

Regular Meeting, Wednesday, October 26, 2022, 7:00 p.m., Government Center, Verona, VA.

PRESENT: Gerald Garber, Chairman
 Butch Wells, Vice-Chair
 Pam Carter
 Michael L. Shull
 Scott Seaton
 Steven Morelli
 Jeffrey Slaven
 Timothy K. Fitzgerald, County Administrator
 Jennifer M. Whetzel, Deputy County Administrator
 John Wilkinson, Director of Community Development
 Elizabeth Goodloe, Planner
 James Benkahla, County Attorney
 Angie Michael, Executive Assistant

VIRGINIA: At an adjourned meeting of the Augusta County Board of Supervisors held on Wednesday, October 26, 2022, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 247th year of the Commonwealth....

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Chairman Garber welcomed those present at the meeting.

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The following students from Beverley Manor Middle School FFA program led the Pledge of Allegiance:

Alyssa Kiracofe is the President of the chapter. She plans to be a Large Animal Veterinarian and her favorite contest to compete in is livestock judging.

Alana Fauver is the Secretary of the chapter and she likes to do horse and small animal care.

Emmy Rosson is the Reporter for the chapter and she likes to compete in livestock judging.

Connor Robertson is the Treasurer for the chapter and he likes to compete in livestock judging.

Mason Miller is the Junior Treasurer for the chapter and he wants to be a beef cattle farmer.

Wyatt Hubbell is the Sentinel for the chapter and he likes to compete in poultry.

Jake Argenbright is a Sentinel and he likes to compete in ag mechanics.

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Ms. Carter, Pastures District, delivered the invocation.

URBANE VENTURE - REZONING
This being the day and time advertised to consider a request to rezone from Single-Family Residential to General Business approximately 1.18 acres owned by Urbane Venture and located at 2590 Jefferson Highway in Waynesboro in the Wayne District. The Planning Commission recommends approval of the request with proffers.

Elizabeth Goodloe, Planner, stated that the property is located in an Urban Service Area of the Comprehensive Plan planned for future business development. The proposed general use of the property is an Airbnb.

Ray Burkholder, Balzer & Associates, is the representative for the applicant. There has been discussion with VDOT regarding the entrance and as long as it is kept as a residence, Airbnb/bed and breakfast use the entrance is suitable. Nothing will change on the parcel.

The Chairman declared the public hearing open.

There being no speakers, the Chairman declared the public hearing closed.

Dr. Seaton moved, seconded by Mr. Morelli, that the Board approve the rezoning request as presented with the proffers.

Vote was as follows: Yeas: Garber, Wells, Shull, Carter, Slaven, Morell and Seaton
Nays: None

Motion carried

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AUGUSTA DEVELOPMENT, LLC - REZONING

AUGUSTA DEVELOPMENT, LLC - REZONING
This being the day and time advertised to consider a request to rezone from attached residential to general ag approximately 2.97 acres and attached residential to single-family residential approximately 2.66 acres totaling approximately 5.6 acres owned by Augusta Developments, LLC located on Maury Mill Road in the North River District. Then Planning Commission recommends approval of the request with written proffers.

Ms. Goodloe stated that the property is located in an Urban Service Area of the Comprehensive Plan planned for medium density residential development. The proposed general use is to create individual lots for six single family dwellings. This parcel was previously rezoned in 2016 from General Agriculture to Attached Residential for townhomes. From that rezoning the applicant proffered to build a vinyl fence and he has built that fence. The proffer for this rezoning state that any division of lots shall ensure 100 feet of separation between primary homes within the subject parcels through a Deed Restriction defining a Development Area for each lot.

Mr. Balzer is the representative for the applicant. There was neighborhood opposition at the time of the original rezoning. Water pressure was the main issue. That is why the proffer is in the rezoning to work it out with the fire department.

The Chairman declared the public hearing open.

There being no speakers, the Chairman declared the public hearing closed.

Mr. Slaven moved, seconded by Dr. Seaton, that the Board approve the rezoning request as presented.

Vote was as follows: Yeas: Garber, Wells, Shull, Carter, Slaven, Morell and Seaton
Nays: None

Motion carried

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The Board considered a resolution to support Hershey Chocolate of Virginia's Industrial Access Railroad Track Funds application.

WHEREAS, Hershey Chocolate of Virginia, Inc. has expressed its commitment to the Augusta County Board of Supervisors to expand its commercial, business, or industrial operations in Stuarts Draft, Augusta County; **AND**,

WHEREAS, Hershey Chocolate of Virginia, Inc. and its operation will require rail access; **AND**, **WHEREAS**, the Officials of Hershey Chocolate of Virginia, Inc., have reported to Augusta County, their intent to apply for Industrial Access Railroad Track Funds from the Commonwealth of Virginia's Department of Rail and Public Transportation in the amount of \$450,000; **AND**,

WHEREAS, Hershey Chocolate of Virginia, Inc., has requested that the Augusta County Board of Supervisors provide a Resolution supporting its application for said funds which are administered by the Virginia Department of Rail and Public Transportation.

NOW THEREFORE, BE IT RESOLVED THAT THE BOARD OF SUPERVISORS OF AUGUSTA COUNTY, VIRGINIA, hereby endorses and supports the application of Hershey Chocolate of Virginia, Inc., for \$450,000 in Industrial Access Railroad Track Funds AND, **BE IT FURTHER RESOLVED**, that the Augusta County Board of Supervisors hereby makes known its desire and intent to support the Commonwealth Transportation Board in providing the maximum financial assistance to Hershey Chocolate of Virginia, Inc., for the purpose of expanding its industrial facility in Stuarts Draft, Augusta County.

Timothy Fitzgerald, County Administrator, stated that with Hershey's multiple expansions over the past few years, the company has a need for a rail expansion due to increased product. Hershey is applying for Industrial Access Railroad Track Funds from the Virginia Department of Rail and Public Transportation. The application will request \$450,000.00 in state funds with no matching funds from Augusta County. Hershey Chocolate has requested a resolution in support of this application. The application is due by November 6, 2022.

Mr. Shull moved, seconded by Ms. Carter, that the Board approve resolution.

Vote was as follows: Yeas: Garber, Wells, Slaven, Shull, Carter, Morell and Seaton
Nays: None

Motion carried

WAIVERS –NONE

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that were involved, concerned by the fact that the Panel approve the consent agreement

Continued. Anticipated 2001 and 2002 Disbursements

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Days: None

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Mr. Carter terminated everyone of her last boardroom meeting coming up at the

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

The Board and citizens are being misled and you need to investigate information and confirm more information before coming to a correct decision regarding the Commonwealth Attorney using political hearsay at the last meeting. It was a thinly veiled attempt to intimidate businessmen and their business associates as well as this supervisor and physician. Martin has admitted his information was hearsay and he was in error. I am for Constitutional Officers coming before the Board to ask for help for their departments, but not to use their position to express their misinformed position that they may serve to increase the county taxpayers risk of additional lawsuits for interfering with business. This is an excellent example of a boogeyman. When you fail at ideas and when you don't want to follow principles, when you create a boogeyman to divide people against each other, it is an effective political technique. People create the boogeyman to falsely accuse honorable people, businessmen and candidates of an association with the boogeyman conspiring to hurt a person's business, a person's chance to win an election, and a person's reputation in order to control the politician's business and the community. The other side of this debate has also used the Sheriff as a boogeyman. Accusing him of various issues that I won't repeat here because I don't need or want to and haven't in the past, but the Sheriff is a politician and as such he is subject to false accusations without easy lawful recourse, just as I am falsely accused by the Commonwealth Attorney. I have solid conservative bona fides, yet following the Constitution is not a conservative value. It is an American value which has a bloody cost. Our Government must follow the Constitution and the residents and citizens must ensure Government officials follow the Constitution. The Commonwealth Attorney chose to prosecute people for noise ordinance violation during a lawful protest. Even though the Augusta County ordinance 15-8 states exemption unless otherwise prohibited elsewhere in this article the following activities or sources of noise shall be exempt from the prohibition set forth in the noise ordinance. One of these is activities for which the regulation of noise has been preempted by federal law. Which federal law is this referring to? One federal law is the First Amendment. The First Amendment reads; Congress shall make no law restricting an establishment of religion or prohibiting the free exercise thereof or abridging the freedom of speech or of the press or the right of the people peaceably to assemble. And to petition the Government for a redress of grievance. It was adopted December 15, 1791 and we have 231 years of ruling supporting the First Amendment and describing its limitations upon the individual and the Government that tries to limit its lawful protesting. The Government is not one of those limitations. I would hope the Commonwealth Attorney has learned that supporting the First Amendment is more important than a noise violation during appropriate times of the day and in an appropriate location. I don't agree with the manner of their protests, the language used or some of the subjects which I have stayed away from, but the First Amendment was not intended for people who agree, but for people who disagree. The First Amendment recognizes debate as a right of man that pre-existed the constitution. The First Amendment is the safety valve on the pressure cooker of societal debate. The commitment to the principles in the First Amendment freedom of worshiping your own religion, freedom of speech, freedom of the press, freedom to assemble, freedom to petition the Government to readjust grievances should be unwavering. Particularly by the Chief Law Enforcement Officers in the County. This is a particularly good example of the need for residents and citizens and judges to be vigilant for violations of Constitutional rights by our Chief Law Enforcement Officers. It is up to citizens and residents of our beautiful country, state and County to enforce the Constitution's limitations on Government and acknowledgment of God given rights of man. Thankfully a judge recognized the Constitutional violations and dismissed the noise violations yet numerous and costly prosecutorial and already severely limited court hours were consumed in addition to time, cost and opportunity spent by the defendants. I'm not closed-minded. I will listen to people who I disagree with because in the end almost all people want safety in schools, churches, parks, stores and homes, adequate food and health and provision for widows, orphans and disabled. In these common desires, we as a society have our strength. Some have misled you to believe that I have a relationship

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

with Michael Donovan and Richard Moore. That includes the Commonwealth Attorney at the last meeting. Define relationship. They are constituents in my district. I have met with many people in my district. I represent all of them, not some of them. I have and will listen to any constituent of my district and resident of Augusta County. I am not opposed to listening to people that I disagree with on most subjects unlike the majority of the Board that voted to restrict the speech of every person who comes before the Board by placing time limits on the speech and time limits on signing up to speak. As far as association, the mail person who delivers mail to Michael Donovan and Richard Moore has more association with them than I do. I suspect they shop at Food Lion since that store is near their home. I may be wrong, but are the Food Lion workers actively supporting them. Augusta County Service Authority provides water to their home. Dominion Energy provides electricity and Columbia Gas probably provides gas to their home. They may get their cable from Comcast or Lumos. I don't know, but to accuse businessmen of trying to destroy Augusta County, businessmen who pay substantial taxes to Augusta County, that is ridiculous. 89% of Americans want cameras and I suspect 89% of mail workers, Food Lion workers, Dominion workers, Augusta County Service Authority workers and Columbia Gas workers support cameras. Just like the rest of the population.

It seems the five on this Board that don't want cameras make up the 11% minority of our residents and want to continue the unrest division and suppression of free speech and don't want cameras that can protect deputies from false accusations and improve the implementation of justice whether by providing incriminating evidence or exonerating evidence. The Sheriff, the Commonwealth Attorney and our two Police Chiefs in Staunton, and Waynesboro see the benefits of cameras. Republicans and Democrats have come before this Board advocating for cameras. Some have pulled the John Kerry and have come before this Board advocating for cameras before they suddenly decided they didn't want them. Just because you have the same goals or exchanged services or groceries doesn't mean you are supporters of everything they advocate. As I spoke about in the Rise debate in October 2019 before my election, we have a lot more in common with each other than differences. Today, the five on this Board who have been against cameras can today commit to funding cameras in the next budget. They just need to speak up and settle the unrest. They may say we can't give in to these radicals and I would reply loudly that 11% of the population that don't want cameras are the radicals. Joining the 89% of the population that supports cameras for various reasons, including Government accountability and Deputy protection that is prudent and wise and good governance. On Thursday after our last meeting, the Commonwealth Attorney, Tim Martin, acknowledged his mistake in an email to the Board that he was misinformed about a person he singled out on October 12, 2022 at our Board meeting. The definition of hearsay. Information received from other people that one cannot adequately substantiate or rumor. He's an attorney and he should know better than to accuse people of associations without solid evidence. His error was not a mistake. A mistake is when you pass an exit you wanted to take or when you leave the popcorn in the microwave too long or when you buy the wrong cat food. His source or sources of information were wrong about one person and the Commonwealth Attorney is being misled about other people he singled out on October 12, 2022, including me. He should reexamine his sources. I asked him to back up his baseless accusations and name his sources. As a Commonwealth Attorney who is supposed to be neutral, he is over his skis, way over his skis. He should come before the Board and publicly apologize to the Board and to those he falsely accused of nefarious association. As far as Scott Cline, Scott Cline supported Tim Martin's campaign for Commonwealth Attorney before Martin left the Republican party. Just as he has supported other elected officials who are in office today. He supported my campaign. He works with police agencies across the country. He pays business property, real estate and many other taxes to Augusta County faithfully. He's a former police officer with an exemplary record. What has he lied about? Where's the proof? My late wife and I became friends with Scott Cline when we had to fight corruption in the Republican party locally. Corruption that involved the First Amendment issues and

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

we were successful. The Republican party in Augusta is successful under excellent leadership, which is feeling an array of good candidates. When a drunk driver killed my wife last year, Scott Cline supported me. He called me frequently to check on how I was doing. We broke bread and shared meals. He let me talk when I could and waited for my voice to return when I couldn't. He cooked a tremendous amount of food on my barbeque during the family reception before my wife's funeral. He repeated the performance at my wife's one-year memorial of my wife's death. We have gone to church together. Yet this Commonwealth Attorney wants to break my friendship with Scott Cline who has done nothing but support me and my family during my tragic last 18 months. I can tell you that that won't happen because he has been a faithful friend. I understand the courtroom is verbally combative arena, but the Commonwealth Attorney needs to leave that behind to his assistants and bring people together by encouraging this Board to purchase the cameras as the Sheriff has asked. When the Commonwealth Attorney mentioned in his speech before this Board those people, who was he referring to? The black people, gay people, lawful protesters? He has such disdain for people who are his constituents. How can he fairly treat these people in a court of law? If I can forgive Shawn Webster who killed my wife, I hope one day he can forgive these residents and remove his bitterness. My record on the Board has demonstrated consistent support for safety in the county, whether for the sheriff or for fire and rescue. The Sheriff proposed in his budget request on page 236 of this year's recommended budget operating in capital, funding of body and dash cameras. I made the motion before this Board during the budget process this past year to fund these cameras, which the majority declined. At the June 21, 2022 meeting the Sheriff outlined his priorities of funding. I proposed the pay study that eventually resulted in pay raises for Emergency Communication Center employees, which is showing promise to fill in the previously unsustainable 50% employment gap. This was the highest priority of the Sheriff at that meeting. Already the ECC has been able to hire ten people who currently are in training on top of the eight full-time employees. If you are interested in becoming part of the ECC, please apply. They have four more positions open, which is down from the deficit of eleven positions. During the budget process earlier in the year, the Sheriff asked for additional School Resource Officers and after talking with Superintendent of Schools, I proposed a stepwise edition of more SRO's over the next four years to our schools, which the majority of the Board declined until forced to add them to all our schools all at once by the tragedy in Uvalde. I have supported additional funding of capital accounts from our year-end surplus for County vehicle replacement that is available to the Sheriff to purchase vehicles which passed this Board. Through frequent inquiry of the Assistant County Administrator, I have kept the Board updated regarding the countywide digital radio system. This should come before the Board in the next month. I support upgrading our radios to cover the entire County to improve the safety of our residents and our deputies and fire-rescue, who will use this system. I supported this pay study and wage increase for our deputies and fire-rescue earlier this year, which has stabilized our safety workforce. The Fire Chief, Greg Schacht, stated this month that fire and rescue had no forced overtime. Currently the Fire and Rescue has openings for two positions. So please apply if you are interested. During the budget process, the Sheriff requested two additional deputies; a Training Officer and Evidence Room Officer. I think that person was due to retire soon and an Assistant. I proposed funding of these four and a half employees, which the majority of the Board declined. This Board can't fix one problem the Sheriff prioritized. The problem is that our deputies are required to supervise people who are being held in Augusta Health Emergency Room for mental health problems and treatment. This is a statewide issue that is hopefully being addressed by the Governor and General Assembly and is not a problem that can simply be solved by local jurisdictions. I voted against the budget because the budget didn't adequately address the requests of the Sheriff. Such as body cameras, School Resource Officers and additional deputies for the evidence room and training. It did not outline a method to fix these deficits in the Sheriff's request. I support body and dash cameras for our deputies.

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

I have been consistent in my support. Last year, I was concerned with the protests, which started after two back-to-back deputy involved shootings in May 2021, would degenerate into a physical altercation between opposing protesters resulting in severe injury and Augusta County would make or join the ignominious national headlines. I wanted to avoid that and proposed before the Board in July 2021 an ad hoc committee to explore body and dash cameras. This would have included the Sheriff, Commonwealth Attorney representative, camera expert, County budget office representative and a member of the minority community of Augusta. I did not coordinate my proposal with protesters. Thankfully the protesters stopped protesting and I was grateful and relieved. Hispanic, black and white, Republican, Democrat and Independent, male-female, members of the community, our Sheriff and our Commonwealth Attorney have advocated before the Board for body and dash cameras. Cameras protect deputies from false accusations and provide evidence of the actions of the accused that can result in acquittal or conviction. Society benefits from the transparency of Governmental authority. Grants are available for funding. Groups and organizations across the country are willing to fund these cameras. 89% of the population supports cameras, including the Sheriff in his budget and the Commonwealth Attorney in Facebook posts by a WHSV reporter. I don't think we need to fight about these cameras. I think we should fund them and I hope our next budget includes cameras because they unify instead of divide. Let me return to two people that the Commonwealth Attorney has singled out. I wouldn't recognize Richard Moore. I suppose I should since he lives in my district, but there's over ten thousand people in my district. I don't recall meeting him or talking to him. I'm sorry I don't recognize him. I've incidentally met Michael Donovan at events like the Rise Debate in October 2019 before my election and at Starbucks when I was enjoying a hot chocolate with another friend and at Los Ponchos when he asked me why I supporting cameras. They are constituents. They own homes across the county and some in my district. According to the Commissioner of the Revenue, the Treasurer, the County Administrator and the County website, businesses they are associated with owe the taxes that the Commissioner of the Revenue and the Treasurer have determined they owe. The workable amount of taxes owed most likely must be determined in a court of law and not in a Board of Supervisors meeting. The Board does not have the executive or law enforcement power to force someone to pay their taxes. That belongs to our Chief Law Enforcement Officers in cooperation with the Judiciary and the Treasurer and Commissioner of the Revenue if the businesses have assets available. I have one more item. On Monday at our Worksession, Steve Morelli requested the Board consider speed cameras in front of schools. He wants speed cameras, but not cameras on the deputies.

He may be talking to Brenda Mead who also is advocating speed cameras for Staunton. He claims these cameras are free to the County. Oh contraire, speed cameras are revenue generating devices that take away officer discretion in the name of expedience of fining our residents. Half of the money generated goes to the company who gives the cameras for installation. Speed cameras are inaccurate in Baltimore and an audit showed a failure rate of over 10%. They are clogging our court systems with people fighting these tickets. Various localities, states and specifically the District of Columbia have become reliant upon the revenue these cameras generate. The best example is DC. Revenues have increased in DC every year with 2018 having a whopping 100 million in traffic camera revenue. The revenue from traffic tickets increased to 206 million in 2020, but decreased to 166 million in 2021. Likely due to the pandemic. The Democratic General Assembly and last Governor passed the law allowing speed cameras in Virginia.

Speed cameras are a bad idea. The Government doesn't need more cameras to spy on and penalize residents, but I invite constituents to let the Board know if these are a good or bad idea for Augusta County.

Mr. Morelli addressed Dr. Seaton's comments. He stated that he would appreciate a phone call to discuss issues.

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

Mr. Shull attended the Agriculture Committee meeting with Ben Cline. Problems were addressed at this meeting regarding the upcoming farm bill. There was discussion on Monday regarding the chicken ordinance. For rural residential lots of two acres but less than five acres should be allowed ten chickens per parcel. Lots containing five acres or more to have twenty chickens per parcel. The ordinance will not supersede a Homeowners Association restriction. The enclosed coop should have a minimum of four feet of roof space per bird and an additional five square feet of running space with a maximum of three hundred square feet and ten feet in height. Mr. Shull would like the fifty feet from the property line requirement be put back in the ordinance. Litter composting should not be allowed in order to keep smells down. The litter can be used on the land without piling it up. If we have complaints that it would be written objections from two or more joining property owners and they would be specifying why they are not in favor. They would also provide their name on the complaint. If a permit is denied, the applicant would be required to wait two years to apply again.

Mr. Shull moved, seconded by Mr. Morelli, that the Board approve the Domestic Chicken ordinance as presented by Staff to be advertised for public hearing.

Ms. Carter stated that she understood a agreement was made at Monday's Staff Briefing and was set to be advertised for public hearing.

After further discussion, Mr. Shull called for the question.

Chairman Garber clarified that this vote is to cease debate and call for the question.

Vote was as follows: Yeas: Garber, Wells, Shull, Slaven, and Morelli
 Nays: Carter and Seaton

Motion carried.

Vote was as follows: Yeas: Garber, Wells, Shull, Slaven, and Morelli
 Nays: Carter and Seaton

Motion carried.

Ordinance will be advertised for public hearing.

Mr. Wells read the following statement from Tim Martin, Commonwealth Attorney:

I have asked that this statement to be read in tonight's Board meeting. I apologize for not being there in person, however, I am unable to attend tonight and wanted this handled as quickly as it could be.

First, let me say that soon after the meeting I learned information that made me regret including Julian Moffett in my comments last time. I reached out to him right away, and apologized to him both on the phone and in person. He made clear his support for our Sheriff's deputies.

Also, since my appearance before this Board on October 12th, Mr. Root, Mr. Sheets, and I have had the opportunity to communicate. They have each convinced me they fully support both our local law enforcement and our broader community. As I have said before, I value their extensive positive contributions to Augusta County. Furthermore, I want to make it clear that my comments were not intended to suggest that I have knowledge that either of them, or their company, Countryside, has engaged in, or facilitated, criminal activity. I do not have a reason to believe that. To the extent that

was unclear in my message, and has negatively impacted them and their families, I apologize. Their recent expression of unequivocal support of the men and women protecting this community is good enough for me. The three of us are interested in putting this behind us, and in doing what we can to enhance this community we all care about."

(1) the personnel exemption under Virginia Code § 2.2-3711(A) (1) [discussion, consideration or interviews of (a) prospective candidates for employment, or (b) assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific employees]:

- (2) the economic development exemption under Virginia Code § 2.2-3711(A) (5) [discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of its interest in locating or expanding its facilities in the county]:

- Vote was as follows: Yeas: Garber, Wells, Shull, Carter, Slaven, Morell and Seaton
Nays: None

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1. Public business matters lawfully exempted from statutory open meeting requirements, and
2. Only such public business matters identified in the motion to convene the executive session.

Hearing none, the Chairman called upon the County Administrator/ Clerk of the Board to

call the roll noting members of the Board who approve the certification shall answer AYE and those who cannot shall answer NAY.

Motion carried

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Mr. Shull moved, seconded by Mr. Slaven, that the Board re-appoint Patricia Katz to serve on the Building Board of Appeals. Effective November 1, 2022 and to expire October 31, 2027.

Motion carried.

Mr. Shull moved, seconded by Mr. Slaven, that the Board appoint Dave Brooks to serve an expired unexpired term. Effective January 1, 2023 and to expire October 31, 2026.

Motion carried

Dr. Seaton, seconded by Mr. Wells, moved that the Board adjourn the meeting.

Motion carried

Chairman

County Administrator