

BOARD OF SUPERVISORS MINUTES

OCTOBER 13, 2009

At a regular meeting of the Orange County Board of Supervisors held on Tuesday, October 13, 2009 beginning at 4:00 p.m., in the Meeting Room of the Gordon Building, 112 West Main Street, Orange, Virginia. Present: Lee H. Frame, Jr., Chairman; S. Teel Goodwin, Vice-Chairman; R. Mark Johnson; Zack Burkett*; and Teri L. Pace. Absent: None. Also present: Julie G. Jordan, Acting County Administrator; Sharon E. Pandak, County Attorney; and Donna D. Curry, Chief Deputy Clerk.

*Supervisor Burkett entered the meeting at 4:03 p.m.

RE: ADOPTION OF AGENDA

Mr. Johnson moved, seconded by Mr. Goodwin and carried, to adopt the agenda as revised.

Ayes: Johnson, Goodwin, Pace, Frame. Nays: None. Absent: Burkett.

RE: CONSENT AGENDA

Mr. Johnson moved, seconded by Mr. Goodwin and carried, to approve the following consent agenda items as presented:

RE: SUPPLEMENTAL APPROPRIATIONS

The Board approved the following supplemental appropriations:

DEPT	ACCOUNT DESCRIPTION	AMOUNT	Funding Source
Animal Shelter	Emergency Vet	\$ 1,070.18	Donations
Animal Shelter	Building Expansion Fund	\$ 5,056.00	Donation
Subtotal Animal Shelter		\$ 6,126.18	
	Rental Income Nursing		
County Admin	Home	\$ 13,256.15	Rental income
Subtotal County Administration		\$ 13,256.15	
Debt Service	Nursing Home Debt	\$ 13,265.15	Rental income
Subtotal Debt Service Fund		\$ 13,265.15	
Sheriff	DMV Equipment	\$ 12,400.00	DMV Grant
Sheriff	DMV OT	\$ 11,467.70	DMV Grant
Sheriff	Forfeited Assets	\$ 114.16	Forfeited Assets
Subtotal Sheriff		\$ 23,981.86	
Total this request		\$ 56,629.34	
Total year to date		\$ 327,267.19	

RE: LIBRARY-DECREASE OF FY2010 APPROPRIATIONS

The Board recognized reduced state revenue and decreased appropriations by \$3,939.00, \$3,227.00, and \$1,569.00 in departments 73100, 73110, 73120 respectively.

Ayes: Johnson, Goodwin, Pace, Frame. Nays: None. Absent: Burkett.

RE: MINUTES

Mrs. Pace requested that the minutes of the August 25, 2009 Regular Meeting be pulled from the consent agenda for approval as she was absent from the meeting and wished to abstain from the vote.

Mr. Johnson moved, seconded by Mr. Goodwin and carried, to approve the August 25, 2009 Regular Meeting Minutes as presented. Ayes: Johnson, Goodwin, Frame. Nays: None. Absent: Burkett. Abstain: Pace.

RE: PUBLIC APPEARANCES

RE: EMPLOYEE OF THE MONTH

Gillian Dawson, Children's Librarian, was recognized as the Employee of the Month for October, 2009.

RE: PRESENTATION OF SERVICE AWARDS

Nancy Orndorff, Barboursville Collection Center Attendant, was recognized for her ten (10) years of dedicated service to Orange County and its citizens.

RE: VDOT UPDATE

Roy Tate, Assistant Resident Engineer, updated the Board on the status of road projects in the County.

RE: PRESENTATION OF TROPHY BY BOB REID

Bob Reid, Coordinator of the Tri-County Track Meet, reported to the Board that Orange County won the 2009 Tri-County Track Meet and presented the Board with a trophy. Orange County will display the trophy throughout the year and then return it for the 2010 track meet.

RE: TAX SUIT UPDATE

Henry Carter, Attorney, updated the Board on the recent sale of property for delinquent taxes. He reported that the County will realize surplus funds of approximately \$150,000.00.

RE: ACTION ITEMS

RE: PROPOSED FY 2010-2011 BUDGET MEETING SCHEDULE

Karen Karasinski, Finance Director, presented to the Board a proposed schedule of meeting dates and advertising deadlines for the development and adoption of the fiscal year 2010-2011 County budget.

Mr. Goodwin moved, seconded by Mrs. Pace and carried, to approve the budget meeting schedule as modified. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: PROPOSED PERSONNEL POLICY CHANGE - POLICY 2.4 STANDARDS OF CONDUCT

Ms. Jordan stated that Supervisor Burkett had inquired about the Personnel Policies Manual and the presence of language pertaining to the interaction of staff with members and the public. She briefly reviewed the proposed changes.

Discussion ensued including: whether there is a policy regarding how a manager treats an employee; how an employee treats another employee; violence in the workplace; whether there have been issues or instances of this conduct; and concerns about how it would be interpreted by the staff.

Mr. Goodwin moved, to approve Personnel Policy 2.4 – Standards of Conduct as presented. Mr. Burkett seconded the motion.

Mr. Frame made a friendly amendment to delete the following proposed language under Unacceptable Behavior – Infractions of the Standards of Conduct: *“Threatening, intimidating,*

harassing, coercing, interfering with, or otherwise interacting with the public in a manner that violates County personnel policies while on duty or while representing the County.”

Mrs. Pace seconded the motion. Ayes: Pace, Frame. Nays: Johnson, Burkett, Goodwin.

Vote on the original motion: Ayes: Johnson, Burkett, Goodwin, Pace. Nays: Frame.

RE: DESIGNATION OF A VOTING DELEGATE FOR THE VACO ANNUAL MEETING

Ms. Jordan reminded the Board that the 2009 Annual Business Meeting of the Virginia Association of Counties (VACo) will be held on Tuesday, November 10, 2009 and that the County should designate a representative of the Board of Supervisors to cast its vote(s) at the meeting.

Mr. Goodwin moved, seconded by Mrs. Pace and carried, to designate Chairman Frame as the voting delegate for the 2009 VACo Annual Business Meeting. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

Mr. Johnson moved, seconded by Mr. Burkett and carried, to designate Vice-Chairman Goodwin as the alternate delegate for the 2009 VACo Annual Business Meeting. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

Chairman Frame nominated William Logan to serve as the District Five representative on the Litter Control Committee, for a two year term, with said term expiring May 31, 2011.

Mr. Goodwin nominated Ray Lonnick to serve as the District Three representative on the Orange County Youth Commission, for a four year term, with said term expiring September 30, 2013.

Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: DISCUSSION ITEMS

RE: POLITICAL SIGNS

Debbie Kendall, Interim Planning Director, reported that the Planning Commission will begin its review of the draft revised zoning ordinance in November. She presented the Board with a timeline showing how political signs have been regulated since the adoption of the first comprehensive zoning ordinance in 1968.

Ms. Pandak reported on a case that was heard in Arlington, Virginia.

Discussion ensued including: size shouldn't be a factor if it is on property owned by the candidate; the various types of signs (lighted; flashing; blimps; billboards); aesthetics vs. safety; the need to have liberal ordinance that is enforceable than to have an ordinance that is not enforced; concerns with leaving the sign size open-ended; sign set-backs; confirmation that signs cannot fall in right-of-ways; and changing the timeframe for display of signs from "*for no more that 60 days at a time, and no more that 120 days per year*" to "*75 days before the election and 15 days following the election for a total of 90 days*"; and that signs should not interfere with safety and/or become an obstruction, regardless of the size.

Ms. Pandak stated that staff needs direction from the Board which needs to be relayed to the zoning ordinance consultant.

There was not a consensus of the Board to restrict the political sign size.

By consensus the Board recommended that the timeframe for the display of signs be changed as follows: "75 days before the election and 15 days following the election for a total of 90 days"

RE: CLOSED MEETING

At 5:40 p.m., Ms. Pandak read the following resolution authorizing a Closed Meeting:

WHEREAS, the Board of Supervisors of Orange County desires to discuss in Closed Meeting the following matters:

1. *Orange County, Virginia v. Orange County Boosters Club, Inc., and Orange County Boosters Club, Inc. v. Orange County*, CL09000084 (§ 2.2-3711.A. 7 VA Code Ann.);
2. *National Trust for Historic Preservation, et al. v. Board of Supervisors of Orange County*, CL09000240 (§ 2.2-3711.A. 7 VA Code Ann.);
3. Discussion of possible boundary line adjustment with Spotsylvania County and negotiating issues related thereto (§ 15.2-2907.D. and 2.2-3711.A.7 VA Code Ann.);
4. Legal advice related to Annadale Active Adult Communities (§ 2.2-3711.A. 7 VA Code Ann.);
5. Discussion concerning a prospective business or industry where no previous announcement has been made of the business' or industry's interest in locating in the community (§ 2.2-3711.A. 5 VA Code Ann.);
6. Two (2) personnel matters –
 - a. Discussion, consideration or interviews of prospective candidates for employment of the County Administrator, performance of specific employees and contractual and legal matters and advice related thereto (§ 2.2-3711.A.1, 6, and 7 VA Code Ann.);
 - b. Discussion of personnel matters relating to employment, assignment and performance of specific employees and legal issues related thereto (§ 2.2-3711.A. 5 VA Code Ann.); and
7. Discussions of potential acquisition of interests in property for purposes of expanding the Airport where discussion in open meeting would adversely affect the bargaining position of the Board; and

WHEREAS, pursuant to §§2.2-3711.A.1, 3, 5, 6, 7, and 15.2-2907.D. VA Code Ann., such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Orange County does hereby authorize discussion of the aforesated matters in Closed Meeting.

Mr. Burkett moved, seconded by Mr. Johnson and carried, to approve the resolution as presented. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: PUBLIC COMMENT

Chairman Frame opened the floor for public comment. The following individuals commented on the proposed Route 29 Corridor by-pass:

- Nancy Lowey, 10062 Barnetts Ford Road, Orange; and
- S. Ray Dedert, 10045 Barnetts Ford Road, Orange.

There being no additional speakers, Chairman Frame closed public comment at 7:09 p.m.

RE: BOARD COMMENT

The Board members had no comment at this time.

RE: DISCUSSION ITEMS CONTINUED

RE: ROUND HILL PROFFERS

Debbie Kendall, Interim Planning Director, briefly reviewed the revised proffers and fiscal impact analysis for the Round Hill development project.

Discussion ensued including: the purpose of proffers; the current Orange County Proffer Policy; the joint proffer agreement with the Town of Orange; and the need for the Board to have a dialogue with the Town of Orange, the developer, and the Joint Planning Area Committee.

Ms. Pandak clarified that the County can ask for a proffer but it cannot be required. Chairman Frame stated that the County needs to go back to the Town of Orange with a proffer policy.

By consensus, the Board asked Mrs. Kendall to review what the impacts will be and report back at its next meeting.

RE: PUBLIC HEARINGS

RE: PROPOSED AMENDMENTS TO THE ORANGE COUNTY CODE CHAPTER 58, TAXATION

At 7:30 p.m., this being the time and place as advertised in the Orange County Review, Chairman Frame called the public hearing to order to receive comments on the following:

- Proposed Amendments to the Orange County Code Chapter 58, Taxation
 - Sec. 58-418: Food and Beverage Tax: Exemptions,
 - Sec. 58-106: Pollution Control Equipment and Facilities: Definitions,
 - Sec. 58-382: Land Preservation Assessment: Definitions,
 - Division 3. Exemptions for certain elderly and disabled persons:
 - Sec. 58-133: Qualifications for grant of exemption,
 - Sec. 58-134: Claim procedure,
 - Sec. 58-135: Calculation of amount of exemption,
 - Sec 58-136: Changes in status,
 - Sec. 58-137: Penalties for violation of division.

Ms. Pandak briefly reviewed the proposed changes.

At 7:32 p.m., Chairman Frame opened the floor for public comment. There being none, the public hearing was closed.

Discussion ensued regarding land use for commercial and recreational activities.

Mr. Johnson moved, seconded by Mr. Burkett and carried, to adopt the following resolution amending Chapter 58, Taxation, of the Orange County Code of Ordinances:

WHEREAS, the General Assembly has enacted certain changes to the State Code which require amendments to the County Code of Ordinances relating to food and beverage tax, pollution control equipment and land preservation assessment; and

WHEREAS, the General Assembly has also amended the State Code provisions relating to real estate tax exemptions for certain elderly and disabled persons which allow the County to change the income limits for those exemptions and to provide a prorated exemption in limited cases for the spouses of such elderly and disabled persons; and

WHEREAS, a public hearing has been duly advertised and held,

NOW, THEREFORE, BE IT ORDAINED that the Orange County Board of Supervisors hereby enacts the attached amendments to Chapter 58. Taxation:

Sec. 58-418: Food and Beverage Tax: Exemptions,
Sec. 58-106: Pollution Control Equipment and Facilities: Definitions,
Sec. 58-382: Land Preservation Assessment Definitions; and
Division 3. Exemptions for certain elderly and disabled persons:
 Sec. 58-133: Qualifications for grant of exemption,
 Sec. 58-134: Claim procedure;
 Sec. 58-135: Calculation of amount of exemption,
 Sec. 58-136: Changes in status,
 Sec. 58-137: Penalties for violation of division.

Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: PROPOSED AMENDMENTS TO COUNTY CODE CHAPTER 62, TRAFFIC AND VEHICLES

Chairman Frame called the public hearing to order at 7:35 p.m. to receive comments on the following:

- Traffic and Vehicles, Sec. 62-2:
Reimbursement of expenses incurred in responding to DUI and other traffic incidents.

Ms. Pandak briefly reviewed the proposed changes.

At 7:35 p.m., Chairman Frame opened the floor for public comment. There being none, the public hearing was closed.

Discussion ensued regarding what constitutes other traffic incidents.

Mr. Burkett moved, seconded by Mr. Goodwin and carried, to adopt the following resolution amending Chapter 62, Traffic and Vehicles, of the Orange County Code of Ordinances:

AMEND COUNTY CODE CHAPTER 62 TO INCORPORATE CHANGES MADE BY THE GENERAL ASSEMBLY RELATING TO DUI OFFENSES

WHEREAS, the General Assembly has enacted certain changes to the State Code

relating to localities' recovery of costs of responding to DUI offenses; and

WHEREAS, the Orange County Board of Supervisors desires to incorporate those changes into the Orange County Code of Ordinances; and

WHEREAS, a public hearing has been duly advertised and held;

NOW, THEREFORE, BE IT ORDAINED, that the Orange County Board of Supervisors hereby enacts the attached proposed amendments to Chapter 62 - Traffic and Vehicles.

- Sec. 62-2: Reimbursement of expenses incurred in responding to DUI and other traffic incidents.

Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE DISCUSSION ITEMS CONTINUED

RE: ROUTE 29 CORRIDOR STUDY

Debbie Kendall, Interim Planning Director, reported that the Route 29 Corridor Study is nearing completion and VDOT has scheduled a series of public meetings for presentation of and comment on the study recommendations. She stated that the public meeting for this area has been scheduled for Tuesday, October 6, 2009, from 5-8 p.m. at the Daniel Technology Center in Culpeper and that staff will be attending the meeting. Mrs. Kendall indicated that she had drafted a letter for the Board's review noting the concerns it had raised during previous discussions.

Ms. Pandak commented on proposed legislative changes.

By consensus, the Board directed staff to contact the Towns of Orange and Gordonsville regarding their thoughts on the proposed plan. Chairman Frame indicated that he would contact both mayors. The Board also requested that representatives from VDOT and Parsons attend the next convenient Board meeting to brief the Board on the study.

RE: ALTERNATIVE ON-SITE SEWAGE (AOSS)

Debbie Kendall, Interim Planning Director, reported that currently, §15.2- 2157 VA Code, Ann., provides for local discretion in allowing alternative on-site sewage systems (AOSS). Legislation that was passed in the 2009 session of the Virginia General Assembly substantially amended this statute such that, ultimately localities, will no longer be able to prohibit the use of some or all of these systems after the adoption of certain State regulations. However, because Department of Health regulations governing the operation and maintenance of these systems have yet to be established and will not be established any earlier than the end of 2010, the amended statute provides that the provisions eliminating local oversight of AOSS will not become effective until 30 days following the final release of Department of Health regulations for the operation and maintenance of AOSS. Mrs. Kendall stated that in the interim, regulations became effective July 1, 2009, to require that AOSS must be installed and operated in accordance with manufacturer's instructions, local requirements or state regulations and policies, whichever is more stringent. In addition, the Board of Health was directed to adopt emergency regulations establishing performance requirements and horizontal setbacks for AOSS and the regulation of their operation and maintenance. These emergency regulations were released by the Virginia Department of Health on September 28, 2009, for a 30-day public comment period. She indicated that because these emergency regulations will likely form the basis from which final AOSS regulations are developed, the Virginia Association of Counties has urged local review of and comment on these regulations.

Discussion ensued including: what the County can require of the installer; possible

bonding requirements; the need for more rigorous inspections; problems with unmanned systems; and what is currently allowed in the ordinance.

By consensus, the Board directed staff to draft a letter to legislators, including the need for local control and opposition to third party inspections, for its review at the November 10, 2009 meeting.

RE: URBAN DEVELOPMENT AREA STATISTICS

Debbie Kendall, Interim Planning Director, stated that at a previous meeting, the Board had asked whether Orange County could certify that it met the statutory requirements for designating Urban Development Areas. She reported that, essentially, the statute requires that an area designated as an Urban Development Area ("UDA") be sized to accommodate growth at a minimum density of 4 dwelling units per acre for a period of 10 to 20 years. She briefly reviewed information that demonstrated how it could be accomplished. Mrs. Kendall stated that she had approximated the area by looking at the Future Land Use Map.

Discussion ensued including: opposition to starting out big; concerns that if defined too narrowly, it will cut down on responses; the number of currently undeveloped platted acreage (568 acres); future land use delineation; economic development area; and if this action will tie the County's hands on future rezonings.

By consensus, the Board asked the County Attorney to research what is required, if anything, if 1,000 acres were part of the UDA; and whether the County would be forced to do anything.

RE: POSSIBLE CHANGES TO ANIMAL CONTROL ORDINANCES RELATING TO DOGS

Ms. Pandak stated that at the August 25, 2009 Board Meeting, several citizens raised concerns about an incident relating to a dangerous dog. She briefly reviewed options for changes to the Animal Control Ordinance in response to the Board's request for alternatives.

Deputy Patricia Dahl, Chief Animal Control Officer, commented on the definition of a dangerous or vicious dog. She briefed the Board on the current ordinance and stated that Animal Control strongly supports Option 1.

Discussion ensued among the Board, Deputy Dahl, and Karl Santone, Animal Investigator, regarding the weaknesses in the current ordinance and how proposed changes will improve enforcement issues for Animal Control.

The Board asked the County Attorney to draft an ordinance for its review with the proposed changes as discussed.

RE: RECESS

The Board took a short recess at 10:29 p.m. and reconvened at 10:43 p.m.

RE: HOLIDAY MARKET AND TREE LIGHTING WEEKEND

Ms. Jordan updated the Board on the status of the Holiday Market and Tree Lighting Weekend scheduled for December 5th and 6th. She indicated that there will be a full day of activities on Saturday including: the holiday market; various choirs performing Christmas concerts; food vendors; Montpelier candlelight tours; Bed & Breakfast open house; and art gallery tours. The event will be concluded on Sunday with the Christmas parade on Main Street and the tree lighting in Taylor Park. Ms. Jordan stated that the Board previously approved a budget of \$5,000 for this event. Mrs. Pace stated that in order to advertise the event properly, additional

funds will be needed as they need at least twenty (20) vendors for the Old World Market and advertising should be done during the month of November. Ms. Jordan reported that approximately \$6,000 was left over from the 275th Anniversary Celebration and requested the Board's permission to use the funds for this event.

By consensus, the Board authorized the transfer of \$6,000 in left over funds from the 275th Anniversary Celebration to the Holiday Market and Tree Lighting Event.

RE: HORSE TRAILS FOR PARK SERVICE

Mrs. Pace requested that this item be added to the agenda for discussion. She suggested that the County contact the Park Service to see whether they can offer horse trails in the Battlefield for public access. Chairman Frame indicated that it used to be allowed but it is now very restrictive. Mrs. Pace stated that in doing so, there would be more utilization of the battlefield to the citizens and it would promote tourism in Orange County.

Mrs. Pace also suggested that there should be an addition of multi-use trails in the Comprehensive Plan that anyone can access. Riding trails could be promoted from one end of the County to the other.

By consensus, the Board directed staff to draft a letter for its review to Russ Smith of the Park Service indicating its desire for them to consider including pedestrian and equestrian trails in the General Management Plan for the Wilderness Battlefield.

RE: INFORMATION ITEMS

The Board received a copy of the Treasurer's Report, as prepared by Phyllis M. Yancey, Treasurer, for its information.

RE: CALENDAR

The Board received copies of its calendar for the months of October, November and December, 2009.

RE: CLOSED MEETING CONTINUED

At 11:08 p.m., the Board reconvened in Closed Meeting.

RE: CERTIFICATION OF CLOSED MEETING

At 11:58 p.m., Mr. Burkett made a motion to adopt the following resolution:

WHEREAS, the Board of Supervisors of Orange County has this day adjourned into Closed Meeting in accordance with a formal vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Freedom of Information Act requires certification that such Closed Meeting was conducted in conformity with the law;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Orange County does hereby certify that to the best of each member's knowledge, i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the Closed Meeting to which this certification applies, and ii) only such public business matters as were identified in the Motion by which the said Closed Meeting was convened were heard, discussed or considered by it.

Mr. Goodwin seconded the motion. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.

RE: ADJOURNMENT

There being no further business to discuss, Mr. Goodwin moved, seconded by Mrs. Pace and carried, to adjourn the meeting at 11:58 p.m. Ayes: Johnson, Burkett, Goodwin, Pace, Frame. Nays: None.