

COUNTY OF BATH, VIRGINIA
BOARD OF SUPERVISORS MEETING
BATH COUNTY COURTHOUSE, Circuit Court Room

Tuesday, June 14, 2016, 7:00 p.m. Regular Meeting

At the Regular Meeting of the Board of Supervisors of Bath County, Virginia, Claire A. Collins, Chairperson; Richard B. Byrd, Vice Chairman; Stuart L. Hall; Edward T. Hicklin; Mathew S. Ratcliffe; Lady and Gentlemen Supervisors; Michael M. Collins, County Attorney; and Ashton N. Harrison, County Administrator.

Claire A. Collins, Chair called the meeting to order and asked for a moment of silence to reflect on recent events and the hate and discrimination that is taking hold on the Country .

Chair Collins led the Pledge of Allegiance. Supervisor Hall offered the invocation.

Chair Collins asked the Board if they wished to approve or amend the agenda and the minutes from the May 10, 2016, Board of Supervisors meeting.

County Administrator Harrison asked the Board to add to the agenda the additional list of invoices, payment of poll workers, move agenda item 117-16 directly after 112-16, and to schedule a joint meeting between the Board and the EDA.

Supervisor Byrd made the motion to approve the agenda with the following changes. Move agenda items 094-16 through 098-16 to immediately following the first public comment period and add additional invoices and appropriations. The motion was adopted 5-0.

Supervisor Byrd made the motion to approve the minutes of the April 12, 2016, Board of Supervisors Meeting with one addition as requested by Supervisor Hall to add his comment regarding disruptive citizens who will be removed from the Board meeting by the Sheriff if they continue to cause a commotion. The revised minutes were adopted 5-0.

Public Comment

Mr. Harold King, Williamsville District, spoke in support of a programmatic environmental impact study (PEIS) regarding the proposed Atlantic Coast Pipeline (ACP).

Mr. Carl Chestnut, and Mr. J.C. Snead, Cedar Creek District, spoke in support of the proposed Atlantic Coast Pipeline and Dominion.

Mr. Jeff Grimm, Williamsville District, thanked the Board of Supervisors for their continued support of volunteer Fire and Rescue departments, and for posthumously honoring Johnny Hodge and Mack Bird for their years of dedication and service to the community.

Ms. Ann Bryan, Williamsville District, said she is in favor of a PEIS and hoped that the Federal Energy Regulatory Commission (FERC) would agree. She urged the community to continue to learn about the proposed ACP.

Mr. Michael Bulgarelli, Cedar Creek District, withdrew his name from a list of candidates for appointment to the Economic Development Authority.

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

Supervisor Ratcliffe thanked volunteer fire and rescue members for their service. Supervisor Ratcliffe announced an upcoming EMT class for those interested in serving as a first responder in Bath County. The class will be offered at no charge to individuals who successfully complete the class. Supervisor Ratcliffe thanked Jack Lindsay for repairing the HVAC system at the radio station. Mr. Lindsay provided labor at no cost.

Chair Collins said issues that came up at her recent Cedar Creek District meeting included, junk cars, dogs, storm water and on street parking in Hot Springs. She thanked those who attend her district meetings and welcomed other to attend.

Presentation - Senate of Virginia Resolution recognizing Bath County's 225th Anniversary

Mr. Richard Armstrong, Bath County Historical Society, presented the following resolution to the County to be displayed in a central location within the Bath County Courthouse.

Senate of Virginia Senate Joint Resolution No. 195 Commending Bath County
Patrons - Senator R. Creigh Deeds and Delegate Benjamin L. Cline.
Agreed to by the Senate and House of Delegates, March 10, 2016

WHEREAS, Bath County, a historic county nestled in the Shenandoah Valley, celebrates its 225th anniversary in 2016; and
WHEREAS, named for the English resort town of Bath, Bath County was created on December 14, 1790, from parts of the Counties of Augusta, Botetourt, and Greenbrier; and
WHEREAS, the first Bath County court was held on May 10, 1791, at the home of Margaret Lewis in what is now Warm Springs, the county seat; and
WHEREAS, historically, Bath County has been home to ministers, generals, professional athletes, and artists, as well as respected leaders in the local community; and
WHEREAS, nearly 90 percent of Bath County is forestland, more than half of which is protected as part of a state park or natural area, affording residents and visitors alike countless opportunities for outdoor recreation such as camping, hiking, hunting, and fishing; and
WHEREAS, Bath County is known for its natural mineral springs, which have given rise to luxurious resorts in Warm Springs, Hot Springs, Healing Springs, Bath Alum Springs, and Millboro Springs and attracted visitors from throughout the Commonwealth, the United States, and the world; and
WHEREAS, Bath County is home to the Omni Homestead Resort, a luxury resort and National Historic Landmark that has delighted countless guests, including 22 United States Presidents, over its 250-year history; and
WHEREAS, Bath County will commemorate its 225th anniversary with special events and celebrations throughout 2016; now, therefore, be it
RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Bath County on the occasion of its 225th anniversary in 2016; and, be it
RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bath County as an expression of the General Assembly's admiration for the county's rich history and unique contributions to the Commonwealth.

Proclamation Honoring Johnny Hodge

A Proclamation of the Board of Supervisors of the County of Bath, Commonwealth of Virginia,
Honoring Johnny Hodge for his Service to the Community

Whereas, Bath County relies on volunteers to provide critical emergency services to the citizens of Bath County and our guests; and

Whereas, our volunteers by their dedication of time and energy serving us, represent the very definition of volunteerism; and

Whereas, Johnny Hodge was a consummate volunteer, who went above and beyond his duties and helped establish the Millboro Rescue Squad in 1998 so that citizens could be better served; and

Whereas, in addition to being a founding member of the Millboro Rescue Squad and an EMT, Johnny Hodge was also a volunteer firefighter for the Millboro Volunteer Fire Department; and

Whereas, Johnny Hodge was a volunteer who could be relied upon to answer every call no matter the hour or weather; and

Now Therefore, Be it resolved that, We, the Board of Supervisors of the County of Bath, Commonwealth of Virginia, on behalf of the County and its citizens, do hereby recognize the service Johnny Hodge provided our community and hereby proclaim this 14th day of June, 2016, Volunteer EMT Appreciation Day on his behalf.

Proclamation Honoring Mack Bird

A Proclamation of the Board of Supervisors of the County of Bath, Commonwealth of Virginia,
Honoring Douglass "Mack" Bird for his Service to the Community

Whereas, Bath County relies on volunteers to provide critical emergency services to the citizens of Bath County and our guests; and

Whereas, our volunteers by their dedication of time and energy serving us, represent the very definition of volunteerism; and

Whereas, Douglass "Mack" Bird was a consummate volunteer, who joined the Hot Springs Fire Department and the Hot Springs Rescue Squad in 1974; and

Whereas, Mack Bird was also a charter member of the Millboro Rescue Squad in 1998, helping form the organization so that citizens could be better served; and

Whereas, Mack Bird served as the president of the Hot Springs Fire and Rescue Association from 1995-2001 and from 2007-2015; and

Whereas, Mack Bird demonstrated the best of volunteerism by going above and beyond the call of duty; and

Now Therefore, Be it resolved that, We, the Board of Supervisors of the County of Bath, Commonwealth of Virginia, on behalf of the County and its citizens, do hereby recognize the service Mack Bird provided our community and hereby proclaim this 14th day of June, 2016, Volunteer Firefighter Appreciation Day on his behalf.

Consideration to Offer New York Life Insurance as Employee Benefit

County Administrator Harrison introduced Chad Knicley, New York Life agent, who gave an overview of the program. Mr. Knicley said the program is an optional guaranteed issue whole life plan that provides protection and portability through affordable payroll deductions. He said there are no physical exams or medical questions to employees who work at least 30 hours per week and have been with the County at least six months.

County Administrator Harrison recommended the Board allow staff to survey employees for interest and allow Mr. Knicley to make presentations to explain the benefits and costs associated with the new plans.

Supervisor Byrd made the motion to allow staff to work with employees and New York Life to offer optional life insurance as an employee benefit at no cost to the County. The motion was adopted 5-0.

Consideration to set a Public Hearing to Amend Bath County Code Chapter 10, Erosion and Sediment Control

Mr. T.A. "Andy" Seabolt, Erosion and Sediment Control Administrator, said the Department of Environmental Quality has produced a new erosion and sediment control model ordinance to capture new erosion and sediment control regulations and edits necessary for merging the programs at the state level. Mr. Seabolt said the ordinance has been edited to match format of the current County Code and is the minimum local code required by the Soil and Water Conservation Board. Mr. Seabolt recommended increasing fees in an attempt to help cover costs associated with running the program. He said the increased fee structure would compel developers to pay more of the costs associated with the program taking the burden off taxpayers. Mr. Seabolt recommended setting a public hearing at the July 2016 Board of Supervisors meeting to consider adoption of the new model ordinance.

Supervisor Ratcliffe made the motion to set a public hearing for July 12, 2016, at 7p.m. or as soon thereafter as possible to consider amending Bath County Code chapter 10, Erosion and Sediment Control. The motion was adopted 5-0.

Business Innovation Team Update

Ms. Emily Plecker, Chamber of Commerce Executive Director, provided an update of the responsibilities and standards for those interested in serving on the Chamber of Commerce Business Innovation Team (BIT). Ms. Plecker said the Chamber would begin advertising for interested parties soon. She said the BIT was not to be confused with the Economic Development Authority and would not ask for funding from the County. Ms. Plecker said the BIT would support local small businesses in the County.

Supervisor Byrd said the Board recently considered adding two positions on the Economic Development Authority (EDA). He said at that time former Board member Bruce McWilliams said adding additional members to the EDA would only make government bigger when the Board is supposed to make government smaller. Supervisor Byrd said adding twelve more people on a committee that reports to the EDA working through the Chamber of Commerce is enlarging government. He said adding the BIT also enlarges the number of people making decisions. He said he cannot get information now on projects the EDA is working on and questioned how he is going to get information if you add twelve more people. Supervisor Byrd said at first he like the idea of a BIT now he is not sure about it. Supervisor Byrd said when businesses have to start dealing with twelve more people it may put them in a real predicament. He said he is concerned about the Economic Plan that adds twelve more people into Tourism and Economic Development.

Memorandum of Understanding between the County and Family Preservation Services

County Administrator Harrison said the Board had previously discussed the possibility of entering into an agreement with Family Preservation Services to use the underutilized Seeds building in Millboro to provide mental health and family support services. County Administrator Harrison introduced Jennifer Turner, Family Preservation Services who provided a brief overview of the services her agency provides to the region. Jason Miller, Director, Bath County Social Services, agreed the services Family Preservation Services provides are much needed in our area. County Administrator Harrison said the County will provide the space rent fee and will continue to maintain the building infrastructure. Family Preservation Services will pay all

utilities and routine maintenance of the buildings and grounds. Both parties maintain the right to terminate the MOU by providing a 90 day written notice.

Supervisor Hall made the motion to approve the Memorandum of Understanding between the County and Family Preservation Services with an effective date of June 1, 2016. The motion was adopted 5-0.

Letter to Federal Energy Regulatory Commission (FERC)

County Administrator Harrison said he was asked to file a letter to the Federal Regulatory Commission to meet the June 2, 2016 deadline. County Administrator Harrison said he polled the Board regarding the request. He said four (4) of the five (5) Board members agreed to file the letter asking FERC to require the Atlantic Coast Pipeline to conduct a programmatic environmental impact study to better ascertain the cumulative effects of multiple pipeline projects in the region. County Administrator Harrison asked the Board to ratify sending the letter.

Supervisor Hall said he did not believe the action taken to send the letter was legal and felt there should have been a called meeting of the Board. He said considering the poll was not unanimous there should have been a special called meeting and a vote taken to file the letter. Since a vote was not taken the letter filed should be considered null and void and an additional letter should be sent to FERC explaining the letter was not approved and therefore was not filed by the deadline.

Supervisor Byrd asked for an opinion from the County Attorney.

County Attorney Collins said this was just brought to his attention and he was not involved beforehand. Mr. Collins said in the past when an issues has come up and there was unanimous consent a vote to ratify was taken at the next meeting. He said he does not recall a time where there was any dissent. When there is a case of dissent he felt the action should be debated in public. Mr. Collins said he did not know of any statute in the code that says a majority of the Board constitutes a proper Board action. Mr. Collins said he understood the necessity for it and said he felt the Board had the authority to either ratify it or not. He said Supervisor Hall made a good point regarding the filing date. Mr. Collins said he believed the Board could correct this by ratifying the letter but felt it was an error to file the letter without a called meeting.

Chair Collins said procedurally her preference was always to have a called meeting. She said the letter was a request which was not a position statement and her understanding was that the request for a PEIS was going to be in the original letter. She said the Board member that made the request made it based on the understanding that this was just above and beyond the original letter. Chair Collins said the Board should have a policy that there should be no further polling of the Board and there should be called meetings.

Supervisor Ratcliffe asked Attorney Collins if statement was a "set in stone" legal opinion.

County Attorney Collins said he had not thoroughly researched the subject but he was not aware of anything in the code that allowed for action by the Board outside of a public meeting. Attorney Collins said the Chair made a good point that the letter filed did not reference a Board action but requested a PEIS be conducted by FERC.

Supervisor Byrd said he supported the polling and maybe he didn't have a clear understand at the time but that was his fault. Supervisor Byrd said he did have a problem with saying it was illegal and talking about ratifying it in the same conversation. He said if it is illegal and not allowed under the code to poll the Board if there is a dissent without having a special called meeting then the Board would be sending a document to a federal agency without thoroughly debating it. He said this is not the way this Board wants to conduct business.

County Attorney Collins said the letter said the Board was making a request to have a PEIS conducted by FERC. He said the question is not that anything was done illegally but did the letter imply that it was a duly authorized letter of the Board, when at the time it was not duly authorized. He said by ratifying the letter tonight it would then be an authorized letter. The only question then would be if the letter would be consider since it was authorized after the June 2, 2016, deadline. He said FERC should be notified that official action was not taken on the letter until June 14, 2016.

Supervisor Byrd made the motion to have the County Attorney draft a letter to FERC explaining that Board action was not taken on the letter filed June 1, 2016, requesting that FERC conduct a PEIS until June 14, 2016. Supervisor Byrd included in his motion to ratify the original letter filed on June 1, 2016.

Supervisor Hall said he did not agree with ratifying the letter or sending the original letter. He said he felt this was just delay tactic to keep the project from going through. He said the Board needs to go by the code and you can not ratify something that is past the deadline.

County Attorney Collins said that would be up to FERC.

Supervisor Ratcliffe said since the first letter was filed on time would FERC consider accepting the request if the Board ratified it after the deadline.

County Attorney Collins said that would be up to FERC. He said it would be inappropriate not to take action.

Supervisor Hall said the Chair and County Attorney exceed their authority by signing and sending the letter. He said there should have been a special called meeting.

Supervisor Ratcliffe said he made the request and would take any blame for asking the Chair to file the letter by the deadline.

Chair Collins said there were legal questions posed at the time. She said the notification came on May 31, 2016, and the deadline was June 2, 2016, therefore there was not time to have a special called meeting.

Supervisor Byrd said there is no blame here. He said the only thing to do is to vote on the letter and either ratify it or not, and to send a letter to FERC explaining the Board's action.

Supervisor Hall said the Board has already gone on record as opposing the pipeline and the Board cannot continue to harass whoever with these requests to do different things. He said the landowners, public, and environmentalists have the right to do whatever they want to fight the pipeline. Supervisor Hall said he has been here for over 35 years and has heard all kinds of things about Dominion that are not true. He said the Board cannot jeopardize the County's tax dollars. He said while the pump storage facility was being built Dominion worked with the County and the landowners in every way possible. He said the President has put a three year deadline on phasing out the use of coal. He said we need to make up our minds about what we want. Do you want your fields full of windmills, solar panels or atomic energy plants?

Supervisor Ratcliffe said the pipeline will go through our yards. He said he is not sure the revenue will materialize. Supervisor Ratcliffe said the County's small volunteer fire and rescue departments cannot handle an event that might arise from this project. He also questioned how the large pieces of equipment would be able to navigate the roads and bridges. Supervisor Ratcliffe encouraged the Board to take one last step and ratify the letter requesting FERC initiate a PEIS.

Supervisor Byrd said he agreed with ratifying the letter requesting FERC conduct a PEIS. He said the Board had already gone on record opposing the pipeline and that is about the limit of what the Board can do. He said it doesn't get much stronger than that. Supervisor Byrd said the Board needs to let FERC know they made a mistake by filing the request for the PEIS before it was debated in public considering the request was not unanimous. Supervisor Byrd said with a school budget surpassing \$11M and public safety surpassing \$1M the County needs revenue. He said Dominion looked at Highland before deciding on Bath to build the pump storage station. He said the County gets about \$8M from Dominion every year. He said if you don't think Dominion means anything to this County look at the amount they contribute to the budget. Supervisor Hall said the Board needs to move on and not let issues come between them. Supervisor Byrd asked the Chair to call for the vote.

Chair Collins called for the vote on Supervisor Byrd's motion to have the County Attorney draft a letter to FERC explaining that official Board action was not taken on the letter filed June 1, 2016, requesting that FERC conduct a PEIS until June 14, 2016. Supervisor Byrd included in his motion to ratify the original letter filed on June 1, 2016. The motion was adopted 4-1, with Supervisor Hall casting the dissenting vote.

Supervisor Hall said Dominion has agreed to attend the LEPC meetings and address concerns and review their emergency plans. He said the other issues concerning roads and bridges will be addressed by Dominion as moves forward. Supervisor Hall said he still did not agree with filing the original letter and questioned its legality.

County Attorney Michael Collins said he would send the draft letter to the Board of Supervisors for their review before forwarding to FERC.

Appointments to Boards and Commissions

Economic Development Authority At-large

Supervisor Byrd made the motion to appoint Mr. Jay Trinca, Warm Springs District to complete the unexpired term left vacant when Jamie Gwin resigned. The term would end April 15, 2018.

Supervisor Hicklin made a substitute motion to appoint Mr. Daniel Plecker, Millboro District to complete the unexpired term left vacant when Jamie Gwin resigned. The term would end April 15, 2018.

Chair Collins said she would like the EDA appointment to be a unanimous decision and suggested the Board interview their top selections.

Chair Collins called for the vote on Supervisor Hicklin's substitute motion to appoint Daniel Plecker to the EDA which failed with a vote of 2 in favor, Collins and Hicklin voting aye and 3 against, Byrd, Hall and Ratcliffe voting no.

Chair Collins called for the vote on Supervisor Byrd's motion to appoint Jay Trinca to the EDA which was adopted with a vote of 4 in favor, Collins, Byrd, Hall and Ratcliffe voting aye, and 1 against, Hicklin voting no.

Regional Community Criminal Justice Board

Supervisor Hall made the motion to re-appoint Mrs. Sue Hirsh to an additional three term on the Regional Community Criminal Justice Board, with a term to expire June 30, 2019. The motion was adopted 5-0.

Regional VASAP Policy Board

Supervisor Hall made the motion to re-appoint Mrs. Sue Hirsh to an additional three term on the Regional VASAP Policy Board, with a term to expire June 30, 2019. The motion was adopted 5-0.

Shenandoah Valley Partnership

Supervisor Hall made the motion to re-appoint Ms. Claire A. Collins to an additional term two year term on the Shenandoah Valley Partnership, with a term to expire June 30, 2018. The motion was adopted 4-0, 1 abstention.

Schedule Work Session with EDA

Supervisor Byrd made the motion to schedule a joint work session between the Board of Supervisors and EDA on July 13, 2016, at 5:30 p.m. in the library conference room. The motion was adopted 5-0.

Consent Agenda

Supervisor Byrd made the motion to approve the payment of invoices, additional invoices, payment to poll workers, requests for transfers and appropriations, accept correspondence and monthly reports as submitted. The motion was adopted 5-0.

Public Comment

Ms. Ann Bryan, Williamsville District, said the scoping period for comments on the Atlantic Coast pipeline was extended to June 10, 2016. She said FERC had commented that any comments submitted by or soon thereafter would be considered. Ms. Bryan said FERC had been receptive to all comments and encouraged the Board and public to continue the lines of communication with FERC.

Mr. Kent Dougherty, Natural Assets, said he wanted to comment regarding the parking lot in Hot Springs. He said the studies are nearing completion and for the short term the parking lot would reopen to the public. Mr. Dougherty said this is a temporary solution because his company plans to move forward with developing the lot. He said he would work closely with the County as their plans come together.

Mr. Bruce McWilliams, Williamsville District, said he felt the Board missed a huge opportunity by not appointing Daniel Plecker to the EDA. He said Mr. Plecker would have brought a new perspective of the younger generation to the Authority. He said some of the Boards may be lacking this perspective. Mr. McWilliams said he was not sure Jay Trinca was the most supportive candidate for the seat considering some of his past public comments regarding economic development.

Mr. Harold King, Williamsville District, thanked the Board for their enthusiastic support of Fire and Rescue volunteers. He said it is a pleasure to work with the Board and it means a lot to everyone to receive recognition for their efforts.

Mr. Jonah Windham, Valley Springs District, said he had heard the current Board of Supervisors comment that they were still paying for commitments made by the previous Board. Mr. Windham asked for a list of projects or commitments that the Board was referring to.

Mr. Michael Collins, announced the Bath County Art Show July 16 through July 24, 2016, at Valley Elementary School. Mr. Collins said he had a limited supply of posters if anyone wished to display them.

County Administrator Harrison said he would like to publically thank Jack Lindsay and some other volunteers for their work on the ball fields.

Board Comment

Supervisor Hall said VDOT needed to look at Dry Run Road and make the necessary repairs. He said he has asked several times for potholes to be patched and no one responds.

Supervisor Byrd thanked the public for their interest and attendance.

Chair Collins said much of tonight's conversation reminded her of a 1970's Richmond Times Dispatch Article said referred to Bath County as the poorest County in the State of Virginia. She said growing up she was taught never forget where you come from because you can always go back. Chair Collins said this article is a constant reminder that we must be accountable and make the best of the resources we have. She said when a County starts spending more than their top two (2) revenue generators bring in; it's time to reorganize and recalculate. Chair Collins said the County needs to position itself for the future so that it never has to go back to being the poorest County in Virginia.

Supervisor Byrd made the motion to adjourn the meeting. The motion which was adopted 5-0.

Chair Collins adjourned the meeting.

Ordered that this Board do now stand adjourned until 7:00 p.m., July 12, 2016, for the regular monthly meeting of the Board of Supervisors.

Ashton N. Harrison, Clerk

APPROVED:

Claire A. Collins, Chairperson