

Regular Meeting, Wednesday, November 9, 2016, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Carolyn S. Bragg, Chairman
Tracy C. Pyles, Jr., Vice-Chairman
Gerald W. Garber
Marshall W. Pattie
Terry Lee Kelley, Jr.
Wendell L. Coleman
Michael L. Shull
John Wilkinson, Director of Community Development
Becky Earhart, Senior Planner
Timmy Fitzgerald, County Administrator
Jennifer M. Whetzel, Deputy County Administrator
James Benkahla, Interim County Attorney
Angie Michael, Executive Secretary

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, November 9, 2016, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 241th year of the Commonwealth....

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Chairman Bragg welcomed the citizens present.

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The Board of Supervisors led us with the Pledge of Allegiance.

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

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Timothy Fitzgerald, County Administrator, stated that this was Becky Earhart's last Board of Supervisors meeting and recognized her for her years of service and dedication. Mr. Fitzgerald pointed out some interesting facts about Ms. Earhart and her journey with the County and he congratulated her on her retirement.

Mr. Pyles congratulated Ms. Earhart. He stated that she never lost her temper and deals with people and situations with a lot of patience. She has been able to answer their questions and guide them in the right direction.

Mr. Coleman echoed what has already been stated. Ms. Earhart has been the one he would call first if he had a question. Mr. Coleman recalled the Fishersville Small Area Plan. This was the first one done in County. He wishes her nothing but good luck in her retirement.

Mr. Garber stated that he admires the new Becky that he has seen over the last couple of months.

Mr. Shull has been able to observe Ms. Earhart and her work over the last several years even before he was on the Board. She has been a joy to work with. Ms. Earhart is a great asset to the County.

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BERRY FARM PROPERTY

This being the day and time advertised to consider the transfer of land (12.964 acres) at the Berry Farm Property to the Augusta County Service Authority.

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DMV ANIMAL FRIENDLY LICENSE PLATES (CONT'D)

Vote was as follows: Yeas: Shull, Coleman, Kelley, Bragg, Garber and Pyles, Pattie
Nays: None

Motion carried.

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HEARTHSTONE LAKE

The Board considered amendment #2 to the Hearthstone Lake Reimbursable Agreement.

Jennifer Whetzel, Deputy County Administrator, stated that she wanted to give a quick update to the Board on their next Dam Rehabilitation Project. This will be the 6th dam that the County has rebuilt through the process. The Board was given a memo in the agenda packet that described the different agreements that are in place in order to actually get to the point of doing construction. The Board approved an agreement in May 2015 that showed either a 10% match of about \$261,000 or more if the State didn't fund anything. The State has funded \$633,000 of this project so they are picking up their share. Going forward, there is nothing in the Legislative package for dams. The goal for the next meeting is to have procurement come forward to discuss local administration of the project like was done with Todd Lake. NRCS has staffing issues and if we want to proceed with the project, it would be beneficial for us to locally administer the projects. Community Development is working on the information for the next Staff Briefing. The amendment being considered is where NRCS details how much they expect to spend on the project. The performance period would be 12/31/17 and there is no change to the local match for this agreement. This is more so an update and the Board's authorization would be for the County Administrator to execute the amendment.

Dr. Pattie moved, seconded by Mr. Pyles, that the Board approve amendment #2 to the Hearthstone Lake Reimbursable Agreement.

Vote was as follows: Yeas: Shull, Coleman, Kelley, Bragg, Garber, Pyles, and Pattie

Nays: None

Motion carried.

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WAIVERS -NONE

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CONSENT AGENDA

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

MINUTES

Consider minutes of the following meetings:

- Regular Meeting, Wednesday, September 14, 2016
- Staff Briefing, Monday, September 26, 2016
- Regular Meeting, Wednesday, September 28, 2016

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CONSENT AGENDA (CONT'D)

CLAIMS

Considered claims paid since October 1, 2016

Vote was as follows: Yeas: Pattie, Shull, Garber, Coleman, Kelley, Bragg and Pyles

Nays: None

Motion carried.

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(END OF CONSENT AGENDA)

MATTERS TO BE PRESENTED BY THE BOARD-COURTHOUSE DISCUSSION

Chairman Bragg:

Thanked everyone for all of the work, time and effort to educate our public on the Courthouse. Everyone has done a phenomenal job and it is appreciated. As everyone knows, it didn't pass and we are all disappointed, but at this point we need to start talking about our next steps. There are several things that can be considered. We need to talk to James Benkahla, Interim County Attorney, and discuss the question of being able to move across the street and if that's a possibility should we want to go that direction. Chairman Bragg wants the Board to share any suggestions or comments about moving forward.

Mr. Shull:

Thanked the public for their input. There are several things that need to be looked at moving forward. One to consider is the Judge. How long will he take and will he give us time to consider our options? There are deficiencies that are in both of the Court buildings. How do we move forward and address these deficiencies. We need to look at renovations and building new buildings and determine what our best option is. The option of Staunton working with us is still open. It is unknown if they are willing to do anything, but the door is open if they choose to. Mr. Shull hopes the Judge will give the Board time work on a solution that will work for the Court's needs. No one on this Board wanted to move the Courthouse just to spend money. Every option that was available was looked at and the Board felt that the move to Verona was the best option for the taxpayers. Mr. Shull hopes that people were not misled in this decision. It is going to cost money to do whatever needs to be done. It's more than just a couple of gallons of paint and sheet rock to fix what is wrong with the buildings. It's going to be a lot of money. Mr. Shull hopes the public does not come back and criticize the Board if the price get too high. We tried to inform the public of what needed to be done. Hopefully with projects going forward, we can come up with a better way of communicating with the public. Sometimes it seems like the news media is biased. A lot of the articles were biased toward Staunton and we didn't get a fair chance in trying to get all of the information out that needed to be available. It would be nice if the media would report what was actually in the meetings and let the people decide. True journalism is reporting the facts on both sides rather than trying to persuade to one side.

Mr. Garber:

Stated that he would wait to see how the Judge feels. We need to know legally what our

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situation is before we think too much on proceeding. We need to know where and what we can do before we can move forward.

Mr. Kelley:

Thanked the Staff for being helpful in getting the information out to the public as much as possible. Their hard work is appreciated. The best option is to wait on the Judge and what he has to say.

Dr. Pattie:

The next logical step would be to do an analysis of the General District Court building. Mr. Coffield, in a closed session, had mentioned that the building was functionally in good shape, but needed some improvements and he listed some of the changes that he would recommend.

Mr. Coleman:

At this point I go along with the notion of, before we spend any more time getting ourselves out there and speculating about what might be possible and what's not possible we need to get some guidance. I've certainly, even before the vote yesterday, had conversations with various people regarding that. My point is, that at some point there has got to be a defensible answer going forward, giving the fact that we have to do something in Staunton and what is the process by which we go about doing that? If we can do whatever it is we can do as a Board, as Terry and Gerald have mentioned, I'd like to have hoped that if there were other viable options they would have surfaced and would have had some money attached to them. As opposed to the Frazier Plan in terms of consolidating the courts with Staunton and the Moseley Plan. I've talked to my friends that are on the opposition group, where have they been? We have been talking about courts for 30+ years, across 9 different BOS. If there were "Common Sense Solutions" what needs to be done to the General District and J & D Court, we don't know because we were advised not to go there. The Common Sense Solutions group doesn't know because they didn't have the resources and again, why would you throw good money looking to renovate something that the people who are in the business advised not to do (architect engineering firms). That's what they do. That's what we pay them to do. That's what Staunton paid them to do. That's what we paid Moseley to do. One of the things that I personally feel and have no reservations about is the stuff that we have put out there are the facts. I understand my friend over here has a different group of facts and he has challenged us on that and he's entitled to that. In terms of disagreeing with some of the things that I told at the last Town Hall meeting. I said these are not our numbers. I don't know why people think we just went back in a room somewhere and drew these numbers up. Population growth, I understand everybody has an opinion, but that's about what it amounts to, it's an opinion about how our population will grow. These numbers come from the Weldon Cooper Center Public Policy, you want to challenge that, contact the University of Virginia. It's just like what size building do we need. It's no different than what size school we need. More times than not, I'd like to hope we got it right. Sometimes we didn't get it right. We just built a brand new middle school and it was over capacity the day it was opened. In that case we didn't get it exactly right, but what we did get right, we built the infrastructure so the plan could be added on. We crunched those numbers again. Are you asleep at the wheel? That's what I want to say to people, are you asleep at the wheel? We had Moseley crunch the numbers again based on 2015 and that's the best numbers we've gotten and they came from Virginia Supreme Court. Come on, give us a break. We don't want to build anything, whether in Staunton or wherever, any bigger than we have to, pay any more money than we have to. This Board, through its history, has been good stewards of the taxpayer's money. I told citizens in a Town Hall meeting, most of you sitting out there don't have a clue what it takes to run this Government. We just talked about rehabilitating a dam, most people don't know we have flood control dams in Augusta County. Close a landfill, open a landfill and people to say, we need to be paying teacher more, you need more technology in the schools, you need to build more schools, where have you been?

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Have you been asleep? We put technology in schools, we're building schools (2 new elementary schools). So, you can only sit up here so long and just take this stuff. Of course we are limited as to what we can do. I told the people, we had a \$100 million budget and we had absolutely no body that had a thing to say about it. Then we spend \$13,000 and somebody wants to go over the deep end with that. That we did that without having a public meeting, public meeting my backside. We just had a public meeting on a \$100 million budget and you think every time we get around to spending something in \$100 million budget we are going to bring it back to another public meeting, we would never get anything done. We, at some point, have to stand up and be counted because otherwise you don't know what to believe. What you read in the paper, what you hear on the television, what somebody may or may not be saying. Our voters have spoken. My son just came to visit his dad from NIBCO. Do you know what was on the streets of NIBCO? They don't know what they voted on. Our hands were tied by the Dillon Rule. One of the things we need to do going forward is work on changing that because the State told us what this ballot looks like. The employees at NIBCO were talking about it and said that wasn't even a decision. You want to approve moving the County to seat to Verona and oh by the way, we are going to spend \$45 million. They don't want to spend \$45 million, they would just assume leave it in Staunton. Leave it the way it is. I told him, it's not going to stay the way it is. What is it that you don't understand about that? The average voter did not come to a town hall meeting. We have worked hard trying to educate them so that when they went to vote yesterday they could make an informed decision. I can tell you, I stood there and saw people come through that had educated themselves, but most had not. They read you want to move the County seat to Verona, and by the way we are going to spend \$45 million to do it, but we didn't tell them what a no vote means. I think they are going to wake up some day and it's going to be a rude awakening, I believe in my heart. In terms of what it's going to cost for us to do whatever it is we end up doing in the City of Staunton.

Mr. Pyles:

One of the things that is learned in the Military is chain of command and the general spoke yesterday and said they didn't want to spend \$45 million. Whether it was a bad job on getting the word out or whether we were limited or whether it was an unfair fight, it doesn't matter, the people spoke and I heard. However, nothing got fixed yesterday. Nothing got improved and we said there was a real reason to spend this money, the security, space and access wasn't right. The courtrooms weren't the size they needed to be. The separation of prisoner's from witnesses and witnesses of different sides wasn't right. These facts remain. The thinking cap goes back on to try and figure out how we make it work. Mr. Pyles stated that he doesn't disagree with those that say wait to hear from the Judge, but the courthouse has been pondered long enough and in many ways it's been because of the Board trying to please too many people. Hearing too many opinions that has thrown the Board off. It has been more than 12 years negotiating with Staunton. How long do you negotiate before you realize it's going nowhere? Judge Ludwig stated that it's not Augusta County that has not been negotiating. We have gone different avenues with this decision. We tried it piece by piece with a \$7.5 referendum and then bring the rest up later, but everyone wanted the whole package looked into at the same time. We have been trying to make things work for everyone, but we haven't looked at it to say what would be best for our taxpayers. We wanted it to be something really good. We wanted to leave Staunton in good shape with a nice courthouse and we were willing to help fix it up and we wanted something to help Verona grow. To be something that we invested our money into the community so that our community has more value. Our real estate is worth more and can be sold at a higher price. The small stores and shops would have better business and maybe a nice motel. We were trying to put all of these things together and make them happen and it's hard to explain all of these things to 74,000 people. We have to do something, we can't wait 10 years. Maybe we should do

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what was done 5 times before. The tradition is you take down the old one and build a new one. One of the problems with the Staunton plan is there are too many guess work numbers and too many things that didn't bring us value. Buying a building across the street not knowing how much it will cost, tear it down, and then not knowing what we can do with it once we have it doesn't bring us value. Building a skywalk doesn't bring us value. Having three different security systems doesn't bring us value. If we build an 80,000 square foot courthouse we would have four court rooms, which would meet the need and it could be done for half the price of the \$45 million. We planned for a 120,000 square foot building, the study says we need 90,000, which includes 6,000 for the Commonwealth Attorney. The new building would have single security, all of the security and safety features built in, one entrance that would have to be protected. The General District Court building would be left for the Common Wealth Attorney's office. That building was designed to be office space, not a court room.

When the people said they didn't want to spend \$45 million and didn't want to move it, a number of our options were taken away. Mr. Pyles is going to talk to Moseley while at the VACO conference and present options. We already own the property so we can build there without any problems. We don't need to wait for someone else to tell us what to do.

If Staunton has a plan that makes what we have work, please share it. Mr. Pyles could go along with Staunton building the \$48 million complex and Augusta County contributes \$20 million. We would set our number based on that building on our lot. That could be done now and move on.

Chairman Bragg:

We have three different options at this point. First being to let the Judge go through the process that we know exists. My concern with that is the County does not have the ability to have a lot of input and feedback regarding what the building would look like and the available space. The second consideration is purchase the Union Bank property, tear it down and building the facility we know we will need in the future as far as space and accessibility. The third option is Mr. Pyles' suggestion to tear the existing building down and build a new one. Some of the decisions will be based on the Attorney General's opinion. Legislation may prevent moving across the street. We all need to consider options and think about them. No decision is needed right away. The needs of the courts still exist and we have the legal and moral responsibility to ensure the safety of our public to consider. Waiting 10 years is an option, but uncertain whether that is the best option.

MATTERS TO BE PRESENTED BY THE BOARD

Mr. Shull:

Glad the election is over because we have put a great deal of time and effort into it. We will continue to hear from the public on how to move forward. One thing to keep in mind is the parking in Staunton. One of our options was to build a parking garage. Maybe a smaller garage specifically for handicap parking. If you look at the handicap that is currently available the spaces are still a good distance from the entrance.

Mr. Coleman:

Most businesses have the handicap parking at the front door. It would be difficult to get from the Johnson Street parking deck across the street to the courts. Mr. Coleman hopes to reach a decision quickly and move forward and would like to see something accomplished while on the Board.

Mr. Garber:

On a positive note, the weather was perfect for an election day. He was pleased with some of the results and some he wasn't, but the fact of the matter is a lot of people exercised their right to vote. It was done peacefully and was glad to see there were no glitches in the voting equipment.

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

Mr. Kelley:

Impressed with the amount of voter turnout. We should exercise our right to vote in every election, not just a big one like this. It was good to be out and meeting a number of people and interacting with the citizens. It is our responsibility as a citizen of the United States to voice your opinion by voting.

Mr. Coleman:

He and Chairman Bragg attended the Dawbarn Educational Awards. Five of the ten award winners are Augusta County teachers received a \$10,000 cash award.

Chairman Bragg:

- 1) At the last Board of Supervisors meeting, a resolution in support of the Virginia Certificate of Public Needs was handed out to the Board. It was asked by Augusta Health to consider the resolution.

Mr. Pyles pointed out that there is continual pressure at the General Assembly to allow other mixed groups to come into the area to perform some of the more profitable aspects of medical delivery at the expense of the Hospital. One year the hospital had \$40 million of uncompensated care. They are one of our largest employers. They are a tremendous economic engine for Augusta County. The reason we have Murphy Deming is because of the hospital. What we are supporting is the health of our community. It's in the Board's best interest and in the best interest of providing health to our community to support this resolution.

Mr. Pyles moved, seconded by Mr. Coleman to support the following resolution:

RESOLUTION IN SUPPORT OF
VIRGINIA'S CERTIFICATE OF PUBLIC NEED PROGRAM

WHEREAS, Virginia's Certificate of Public Need (COPN) program serves as an important component of health care policy in the Commonwealth; and

WHEREAS, a majority of states (36 states and the District of Columbia) have similar laws; and

WHEREAS, COPN is designed to create stability in our health care delivery system, control costs and ensure the quality of and access to health care services; and

WHEREAS, health care costs are lower in Virginia than in most states without COPN regulations; and

WHEREAS, COPN promotes access to care for the uninsured, the availability of essential health services for all Virginians, readiness for public health and disaster care needs, training for the future healthcare workforce, and quality of care and accountability; and

WHEREAS, COPN ensures adequate distribution and availability of health care services throughout all corners of the Commonwealth; and

WHEREAS, health care is not a free market because hospitals are required to provide emergency care regardless of a patient's ability to pay, and many patients who need hospital care are uninsured, underinsured or are covered by federal or state programs that do not cover the costs of care; and

WHEREAS, hospitals are reimbursed an average of 66 cents on the dollar for Medicaid patients and 90 cents on the dollar for Medicare patients who make up 60 percent of patients at urban hospitals and 74 percent at rural hospitals; and

WHEREAS, Virginia hospitals and health systems provide over \$600 million per year in free or discounted services to patients that lack health care coverage; and

WHEREAS, the General Assembly last made meaningful reforms to the COPN regulations in 2009 and additional steps can be taken to streamline the administration of COPN; and

WHEREAS, reforms should focus on increased transparency, accountability and efficiency within the COPN process.

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

1. The County of Augusta supports Virginia's COPN program as an important component of the Commonwealth's health care policy; and

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MATTERS TO BE PRESENTED BY STAFF (CONT'D)

- 3) Jennifer Whetzel, Deputy County Administrator, has been working diligently on the new website with a tentative launch date of January 2017.
- 4) The VACO Conference starts on Sunday. A schedule of the meetings was discussed.
- 5) Handed out a Department of Social Services Annual Financial Statement for Counties. Funding for the State of Virginia is \$10,754,000,000.00 and for Augusta County funding is \$82,630,000.00.

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CLOSED SESSION

On motion of Mr. Pyles, seconded by Mr. Shull, 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: Juvenile Detention Home and Airport Commission
 - B) County Attorney
- (2) **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) Buffalo Gap Property
- (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, 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) Maury Mill Townhomes

On motion of Mr. Shull, seconded by Dr. Pattie, the Board came out of Closed Session.

Vote was as follows: Yeas: Bragg, Kelley, Garber, Wendell, Shull, Pattie and Pyles

Nays: None

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: Bragg, Garber, Kelley, Coleman, Shull, Pattie and Pyles
NAY: None

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

Mr. Pyles moved, seconded by Mr. Shull to reappoint Timothy Fitzgerald to the Juvenile Detention Home effective immediately and to expire on December 31, 2020.

Vote was as follows: Yeas: Shull, Coleman, Kelley, Bragg, Garber,
Pyles, and Pattie
Nays: None

Motion carried.

Mr. Pyles moved, seconded by Mr. Shull to reappoint Candy Hensley as alternate to the Juvenile Detention Home effective immediately and to expire on December 31, 2020.

Vote was as follows: Yeas: Shull, Coleman, Kelley, Bragg, Garber,
Pyles, and Pattie
Nays: None

Motion carried.

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Mr. Pyles moved, seconded by Mr. Shull to reappoint Gerald Garber to the Airport Commission effective immediately and to expire on December 31, 2019.

Vote was as follows: Yeas: Shull, Coleman, Kelley, Bragg, Pyles, and Pattie

Nays: None

Abstain: Garber

Motion carried.

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ADJOURNMENT

There being no other business to come before the Board, Dr. Pattie moved, seconded by Mr. Garber, the Board adjourn subject to call of the Chairman.

Vote was as follows: Yeas: Pattie, Shull, Garber, Coleman, Kelley, Bragg and Pyles

Nays: None

Motion carried.

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Chairman
H:11-09min.16

County Administrator