

Regular Meeting, Wednesday, May 26, 2021, 7:00 p.m. Government Center, Verona, VA.

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

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, May 26, 2021, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 245th year of the Commonwealth....

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Chairman Garber welcomed those present for the meeting.

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Mr. Morelli, Supervisor for the South River District, led the Pledge of Allegiance.

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Mr. Shull, Supervisor for the Riverheads District, delivered the invocation.

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ECONOMIC DEVELOPMENT INCENTIVES

The Board considered a resolution for local match incentives

Jennifer Whetzel, Deputy County Administrator, stated that there are two resolutions before the Board for consideration. One for the Virginia Jobs Investment Program matches that have been paid to date and one for the portion of the Hershey grant that was paid upon receipt of the Certificate of Occupancy. The County paid grant match to the Companies listed in the resolutions and will reimburse itself through the increased taxes paid by the Company. The resolutions authorize the County to include the adjustment in the annual budget, therefore reimbursing the Economic Development Capital Account.

Dr. Seaton moved, seconded by Mr. Morelli, that the Board adopt the resolution for Virginia Jobs Investment Program.

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

Motion carried.

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ECONOMIC DEVELOPMENT INCENTIVES (CONT'D)

Dr. Seaton moved, seconded by Mr. Wells, that the Board adopt the resolution for Hershey.

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

Motion carried.

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CIGARETTE TAX STUDY RESOLUTION

The Board considered resolution for participation in study regarding regional authority for management of cigarette tax.

Ms. Whetzel stated that Virginia Counties are authorized by the General Assembly to enact ordinances for cigarette tax. Staff is drafting an ordinance for the Board to consider at a later date. Thomas Jefferson Planning District Commission is conducting a study of a regional cigarette tax board. The study will allow for options in implementing cigarette tax collections and enforcement. The resolution only includes the study. Any action to formally commit the County to becoming part of a regional board would come later.

Dr. Seaton moved, seconded by Mr. Wells, that the Board adopt the resolution for the cigarette tax study.

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

Motion carried.

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FEATHERSTONE MANOR SUBDIVISION FIRE HYDRANTS

The Board considered funding from the South River Infrastructure account for two additional fire hydrants in the Featherstone Manor Subdivision.

Funding Source: South River Infrastructure 8016-99 \$10,000.00

Timothy Fitzgerald, County Administrator, stated that the Augusta County Service Authority has worked up a projected cost of \$10,000.00 for installing the two fire hydrants as requested by Augusta County Fire/Rescue. Given that fire flow falls under Augusta County's responsibility, it is requested that this project be funded through Board of Supervisor infrastructure funds.

Mr. Morelli moved, seconded by Mr. Slaven, that the Board approve the funding request.

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

Motion carried

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The Board considered an Outdoor Music request from Sun Shenandoah Acres RV, LLC.

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The Board considered a refund request from the Commissioner of the Revenue for Sherman-Stoltz Law Group, PLLC in the amount of \$7,791.88.

Dr. Seaton moved, seconded by Mr. Slaven, that the Board approve the refund request.

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

Motion carried.

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WILDEBROOK FIRE DEPARTMENT
The Board considered funding for water connection fees.

Funding Source: Riverheads Infrastructure 8015-89 \$6,888.00

Mr. Fitzgerald stated that the Middlebrook Fire Department has been working on a new construction project for a new building. Construction cost over time has increased and there are water and fire connections fees that total \$6,888.00. Mr. Shull requests these funds come from his infrastructure account to cover the connection fees.

Mr. Shull moved, seconded by Mr. Wells, that the Board approve the funding request.

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

Motion carried.

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The Board considered funding for water and sewer.

Funding Source: Riverheads Infrastructure 8015-90 \$393.34

Mr. Fitzgerald stated that this is fees that have been paid during the off-season. Mr. Shull requests these funds come from his infrastructure account to cover the water and sewer fees.

Mr. Shull moved, seconded by Mr. Wells, that the Board approve the funding request.

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GREENVILLE ATHLETIC CLUB (CONT'D)

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

Motion carried.

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AUGUSTA REGIONAL DENTAL CLINIC

The Board considered funding for x-ray machine equipment in the amount of \$492.00.

Funding Source:	Wayne Infrastructure	8017-109	\$123.00
	Pastures Infrastructure	8014-110	\$123.00
	South River Infrastructure	8016-100	\$123.00
	North River Infrastructure	8013-69	\$123.00

Mr. Fitzgerald stated that this is a funding request for the Augusta Regional Dental Clinic. They received a \$1,000.00 grant for the machine, but there is still a \$492.00 remaining balance to be paid. Dr. Seaton requests these funds come from his infrastructure account. Ms. Carter, Mr. Slaven and Mr. Morelli indicated that they would like to divide the cost from their infrastructure account as well.

Dr. Seaton moved, seconded by Ms. Carter, that the Board approve the funding request.

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

Motion carried.

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WAIVERS – NONE

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CONSENT AGENDA

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

MINUTES

Consider minutes of the following meetings:

- Regular Meeting, Wednesday, March 24, 2021

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

Motion carried.

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May 26, 2021, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE PUBLIC

Victor Meyer, 705 Knightly Lane Mount Sidney, presented the following statement to the Board of Supervisors:

Ladies and Gentlemen of the Augusta County Board of Supervisors,
My name is Victor A. Meyer. I am a retired Navy Captain having served 30-years in nuclear submarines and Pentagon duty during the Cold War. Our oldest son, Commander Victor Meyer, Jr. is a combat decorated Navy SEAL. Our other son, Dr. David Meyer, is a child and adolescent psychiatrist. Both work and reside with their wives in Staunton.

On April 24, 2021, I hosted a group of approximately 30 individuals from James Madison University's Life by Learning Institute Class, spring 2021, in a 90-minute tour of our historic Belvidere Farm at 705 Knightly Lane, Mount Sidney, Virginia 24467. We received a very nice note from Professor Pete Dalton thanking us for "our wonderful tour at Belvidere Farm – the tour was the highlight of our tour!"

Five minutes after the last car had departed our farm lane; a Deputy Sheriff came up the lane and informed us that a complaint had been reported stating Knightly Lane had been "blocked by a red vehicle as part of a blue grass event." We explained to the deputy the nature and facts of the tour, which Professor Dalton had requested, and after a 15-minute discussion, he departed satisfied that there was no violation of County ordinances, as had been reported.

We believe this incident was the direct result of our applying two years ago for a special use permit to host weddings and cultural events, including historic tours and blue grass acoustic music sessions in our large, recently renovated barn. At the Board of Zoning Appeals hearing, our immediate neighbor organized and led a large group of Belvidere Estates residents in strongly opposing our request. Their testimony can only be described as aggressive, hostile name-calling and conjectural allegations, like "you stabbed me in the back", shouted twice, and "you endangered my children when one of your visitors turned around in our lane after missing your driveway." The visitor was the wife of the Secretary of the Navy, our friend since childhood. The entrance to their property was some 200 yards further up the common lane that serves two homes and a 12-acre lot at the end, which we own. The turn-around occurred at the road entrance nowhere near their home.

Historic Belvidere Farm was established in 1843 and is eligible for the National Historic Register, one of only two in the County, the Piedmont Battlefield being the other. Belvidere is a working farm comprising 65-acres raising hay and boxwood cuttings. We have owned and restored it to its former grandeur over a 12-year period having invested over \$3 million dollars with local contractors and suppliers. Belvidere Estates consists of some half-dozen 5-12 acres parcels averaging 25 years old. The nearest two neighbors live about 1500-feet from our barn. We have done nothing to incur their vitriol – to the contrary, we are peaceful and quiet, and our property has enhanced the neighborhood, while they frequently run their dirt bikes on a large dirt track they excavated, which erodes directly into the Chesapeake Bay watershed.

The issues involved are as follows:

- 1) The Life by Learning Institute tour involved approximately 12 vehicles and 30 individuals lasting for 90 minutes. It was unrelated to Blue Grass music.
- 2) The red vehicle was occupied the entire time by a disabled individual who said he was concerned with his ability to turn around once up our farm lane. Our worker who was mowing the roadway ditches at the time, spoke with him but he didn't move his vehicle. He was not blocking the road. His right wheels were in the drainage ditch.

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MATTERS TO BE PRESENTED BY THE PUBLIC (CON'TD)

- 3) As a working farm, Virginia Agritourism Code entitles us 'by right' to host tow events per year without a special use permit. The historic tour was brief and not an event. We have observed our Belvidere Estates non-farm neighbors hosting holiday gatherings and Super Bowl parties with 12 or more vehicles lasting all day and they are not harassed. We obey all of the County ordinances regarding noise and social gatherings, yet we were warned by the Community Development Director that hosting more than 8-10 family members at a Thanksgiving dinner would constitute an event. We ask ourselves, why are we being singled out as an historic working farm?

We believe that the Augusta County Board of Supervisors, the Board of Zoning Appeals, and the Community Development Directors' interpretation of Code of Virginia Code regarding agritourism is contrary to the letter and spirit of Virginia code. "According to Title 3.2-6400, "Agritourism activity means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, horseback riding, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity."

Weddings are a unique combination of rural activities, including cultural, educational, recreational, and natural activities and attractions with deep religious and historical roots.

Specifically, Virginia code, Title 15.2-2288.6: Agricultural Operations; Local Regulation of Certain Activities, paragraph 4 titled 'Other activities or events that are usual and customary at Virginia agricultural operations' reads:

- a) Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.
- b) No locality shall require a social exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety or general welfare of the public.
- c) Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

We believe that Augusta County code and interpretation regarding so-called Special Events is designed to constrain rather than promote agritourism, cultural and educational activities, which Virginia code specifically encourages. The way Augusta County is misinterpreting and misapplying it discourages investment and penalizes legitimate farming enterprise.

The recent capricious and false complaint lodged by our neighbor and the zealously with which the Community Development Director enforces this interpretation leads us to the conclusion that the Board of Supervisors and the Board of Zoning of Appeals policy discourages agritourism in the County.

As reopening America shifts into high gear this year, Historic Belvidere Farm is a valuable economic and cultural resource to Augusta County. In October, I will be presented the Daughters of the American Revolution 2020 Virginia award for the best patriotic presentation honoring my great aunt Agnes Meyer Driscoll. She was the Navy cryptologist who broke the Japanese code setting up the US Navy's monumental victory at the Battle of Midway. We expect approximately 30-40 guests for the 2-hour meeting, about the same as a Super Bowl party. This is not an event! We will inform the Sheriff's office of the Saturday afternoon ceremony to head off any crank

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MATTERS TO BE PRESENTED BY THE PUBLIC (CON'TD)

complaints from our neighbors.

We request the Board of Supervisors make a reasonable changes to County code governing agricultural operations to bring it into compliance with Virginia code effecting the economic interests of working farms and farmers, not just neighbors whose singular concern, as expressed at the Board of Zoning Appeals hearing, is 'their peach and quiet'. There is no substantial impact on the health, safety, or general welfare of the public.

We request the County Administrator keep us informed of any plans or actions regarding this matter.

Respectfully, Victor & Sandra Meyer

Tim Shipe, 2609 Long Medow Road, spoke against the Sheriff's Department and requested that the Board purchase body cameras.

Cortez Nathan, 30 Windsong Court, Fishersville, spoke against the Sheriff's Department and requested that the Board purchase body cameras.

Bonnie Chapman, 260 Windsong Court, Fishersville, spoke against the Sheriff's Department and requested that the Board purchase body cameras.

Mike Donovan, 47 S. Windsong Court, Fishersville, spoke against the Sheriff's Department and requested that the Board purchase body cameras.

Bob Shipp, 102 Duck Pond Lane, Stuarts Draft, spoke in support of Sheriff Smith.

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MATTERS TO BE PRESENTED BY THE BOARD

Ms. Carter expressed condolences to the Senator Warner family. She requests that Sheriff Smith provide the Board with a detailed study on body camera requests.

Mr. Wells congratulated Grace Christian School Men's Golf and Baseball team on their State Championships.

Mr. Shull congratulated all graduates.

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MATTERS TO BE PRESENTED BY STAFF -- NONE

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CLOSED SESSION

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

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CLOSED SESSION (CONT'D)

- a) Boards and Commissions: Youth Commission, Ag & Forestal Dist., Ag Ind. Brd., Recycling, Valley Community Services Board, Economic Development Authority

- (2) 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) Augusta County Courthouse

- (3) 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) Augusta County Courthouse

On motion of Mr. Wells, seconded by Dr. Seaton, that the Board came out of Closed Session.

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

Public business matters lawfully exempted from statutory open meeting

1. 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, Carter, Wells, Shull, Slaven
Seaton and Morelli
Nays: None

Motion carried.

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

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Dr. Seaton moved, seconded by Mr. Wells, that the Board re-appoint the following:

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

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Motion failed.

Motion carried.

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Motion carried.

h:5-26min.2021

County Administrator