

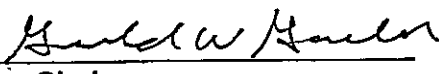
September 26, 2022, at 1:30 p.m.

MATTERS TO BE PRESENTED BY STAFF

Mr. Fitzgerald discussed the following:

1. FOIA training requirement for the Board.
2. Strategic Plan meeting is October 7, 2022 at 9:00a.m. to 4:00 p.m. at Blue Ridge Community College.
3. VACo Annual Conference and voting is November 13-15, 2022.
4. Rabies Week
5. Farm Bureau Dinner is October 3, 2022
6. Shenandoah Valley Electric Coop Dinner is October 4, 2022.
7. Virginia Housing meeting at Rise. Real Estate and first time homebuyers information September 27th at 4:30. Located at 1320 Ohio Street, Suite D, Waynesboro.

* * * * *


Chairman


County Administrator

Regular Meeting, Wednesday, September 28, 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, September 28, 2022, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 247th year of the Commonwealth....

* * * * *

Chairman Garber welcomed those present at the meeting.

* * * * *

The following students from the Stuarts Draft High School led the Pledge of Allegiance:

Bradley Painter is the Senior Class President and plans to University of Virginia and become an Anesthesiologist.

* * * * *

Mike Shull, Riverheads District, delivered the invocation.

* * * * *

RED MILL ENTERPRISES, LLC – REZONING – PREVIOUSLY POSTPONED

The Board considered a request to rezone from General Agriculture to General Industrial approximately 54.171 acres of a total of approximately 200.48 acres owned by Red mill Enterprises, LLC and located on the north side of Mount Torrey Road approximately 1,000 feet southwest of the City of Waynesboro corporate limits in Waynesboro in the South River District. The Planning Commission recommends approval with conditions.

John Wilkinson, Director of Community Development, stated that this item was postponed at the previous Board of Supervisors meeting. The applicant has submitted a new revised site plan and have proffered some items that were questioned.

The proffers include the following:

A landscape buffer shall be provided between Mt. Torrey Road and any building, loading area, and/or parking facility immediately adjacent to Mt. Torrey Road

September 28, 2022, at 7:00 p.m.

RED MILL ENTERPRISES, LLC – REZONING – PREVIOUSLY POSTPONED (CONT'D)

- consisting of a minimum twenty-foot-wide strip of land with four evergreen trees, four canopy trees, and four understory trees planted per one hundred linear feet of buffer. A landscape buffer shall be provided along the northern portion of the zoning line consisting of twelve evergreen trees, arborvitae species or equivalent, per one hundred linear foot.
- No proposed building structures, storage lots or parking lots shall be constructed within 500 foot of the Jones residence home.
- The following uses shall not be permitted: sawmills, travel plazas and truck stops; junkyards; manufacture, processing or storage of explosives or hazardous substances; extraction of minerals, rock, gravel, sand, oil, natural gas, and similar materials; batching plants for asphalt, cement, or concrete; shipping and receiving activities related to facilities immediately adjacent to rear landscape buffer outside of hours 5am to 9pm.
- Access drive to TM085-125L by tractor and trailer traffic shall be prohibited. Access limited to personal vehicle traffic only.
- The buildings immediately adjacent to the rear buffer shall not have loading dock doors on the building side facing the rear buffer.

If at such time in the future TM#85-125L is owned by the same controlling party as the subject parcel, then these proffers will be null and void.

A request to rezone from General Agriculture to General Industrial approximately 54.171 acres of an approximately 200.48-acre area (TMP 085 125 and TMP 085 125C) owned by Red Mill Enterprises, LLC and located on the north side of Mount Torrey Road (Route 624) approximately 1,000 feet southwest of the City of Waynesboro boundary in Waynesboro in the South River magisterial district.

AN ORDINANCE to amend Chapter 25 "Zoning" of the Code of Augusta County, Virginia.

WHEREAS, application has been made to the Board of Supervisors to amend the Augusta County Zoning Maps,

WHEREAS, the Augusta County Planning Commission, after a public hearing, has made their recommendation to the Board of Supervisors,

WHEREAS, the Board of Supervisors has conducted a public hearing,

WHEREAS, both the Commission and Board public hearings have been properly advertised and all public notice as required by the Zoning Ordinance and the Code of Virginia properly completed,

WHEREAS, the Board of Supervisors has considered the application and record, the Planning Commission recommendation and the comments presented at the public hearing,

WHEREAS, the Board of Supervisors has determined that the public necessity, convenience, general welfare, and good zoning practice requires such amendment;

NOW THEREFORE BE IT ORDAINED, by the Board of Supervisors that the Augusta County Zoning Maps be amended as follows:

The zoning for the following Tax map and parcel numbers: approximately 48.165 acres of 085 125 and approximately 6.006 acres of 085 125C – totaling approximately 54.171 acres – be changed from General Agriculture to General Industrial with the following proffers:

1. A landscape buffer shall be provided between Mt. Tory Road and any building, loading area, and/or parking facility immediately adjacent to Mt. Tory Road consisting of a minimum twenty foot (20') wide strip of land with 4 evergreen trees, 4 canopy trees, and 4 understory trees planted per one hundred linear feet (100') of buffer. Where possible, the planting shall be placed along the top one-third of the slope to maximize screening.

A landscape buffer shall be provided along the northern portion of the zoning line (bearing N44 00'31" E of the rezoning exhibit) consisting of 12 evergreen trees, arborvitae species or equivalent, per one hundred linear feet (100'). Where possible, the planting shall be placed along the top one-third of the slope to maximize screening. Planting shall be required once any development occurs at the top of the hill. The natural grade along the buffer (approximately 30 ft higher than TM #85-125L shall not be lowered, however, it may be raised to create additional screening for the trees to be planted on.

- Mr. Morelli moved, seconded by Mr. Shull, that the Board approve the rezoning with the proffers as presented.

Motion carried

* * * * *

This being day and time advertised to consider a request to rezone from General Agriculture to General Business approximately 0.49 acres owned by Pilot Travel Centers, LLC and located on the south side of White Hill Road, just west of the intersection of White Hill Road and Springfield Lane in Mint Springs in the Riverheads District. 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 for a commercial building. The Planning Commission recommends approval of the request.

Mr. Wilkinson stated that the concept plan for the property encompasses all three parcels; the one currently proposed for rezoning the two existing parcels already zoned General Business.

AN ORDINANCE to amend Chapter 25 "Zoning" of the Code of Augusta County, Virginia.

WHEREAS, the Augusta County Planning Commission, after a public hearing, has made their recommendation of approval to the Board of Supervisors,

WHEREAS, both the Commission and Board public hearings have been properly advertised and all public notice as required by the Zoning Ordinance and the Code of Virginia properly completed,

WHEREAS, the Board of Supervisors has determined that the public necessity, convenience, general welfare, and good zoning practice requires such amendment;

The zoning for the following Tax map and parcel number: 065 47A containing approximately 0.49 acres be changed from General Agriculture to General Business. Bill Moore, Balzer and Associates, was available for questions.

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

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

* * * * *

This being the day and time advertised to consider a request to rezone from General Business to Attached Residential approximately 12.874 acres owned by Sphinx Land Development, LLC and located on the North Side of Goose Creek Road approximately 0.3 miles east of Tinkling Springs road in Fishersville in the Wayne District. The property is located in an Urban Service Area of the Comprehensive Plan planned for future business development and medium density residential. The proposed general use of the property is to increase the number of townhomes to a maximum of 150. The Planning Commission recommends approval of the request.

Ingress to and egress from the site will be limited to no more than four street connections with Goose Creek Road. There will be no individual lot entrances on Route 640 serving the business and attached residential portion of the

- 1001

1001

1001

* * * * *

This being the day and time advertised to consider an amendment to the definition of campground as defined by the Virginia State Code and Virginia Department of Health to clarify that such uses as an area, place, parcel, plot or tract of land, by whatever name called, upon which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites or facilities is granted gratuitously, by a rental fee, by lease, by conditional sale, or by covenants, restrictions and easements, including any travel trailer camp, recreation camp, family campground or camping resort. The Planning Commission recommends approval of the request.

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

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

* * * * *

This being the day and time advertised to consider an amendment to add the definition of camping unit to the Augusta County Code to define such uses as any device or vehicular type structure for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel, including any tent, tent trailer, pickup camper, motor homes, recreational vehicle, yurts, cabin, or similar structures. The Planning Commission recommends approval.

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

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

* * * * *

This being the day and time advertised to consider an amendment to clarify the definition of campsite that they are any plot of ground within a campground used or intended for exclusive occupancy by a camping unit or units under the control of a camper.

The Chairman declared the public hearing to be open.

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

Mr. Slaven moved, seconded by Dr. Seaton, that the Board approve the ordinance amendment as presented.

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

Motion carried

* * * * *

This being the day and time advertised to consider an amendment to add the definition of primitive campsite to the Augusta County Code to define such uses as campsites that are characterized by the absence of toilets, showers, lavatories, electrical connections, or any combination thereof. The Planning Commission recommends approval of the request.

The Chairman declared the public hearing to be open.

James Wenger, 320 Middle River Road, Staunton, spoke in favor of the ordinance amendment.

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

Mr. Slaven moved, seconded by Dr. Seaton, that the Board approve the ordinance amendment as presented.

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

Motion carried

* * * * *

This being the day and time advertised to Consider an amendment to add the definition of primitive campground to the Augusta County Code to define such use as a campground having ten or fewer primitive campsites, as defined by the Virginia Department of Health. The Planning Commission recommends approval of the request.

The Chairman declared the public hearing to be open.

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

Mr. Slaven moved, seconded by Dr. Seaton, that the Board approve the ordinance amendment as presented.

Motion carried

* * * * *

This being the day time advertised to consider an amendment to allow Primitive Campgrounds in General Agriculture districts with a Special Use Permit provided: maximum number of campsites per parcel be ten, the lot or parcel contains at least three acres per primitive campsite, there will be only two camping units per campsite, no camping event will exceed fourteen days within any two-month period or more than twenty-eight days within any twelve-month period, there is an adequate plan for providing emergency medical services for persons in attendance, and there is an adequate plan for protection from fire and other hazards. The Planning Commission recommends approval of the request.

The Chairman declared the public hearing to be open.

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

Mr. Slaven moved, seconded by Dr. Seaton, that the Board approve the ordinance amendment as presented.

Dr. Seaton is concerned about the word adequate for fire and rescue purposes. Is the Board of Zoning Appeals capable of determining what is adequate?

Mr. Wilkinson stated that the BZA has experience with similar uses such as this. It has been suggested to add it to a recommended standard list that Staff will provide to the BZA.

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

Motion carried

* * * * *

This being the day and time advertised to consider various amendments to update and bring the applicable sections of this Ordinance into compliance with Virginia State Code. The Planning Commission recommends approval of the request.

The Chairman declared the public hearing to be open.

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

September 28, 2022, at 7:00 p.m.

ORDINANCE AMENDMENT – SECTION 25-691,692,693,694 (CONT'D)

Dr. Seaton is concerned that the Board does not know the options for this ordinance amendment.

Kathleen Keffer, Assistant County Attorney, stated that in the state code, the Zoning Administrator has three options for enforcing the zoning ordinance. One is a criminal track, one is an injunctive track and a schedule of civil fines track, which is being proposed as the amendment. The criminal track is in the current ordinance, but not utilized. The injunctive track is what the Zoning Administrator operates under currently. The civil fines option is done in General District Court which is a smaller claims court and has an easier process than the injunctive track that is done in Circuit Court.

Mr. Slaven questioned the process that is followed for the people in violation.

Mr. Wilkinson stated that there is a zoning complaint process that was set up by the Board of Supervisors. There is a three-letter process that takes place with every zoning violation. The first letter is informing the citizen of a complaint regarding their property. The second notice letter points out the specific code section of violation and lists options to alleviate the problem and it gives the option to appeal the violation to the Zoning Administrator. The final notice gives specifics sections of the violation and if not brought into compliance then it is sent to the County Attorney for prosecution. Civil fines are the preferred method. The fines will produce compliance and reduce the burden on the Circuit Court for the small infractions. The fines are set by the State.

Ms. Carter moved, seconded by Dr. Seaton, that the Board approve tabling the ordinance amendment to the next regular Board of Supervisors Meeting to allow for more review time.

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

Motion failed.

Mr. Slaven stated that there is a process of notices. County staff has worked hard on this amendment and the Zoning Administrator needs these options available to help the process.

Mr. Slaven moved, seconded by Mr. Shull, that the approve the ordinance amendment as presented.

Mr. Shull questioned what happens if the first fine is not paid.

Ms. Keffer stated that if the first fine is not paid, there is a \$500.00 fine for each additional required notice regarding the same violation. A notice of violation can be sent every ten days.

Dr. Seaton would like to lower the fines to see if the same compliance can occur.

Dr. Seaton moved, seconded by Ms. Carter, that the Board amend the amount for fines from \$200.00 to \$500.00 to \$100.00 to \$200.00.

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

Motion failed.

September 28, 2022, at 7:00 p.m.

ORDINANCE AMENDMENT – SECTION 25-691,692,693,694 (CONT'D)

Chairman Garber stated that there is a motion on the floor to approve as presented.

Dr. Seaton moved, seconded by Ms. Carter, that the Board approve this ordinance take effect on January 1, 2023 and receive answers to questions prior to the ordinance taking effect.

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

Motion failed.

Chairman Garber stated that there is a motion on the floor to approve as presented.

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

Motion carried.

Dr. Seaton moved, seconded by Ms. Carter, that the Board advise staff to produce a monthly report with fines assessed and court cases.

Ms. Carter stated that it is a significant piece of information to know who is being fined and how much is being paid.

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

Motion failed.

* * * * *

BROADBAND UPDATE

Jennifer Whetzel, Deputy County Administrator, reminded the Board that the County partnered with seven other localities on the VATI 2022 Grant. This would move towards universal coverage for the localities. This grant is funded by ARPA funds for Augusta County. DHCD awarded the grant in December 2021. Prior Board actions were to move forward with the grant in August 2021 and then in April 2022, the Board approved a fiscal agent agreement that discussed the funding mechanisms related to the grant. The grant has a communications plan which has two opportunities for All Points to present to the Board of Supervisors.

Kyle Rosner, Director of Government Affairs with All Points Broadband, presented the Board with an update on the broadband project in Augusta County.

* * * * *

AMBULANCE FUNDING REQUEST

Consider a funding request for an ambulance unit in the amount of \$322,834.00 and include a 10% contingency amount of \$32,283.40.

Greg Schacht, Augusta County Fire Chief, stated that Augusta County Fire-Rescue is requesting approval to order a PL Custom ambulance from Goodman Specialized

September 28, 2022, at 7:00 p.m.

AMBULANCE FUNDING REQUEST (CONT'D)

Vehicle. Their strategic plan contains a detailed schedule to replace ambulances on a ten-year cycle. ACFR staffs seven frontline units on a 24/7 basis and there are an additional three units in reserve status. This unit will be a 2023 chassis. Due to current supply issues with chassis, the manufacturer is estimating a 12-18 month build/delivery time frame. Material costs, fuel increases and supply issues have increased the overall cost of the unit. The price quote includes the HGAC fee of \$1,000.00 with the total capital expenditure to not exceed the requested amount. Placing the order in September will secure our place in line for a 2023 chassis when they become available for shipment from Ford.

Mr. Shull questioned the pricing for the unit. He is not in favor of the 10% contingency.

Chief Schacht stated that timing is an issue. There is no way to know what the price will be when the chassis is finally available for purchase.

Dr. Seaton moved, seconded by Mr. Slaven, that the Board approve the funding request and to include the 10% contingency from the Revenue Recovery Fund Balance.

Ms. Carter does not agree with the 10% contingency.

Chief Schacht stated that the money will not be spent if it is not needed.

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

Motion carried

* * * * *

SCHOOL BOARD YEAR-END FUND BALANCE

The Board considered the School Board Year-End Fund Balance request.

Jennifer Whetzel, Deputy County Administrator, stated that the Augusta County School Board reviewed the 2021-2022 financial reports at their September 1, 2022 meeting. The fund balance for the operational budget for the 2021-2022 school year is \$1,331,980 or 1.08% of the total revised operational budget. The School Board is requesting that the \$1,331,980 be placed in the School Capital Improvement Program account to fund the two new middle schools currently under construction and to address future emergency and/or capital projects.

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

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

Motion carried

* * * * *

WAIVERS –NONE

September 28, 2022, at 7:00 p.m.

* * * * *

MATTERS TO BE PRESENTED BY THE PUBLIC

Dave Zimmerman, Verona, spoke on behalf of tax paying, voting citizens of Augusta County regarding Nexus.

* * * * *

MATTERS TO BE PRESENTED BY THE BOARD

Ms. Carter would like to get agenda package materials sooner.

Dr. Seaton stated that ECC staffing is improving. He would like a quarterly report on fines and court orders regarding ordinances.

* * * * *

MATTERS TO BE PRESENTED BY STAFF

Mr. Fitzgerald discussed the following:

1. There will be a movie night at Natural Chimneys October 8th and starts at 7:00 p.m.

* * * * *

CLOSED SESSION

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

- 1) the legal counsel exemption under Virginia Code § 2.2 3711(A) (7) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. 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) Notice of Claim

- 2) 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) Notice of Claim

On motion of Mr. Shull, seconded by Mr. Wells, 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

* * * * *

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

Motion carried

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

* * * * *

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

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

Motion carried

Irvin W. Gordon
Chairman


County Administrator