

Regular Meeting, Wednesday, July 12, 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
Doug Wolfe, Director of Community Development
James Benkahla, County Attorney
Angie Michael, Executive Assistant

VIRGINIA: At an adjourned meeting of the Augusta County Board of Supervisors held on Wednesday, July 12, 2023, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 248th year of the Commonwealth....

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Chairman Shull welcomed those present at the meeting.

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The Board of Supervisors led the Pledge of Allegiance.

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Ms. Carter, Pastures District, delivered the invocation.

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ANIMAL ORDINANCE AMENDMENT

The Board considered advertising for public hearing.

Timothy Fitzgerald, County Administrator, presented the draft of the Animal Ordinance Amendment. After meeting with James Benkahla, County Attorney, it was determined that no changes were necessary Mr. Benkahla's meeting with Dr. Seaton.

Mr. Wells asked what occurred with the meeting between Mr. Benkahla and Dr. Seaton

Mr. Fitzgerald stated that the result of the meeting was that nothing changed with the ordinance amendment.

Mr. Wells wished to table the matter so the rest of the Board could discuss the draft with Mr. Benkahla.

Ms. Carter asked if each one of them needed to go to review the draft with Mr. Benkahla.

Mr. Shull stated that the staff briefing would be the opportunity to further discuss it.

Mr. Benkahla said he was available to the Board at any time.

Mr. Slaven moved, seconded by Dr. Seaton, that the Board table the Animal Ordinance Amendment until the July 24, 2023 Staff Briefing for further discussion.

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

Motion carried.

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

Consider claims paid since June 1, 2023

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

Motion carried.

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(END OF CONSENT AGENDA)

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Burle Bridge discussed his issues with finding housing and being homeless. He said he is sixty-years old, disabled, and has cancer. He discussed his struggle with the court system and was disappointed with the government.

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CLOSED SESSION:
On motion of Mr. Slaven, seconded by Ms. Bragg, the Board went into closed session pursuant to:

- (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]:
- a) Board of Supervisors

July 12, 2023, at 7:00 p.m.

CLOSED SESSION (CONT'D)

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

Motion carried.

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On motion of Ms. Bragg, seconded by Mr. Wells, the Board came out of Closed Session.

Vote was as follows: Yeas: Shull, Slaven, Garber, Wells, Bragg, Carter
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 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.

Roll Call Vote was as follows:

Yeas: Shull, Slaven, Garber, Wells, Bragg, and Carter
Nays: Seaton

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

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Dr. Seaton moved to adjourn.

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

Motion failed.

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July 12, 2023, at 7:00 p.m.

MATTERS TO BE PRESENTED BY STAFF -- NONE

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MATTERS TO BE PRESENTED BY THE BOARD

Mr. Shull read the following resolution:

WHEREAS, duties of the Augusta County Board of supervisors include making decisions on behalf of the citizens of the County that often require discussions that are sensitive and private in nature; include confidential proprietary information involving individual businesses; include contract negotiations, and/or involve legal matters.

WHEREAS, the Code of Virginia recognizes the need for governing bodies to have the ability to discuss certain business matters in a confidential manner.

WHEREAS, Virginia Code 2.2-3711 allows for closed meetings where specific stated topics, which require confidentiality, may be discussed. Examples of exempt topics include, but are not limited to:

1. Discussion or consideration of specific personnel cases; to include the employment, appointment, disciplining, performance, salary, dismissal or other related matters of particular governmental officials or the employees of the public body.
2. Discussion or consideration of the condition, acquisition, or use of real property for public purposes, or of the disposition of publicly held property.
3. The protection of the privacy of individuals in personal matters not related to public business.
4. Discussion concerning the prospective location of a business or industry prior to any announcement of its interest in locating in the community.
5. Consultation, with or without legal counsel and staff with respect to actual or potential litigation, or other legal matters within the public body's jurisdiction.
6. Discussion of the award of a public contract involving the expenditure of public funds including interviews of bidders or offerors, or discussion of the terms of scope of the contract, where such discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.
7. Discussion or consideration of confidential proprietary records and trade secrets. (1)

WHEREAS, The Augusta County "Rules of Order", adopted on January 25th, 2023 by a 7-0 vote, address the standing rules of operation for the Augusta County Board of Supervisors. Item 11 in the Rules of Order says, "Statements made and matters discussed in closed session are strictly confidential and should be repeated to no one. This is particularly true of "advice from the County Attorney since disclosure will result in loss of attorney-client confidentiality privilege."

WHEREAS, on or about May 20, 2023 it became immediately apparent that confidential information, that had only been discussed in a closed session meeting, pertaining to a sensitive personnel matter, had been released and contents of the discussion had been made public.

WHEREAS, on Wednesday, May 22, Dr. Scott Seaton admitted to the members of the Augusta County Board of Supervisors that he shared confidential information discussed during the previous closed session meeting with persons outside of the governing body. WHEREAS, Friday, June 2nd, during a closed meeting, it was discovered that Dr. Seaton was secretly electronically recording the meeting. After further questioning it became apparent that this was not the first/only closed meeting that had been secretly recorded.

WHEREAS, the members of the Augusta County Board of Supervisors recognize that recording during a closed meeting is not illegal and that Dr. Seaton has not violated any laws by doing so, they nevertheless wish to express their grave concerns on the secret

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

recording and public sharing of information that has been discussed during their closed meetings,

WHEREAS, it is the opinion of the Board that the breach of confidentiality and the disregard of the privacy of personnel, may impair the County's ability to negotiate business agreements between the County of Augusta and outside entities. As a result, the members of the Augusta County Board of Supervisors find it impossible to effectively conduct the business of the County, while in the presence of Dr. Scott Seaton.

WHEREAS, the actions of Dr. Scott Seaton have resulted in a complete breach of trust and faith between him and the public, members of the Board, and staff. Furthermore, the Board finds these actions, while not illegal, to be unprofessional, unethical, and leave in question his ability to be an effective member of the Board of Supervisors.

BE IT HEREBY RESOLVED, that the Augusta County Board of Supervisors formally issue this Statement of Censure against Dr. Scott Seaton, Representative of the Wayne District, for violation of the rules of confidentiality and for behavior unbecoming of a member of the Augusta County Board of Supervisors. Furthermore, the Board expresses concerns related to the ability of Dr. Scott Seaton to effectively participate in the representation and governance of the County of Augusta.

BE IT FURTHER RESOLVED, that effective immediately, Dr. Scott Seaton will be removed from all Committees and Boards of which he is a member, as a representative of Augusta County. This removal will be in effect until December 31, 2023.

In addition, to the extent that the Board Rules of Order would delay the Board's consideration of this Resolution, the members of the Augusta County Board of Supervisors suspend the Board Rules of Order.

Mr. Wells moved, seconded by Mr. Slaven, that the Board adopt the resolution as presented.

Dr. Seaton stated that the sixth paragraph was not true and he has it on his phone. He said the Board thinks he shared information but he did not. He said the Board just does not like the fact that the County was charging illegal fees and the ordinance could have been changed earlier. He claimed that the first amendment of the Constitution gives citizens the right to know what the government is doing. He said there is nothing against the law to his recording of meetings and the Virginia Code allows for the recording of discussions as it is a one-party consent state and equated a recording to note taking. He said it is a good thing to record government officials not a bad thing no matter what the meeting type is. He also brought up the fact that minutes are allowed to be taken during Closed Sessions in Virginia. He referenced April 19, 2023 meeting saying the truth was not being followed.

Mr. Shull stated that this issue was not about the dogs but about Closed Session and the fact that the Board was being recorded for two years without them not knowing. He said while the 30-year lack of documentation concerning the dog ordinance had occurred all the localities had legal advice for all that time. He said the reason the problem had happened was because all the legal details had not been recorded but that the practice was to save the citizens from having to go to court. He again emphasized that the actual issue the Board was dealing with was the lack of knowledge of being recorded and the information of personnel that was leaked. He said confidential details had spread to the media despite the Board only discussing it in Closed Session.

Dr. Seaton stated that the discussion during the Closed Session had been concerning disclosure, not recording, but the Board could not find anyone he had disclosed information to. He said the Board told people he had recorded the Closed Session but that the recording was not wrong since the members are carrying out their public duties when being recorded.

Mr. Shull said the news never gives a name for a source but they still exist.

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

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Mr. Slaven moved, seconded by Ms. Bragg, that the Board adjourn the meeting.

Motion carried.


County Administrator