

COUNTY OF BATH, VIRGINIA  
BOARD OF SUPERVISORS MEETING  
BATH COUNTY COURTHOUSE, Room 115

Tuesday, April 8, 2014, 7:00 p.m. Regular Meeting

At the Regular Meeting of the Board of Supervisors of Bath County, Virginia, Bruce McWilliams, Chairman; Henry "Kevin" Fry, Vice Chairman; Claire A. Collins; Phillip "Bart" Perdue; Clifford A. Gilchrest; Lady and Gentlemen Supervisors; Michael M. Collins, County Attorney; and Ashton N. Harrison, County Administrator.

Chairman McWilliams called the meeting to order.

Upon a motion made by Mr. Gilchrest, with a second from Mr. Fry, and adopted 5 in favor, 0 against, the Board went into closed meeting in the Upper Level Conference Room Pursuant to Code of Virginia of 1950 as amended section 2.2-3711 A(29) Contracts, Section 2.2-3711.A.1 Personnel, and Section 2.2-3711.A.3 Discussion and consideration of the acquisition of real property for a public purpose.

Mr. Perdue made a motion, with a second from Ms. Collins which was adopted 5-0, in favor of coming out of closed meeting and returning to the regular meeting and to certify as follows:

CERTIFICATE OF CLOSED MEETING

WHEREAS, the Bath County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Bath County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, that the Bath County Board of Supervisors certifies that, to the best of each member's knowledge (1) Only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies and (2) Only such public business matters as were identified in the motion convening the closed meeting were heard, discussed and considered by the Bath County Board of Supervisors.

Ayes: Clifford Gilchrest, Bruce McWilliams, Claire Collins, Kevin Fry and Bart Perdue

Nays: None

The Chairman led the Pledge of Allegiance, and Mr. Perdue offered the invocation.

The Chairman opened the first public comment session.

Mr. John Fischer, Warm Springs District, expressed concern that Board Chairman McWilliams was in violation of Virginia Code 2.2 chapter 31. Mr. Fischer stated this code section prohibits local government officials from voting on matters involving conflicts of interest. Mr. Fischer said Mr. McWilliams should have disqualified himself when the Board considered John Loeffler as a candidate for the Warm Springs District Planning Commission seat. Mr. Fischer said it was his opinion that after the 2011 sale of the Gristmill to Mr. Loeffler by the McWilliams family that Mr. McWilliams had continued to maintain a significant economic relationship with Mr. Loeffler by nature of Mr. McWilliams equity partnership in the Gristmill S-corporation. Mr. Fischer said the position of Planning Commissioner is very important to the citizens of Bath County. Mr. Fischer referenced Virginia Code 15.2 chapter 22, and stated Planning Commissions not only prepare the Comprehensive Plan and recommend what is consistent with the plan but the Commission is also chartered by the code to recommend County capital expenditures, their cost and means of financing and if they should be undertaken or not.

Mr. John Hart, Cedar Creek District, asked the Board to keep the transfer station open and to install cameras at the greenbox sites.

Mr. Carl Chestnut, Cedar Creek District, said Ms. Collins should not have been asked to apologize for asking questions regarding solid waste fees. He stated she was only doing her job and what was asked of by the citizens of her district. Mr. Chestnut commented on the transfer station stating the building should be repaired. Mr. Chestnut also said the local expenditure per pupil was almost \$20,000 according to the current proposed schools budget.

Mr. Wally Robertson, Cedar Creek District, agreed with Mr. Chestnut regarding the transfer station and Ms. Collins role in asking questions based on her districts wishes. Mr. Robertson urged the Board to maintain the tax rates and not make increases.

The Chairman closed public comment and asked for comments from the Board.

Ms. Collins announced her upcoming district meeting and promised to follow up on all requests for information.

Mr. Gilchrest said it was always nice to see a full house at Board meetings. Mr. Gilchrest said he had the opportunity to speak to students in grades 3, 4, and 7 at Millboro Elementary

during Local Government Education Week and was intrigued and surprised by some of the questions they asked.

Chairman McWilliams said he consulted with a private attorney and the Commonwealth's Attorney before voting on the Warm Springs Planning Commission vacancy.

The Chairman asked the Board if they wished to approve or modify the agenda and approve or amend the minutes of the March 11, 2014 Board of Supervisors meeting.

Mr. Gilchrest made the motion to approve the agenda with the addition of the additional bills list and under item 060-14 an easement agreement between BARC Electric and the County for installation of scoreboards at Valley Elementary and consideration of a comment letter regarding hydraulic fracturing in the George Washington National Forest. Ms Collins seconded the motion which was adopted 5-0.

Ms. Collins made the motion to approve the minutes of the March 11, 2014 Board of Supervisors meeting with the correction of two sentences on page 3. Mr. Gilchrest seconded the motion which was adopted 5-0.

Chairman McWilliams introduced the next agenda item which was consideration to adopt the Capital Improvements Plan as recommended by the Planning Commission.

Mrs. Sherry Ryder, County Planner and Zoning Administrator, presented the five year Capital Improvements Plan and explained the document was a plan for the Board to consider. Mrs. Ryder said the Planning Commission held a public hearing and met with agencies who submitted requests. Mrs. Ryder said on a motion from Commissioner Cowden, seconded by Commissioner Woodzell the Planning Commission recommended to send the Capital Improvements Plan requests totaling \$1,658,156 to the Board of Supervisors to consider for inclusion into the FY 2015 budget.

Mr. Ashton Harrison, County Administrator, said he received requests totaling \$110,000 for additional capital projects from the Industrial Development Authority after the public hearing was held by the Planning Commission.

Ms. Collins asked if funding options were being considered for some portion of the approximate \$1.7 million in requests.

Mrs. Ryder, County Planner, said the request form has a place to indicate the recommended method of financing and in most cases the current revenue or capital reserve fund is marked.

Mr. Gilchrest made the motion to adopt the Capital Improvements Plan as recommended by the Planning Commission and with the additional funding request received after the public hearing. Ms. Collins seconded the motion which was adopted 5-0.

Chairman McWilliams introduced the next agenda item which was review and consideration of the stormwater program.

Mrs. Sherry Ryder, County Planner and Zoning Administrator, said stormwater program development has been a joint effort between Bath and Highland Counties for several months. She noted the two Boards have meet several times to work toward meeting the deadlines of developing ordinances, fee structures and staff training. Mrs. Ryder said late in the planning process Counties were informed there was an alternative option to allow the Department of Environmental Quality (DEQ) to manage the program for localities. Mrs. Ryder said this is not a permanent agreement with DEQ and the County could reorganize and take the program over if the County felt that was in their best interest. Mrs. Ryder in the past year the County had one project that would have fallen under the program guidelines. Mrs. Ryder stated staff recommended that the County opt out until such time that the County wants to take over the program.

Ashton Harrison, County Administrator, said the process was rushed and there wasn't enough structure at the state level. Mr. Harrison said he supported the recommendation by staff that the County opt out for now and allow DEQ to administer the program.

Ms. Collins made the motion that the County would opt out of stormwater management program development and allow Department of Environmental Quality to manage the program for the County. Mr. Perdue seconded the motion which was adopted 5-0.

Chairman McWilliams introduced the next agenda items for Board considerations as presented by Andy Sebolt, Code Official and Emergency Services Coordinator; Central Shenandoah Valley Regional All Hazards Mitigation Plan Update, Emergency Operations Plan, Emergency Services Mutual Aid Agreement, and Emergency Services Grants.

Shenandoah Valley Regional All Hazards Mitigation Plan Update. Mr. Sebolt said FEMA had approved the Central Shenandoah Valley All Hazards Plan Update contingent upon adoption by the 21 localities included in the plan. Adoption of the mitigation plan will allow localities to be eligible to receive certain hazard mitigation grant funds in the future.

Ms. Collins made the motion to adopt the Central Shenandoah Valley Regional All Hazards Mitigation Plan Update by resolution. Mr. Fry seconded the motion that was adopted 5-0.

**Resolution 2014-6**

**Adoption of the Central Shenandoah Valley All Hazards Mitigation Plan 2013 Update**

WHEREAS, the Disaster Mitigation Act of 2000, as amended, requires that local governments develop and adopt natural hazard mitigation plans in order to receive certain federal assistance, and update these plans, and  
WHEREAS, the Central Shenandoah All Hazards Mitigation Plan Update Committee representing Bath County, as well as the remaining 20 localities of the Central Shenandoah Planning District was convened in order to review the original Plan and study the Region's risks from and vulnerability to natural hazards, and to make recommendations on mitigating the effects of such hazards on the Region; and  
WHEREAS, the Update Committee was provided staff support by the Central Shenandoah Planning District Commission; and  
WHEREAS, the efforts of the Update Committee, the staff of the Central Shenandoah Planning District Commission, as well as members of the public, private, and nonprofit sectors, have resulted in the development of the 2013 Update of the Central Shenandoah Valley All Hazards Mitigation Plan for the Region,  
NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of Bath County, Virginia that the Central Shenandoah Valley All Hazards Mitigation Plan dated December 2013 is hereby approved and adopted for Bath County.

Adopted this 8<sup>th</sup> day of April, 2014, by the Bath County Board of Supervisors.

Emergency Operations Plan. Mr. Seabolt said he worked with Central Shenandoah Planning District Commission, Local Emergency Planning Committee, and volunteers to update the Emergency Operations Plan. Mr. Seabolt asked the Board to approve the revised Emergency Operations Plan. Mr. Fry made the motion to adopt the revised Emergency Operations Plan as submitted. Mr. Perdue seconded the motion which was adopted 5-0.

**Resolution 2014-7**

**Resolution for the Bath County  
Emergency Operations Plan**

WHEREAS, the Board of Supervisors of the County of Bath, Virginia recognizes the need to prepare for, respond to, and recover from natural and man-made disasters; and  
WHEREAS, the County of Bath has a responsibility to provide for the safety and well- being of its citizens and visitors; and  
WHEREAS, the County of Bath has established and appointed a Director and Coordinator of Emergency Services;

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the County of Bath, Virginia, this Emergency Operations Plan as revised is officially adopted, and

IT IS FURTHER RESOLVED AND ORDERED that the Director of Emergency Services, or his/her designee, is tasked and authorized to maintain and revise as necessary this document during the next four (4) year period or until such time it be ordered to come before this board.

Adopted this 8<sup>th</sup> day of April, 2014, by the Bath County Board of Supervisors.

Mutual Aid Agreements. Mr. Seabolt said localities are urged by FEMA and VDEM to have mutual aid agreements with neighboring localities. Mr. Seabolt said the agreements cover more than fire and rescue services. Included under the agreements are fire, rescue, emergency medical services, law enforcement, building inspections and emergency management services. Mr. Seabolt said mutual aid agreements have been drafted between Bath County and Highland,

Augusta, Rockbridge, Alleghany, Pocahontas, and Greenbrier Counties, the city of Covington, and the town of Clifton Forge. Mr. Seabolt asked the Board to consider adopting the agreements by resolution.

Ashton Harrison, County Administrator, recommended the Board consider adopting the resolutions at a later meeting once the neighboring localities have reviewed the agreements.

Ms. Collins made the motion to authorize County staff to share the mutual aid agreements with the aforementioned localities and come back to the Board with the resolutions for adoption. Mr. Gilchrest seconded the motion which was adopted 5-0.

Emergency Services Grants. Mr. Seabolt gave the Board background information on Virginia Department of Emergency Management (VDEM) Emergency Performance Grant. Mr. Seabolt said FEMA provides a grant to all states that is passed on localities in the form of a grant. He said the County's share of the grant for FY 13-14 is \$7,500, with a local match of \$7,500 which can be in-kind, salary or other existing emergency management funding. Mr. Seabolt proposed two projects for FY 2014 creation of a framework county government continuation of operations plan and creation of a template summer camp emergency operations plan. Mr. Seabolt asked the Board to consider authorizing staff to work with Central Shenandoah Planning District Commission to develop the plans.

Mr. Seabolt gave the Board information Virginia Department of Fire Programs (VDFFP) Aid to Localities Grant for FY 13-14. Mr. Seabolt said the grant is derived from 1% of fire related insurance coverage. The County's share of the FY 13-14 grant is \$20,000, with no local match. Mr. Seabolt recommended using the funds to purchase three essential pieces of equipment; a large format printer/scanner to use with the GIS program that will provide much needed up to date maps for all emergency services organizations; a fire hose testing machine; and four gas meters/testers if funds are available. Mr. Seabolt said the fire hose testing machine and gas meters will drastically improve firefighter safety.

Mr. Perdue made the motion to authorize Mr. Seabolt to submit the grants and receive the funds and to approve the expenditure of funds as outlined by Mr. Seabolt. The motion was seconded by Mr. Fry and adopted 5-0.

Chairman McWilliams introduced the next agenda item which was consideration and discussion of award of solid waste services.

Mr. Harrison, County Administrator, recommended the Board identify Republic Services proposal for solid waste services as the best value for the County and authorize the County Administrator and the County Attorney to negotiate the contract.

Mr. Fry made the motion to accept Republic Services proposal for solid waste services as the best value for the County and authorize the County Administrator and the County Attorney to negotiate the contract. Ms. Collins seconded the motion which was adopted 5-0.

Chairman McWilliams introduced the next agenda item which was consideration of Parks and Recreation Policies, Procedures, and Bylaws Advisory Committee.

Mr. Mark Nelson, Parks and Recreation Director, said the department receives input from the community on a regular basis and follows guidelines that were adopted by the former Board of Supervisors. Mr. Nelson said he holds two advertised public meetings per year and follows the suggestions of the majority when possible. Mr. Nelson said one request that came out of the public meetings was to organize a committee made up of citizens that would act in an advisory role for procedure and policies. Mr. Nelson suggested a panel of five citizens; one from each district.

Mr. Fry said he was happy to see the request of an advisory committee move forward and hoped to see the committee grow to its full potential.

Ms. Collins said constituents had expressed concerns with current Little League rules and asked if the committee could address these concerns.

Mr. Nelson said the committee would have input but Little League programs are governed by rules and regulations that are set according to Little League International standards. He noted Bath County is combined with Alleghany County, Buena Vista, Covington, and Clifton Forge, and it is difficult to dictate the rules when we have to join with other localities in order to participate.

Chairman McWilliams questioned if a committee of five was enough people to accomplish the goals set forth.

Mr. Harrison, County Administrator, said the committee should be made up of at large members with a minimum of five and a maximum not to exceed nine members. Mr. Harrison said a range of members would allow for more flexibility if the Board had trouble recruiting members.

Ms. Collins concurred and added that a larger number would allow for subcommittees.

The Board thanked Mr. Nelson for his presentation and will revisit the selection of a Parks and Recreation Policies, Procedures, and Bylaws Advisory Committee at a later meeting.

Chairman McWilliams introduced the next agenda item which was consideration VACo Budget Impasse Resolution.

Ms. Collins made the motion to authorize and adopt the following resolution that would be sent to Governor McAuliffe and members of the Virginia General Assembly. Mr. Perdue seconded the motion which was adopted 5-0.

**Resolution 2014-5**  
**VACO Budget Impasse Resolution**

WHEREAS, the Virginia General Assembly did not agree on the approval of a budget by the adjournment sine die date of March 8, 2014; and  
WHEREAS, funds from the state received by Bath County comprise a large portion of revenues necessary for Bath County to deliver many of the public services mandated by the Commonwealth; and  
WHEREAS, the delivery of mandated public services by Bath County depends upon a stable and healthy partnership between state and local governments; and  
WHEREAS, Virginia's local governments are subject strict, statutory deadlines for approving certain components of their respective budgets; and  
WHEREAS, local governments under Sections 15.2-2500 and 15.2-2503 of the Code of Virginia are required to approve their respective budget and tax rates by July 1 of each year; and  
WHEREAS, by May 1 of each year, or at least 30 days after receiving an estimate of state aid, whichever is later, local governments are required under Section 22.1-93 of the Code of Virginia to adopt an annual school budget; and  
WHEREAS, not later than June 1 of each year, all school divisions under Section 22.1-304 of the Code of Virginia, must notify teachers of reductions in force due to decreased funding; and  
WHEREAS, failure to approve a budget in a timely manner would disrupt the ability of Virginia's businesses and public agencies to operate effectively; and  
NOW, therefore, be it resolved by the Bath County Board of Supervisors that the Virginia General Assembly and the Governor of Virginia are urged to reconcile their differences and agree on a FY 2015-2016 budget; And be it further resolved that the Bath County Board of Supervisors shall transmit copies of this resolution to the Honorable Terry R. McAuliffe, Governor of Virginia, and to members of the Virginia General Assembly.

Adopted this 8<sup>th</sup> day of April, 2014, by the Bath County Board of Supervisors.

Chairman McWilliams introduced the next agenda items consideration of Boards and Commissions written policy, and appointments to Boards and Commissions.

Mr. Harrison presented the Board with a draft policy for consideration.

Ms. Collins and Mr. Perdue said they would like time to review and consider the policy before implementation. Ms. Collins agreed all position should be advertised in order to solicit interest but felt appointments should ultimately be at the suggestion of the district representative.

Chairman McWilliams said the entire Board is tasked with finding the most qualified person.

Mr. Gilchrest said he appreciates staff recommendations when selecting a Board member. Mr. Gilchrest said he agreed that waiting until next month before adopting the policy and felt advertising and promoting open seats publicly allowed for more participation.

### **Appointments to Boards and Commissions.**

Mr. Gilchrest made the motion to reappoint Mr. John Loeffler to the Planning Commission for the Warm Springs District, with a term to expire April 12, 2018. Mr. Fry seconded the motion.

Mr. Perdue offered a substitute motion to appoint Mr. Ron Pozun to the Planning Commission for the Warm Springs District, with a term to expire April 12, 2018. Ms. Collins seconded the motion, which was defeated with a vote of 2 in favor (Perdue and Collins), 2 against (Fry and McWilliams) and 1 abstention (Gilchrest).

The Chairman called for the vote on the original motion made by Mr. Gilchrest and seconded by Mr. Fry to reappoint Mr. John Loeffler to the Planning Commission for the Warm Springs District, with a term to expire April 12, 2018. The motion passed with a vote of 3 in favor (Gilchrest, Fry and McWilliams) and 2 against (Perdue and Collins).

Mr. Gilchrest made the motion to reappoint Mr. Mason Cauthorn to the Industrial Development Authority for the Millboro District and Mr. Kenneth "Jamie" Gwin to the Industrial Development Authority for the Cedar Creek District with terms expiring April 15, 2018. Ms. Collins seconded the motion which was adopted 5-0.

### **Actions from Closed Session**

There were no other actions from closed session other than the award of solid waste services which was addressed earlier in the meeting.

### **Consent Agenda**

Ms. Collins made the motion to approve the list of invoices and additional invoices, request for transfers and appropriations, and acceptance of monthly reports and correspondence as submitted. Mr. Fry seconded the motion which was adopted 5-0.

### **Additional Items**

Mr. Nelson, Parks and Recreation Director, asked the Board to approve an overhead easement agreement between the County and BARC Electric for the installation of scoreboards near Valley Elementary School.

Mr. Gilchrest made the motion to approve the overhead easement agreement between the County and BARC Electric for the installation of scoreboards. Ms. Collins seconded the motion which was adopted 5-0.

Mr. Harrison, County Administrator, presented the Board with the comment letter regarding horizontal drilling and hydraulic fracturing in the George Washington National Forest. Mr. Harrison said after the Town Hall meeting the Board asked him to draft a letter to the Forest Service Regional Office asking them to keep the prohibition against horizontal drilling and

hydraulic fracturing in the George Washington National Forest in place. Mr. Harrison said a second letter would be sent to Virginia Counties and Cities that have not yet considered horizontal drilling and hydraulic fracturing in the George Washington National Forest stressing the importance of the prohibition to the region.

Mr. Gilchrest made the motion to a send letter supporting the prohibition on horizontal drilling and hydraulic fracturing in the George Washington National Forest to the Forest Service Regional Office, and copies to Governor McAuliffe, Warm Springs District Ranger, Senators Warner and Kaine, and Congressman Goodlatte, and to send a letter to the Virginia Counties and Cities that have not yet considered horizontal drilling and hydraulic fracturing. Ms. Collins seconded the motion which was adopted 5-0.

The Chairman opened the floor for the final public session.

Mr. John Fischer asked Chairman McWilliams to provide the attorney's opinion that did not require Mr. McWilliams to abstain from voting for Mr. Loeffler's Planning Commission appointment. Mr. Fischer said he hoped the attorney's opinion would become part of the public record.

Mr. Jacob Meck, Alleghany Disposal, LLC, congratulated Republic Services for being awarded the County's solid waste services contract. Mr. Meck thanked the Board of Supervisors for allowing him to bring his proposal to the table and for the professionalism of the County Administration staff.

Mr. Harper Wagner, Warm Springs District, asked the Board if they had anything to report on BARC.

Mr. Carl Chestnut, Cedar Creek District, urged the Board to follow the recommendation of the District Supervisor when filling a position on a board or commission.

Mr. Jack Lindsay, Warm Springs District, asked the Board to use a local engineer to make assessments to the retaining wall at the transfer station.

Mr. Ron Pozun, Warm Springs District, thanked the Board for their consideration and urged them to adopt the boards and commissions policy as submitted by the County Administrator.

Ms. Kathleen Barden, Millboro District, said she agreed with advertising for open seats on boards and commissions and appreciated the openness of the Board of Supervisors.

The Chairman closed public comment and asked for comments from Board members.

Mr. Perdue stated for the record that he had absolutely no personal issue with Mr. John Loeffler, but he was concerned that Mr. Loeffler might be influence by the Chairman.

Ms. Collins said she spent time at Valley Elementary with the seventh grade class during Local Government Education Week. Ms. Collins said she was surprised to find that the students are very informed about local government. Ms. Collins said the class staged a mock Board meeting. She thanked the students, teachers and community.

Mr. Fry thanked Building Official and Emergency Services Coordinator Andy Seabolt for his presentation. Mr. Fry urged the Board to consider staggered terms.

Chairman McWilliams thanked all those who attended the recent Town Hall meeting. He stated the second Tuesday meeting is a business meeting whereas the Town Hall meeting allowed time for dialogue. Mr. McWilliams said he attended a meeting of the Millboro Preservation and Cultural Association (MPCA) and the needs of the community were considered and discussed. He said the Board has made a commitment to do what they can to assist in conversations between MPCA and BARC Electric, but in the end it is the MPCA who owns the property.

#### **County Administrator Comments**

Mr. Harrison, County Administrator, said the draft budget has been posted on the County's website for review; public hearings on the County and Schools budgets will be held on April 29, 2014, at 7 p.m. with consideration for adoption on May 13, 2014. Mr. Harrison announced a joint budget work session of the Board and School Board on April 10, 2014, at 6:30 p.m. Mr. Harrison recommended an increase of the personal property tax to \$0.70 cents per one hundred of assessed value and all capital improvements not already committed be removed from the FY 2014-15 budget.

Mr. Gilchrest made the motion to adjourn the meeting. Ms. Collins seconded the motion which was adopted 5-0.

The Chairman adjourned the meeting.

Ordered that this Board do now stand adjourned until 6:30 p.m., April 10, 2014, for a joint work session with the School Board. The next regular session of the Board of Supervisors is scheduled for May 13, 2014.

---

Ashton N. Harrison, Clerk

APPROVED:

---

Bruce W. McWilliams, Chairman