

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

Tuesday, July 14, 2015 7:00 p.m. Regular Meeting

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

Claire A. Collins, Chair called the meeting to order.

Upon a motion made by Supervisor Gilchrest, with a second from Supervisor 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.7 Consultation with legal counsel.

Supervisor Perdue made a motion, with a second from Supervisor Gilchrest 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, Claire Collins, Bart Perdue, Bruce McWilliams and Kevin Fry

Nays: None

Absent: None

Claire A. Collins, Chair called the meeting to order and led the Pledge of Allegiance. Supervisor Perdue offered the invocation.

Chairperson Collins asked the Board if they wished to approve or amend the agenda and the minutes from the June 9, 2015, Board of Supervisors meeting.

Supervisor McWilliams moved to add additional items 133-15(a) MOU between the County and CSPDC for broadband planning grant services; 133-15(b) request for \$2,700 cash match for DHCD second round broadband grant process; 133-15(c) supplemental appropriation request from Bath County Schools; additional invoices and additional requests for transfers and appropriations; amend item 120-15 to take action on the conservation easement following the presentation, and to approve the agenda as written with the aforementioned changes. Supervisor Gilchrest seconded the motion which was adopted 5-0.

Supervisor Gilchrest made the motion to approve the minutes from the June 9, 2015, Board of Supervisors meeting as submitted. Supervisor Perdue seconded the motion which was adopted 5-0.

Public Comment

Mr. Jay Trinca, Warm Springs District, said he wanted to address the tourism directorate. Mr. Trinca said the Board must insure that all businesses are getting their fair share of the effort and resources. Mr. Trinca said regardless of where the money comes from it is still the people's money and all businesses should have input on how the funds are spent. Mr. Trinca said all businesses should have a voice in the advertisements and spending priorities of the tourism directorate.

Mr. Carl Chestnut, Cedar Creek District, was not in favor of the conservation easement requested for Boxwood Farm's property. Mr. Chestnut said conservation easements are depleting the tax base and eventually someone will have to make up the difference. Mr. Chestnut also commented on the school system and urged the Board to find out why there was such a large turnover in staff this year.

Mr. Wally Robertson, Cedar Creek District, said the Board needed to think about the County and not just people moving in. Mr. Robertson said the area that is proposed for conservation easement has businesses within less than one mile in both directions.

Board Comment

Supervisor Gilchrest announced the upcoming truck and tractor pull sponsored by Millboro Fire Department.

Chair Collins encouraged everyone to support upcoming events including Wings and Wheels and the Bath County Art Show. She also invited all to attend the Cedar Creek District meeting, July 20, 2015, at the Hot Springs Fire Department from 7 to 9 p.m.

Shenandoah Valley Partnership Presentation

Ms. Carrie Chenery, Shenandoah Valley Partnership Executive Director, addressed the Board. Ms. Chenery gave a brief overview of the Shenandoah Valley Partnership (SVP) and explained their goals, funding sources, and committee roles. Ms. Chenery said the SVP has three main goals to bring new businesses to the areas they serve, help existing businesses expand, and addressing workforce needs. Ms. Chenery said she works closely with representatives from each locality and recognized Chairperson Collins and Maggie Anderson for their help.

Faye Cooper, Conservation Easement Specialists Presentation

Ms. Cooper representing Boyd and Melody Simpson owners of Boxwood Farm asked the Board to consider Mr. and Mrs. Simpson's request for a letter to Virginia Outdoors Foundation stating their request for conservation easement conforms to Bath County's Comprehensive Plan. Ms. Cooper said in order to qualify for conservation easement a property must meet one or multiple conservation values. Ms. Cooper said Boxwood Farm is historically significant, has working lands and provides scenic values along US Route 220.

County Attorney Michael Collins added a conservation easement is a voluntary action between the holder of the easement, which in this case would be the Virginia Outdoors Foundation, and the owner of the property. Mr. Collins said nothing in the state code requires the Board of Supervisors to approve or disapprove a conservation easement, the requirement is that it is consistent with the comprehensive plan. Mr. Collins said only the land would be affected by the conservation easement, the structures on the property would be taxed according to the normal tax rates for the county. Mr. Collins said he did not think the request was inconsistent with the comprehensive plan.

Mrs. Sherry Ryder, County Planner and Zoning Administrator, said the Planning Commission met with Ms. Cooper and heard the request to consider the Simpson's request. Mrs. Ryder said meet with Ms. Cooper before the Planning Commission meeting and advised the Simpson's to apply for an amendment to the comp plan removing Boxwood from the designated growth area; therefore removing the conflict with the comp plan. Mrs. Ryder said a similar request from a different land owner was recently denied. Mrs. Ryder said if a property is removed from the growth area it is her opinion that another property should be designated to replace the property that is lost. Mrs. Ryder said the comp plan is in the process of being amended to incorporate language to allow Bath County to be eligible for VDOT funding through HB 2 that has Route 220 listed as corridor of state wide significance. Mrs. Ryder said she did not know if it would be problematic if Boxwood was removed from the growth area. Mrs. Ryder said the planning commission is pro conservation and voted 3-2 in favor of recommending the issue to the Board of Supervisors. Mrs. Ryder said her normal procedure for handling this type of request would be through a comp plan amendment, however, other localities have allowed the County Administrator to sign off on the request as an administrative action.

County Administrator Harrison said even if the Board decided this did not need a comp plan amendment, he would want the matter thoroughly discussed by the Board before writing a letter in stating the issue conformed with the comp plan.

Chairperson Collins asked if it would be possible to play the recording of the planning commission's motion and discussion, considering the minutes of the planning commission meeting was not available for the Boards review.

Supervisor McWilliams said he did not need to hear the discussion because the planning commission recommended the issue by a majority vote.

Supervisor Gilchrest said he did not think a comp plan amendment was necessary mainly because the comp plan stated that "in contrast to the 'hard' boundary of a growth area, this could result in fingers of greenways integrated with parks and other open space within fully developed areas." Mr. Gilchrest said he appreciated Mrs. Ryder's reluctance to do anything like this but he did not feel like the Board would be violating or need an amendment to the comp plan.

Supervisor McWilliams concurred with Supervisor Gilchrest and said he found it egregious that we are trying to tell a property owner what they can or cannot do with their property.

Chairperson Collins asked about the zoning of the property and said she believed if the county were designating growth areas today, Boxwood Farm would likely not be included. Ms. Collins questioned if there had been an instance where a parcel was taken out of the growth corridor and another property added in its place.

Mrs. Ryder said the county had not done this before because the county is limited on its growth area.

Supervisor Perdue asked why two of the planning commissioners voted no.

Mrs. Ryder said they voted against because the property is in a growth area, public dollars had been spent on infrastructure, and it was not consistent with the comp plan.

Supervisor McWilliams said he found it consistent with the comp plan and made the motion to follow suit with the planning commission and authorize the County Administrator to send a letter to Virginia Outdoors Foundation stating it is the Boards position that Boxwood Farm's conservation easement request conforms with Bath County's Comprehensive Plan. Supervisor Gilchrest seconded the motion.

Supervisor Perdue said he did not have a major issue with the request but he did not like that it was sprung on the Board at the last minute when he was expecting a presentation.

Supervisor Fry said he supported the planning commission and always took their recommendations to heart. Supervisor Fry asked how many acres are currently in conservation. Supervisor Fry said if this property is placed in conservation easement it would qualify for the same tax break as farmers.

Mrs. Ryder said approximately 26,000 acres.

Chairperson Collins said the Board only decides if the request conforms to the comp plan. The Board does not approve conservation easements.

Chairperson Collins called for the vote on Supervisor McWilliams motion, seconded by Supervisor Gilchrest, to follow suit with the planning commission and authorize the County Administrator to send a letter to Virginia Outdoors Foundation stating it is the Boards position that Boxwood Farm's conservation easement request conforms with Bath County's Comprehensive Plan. The motion was adopted 4-1, with Supervisor Perdue dissenting.

Supervisor Perdue again stated he was not totally opposed to the motion but he did not feel he was ready to vote in favor of the request based on the limited information he was given.

Consideration to set public hearing to revise Bath County's Comprehensive Plan for State and Federal transportation requirements

Mrs. Ryder, County Planner and Zoning Administrator said the Planning Commission voted 5-0 in favor of recommending the Board set a public hearing to amend the Bath County Comprehensive Plan to incorporate verbiage identifying growth areas. Mrs. Ryder said there are no changes to the current growth areas however, since Bath County does not have urban development areas we have been asked to amend the comprehensive plan to receive funding based on house bill 2.

Supervisor McWilliams made the motion to set a public hearing for August 11, 2015, to receive input on amending the comprehensive plan to incorporate verbiage identifying growth area. Supervisor Fry seconded the motion which was adopted 5-0.

Consideration to set public hearing to revise Bath County Code, Chapter 16, Solid Waste

County Administrator Harrison said he was recommending that the Board set a public hearing for September 8, 2015, to receive input regarding solid waste fees. Mr. Harrison presented two options; eliminate all solid waste fees, or lower the per tonnage rate to \$40. Mr. Harrison said he could also remove the options and phrase the public notice to amend solid waste fees, therefore allowing the Board more discretion. Mr. Harrison said solid waste should be handled like any other utility with an equal fee structure for everyone.

Supervisor Gilchrest and Chair Collins said they preferred advertising the public notice as amending solid waste fees. Both agreed this would allow for more discussion and consideration for the Board to form an equitable approach that is fair for businesses and citizens.

Supervisor McWilliams made the motion to schedule a public hearing for September 8, 2015, to receive public input to amend Bath County Code, Chapter 16, Solid Waste fees. Supervisor Gilchrest seconded the motion which was adopted 5-0.

Appropriation of State and Federal Funds to Bath County Schools

County Administrator Harrison said at the May 12, 2015, Board of Supervisors meeting the schools budget was approved and county funds were appropriated. Mr. Harrison said the Board inadvertently missed appropriating local cash receipts, state and federal funds. Mr. Harrison stated this appropriation of these funds does not increase the schools budget.

Supervisor Gilchrest made the motion to appropriate local cash receipts, state and federal funds in the amount of \$2,367,967 to Bath County Schools. Supervisor Fry seconded the motion which was adopted 5-0.

Swimming Pool Fees for 2016 Season

County Administrator Harrison said he would like the Board to consider eliminating fees at county owned swimming pools. Mr. Harrison said the county collects about \$6,000 a year in fees and the amount of effort it takes to collect the fees doesn't make good financial sense. Mr. Harrison said there's only so much you can increase the fees and still draw attendance. He felt eliminating the fees may increase attendance. Mr. Harrison said eliminating pool fees would be on the August 11, 2015, agenda as an action item for the Board.

U.S. Forest Service Land Use Agreement/Accept Duncan's Knob Tower from Virginia State Police

Mr. Andy Seabolt, Emergency Services Coordinator said VA Department of Forestry maintains a tower on Duncan's Knob property owned by US Forest Service (USFS). The USFS decommissioned the fire tower years ago but allowed VA Department of Forestry to use the site as a radio tower site. VA Department of Forestry no longer has use for the radio tower and under the agreement between VA Department of Forestry and USFS the tower would be removed by the state. VA Department of Forestry is willing to surplus the tower to Bath County. Bath County would then need to enter into a land use agreement with the USFS. The County would maintain the site and the tower, and provide insurance for the equipment, tower and liability. Mr. Seabolt said the tower is important to emergency communications and critical to land mobile radios.

Supervisor Perdue made the motion to execute the land use agreement between the County and USFS and to authorize the County Administrator to sign the necessary documents to accept the radio tower from the Commonwealth of Virginia. Supervisor McWilliams seconded the motion which was adopted 5-0.

FY 2015 Year End Closeout

County Administrator Harrison asked the Board to authorize him and Treasurer Pam Webb to make the necessary adjustments to closeout FY 2015.

Supervisor Perdue made the motion to authorize the County Administrator and the County Treasurer to make the necessary adjustments to closeout FY 2015. Supervisor McWilliams seconded the motion which was adopted 5-0.

Appreciation Letter to Mike Grist for his service on the Bath County Planning Commission

Supervisor Gilchrest made the motion to send a letter of appreciation to Mike Grist for his 19 years of service on the Bath County Planning Commission. Supervisor McWilliams seconded the motion which was adopted 5-0.

Actions from Closed Session - There were no actions from closed session

Consent Agenda

Supervisor Gilchrest made the motion to approve the payment of invoices, additional invoices, requests for transfers and appropriations, and to accept correspondence and monthly reports as submitted. Supervisor Perdue seconded the motion which was adopted 5-0.

Additional Items

MOU Between the County and Central Shenandoah Planning District Commission (CSPDC) for Broadband Planning Services. - County Administrator Harrison said the memorandum of understanding would be between the County and CSPDC at a cost of up to \$1,500 per month to assist the County in finalizing the Broadband Planning Grant options. Mr. Harrison asked the Board to table action until the August 11, 2015, meeting to allow him time to make a recommendation on how to fund the MOU.

Request for \$2,700 cash match for Department of Housing and Community Development second round broadband grant process. - County Administrator Harrison said the County was invited to apply for the second round of funding for broadband services grant. If awarded Bath and Highland Counties would be responsible for a 15% cash match, approximately \$2,700 each. Mr. Harrison said this phase of the broadband grants is more specific towards economic development. Supervisor McWilliams made the motion to authorize the County Administrator to move forward with the second round grant process and approved the \$2,700 cash match. Supervisor Perdue seconded the motion which was adopted 5-0.

Supplemental Appropriation Request from Bath County Schools - County Administrator Harrison said he received a request from Sue Hirsh, Division Superintendent asking the Board to consider appropriating \$59,904.78 in USDA Forest Reserve Funds unanticipated revenue back to the schools to restore instructional positions and to help meet diverse special education needs. Mr. Harrison cautioned the Board in using one time funds for ongoing operational costs. Chairperson Collins said she would prefer to see unanticipated funds used for one time capital outlay projects as opposed to continuing operations. Supervisor McWilliams made the motion to approve the schools request for a supplemental appropriation of \$59,904.78 in unanticipated revenue. Supervisor Gilchrest seconded the motion which was adopted 5-0.

Public Comment

Mr. Jay Trinca, Warm Springs District, commented on the lack of communication and feedback from the Board and County Administrator.

Mr. Carl Chestnut, and Mr. Keswick Phillips, Cedar Creek District, opposed the Board's decision to send a letter to Virginia Outdoors Foundation stating Boxwood Farm's application for conservation easement complied with Bath County's Comprehensive plan.

Mr. Glen Criser, Warm Springs District, agreed citizens should get feedback on public comment. Mr. Criser also questioned who would maintain the approximately two miles of road leading to Duncan's Knob tower site.

Mr. Jack Lindsay, Warm Springs District, said he is in favor of the County taking over the tower and radio site on Duncan's Knob. Mr. Lindsay said he was concerned about the school system dumping debris (stumps, blocks, wood) behind the parking lot. Mr. Lindsay said the roll-off container needs to be put back at Warm Springs. Mr. Lindsay said there is no one to help unload at the transfer station.

Mr. Carl Chestnut, Cedar Creek District, agreed there needs to be a licensed person at the transfer station at all times to help unload.

Board Comment

Chairperson Collins asked the County Administrator to work with Republic Services to address the public's concerns at the transfer station, and work with Mr. Seabolt on concerns regarding Duncan's Knob tower.

Supervisor Gilchrest commented on the lower Cowpasture River project headed up by the U.S. Forest Service working with public and private stakeholders in the interest of public lands.

Supervisor Fry said the public brought up some very valid points regarding the loss of tax revenue. Mr. Fry said the subject need to be looked at as whole not just conservation easements. Mr. Fry stated the next Board would need to look at the land use discount given to farmers and perhaps conservation easements as well.

Chairperson Collins said the Board will answer questions as a Board not as individual Board members. Ms. Collins said there are processes that need to be looked at and conservation easements may be one of them. Ms. Collins thanked everyone for coming and for their comments.

Supervisor Gilchrest made the motion to adjourn the meeting. Supervisor Perdue seconded the motion which was adopted 5-0.

Chairperson Collins adjourned the meeting.

Ordered that this Board do now stand adjourned until 7:00 p.m., August 11, 2015 for the regular monthly meeting of the Board of Supervisors.

Ashton N. Harrison, Clerk

APPROVED:

Claire A. Collins, Chairperson