

Regular Meeting, Wednesday, August 9, 2023, 7:00 p.m., Government Center, Verona, VA.

PRESENT: Michael Shull, Chairman
 Jeffrey Slaven, Vice-Chair
 Gerald Garber
 Butch Wells
 Carolyn Bragg
 Pam Carter
 Scott Seaton
 Timothy K. Fitzgerald, County Administrator
 Jennifer M. Whetzel, Deputy County Administrator
 Kathleen Keffer, Assistant County Attorney
 Angie Michael, Executive Assistant

VIRGINIA: At an adjourned meeting of the Augusta County Board of Supervisors held on Wednesday, August 9, 2023, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 248th year of the Commonwealth....

* * * * *

Chairman Shull welcomed those present at the meeting.

* * * * *

The following students from the Buffalo Gap High School FFA and SCA led the Pledge of Allegiance:

Jason Payne is the FFA Student Advisor and plans to work in HVAC or on the family farm.

Emory Sea is the FFA Treasurer and plans to attend college and study biochemistry or mechanical engineering.

Joe Horn is the FFA Vice President and plans to attend University of Northwestern Ohio and then take over the family farm.

Makayla Loyd is the FFA Chaplain and plans to pursue something related to livestock.

Chloe Emurian is the SCA Senior Executive President and plans to attend Liberty University to study interior design.

Trinity Cline is the SCA Public Relations Coordinator and plans to attend Blue Ridge Community College for nursing.

Dr. Ian Marshall, Principle of Buffalo Gap High School, thanked the Board for allowing them to come lead the Pledge of Allegiance.

* * * * *

Mr. Shull, Riverheads District, delivered the invocation.

* * * * *

August 9, 2023, at 7:00 p.m.

Mr. Shull made the following statement:

"This is a business meeting for Augusta County. As we work through the items on our agenda, we ask that all in attendance act in accordance with our meeting guidelines that are printed with the agenda. This would include refraining from any disorderly, disruptive, boisterous conduct such as clapping, speaking loudly from your seat and making noise. Please be respectful to others and their point of views."

* * * * *

VALLEY COMMUNITY SERVICES BOARD

Dr. Kimberly McClanahan, Executive Director of VCSB, shared a presentation on intent to develop a Crisis Receiving Center in Augusta County.

* * * * *

VERONA PEDESTRIAN PROJECT

The Board considered awarding a contract to A&J Development & Excavating and authorized the County Administrator to sign contracts.

Funding Source:	Beverley Manor Infrastructure	8011-109	\$256,203.91
	Revenue Sharing Capital	80000-8162	\$185,865.56

Doug Wolfe, Director of Community Development, stated that the project will provide sidewalks on the north side of Route 612 from the Shenandoah Valley Railroad East to the park and ride on Lodge Lane. Also, on the east side of US Route 11 from the vicinity of the First Bank parking lot to the signal at the entrance to the Augusta County Government Center. It will include a pedestrian crossing of the entrance as well as sidewalk along Dick Huff Lane from US 11 to just across the railroad tracks at the Government Center. The project costs include preliminary engineering, right-of-away acquisition and construction for a total of \$3.2 million. This amount is funded 80% by the federal grant funding with 20% from the County. Applications were distributed across three primary funding cycles from 2017 to 2021. The project was too big to put into one application so it was broken up into Rt. 612, which was the most dangerous segment for pedestrian safety, and the Route 11 segment. Intent was to construct the Route 612 segment while designing the Route 11 segment. There were no bids received on the Rt. 612 segment and the design for the Route 11 segment was complete. The projects were able to be bid together for both segments. Bids were received on April 27, 2023. Of the two bids received, A&J Development & Excavating was the low bidder at \$2,374,951.43. The County is currently \$442,069.47 short in funding for this project. A large portion of this was committed, but not obligated when we applied for the third grant round in 2021. This amount is \$256,203.91 and is requested to come from the Beverley Manor Infrastructure account. An additional \$185,865.56 is then needed to match VDOT funding and complete the project. Staff recommends this funding be allocated from the Revenue Sharing Capital account. It is recommended by staff to award the construction contract to A&J Development & Excavating, in the amount of \$2,374,951.43 with a 5% contingency of \$118,747.57 and authorize the County Administrator to sign contracts.

Mr. Wells moved, seconded by Mr. Slaven, that the Board approve the funding request and authorize the County Administrator to sign contracts.

Vote was as follows:	Yeas: Shull, Slaven, Garber, Wells, Bragg, Carter And Seaton
	Nays: None

Motion carried.

August 9 2023, at 7:00 p.m.

* * * * *

PERSONAL PROPERTY TAX RELIEF PROGRAM-RESOLUTION

The Board considered a resolution establishing the rate of tax relief of qualifying vehicles for the Personal Property Tax Relief Act.

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF AUGUSTA COUNTY, VIRGINIA**

WHEREAS, the Personal Property Tax Relief Act of 1998, Va. Code §§ 58.1-3523 et seq. ("PPTRA"), has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly (the 2005 revisions to the 2004-06 Appropriations Act).

WHEREAS, by its enactment of an ordinance on December 14, 2005 ("Ordinance"), the Board of Supervisors of Augusta County, Virginia (the "Board of Supervisors") has previously implemented such modifications of the PPTRA.

WHEREAS, the Board of Supervisors now desires to set the rate of tax relief for tax year 2023 for purposes of the Ordinance.

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF AUGUSTA COUNTY, VIRGINIA:

1. For purposes of § 3(c) of the Ordinance, the rate of tax relief with respect to qualifying vehicles with assessed values of more than \$1,000, and applied to the first \$20,000 in value of each such qualifying vehicle, shall be twenty-six (26%).
2. All other provisions of the Ordinance shall be implemented by the Commissioner of the Revenue or the County Treasurer, as applicable, including, without limitation, those set forth in § 3(b) of the Ordinance, pertaining to the elimination of personal property taxation of each qualifying vehicle with an assessed value of \$1,000 or less, and in § 4, pertaining to liability of taxpayers whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid.
3. This Resolution shall take effect immediately upon its adoption.

Jennifer Whetzel, Deputy County Administrator, stated that in the late 1990's the Governor showed interest in returning a portion of personal property tax to individuals at the state level. In the early 2000's, under the Governor's initiative, the state set aside \$950 million per year in the budget to go towards the Personal Property Tax Relief Act. Each locality had to report their tax rates to the state and the state allocated a portion of the \$950 million to the locality. Augusta County receives approximately \$4.3 million each year. The Commissioner of the Revenue's office has to take the values of the personal property book and compare it against the \$4.3 million and allocate it back to the tax bills based on qualifying vehicles. The resolution states the rate of tax relief with respect to qualifying vehicles with an assessed value of more than \$1,000.00 and applied to the first \$20,000.00 in value of each qualifying vehicle shall be 26%. 26% is the same percentage as it was in the previous year

Dr. Seaton asked how the 26% is calculated.

Dr. Seaton asked what the effect of a decreasing percentage would be.

Dr. Seaton stated that last year there was a 92% to value that was added on later in the month due to rising vehicle values due to COVID. What are the plans as far as the 92%?

Ms. Whetzel stated that nothing had been discussed relative to that percentage. The percentage will go back to the 100%.

Ms. Carter stated that it is important for citizens to understand that this process is dictated by the state.

Ms. Bragg moved, seconded by Ms. Carter, that the Board the resolution as presented.

Vote was as follows: Yeas: Shull, Slaven, Garber, Wells, Bragg, Carter
And Seaton
Nays: None

Motion carried.

* * * * *

The Board considered a funding request from Buffalo Gap High School Sportsman Club in the amount of \$14,211.00 for concession stand equipment.

Funding Source: Pastures Infrastructure	8014-119	\$4,737.00
Beverley Manor Infrastructure	8011-110	\$4,737.00
North River Infrastructure	8013-74	\$4,737.00

Mr. Fitzgerald stated that the Sportsman Club is requesting funding for a freezer, two warming cabinets, a popcorn popper and two hot dog grills with a total cost of \$14,211.00.

Ms. Carter moved, seconded by Mr. Wells, that the Board the funding request as presented.

Vote was as follows: Yeas: Shull, Slaven, Garber, Wells, Bragg, Carter
And Seaton
Nays: None

Motion carried.

1511

1001

August 9, 2023, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE PUBLIC

Rebecca Breeden, 93 Patterson Mill Road, Grottoes, is unhappy with the actions of the Board and allowing the public to speak. She voiced concerns regarding the real estate assessment that is currently taking place.

Beverly Farra, 890 Augusta Springs Road, Craigsville, is concerned with the Board allowing the citizens to voice their opinions and concerns.

Terry Pyles, 36 Equestrian Drive, Staunton, is concerned with the Board putting a time limit on the citizens wanting to speak. Each citizen should be heard.

Tracy Pyles, 3665 Churchville Ave, Churchville, is concerned with the Board's actions and restricting the time a citizen can speak. Trust is an issue.

Chanda McGuffin, 1016 Bridge Ave, Waynesboro, there is a lack of transparency with the Board of Supervisors.

Scott Cline, PO Box 327, Mt. Sidney, questions why there are not minutes kept during a closed session.

Sophie Alberts is disappointed in the actions of the Board. The public should know what is going on behind closed doors.

Dave Zimmerman, Verona, stated that the Board has important things to deal with. The Board members must be held accountable for their individual actions.

Cherish Alberts, 84 Birch Way, Barboursville, is disappointed in the actions of the Board.

* * * * *

MATTERS TO BE PRESENTED BY THE BOARD

Mr. Wells appreciated the demonstrations and information that was given regarding the new radio system.

Mr. Slaven appreciates the Board members he works with and the staff of the County.

Dr. Seaton recommends eliminating the three-minute time limit for speakers.

Dr. Seaton moved to eliminate the three-minute time limit on speaking and make it five minutes.

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

Motion failed.

Dr. Seaton gave Jennifer Whetzel, FOIA Officer, the thumb drive with all of his recordings.

August 9 2023, at 7:00 p.m.

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

Dr. Seaton moved to record all closed session meetings.

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

Motion failed.

Dr. Seaton moved to develop a plan to return fines to the payees of the animal shelter with potential options given to the Board to consider.

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

Motion failed.

Dr. Seaton made the following statement:

"We do have a lot of important business on this Board, but the Board has been gas lighting the public. At the March 8, 2023 meeting, the Board was informed that the county animal ordinances were unlawful. The animal shelter continued assessing unlawful fees and fines. Here we are five months later and administration still has not corrected the animal ordinances. The only reason the fines and fees are not being assessed now is because I demanded that the county stop illegally assessing them on May 30, 2023, thus starting the journey of retaliation by the rest of the Board against me. Beginning at the June 2, 2023 special meeting, continuing with the July 13, 2023 meeting of censure, which still has the wrong dates on it, and the August 2, 2023 meeting when the Board demanded, through resolution, the recordings of the closed meetings that they attended with the exception of Carolyn that came on the Board at a later time. Through all of this, I received nearly unanimous support from the public. I have been placing more and more campaign signs in my district. Let's look at the laws, rules and conduct of the Board. In the recent county survey, Augusta County residents supported body cameras and dash cams for our deputies, 90% to 2%. Four members agreed to put the cameras in the budget this year and then removed them when it came to a vote because they were mad. Placing body cameras on law enforcement is a sign of a mature government that values transparency. The animal shelter has been assessing fines and fees without due process and holding the animal's hostage until the money was paid to the Treasurer. That violates our residents fourth, fifth and fourteenth amendment rights to property and due process. The majority on the Board has limited the time to speak at our meetings to three minutes. A three-minute speech is one and a half pages, fourteen-point font size, double spaced and hardly enough time for a thesis and conclusion in one argument. This is a restriction of our resident's first amendment rights to address their grievances to the government. What is the Board afraid of? Do they really want to get home earlier from meetings that much that they are willing to suppress the first amendment rights of our residents? Our animal ordinances don't follow the Virginia Code and the animal shelter didn't even follow our own ordinance when assessing these fines and fees. For its entire existence, the animal shelter hasn't even had a policy and procedure manual to help the director and the employees with operating the shelter. On the Planning Commission, the Chair of the Planning Commission became a Supervisor and according to the Planning Commission bylaws a Supervisor shall not be a Chair or Vice Chair of the Planning Commission. Instead, the Planning Commission just ignored the bylaws and allowed her to be Chair and the rest of the Supervisors didn't care that she was still Chair of the Planning Commission. So, at the last Planning Commission meeting they changed the bylaws to fit the situation instead of following the bylaws. In summary, I followed the Virginia Code and took

August 9, 2023, at 7:00 p.m.

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

notes of some closed sessions. I recorded closed meetings sporadically before my wife died because during one unrecorded closed session the County Administrator had announced he proceeded with a contract when I didn't recall the Board giving him consent, but couldn't get other Board members to agree with me, though some looked puzzled by the announcement. I wasn't sure if my recall was true. After my wife was killed I increased the recordings to replay them and helped me with recall while my memory and concentration were affected by the tragedy. The Board asserts that my notes were surreptitious. That word implies that I need permission to record. Well established Virginia Code 19.2-62B2 and 2.2-3712, states that I may take notes during closed sessions by recording them. The Board Chair asserts that my conduct, while legal, was unethical. Yet he won't site authority for his opinion. Perhaps recording government officials conducting government business is unethical to him, but not to the residents of the County or our Country. Calling our rights under the US and Virginia Constitution unethical is wrong and is the first step toward violating our rights. Our rights in the US and Virginia Constitution, whether enumerated or implied, are derived from each person's responsibility to preserve their own life, liberty and property and to defend themselves from an often-overreaching government. This is one reason why we need more transparency at all levels of government. Whether on the Board of Supervisors, Planning Commission, Board of Zoning Appeals or body cameras and dash cams for our deputies so that our residents can trust the decisions and activities of our government. I would say better trust. I do trust our deputies and I want to make sure that's clear. I trust our deputies. I think they do an excellent job, but I think there are some people who may not and I think we could better trust them is we have the body and dash cameras. Until the residents of our county insist upon transparency and change the leadership in the county, the county government will do whatever it wants until the residents discover the illegal activities and report them to a higher authority. Hopefully those authorities will act whether by judicial or executive powers to preserve our constitutional rights and force our county to follow Virginia Code County Ordinances and its own bylaws. I have turned over my correspondence with the Department of Justice regarding these recordings and a copy of the recordings of closed meetings to the County FOIA Officer, Jennifer Whetzel, because it is required and the right thing to do. Procedures can be followed so that a judge may be able to release some the recordings. I have received freedom of information requests and the County FOIA Officers will determine if any of the meetings will be released. The public deserves to hear some of these meetings, particularly when the topic is the Board of Supervisors, such as the March 20 and June 2, 2023 meetings. I don't believe that an elected official should have the same personnel exemption protection as county employees, but that will be up to a judge to determine if a decision is appealed. I have not released any of the recordings myself. The FOIA Officer can tell the requesters how to appeal the decision not to release and it will be up to the individuals to pursue the appeal. I still trust the system. I don't regret recording these closed meetings. I trust the citizens to hold me and the Board accountable for statements made during these closed meetings. In conclusion, our local government needs retraining on the rights of our residents. Our residents are ready for a mature government that responds to the residents instead of hiding from them."

Ms. Bragg thanked everyone that supported the fair. The Virginia Secretary of Labor was in the area for the Valley Business Summit. National Night Out was a huge success. The Stuarts Draft Fireman's Carnival is coming up.

Mr. Garber stated that the dates on the Censure Resolution are incorrect and should be amended to March 20 and March 24, 2023

Mr. Carber moved, seconded by Mr. Wells, that David announce the debt.

1000

J. M. F. ¹ and J. L. F. ²

"In regards to Dr. Cooter's discussion tonight on the animal ordinance, we all know

The following table lists the names of the individuals who have been identified as having been involved in the investigation of the case.

103

- 1

Mr. Slaven moved, seconded by Mr. Wells, that the Board re-appoint Eric Bond and Timothy Fitzgerald to serve a three-year term on the Valley ASAP Board. Effective immediately and to expire June 30, 2026.

Motion carried.

4. Currently the County Code specifies that the Ag Industry Board members are appointed per magisterial district. They are requesting to allow those members to be appointed as at large members instead of by magisterial district. This will require a code change. The change will have to be advertised and a public hearing held.
5. Mr. Fitzgerald introduced Joe Pozzo and Cheryl Harris as part of the team from the Center for Public Safety Management, LLC that will be working on the Fire and Rescue Strategic Plan.

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

Dr. Seaton moved, seconded by Ms. Carter, that the Board adjourn the meeting.

Motion carried.


County Administrator