mr. Carter is currently drafting a letter to send to state representatives as well as local livestock producers. Ms. Sorrells stated Mr. Carter has indicated if the coyote bounty program is suspended until the new fiscal year, there will be funding left to continue the trapper program.

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COYOTE BOUNTY – ORDINANCE (cont'd)

Ms. Sorrells moved, no second made, that the Board delay action on the ordinance for thirty (30) days and refer this request to the Agriculture Industry Board allowing them to gather more information, as well as allowing Mr. Howdysshell and Mr. Shifflett an opportunity to review this request as they are interested in agriculture issues.

Vote was as follows: Yeas: Sorrells

 Nays: Garber, Beyeler, Pyles and Coleman

 Absent: Howdysshell and Shifflett

Motion failed.

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Mr. Beyeler moved, seconded by Mr. Pyles, that the Board adopt the following ordinance:

AN ORDINANCE TO AMEND THE CODE OF AUGUSTA COUNTY, VIRGINIA, TO ADJUST THE BOUNTY FOR KILLING OF COYOTES

WHEREAS, pursuant to Virginia Code § 15.2-926.1 the Board of Supervisors of Augusta County, Virginia, adopted an ordinance on October 27, 2005, to permit the killing of coyotes within its boundaries at any time and to pay, out of any available funds, a bounty for each coyote killed within its boundaries as follows;

- 1. \$75.00, for a carcass presented to the animal control officer between January 1 and April 30 of each year, both inclusive; or
- 2. \$50.00, for a carcass presented to the animal control officer between May 1 and December 31 of each year, both inclusive.

WHEREAS, due to the present economic conditions and budget restraints, the Board of Supervisors finds that it is in the best interests of the county to adjust the bounty paid to \$50.00 for a carcass from January 1 through December 31 of each year.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Augusta County, Virginia, that:

- 1. Section 5-62 of The Code of the County of Augusta, Virginia be, and hereby is, amended as follows:

ARTICLE VII. Coyotes.

§ 5-62. Payment of bounty for coyotes.

A. Upon satisfaction of the criteria set forth in subsection B below, and subject to the annual limitation specified in subsection D below, a bounty shall be paid by the county for each coyote killed within the boundaries of Augusta County, as provided herein, in the ~~following~~ amount: of

- ~~1. \$75.00, for a carcass presented to the animal control officer between January 1 and April 30 of each year, both inclusive; or~~
- ~~2. \$50.00, for a carcass presented to the animal control officer between May 1 and December 31 of each year, both inclusive.~~

B. In order to qualify for a bounty, any person who kills a coyote shall present it to the animal control officer or his designee. ~~during regular business hours, at the Augusta County Government Center:.~~

- 2. This ordinance shall become effective January 1, 2010.

Vote was as follows: Yeas: Pyles, Sorrells, Garber, Beyeler, and Coleman
 Nays: None
 Absent: Howdysshell and Shifflett

Motion carried.

September 9, 2009, at 7:00 p.m.

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(END OF PUBLIC HEARINGS)
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MATTERS TO BE PRESENTED BY THE PUBLIC - NONE

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VALLEY COMMUNITY SERVICES BOARD – PERFORMANCE CONTRACT

The Board considered FY2009-10 State Performance Contract as proposed.

Dr. Don Lewis, Executive Director for Valley Community Services Board (VCSB) presented a PowerPoint presentation to the Board regarding the local VCSB’s Performance Contract.

Mr. Pyles asked Dr. Lewis if there were things the Board could do to help by using their legislative liaison in supporting better funding.

Dr. Lewis answered there are things that will be presented in the future that could use support from the Board. He stated there are approximately four to five committees of executives that are working with the state. He stated once the recommendation from these committees is received, he will share with the Board. Dr. Lewis stated on a more local level, it would be most helpful to keep the contracts they presently have because they can utilize that funding.

In regards to unfunded mandates, Mr. Pyles asked Dr. Lewis to provide specifics so the County can share with the Virginia Association of Counties (VACo).

Dr. Lewis stated he can provide that information within a few months as he has staff working on the issue.

Mr. Beyeler moved, seconded by Ms. Sorrells, that the Board approve the Performance Contract.

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

Nays: None

Absent: Howdyshell and Shifflett

Motion carried.

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ROUTE 636 – RIGHT-OF-WAY DONATION

The Board considered preparation of plat to facilitate right-of-way donation.

Funding Source: Wayne Infrastructure Account #80000-8017-58 \$2,000

Patrick J. Coffield, County Administrator, advised the County was contacted by a property owner along Route 636 who is interested in donating the right-of-way if the County would assist with the preparation of the plat. Mr. Coffield stated this request has been discussed with Mr. Coleman, Wayne District Supervisor, and the County Engineer who has come up with an estimate for the cost of the plat.

Mr. Coleman supports this request.

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ROUTE 636 – RIGHT-OF-WAY DONATION (cont'd)

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

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

Nays: None

Absent: Howdysshell and Shifflett

Motion carried.

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OUTDOOR MUSICAL OR ENTERTAINMENT FESTIVAL

The Board considered application as submitted by Just Because We Care Outreach for an outdoor event to be held from 12:00 noon to 7:30 p.m. on September 12, 2009 at the Crimora Community Park (Middle River District).

Mr. Coffield, reported that an application has been submitted by Just Because We Care Outreach and all requirements have been met.

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

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

Nays: None

Absent: Howdysshell and Shifflett

Motion carried.

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CONSENT AGENDA

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

MINUTES

Approved minutes of the following meetings:

- Staff Briefing Meeting, Monday, August 24, 2009
- Regular Meeting, Wednesday, August 26, 2009

CLAIMS

Approved claims paid since August 12, 2009

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

Nays: None

Absent: Howdysshell and Shifflett

Motion carried.

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(END OF CONSENT AGENDA)

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September 9, 2009, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE BOARD

The Board discussed the following issues:

Mr. Pyles: Noted he will be attending the Emergency Services Committee special meeting and the planned closed session to follow.

Ms. Sorrells:

- 1. Middlebrook Library – Reminded everyone of the one year anniversary celebration on September 10, 2009 from 5-7:00 pm.
- 2. Household Hazardous Waste Collection Day – September 26, 2009 at the Government Center.
- 3. Explained to the Board about an ongoing project regarding the possibility of locating a bulk water sales site along the Coal Road in the Riverheads District. She explained many residents on the road have cisterns and due to the conditions of the road, water delivery vehicles have refused to deliver resulting in the residents purchasing their own water delivery vehicles. Ms. Sorrells stated she has been working with William Monroe, with the Augusta County Service Authority, who has recommended a budget be established for this project. Ms. Sorrells stated the next phase is land acquisition. She further requested Mr. Coffield to place this item on the next agenda as she will be requesting the Board’s consideration to take this funding from the Riverheads Infrastructure Account.

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MATTERS TO BE PRESENTED BY STAFF

Staff discussed the following:

- 1. Discussed the Virginia Indian Bill. Mr. Coffield explained there are a number of Indian tribes seeking federal recognition. In doing that, Mr. Coffield stated land use decisions regarding properties purchased or donated would not come under state or local jurisdiction. In particular, during the 111th Congressional Session, Augusta County is one of several localities being considered as part of the Monacan Indian Nation.

Mr. Pyles voiced concern with the impact this would have on Augusta County. Board consensus that land use decisions and tax exemption status is a local, not State or Federal matter.

- 2. State Budget Cuts- Jennifer Whetzel, Finance Director, distributed a briefing paper relating to budget cuts. Mr. Coffield explained these are revenue reductions.
- 3. Ordinance Review Committee- Dale L. Cobb, Director of Community Development, stated a schedule has been prepared by the Ordinance Review Committee. He also stated the ordinance has been drafted and the committee is prepared to present to the Planning Commission and Board of Supervisors. He stated the proposed effective date of the ordinance would be January 1, 2010.
- 4. Source Water Protection Ordinance– Mr. Coffield proposed a joint public meeting with the Augusta County Service Authority Board, the Board of Supervisors, and the Planning Commission. It was also suggested that a viewing be incorporated into the meeting schedule. Mr. Garber requested the ordinance to be placed on the next agenda.

September 9, 2009, at 7:00 p.m.

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CLOSED SESSION

On motion of Mr. Coleman, seconded by Ms. Sorrells, 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) Reassessment appeals

Vote was as follows: Yeas: Pyles, Sorrells, Garber, Beyeler and Coleman
 Nays: None
 Absent: Howdyshell and Shifflett

Motion carried.

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CLOSED SESSION (cont'd)

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

Vote was as follows: Yeas: Pyles, Sorrells, Garber, Beyeler and Coleman
 Nays: None
 Absent: Howdyshell and Shifflett

Motion carried.

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CLOSED SESSION (cont'd)

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, Sorrells, Pyles, and Beyeler
 NAY: None
 ABSENT: Howdyshell and Shifflett

September 9, 2009, at 7:00 p.m.

CLOSED SESSION (cont'd)

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, Mr. Beyeler moved, seconded by Ms. Sorrells, the Board adjourned subject to call of the Chairman.

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

 Nays: None

 Absent: Howdyshell and Shifflett

Motion carried.

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Chairman

County Administrator