

Regular Meeting, Wednesday, October 12, 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 12, 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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Mr. Morelli, South River District, led the Pledge of Allegiance.

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Dr. Seaton, Wayne District, delivered the invocation.

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2023 HOLIDAY SCHEDULE

The Board considered the 2023 holiday schedule.

New Year's Day (Observed)	January 2
Martin Luther King, Jr. Day	January 16
George Washington Day	February 20
Memorial Day	May 29
Juneteenth	June 19
Independence Day	July 4
Labor Day	September 4
Veterans Day (Observed)	November 10
Thanksgiving	November 23
Day after Thanksgiving	November 24
Christmas	December 25
Total Days (11)	Eleven

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2023 HOLIDAY SCHEDULE (CONT'D)

Timothy Fitzgerald, County Administrator, stated that the state holiday schedule and the City of Waynesboro and Staunton holiday schedule is included. The City of Waynesboro has chosen to follow the state holiday schedule for 2023.

Dr. Seaton moved, seconded by Mr. Shull, that the Board approve the 2023 Holiday Schedule as presented.

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

Motion carried

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ORDINANCES

The Board considered the following ordinances for public hearing:

- A. Mini-Warehouses
B. Short-Term Rentals
C. Domestic Chickens

John Wilkinson, Director of Community Development, stated that the three ordinances presented require Board approval to be advertised for public hearing. The first one is for mini-warehouses. This is a new ordinance. The ordinance will be putting the same standards for mini-warehouses as in General Business. The second one is for short-term rentals. Previously, the main concern for this ordinance was that the owner of record or facility operator personally resides in the principal dwelling or accessory dwelling unit or on a parcel immediately adjacent to or directly across the street from the parcel on which the principal dwelling or accessory dwelling unit operating as a Bed and Breakfast or Short-term Rental is located. There are three options for consideration; leave the language as is in the ordinance, take out the section out that regulates where the owner of record resides or add owner/operator resides within 5, 10, 20 miles of property. Two additions to the ordinance would be the owner of record shall provide to the Zoning Administrator proof of the current lease agreement between the owner and facility operator as a pre-condition of the permit. The owner shall submit subsequent lease agreements, within 10 days of signature, when the facility operator changes; and the owner of record must provide Community Development with a 24-hour emergency contact number, the owner of record must notify Community Development if the information changes and complete booking and accommodation records shall be disclosed to the Zoning Administrator and/or the Commissioner of the Revenue within fifteen days of a request.

Dr. Seaton questioned why a complete booking and accommodation record was needed.

Mr. Fitzgerald stated that the names were not necessary. All the County needs is the quantity of stays.

Dr. Seaton stated that it needed to say 15 business days.

Mr. Shull suggests making it a requirement to reside in the County.

The Board concurred to make the mileage up to 50 miles of the property.

Dr. Seaton has several questions regarding the ordinance and would like more time to review and gather information. He suggests bringing this back to the October Staff Briefing for consideration.

Mr. Morelli directed Staff to email the ordinances for Staunton and Waynesboro.

James Burnett thanked the Board for taking the extra time to look into this.

The Board concurred to discuss the Domestic Chickens Ordinance at the Staff Briefing on Monday, October 24, 2022.

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The Board considered contribution toward the replacement of the boiler at the Spottswood Community Center.

Mr. Fitzgerald stated that the Spottswood Ruritan Club owns and operates the Spottswood Community Center. This center is important for the citizens of the southern portion of the County. The center also serves as a voting location for the County in the Riverheads Magisterial District. The existing boiler that provides heat to the building is beyond repair and needs to be replaced. After receiving multiple bids, the Ruritans have decided to move forward with Scott's Plumbing and Heating and are requesting assistance with the funding of this project in the amount of \$15,000.00 from the Riverheads Infrastructure account.

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

Motion carried

WAIVERS -NONE

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Mr. Wells moved, seconded by Mr. Shull, that the Board approve the consent agenda as follows:

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Consider claims paid since September 1, 2022.

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

Motion carried

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(END OF CONSENT AGENDA)

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Dave Zimmerman, 120 Lee Highway, Verona, thanked Fire/Rescue for all that they do.

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Ms. Carter asked Mr. Fitzgerald for an Animal Shelter update.

Mr. Fitzgerald stated that a new Director, Operations Manager and Administrative Assistant have recently been hired. There is additional staffing in review. Facility issues continue to be worked on. Space is an issue and there will be further discussion regarding this.

Mr. Slaven stated that it is important to give the public all of the information and the correct information.

Mr. Wells was pleased with the Board retreat.

Dr. Seaton stated that the real estate assessment will begin in December. He reminded everyone to vote.

Mr. Shull expressed condolences to the Steve Wilmer family on his passing.

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MATTERS TO BE PRESENTED BY STAFF

Mr. Fitzgerald discussed the following:

1. VACo Annual Conference is November 13-15, 2022.
2. Augusta County is the second largest agriculture county in the state. This is National Farmers Day.
3. Everyone wished Mr. Wells a happy birthday.
4. Tim Martin, Commonwealth Attorney, made the following statement:

I'm going to be pretty circumspect in my discussion because as you all are probably aware, there is some ongoing criminal litigation and the most important thing to me is that the trial, when there ultimately is a trial, is a fair one we don't poison a jury pool or do anything like that. So, I'm going to take this in sort of broad strokes if that makes any sense to you. But I want to start by telling you, I'm not often here, but I usually watch the meetings generally not live because this is bedtime for three of my four. I watch them later and over the course of time, I have watched people come in and disparage our Sheriff week after week. Well, really twice a month now for years. That's been hard for me to watch. I met Donald Smith in 2015 when we were both running for election. I didn't know him before that, but in the time that we've served together, which is from January 1, 2016 to now, I've seen nothing but integrity from the man. He's the kind of person who would run into that burning building. He is self-sacrificial. In the years that I've worked with him, he has never made a single decision that was based on anything other than what he thought was right for the citizens of Augusta County. As I've watched over the course of time, I've heard folks say that he is a pedophile. That's a lie. I just hope you know that is just a lie. It's an invented lie out of whole cloth. Instead, he is a very dedicated public servant who shouldn't be subject to that sort of thing. There is a reason he hasn't come up here and spoken out against it. I told him not to. I've told him to keep his mouth shut and his head down and I'm his legal advisor and he's listened. He didn't have to do that. He could have come up here, but he's listened to me and he has not taken that on, not because it's true, but because I told him it wouldn't be good ultimately in the long run. They say he's a human trafficker. That's a lie. It's just a lie created out of whole cloth. It's intended to fool you and the citizens of the county. The same folks who have come down here, and I'm not going to be reserved in my language. I've looked around the room. There are no children in here. I'm sure there are some people at home who watch this, but I've given them fair warning at this point. The talking point that I hear over and over again has to do with body cameras, right? And I think we've beaten this horse to death and beyond. It seems to me everyone is for body cameras. In the previous places that I've prosecuted both Richmond and Staunton, they both got them right about the time I left. I think body cameras are coming and that's perfectly fine, but I want there to be no misunderstanding. These protests and the discussions in here are not about body cameras. That's not what it's about. It's been about creating a record such that when they are finally moved against they can claim retaliation. That's it. I want to read a few things from what they call protests. I don't call them protests because when you pay people to say things it is not a genuine protest. Again, I'm not going to be reserved. When one of our deputies was standing out front of the Augusta County Sheriff's Office doing his job, in a big mass group they kept chanting at him. You're a bitch and a half without that badge. Over and over again through megaphones in his face. That has nothing to do with body cameras. There's a chant that goes one, two, three all the way up to twelve, but before twelve they say fuck twelve. That is another way of saying fuck the police. They chant that Donald Smith is a predator, which is a lie. They say blue lives, which means the lives of police officers don't exist. This hasn't been about body cameras. Don't fool yourself. There are members of our community, and I'm going to call them by name, who have a very close affiliation with these folks. Among them are Frank

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MATTERS TO BE PRESENTED BY STAFF (CONT'D)

Root, Tom Sheets and Julian Moffett. They've stayed in the background. They are not out there with the bullhorns marching. I wish they would. At least then it would be public. Those folks have been in the background doing business with these people and in some ways propping them up and that's wrong. That never should have been done. This is such a fantastic county. You all know. I'm not from here, many of you know. I didn't grow up here. I grew up elsewhere. Mr. Wells, you're a reformed Northern Virginian. You've come here to this area because it's beautiful and it's wonderful. The folks who were saying these things about the Sheriff are ruining this place and it's despicable. One of the worst things that they've done and it's really hard to choose, but one of the worst things they've done is go and take their traveling circus down to protest at the Sheriff's sisters place of business in an effort to get her fired. All right, there's nobody nearer and dearer to the heart of the Sheriff than his family. That's a sick and twisted way to put pressure on somebody. I mean imagine if your sister's livelihood was at risk because you were acting as the Sheriff.

Dr. Seaton, I want to address you briefly. Not to call you out or give you a hard time. That's not what I'm here to do. You and I know each other for a really tragic reason and I'll tell you, you gave one of the most eloquent and beautiful and heartfelt victim statements I have ever heard and even as I stand here after fifteen years the cases of death by wrongdoing are still very emotional for me. Having you deliver that statement in court was a wonderful thing. Ann didn't die in Augusta County, but at least you had the opportunity to speak and you did an incredible job. One of the first things you said in that speech, and I remember big portions of it pretty well, was that Donald Smith came to your door and told you what had happened. He didn't have to do that. He did that because he is committed to doing the right thing. This is anything but a political endorsement by the way. I'm not a political person. I'm not interested in it. We have to be elected. I know that's the way it works, but I don't care for politics. I want to tell you something, Scott Cline has an obsession with the Sheriff and it's sick and it's messed up. I want you to know that. I want you to know that because it can be hard to see that sort of thing. It can be hard to see it in a time of grief. Just for an example; I had an assistant prosecutor who was working on a case involving one of these folks. When the assistant prosecutor left my office to go raise his family in Georgia where he's from which I think was a mistake because Augusta Virginia is better than Augusta Georgia and I'm happy to be on record saying that. Do you know who showed up at his parent's house in Georgia, Scott Cline. His obsession with the Sheriff extends to the point that he'll do their bidding in Georgia trying to find out if that employee was disgruntled. That's an obsession and that's not somebody that you should rely on. We had a motion filed in one of those cases involving these folks and the first 23 paragraphs of our response addressed separate lies in the motion. These protests and the people who speak ill of the Sheriff and who say that Jean Shrewsbury is corrupt. They say Jean Shrewsbury is corrupt because she's the assessment authority and they don't want to pay their taxes. They say I am corrupt. They have sued me three times. Why do you think they say that? They say that because I, contrary to popular opinion, am the Chief Law Enforcement Officer for this jurisdiction and they don't want to be prosecuted. They say Jeff Gaines is corrupt because he hasn't pursued their political enemies. They say Mark Herring was corrupt because he sued them on behalf of folks that he claimed they take advantage of. They said the same about Letisha James who is the Attorney General for New York that sued them. They said the same about Maura Healy, the Attorney General for Massachusetts. They said the same and in fact sued the FBI and the Department of Social Services here in Augusta. All people who have tried to help people that they have harmed. Do you see the common theme here? I've sat here and I've been quiet about it. It's been hard to do. To be honest, because Donald Smith didn't deserve this. You

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MATTERS TO BE PRESENTED BY STAFF (CONT'D)

don't run for Sheriff to be treated this way. I think he's got great community support and I think that's wonderful, but I've wanted to come here and stand up for him because he really can't do it for himself. A person can't really defend themselves, but I want you all, the Board, to know something. Your law enforcement folks, that includes my office and the Sheriff's Office, we are human beings and we're going to make a lot of mistakes. That's just part of it. I know I've never tried a case in which I thought I did a perfect job and I make fifty or one hundred decisions a day, many of which are wrong. I'm sure he feels the same way. So, we're not perfect and if you want to take a microscope and look at our decisions, you're going to find stuff that's wrong, but your law enforcement in Augusta County has integrity. We are always trying to do the right thing. Sometimes we're going to get it wrong. Sometimes people are going to go free because of a mistake I made. That's just life. That's part of it, but it's never going to be because we were corrupt or anything else.

A couple of weeks ago I heard Amina Matheny Willard come stand up here, keep in mind she's paid. It's not like she's showing up calling you all out because she wants to do that. She is paid to represent them. The first bit of her statement, if you recall, was prepared. She read from it. Towards the end, she said something that really struck me and it struck me as something that was unusual. She thanked you all for praying. Do you remember that? I saw you all pray at the beginning of the meeting and then she talked about messages from God. She said sometimes God speaks to you individually. Then he speaks to you through your family or your friends and sometimes he brings, and I can't remember the specific wording, but a third party or something like that. Then she said this is your message from God. That was hard to stomach because we don't speak for God. That's not how that works. People don't speak for God. I hope that you all didn't feel admonished by that or as if you've done something wrong because you haven't.

I want to conclude with the fact that I can't tell you the facts of what we have. I can't do that. I don't think it's right. Ultimately, all of the things will come out in a court of law. I'm telling you the things that have been said about the Sheriff and about the other folks and law enforcement here are lies. I really appreciate what you all do and I'm sorry to have had to come here and deliver such a dark message. It's not what I've ever wanted to do. I feel very much supported by this Board. I hope that the folks in the Sheriff's Office feel that way too. You have a tremendous group of law enforcement officers. You're lucky to have them. We're lucky to have them. They shouldn't be subject to what they've been subject to. The notion that we robbed them of their constitutional rights to free speech is just not true. Dr. Seaton, I heard you a few weeks ago. First of all, I'd have to say I wouldn't be a lawyer if I didn't tell you, you represent the county. They've threatened to sue the county so it's a good idea to be quiet, but what you said at that time was you opined as to whether those citations caused them to stop protesting. Keep in mind the citations weren't about the words they were saying, but about the volume at which they said it. They could keep talking without those megaphones and that they chose not to was on them. Thank you all.

Mr. Shull commended the Augusta County Officers for their dedication.

Mr. Morelli agreed with Mr. Shull and thanked the deputies for their service.

Mr. Wells stated that there is a big misconception in a lot of jurisdictions that the Sheriff or Chief of Police are the head law enforcement officers for those areas and that's not true. The Commonwealth Attorney is the Chief Law Enforcement Officer in those jurisdictions. For the Chief Law Enforcement Officer for Augusta County to say the things he just said about our Sheriff's Department and our Sheriff goes a long way.

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On motion of Mr. Wells, seconded by Dr. Seaton, that the Board convene into closed session pursuant to:

- (1) the real property exemption under Virginia Code § 2.2-3711(A)(3)
[discussion of the acquisition for a public purpose, or disposition, of
real property]:
 - a. Verona Elementary School
- (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]:
 - a. Proposed Office space, flex space, storage facilities,
manufacturing facilities, utility and mixed use development.
- (1) the legal counsel exemption under Virginia Code § 2.23711(A)(8)
Consultation with legal counsel employed or retained by a public body
regarding specific legal matters requiring the provision of legal advice
by such counsel. Nothing in this subdivision shall be construed to permit
the closure of a meeting merely because an attorney representing the
public body is in attendance or is consulted on a matter.
 - a. Legal advice and legal strategies for collection of delinquent
personal property, business license, and real estate taxes and
engagement of outside counsel for such purposes

On motion of Mr. Shull, seconded by Mr. Slaven, that the Board came out of closed session.

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

Motion carried

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The Chairman advised that each member is required to certify that to the best of their knowledge during the closed session only the following was discussed:

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.

The Chairman asked if there is any Board member who cannot so certify.

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.

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

The Chairman authorized the County Administrator/Clerk of the Board to record this certification in the minutes.

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

Motion carried


County Administrator