

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

Tuesday, September 8, 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 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 August 11, 2015, Board of Supervisors meeting.

Supervisor Gilchrest moved to approve the agenda as submitted with the following changes; additional list of invoices, and a request from the Sheriff to surplus a 2003 Toyota. Supervisor Perdue seconded the motion which was adopted 5-0.

Supervisor Gilchrest made the motion to approve the minutes from the August 11, 2015, Board of Supervisors meeting as submitted. Supervisor Fry seconded the motion which was adopted 5-0.

Public Comment

Mr. Wally Robertson, Cedar Creek District, asked the Board to consider an open top solid waste container at the Warm Springs site. Mr. Robertson said if the County can afford to pay \$100 per ton to recycle glass they can afford the cost of an open top container. Mr. Robertson said he felt the having an open top would discourage people from improperly discarding large items.

Mr. John Hart, Cedar Creek District, urged the Board to install cameras at the solid waste site on Route 611.

Mrs. Thelma Hansford, Warm Springs District, submitted the following comments to the Board of Supervisors.

"First, did any of you come by and take a look at the huge monster sign that is in our front door view before meeting tonight? We are for school signs and the safety of our Bath County schools, but place the sign where it is not in plain view of someone's front door! A few feet one way or the other below our fence or closer to the High School. Not only have we lived in Bath County for 55 years. We have always supported the county in any way we could. But this is not acceptable when you place a huge sign like this in someone's front door. Everyone we talk to ask what were they thinking about when they placed this sign in your front door. As far as knowing about this sign, we were never notified and I haven't heard of anyone else that had any information this huge monster was going to be placed in our front door. One

day, my husband saw some people over at the road near our property, near our water meter, etc. and he walked over to the road, and he said some lady told him they were going to place a small sign, nothing was ever noted about any digging or a large sign put up, so we assumed a small sign meant one like the portable signs used in this area (congestion sign that is used when activities are being held at the school). I called VDOT, spoke with Tim Tuning on the Friday before it was installed, he told me, he knew nothing and VDOT knew nothing about this sign. That it was Sherry Ryder. When I talked with Sherry on Friday morning, and told her about our concerns, she said she would get back to me! Well, she never did. When I arrived home on Friday afternoon, the sign was being installed. Where is your communication!!! This sign takes away from the beauty of homes in Bath County when placed in someone's front door view. No, don't tell me you don't have money to move this sign. You should have consulted with the people in the neighborhood before installing this huge sign, and worked out a location. Homes along Route 220 from Hot Springs to Warm Springs are all respectable homes and very well kept. This sign takes away from the beauty along Route 220 and Bath County homes. Now, in this area, vehicles turn and throw trash out on the ground. Is there no respect for the people that live in this area, to keep Bath County beautiful. Come to our front door and view for a day or so! See if you would like this monster sign in your front door!!! Now also, I have never attended your supervisors meetings, in the 55 years we have lived in Bath County. I assumed business was being handled to the best of everyone's interest. Now I know different. The business of the county is handled for the interest of just a few Bath County leaders. Thank you for your time."

Ms. Judy Gattinger submitted the following letter to the Board of Supervisors.

"Dear Board of Supervisors: I would like to share with you a little epiphany that I had this summer. I have owned Cordwood Cottage twice in my life, in 1976 with my late ex-husband, Werner Gattinger, then repurchased it again in 2005. I retained ownership of it when I moved to Naples Florida in 2007. Since my rental tenants moved out. I decided to sell the property. But I spent this past summer in Bath County doing home improvements. So here is the "Epiphany" ... I love my cottage, Bath County, and the people that make it so special. I am not selling my cottage and will spend my summers here. Unfortunately, there is now a HUGE school sign complete with yellow blinking lights right in my neighbors (the Hansfords) front yard. Do I believe there should be a school speed limit at the beginning and end of School days? Yes. But it should be of appropriate size and location in a residential area. Why couldn't a smaller sign be placed in the vacant lot beside the Hansfords rather than in their front yard? The overwhelming natural beauty of Bath County is enhanced by the attentive pride of home ownership by its residents. Just take a ride up and down Rt. 220. Every house is well taken care of. Do we need an immense, almost interstate size road sign in the front yard of residents who obviously take pride of their property. If there is a problem with congestion and accidents at the school entrance, then perhaps, a county officer should be there for that 30 minute segment of the day. I live in a FL neighborhood where the local elementary school is patrolled before and after school. There is also a small blinking light. It is very effective. Please reconsider the placement of our school sign. This one is not acceptable. Thank you for your time. Sincerely Judy Gattinger"

Board Member Comment

Supervisor Gilchrest recognized Millboro Elementary School for ranking number one in grades 3rd through 5th and 8th in middle schools across the state of Virginia for standardized tests scores. Supervisor Gilchrest commended school administration and staff.

Chairperson Collins said Friday, September 11, 2015, commemorates Patriot's Day. Ms. Collins announced the Cedar Creek District meeting September 21, 2015, at the Hot Springs Fire

Department, and the joint meeting between the Board of Supervisors and School Board, September 15, 2015, 6:30 p.m. at the School Administration Building.

Request from Mr. & Mrs. Armistead Burwell to recommend that a parcel of property located in designated growth area is not in conflict with Bath County Comprehensive Plan for conservation easement

Mr. John C. Singleton, Attorney, representing Mr. & Mrs. Burwell, said the Burwell's had filed a request with the Virginia Outdoors Foundation to put a portion of their property located in Mitchelltown in conservation easement to preserve it for future generations. Mr. Singleton said the Planning Commission heard this request on August 24, 2015, and voted 2 in favor and 2 against, 1 member absent from the meeting. Mr. Singleton said the county's growth corridor runs down the valley along Route 220. He stated most areas in the growth plan are not suitable for building and if the growth corridor was scientifically surveyed there would be multiple carve outs, the Burwell's property being one. Mr. Singleton said the property owned by the Burwell's does not front Route 220 and the slope of the property is more than 25 percent in some areas and 20 percent in others making it not conducive for development.

Supervisor McWilliams said although some of the county's growth areas are not as defined as they should be he was still reluctant to overstep the Planning Commission's decision. Mr. McWilliams asked if the Comprehensive Plan could be amended to remove the Burwell's property from the designated growth area.

County Administrator Harrison said the Board is not approving the conservation easement. The Board would be issuing an opinion of whether or not the request was in conflict with the Comprehensive Plan. Mr. Harrison said if the property was not in a designated growth area the Board would not be involved.

County Attorney Collins asked Mrs. Ryder to define the process and time frame for removing the property from the designated growth area.

Mrs. Ryder said the Burwell's' would need to file an application for the Comp Plan amendment. The request would be heard by the Planning Commission at a public hearing after which the Planning Commission would send their recommendation to the Board of Supervisors. The Board would then set a public hearing to consider the request. The earliest the Board could schedule a public hearing to consider the request would be December 2015.

Mr. Singleton said the Virginia Outdoors Foundation only meets a couple of times per year making it important to get this approved as soon as possible. Mr. Singleton said he did not believe the Burwell's request could be found in conflict. He said you are not approving the easement that is up to the Virginia Outdoors Foundation.

Chair Collins questioned what percentage of the property is located within the designated growth area, and is the property served by public water and sewer.

Mr. Singleton said about half of the property is listed in the growth corridor and the main water and sewer lines do not extend beyond Gramercy Farm. The only public water and sewer

on the Burwell's property is their tap and residential lines. Mr. Singleton said the home site will be taxed at the county's current real estate rate.

Supervisor Fry asked Sherry Ryder, County Planner, for her opinion on the conflict or lack thereof.

Mrs. Ryder said her first response would be a comp plan amendment to remove the property from the designated growth area. Mrs. Ryder said the Virginia Outdoors Foundation asks her if there are issues with placing a conservation easement on the property seeking the easement such as zoning, adherence to the comp plan, if the property is in a potential growth area, if the property is served by public water and sewer. She said Virginia Outdoors Foundation requires the property in question be zoned agriculture.

Supervisor McWilliams said at this point the only issue holding up the Burwell's request is that some of the property is located within a designated growth area.

Mrs. Ryder said that is correct.

Supervisor Gilchrest said it would have been easier for the Board to take action if the Planning Commission has taken definite action. Supervisor Gilchrest said he personally supports conservation easements. He said the structure and surrounding acreage will be fully taxable.

Mrs. Ryder said Dunn's Gap Road is a rural rustic road which limits development. She said the Planning Commission did not have this information at their meeting.

Mr. Singleton said the comp plan needs major revisions regarding designated growth areas. He said the Board can still remove this property from the comp plan at another time when it revises the comp plan.

Supervisor McWilliams made the motion to find that the Burwell's property is not in conflict and is in conformance with the Comprehensive Plan for conservation easement and to send a letter to Virginia Outdoors Foundation.

Supervisor Perdue asked the County Attorney for this opinion.

Michael Collins, County Attorney, said if the Board took action to take the property out of the growth area in the comp plan then it would not be in conflict. Mr. Collins said he hesitated to render an opinion but agreed the comp plan was drawn without having someone survey and consider the topography. The comp plan was developed as a general guide. Mr. Collins said whichever way you approach it there is only one issue to consider, does it make sense to call the property a growth area or not.

Supervisor Gilchrest said the language contained in the comp plan gives the Planning Commission and the Board of Supervisors the latitude to have properties like Boxwood and the Burwell property in the growth area providing a kind of diversity that attracts people to Bath County.

Supervisor Gilchrest seconded Supervisor McWilliams motion to find that the Burwell's property is not in conflict and is in conformance with the Comprehensive Plan for conservation easement and to send a letter to Virginia Outdoors Foundation. The motion was adopted 4 in favor, 0 against, 1 abstention (Supervisor Fry).

Tower Lease Agreement between Bath County and Lingo Networks

County Administrator Harrison said the County owns the tower on Warm Springs Mountain and by executing the proposed agreement with Lingo Networks it will allow MGW/Lingo Networks to provide expanded wireless internet services. Mr. Harrison said the agreement is for a period of five years with three extensions of five years each. In lieu of payment for rental space on the tower the County would receive three free fiber connections, one at the Courthouse, one at the Library and one to the tower site building on Warm Springs Mountain.

Supervisor McWilliams made the motion to authorize the County Administrator to sign the agreement with Lingo Networks. Supervisor Perdue seconded the motion which was adopted 5-0.

Reallocation of Funding from Department of Social Services to Bath County Schools for two Behavioral Intervention Specialists

County Administrator Harrison explained the positions were considered as contract workers until recently when IRS no longer allowed them to be classified as contract employees. Social Services does not have a state classification that fits the positions and considering the positions are in the schools it makes sense to have the positions as school employees. The School board has agreed. Mr. Harrison said this arrangement will not create any additional appropriations but future transfers will be made to the school instead of Social Services. Mr. Harrison said \$96,804 was appropriated to fund the positions of that amount approximately \$15,000 has been drawn down to date.

Chair Collins clarified the FY 2015-16 budgeted amounts are earmarked for the two Behavioral Interventionists positions currently in the school system. The funds were originally allocated to Social Services but future transfers would be made to the schools particularly for the Behavioral Interventionists positions. Ms. Collins questioned if in the future the positions were no longer needed, would the unused funding be returned to the County.

County Administrator Harrison said everyone is in agreement that the funds are solely allocated for the Behavioral Interventionists positions.

Supervisor McWilliams made the motion to reallocate the funding for two Behavioral Intervention Specialists from Social Services to Bath County Schools. Supervisor Fry seconded the motion which was adopted 5-0.

Consent Agenda

Supervisor Fry 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 Gilchrest seconded the motion which was adopted 5-0.

Additional Items

Supervisor Fry made a motion to surplus a 2003 Toyota sedan from the Sheriff's fleet, currently used by the Drug Task Force to be sold at public auction as part of the Drug Task Force advertised sale. Supervisor Gilchrest seconded the motion which was adopted 5-0.

Public Comment

Mr. Keswick Phillips, Cedar Creek District, asked the Board to contact VDOT regarding the hump left in the southbound lane of Route 220 and the intersection to Routier Hill. Mr. Phillips said the hump creates a safety hazard especially to larger vehicles carrying heavy loads.

Board Comment

Supervisor Perdue said he thought the County could spend \$750 to move the school zone sign located south of the high school to the corner of the fence approximately 30 feet.

Supervisor Fry made the motion to authorize the County Administrator to work to come to a suitable resolution regarding the school zone sign placement. Supervisor Gilchrest seconded the motion.

Supervisor McWilliams said he did not think spending another \$750 to move the school zone sign was a responsible use of tax payer funds. Supervisor McWilliams said the sign was placed using appropriate VDOT procedures.

Supervisor Fry said he did not think the County should own school signs and suggested ownership be turned over to the school system. Supervisor Fry suggested the County Administrator work with Sherry Ryder, County Planner, Mrs. Hansford, property owner, and Supervisor Perdue to bring the issue to a suitable conclusion.

Sherry Ryder, County Planner, said over a year ago when discussions began the School Superintendent said as long as the County owned and maintained the signs the school system would support the placement of the signs. Mrs. Ryder said VDOT had authorized moving the signs 30 feet south of the current location depending on the tree canopy and sight distance.

Chair Collins called for the vote on Supervisor Fry's motion, which was seconded by Supervisor Gilchrest, to authorize the County Administrator to work to come to a suitable resolution regarding the school zone sign placement. The motion was adopted 5-0.

Closed Session

Upon a motion made by Supervisor Fry, with a second from Supervisor Perdue, 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 Fry 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

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

Supervisor Perdue made the motion to adjourn the meeting. Supervisor Gilchrest 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., October 13, 2015 for the regular monthly meeting of the Board of Supervisors.

Ashton N. Harrison, Clerk

APPROVED:

Claire A. Collins, Chairperson