

BOARD OF SUPERVISORS MINUTES

JUNE 12, 2007

At a regular meeting of the Orange County Board of Supervisors held on Tuesday, June 12, 2007 beginning at 4:00 p.m., in the Meeting Room located in the basement of the Gordon Building, 112 West Main Street, Orange, Virginia. Present: R. Mark Johnson, Chairman; Clement L. Dodson, Jr., Vice-Chairman; Thomas E. Graves; Teri L. Pace; and Richard D. Wallace. Also present: William C. Rolfe, County Administrator; Todd G. Patrick, County Attorney; and Donna D. Curry, Chief Deputy Clerk.

RE: ADOPTION OF AGENDA

Mr. Dodson moved, seconded by Mr. Wallace and carried, to approve the agenda as revised.
Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: CONSENT AGENDA

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

RE: SUPPLEMENTAL APPROPRIATIONS

The Board approved the following supplemental appropriations:

- \$3,610.00 from Adoption Fees 3-100-16060-0150 to Animal Shelter, Professional Serv. Spay/Neuter (adoption) (100-35200-3116);
- \$8.00 from Donations Animal Shelter 3-100-18990-0305 to Animal Shelter, Emergency Vet Fund (100-35200-3115);
- \$1,053.15 from Misc. Animal Friendly Plates 3-100-18990-0800 to Animal Shelter, Professional Serv. Spay/Neuter (adoption) (100-35200-3116);
- \$500.00 from Baer Foundation Misc. 3-100-18990-0800 to Sheriff's Office, K-9 Food, Vet, Etc. (100-31200-6003);
- \$835.00 from Byrne Grant 07-I1164LO06 3-100-33010-0125 to Sheriff's Office, Police Equipment (100-31200-6010);
- \$99.75 from FOIA Request 4/2/07 Ck# 27798 3-100-18990-0800 to County Administration, Office Supplies (100-12110-6001);
- \$125.00 from Friends of the Library 3-100-16150-0700 to Orange County Library, Library Programs (100-73100-5840).

RE: MINUTES

The Board approved the following minutes as presented:

- April 17, 2007 Regular Meeting;
- April 24, 2007 Regular Meeting.

RE: WAIVER REQUESTS OF BUILDING PERMIT FEES – ORANGE COUNTY PUBLIC SCHOOLS

The Board approved a waiver request from the Orange County Public Schools for building permit fees associated with the installation of four modular classrooms at Locust Grove Middle School and for renovation of the former School Board Office. In addition, the Board also approved a blanket waiver for future building permit fees associated with Orange County Public School projects.

RE: WAIVER REQUESTS OF BUILDING PERMIT FEES, PLANNING FEES, AND E & S FEES – ORANGE COUNTY

The Board approved a waiver request from the Orange County Nursing Home for all building permit fees, planning and zoning fees, and erosion and sediment control fees associated with their upcoming construction project.

RE: WAIVER REQUESTS OF LANDFILL TIPPING FEES – SOMERSET STEAM & GAS ENGINE ASSOCIATION

The Board approved a waiver request of Landfill Tipping Fees associated with the annual Steam & Gas Pasture Party at Fairfield Dairy Farm, scheduled for August 24 through August 26, 2007.

RE: REQUEST TO DONATE 1997 JEEP CHEROKEE TO THE TOWN OF ORANGE POLICE DEPARTMENT

The Board authorized the Orange County Sheriff's Office to donate a surplus vehicle to the Town of Orange Police Department.

RE: SUPPLEMENTAL APPROPRIATION ROUTE 20 SEWER FUND

The Board approved an appropriation of \$40,000 from the Local Government Investment Pool to Fund #310, line item #94220-3140 to cover a funding shortfall in architectural and engineering costs for the Route 20 Sewer Fund.

RE: REQUEST FOR SUPPLEMENTAL APPROPRIATION SCBA

The Board authorized the re-appropriation of \$46,305 from line item 3-100-41050-0100 into line item 4-100-32330-8107 for the purchase of Self Contained Breathing Apparatus (SCBA) equipment.

Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: PUBLIC APPEARANCES

RE: SERVICE AWARD PRESENTATION

Jean Snow, Office of the Commissioner of the Revenue, was recognized for her five years of dedicated service to the County.

RE: VDOT UPDATE

Larry Fanton, VDOT Representative, updated the Board on the status of projects in Orange County.

RE: ELECTORAL BOARD UPDATE

Gloria Gilmore, Electoral Board Secretary, requested the Board's consideration to purchase ten (10) additional voting machines to meet current and future county election requirements (including warranties and accessories). She explained that the County currently owns 40 voting machines. There were 35 machines used during the November, 2006 elections and an additional nine that could have been used. Ms. Gilmore indicated that the turnout for the 2006 elections was 54% of registered voters. They are anticipating a larger turnout for the presidential election in 2008 as 71.5% of registered voters turned out in 2004. Ms. Gilmore stated that all 40 voting machines will be used during the coming 2007 election which means there will not be demonstration machines available and there will not be back up machines available if any go down on election day.

Following a brief discussion, Mr. Dodson moved, seconded by Mr. Graves and carried, to approve the purchase of ten (10) new voting machines by the Electoral Board and directed the County Administrator to determine the funding source. Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: ACTION ITEMS

RE: LEASE AGREEMENT WITH ORANGE VOLUNTEER FIRE COMPANY, INC. FOR 1986 PIERCE ARROW PUMPER

James Clark, Director of Fire & EMS, explained that the Orange Volunteer Fire Company has offered to donate a 1986 Pierce Arrow Pumper to the Fire & EMS Department and noted that a lease agreement had been drafted outlining the parameters of the donation. Mr. Clark stated that the Orange Volunteer Fire Company has an excellent history of maintaining their fleet of vehicles. He indicated that the proposed unit would continue to serve the citizens of the County is a cost effective way by providing a reserve pumper that is minimally equipped to replace any pumper in the County due to repairs or lost to an accident. The proposed pumper would also be a resource to aid in the instruction of the Fire Fighter class provided at Orange County High School. He stated that the Fire & EMS Department would have access to a training pumper to address the needs of apparatus drivers and provide for backup drivers to help meet the needs of the department. Mr. Clark concluded by saying that this is a good faith donation by the Orange Volunteer Fire Company and the resource that this will provide will be at a minimal cost and will benefit more than just the Fire & EMS Department.

Mr. Graves moved, seconded by Mr. Wallace and carried, to approve the lease agreement as presented. Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: COUNTY AND SCHOOL SYSTEM OPERATIONAL AGREEMENT ON THE DEVELOPMENT OF A NEW EASTERN MIDDLE SCHOOL

Mr. Rolfe stated that an Operational Agreement had been drafted for the Board's consideration between the Board of Supervisors and the School Board on the development of the new eastern middle school.

The Board took the information under advisement and requested that it be added to the June 26, 2007 agenda for action.

RE: GENERAL AVIATION APRON PROJECT

Ted Coberly, Assistant County Administrator, stated that the next major project to be accomplished in the Airport Improvement Plan is phase one of construction of a general aviation apron on the north side of the runway. The estimated cost of the General Aviation Apron was \$1.5 million with 95% of the funding to come from a Federal grant, 3% to come from the State, and 2% from local funding. There was originally some concern regarding the State funding; however, that was resolved at the Department of Aviation Board meeting in March, 2007. He indicated that with funding issues resolved, the County put the project out to bid and received bids from four contractors. The low bidder was Key Construction at a price of \$1,609,920. This was \$17,630 above the engineer's estimate and \$31,203 below the next low bidder, Chemung Contracting. Mr. Coberly stated that Key Construction has substantial experience in airport construction projects and in work as a VDOT contractor. The FAA and the DOAV have reviewed the proposals and approved award of the contract to Key Construction. He indicated that the total cost of the project is now estimated at \$1,878,947.37. The difference between this number and the Key Construction price is the previously approved contract with Delta Aviation for its design and construction fees. Mr. Coberly explained that the FAA has made available the full amount of its share and included it in the grant agreement (\$1,785,000). The State has provided the original amount of its share (\$45,000) in the grant agreement; however, the County has requested additional funding to cover the full share. This matter will be acted upon at the next State Aviation Board meeting scheduled in June. The Department of Aviation advises that this request is the number one priority recommended to the Board and has indicated that there are sufficient funds available to meet the requirement. Mr. Coberly stated that staff recommends that the Board of Supervisors increase the funding for the proposed project by \$7,578.95 required to complete the County's share. He concluded by saying that staff recommends this project begin as soon as

possible and requested that the Board authorize a contingency expenditure of an additional \$11,368.42 from the Airport FY 08 budget should some unforeseen circumstance arise and the State is unable to meet its full funding obligation.

Mr. Dodson moved, seconded by Mr. Wallace and carried, to approve the motion to authorize the County Administrator to enter into a contract with Key Construction in the amount of \$1,609,920.00 for construction of Phase I of the airport apron project; to accept the grant from the FAA in the amount of \$1,785,000.00; to accept the grant from DOAV in the amount of \$45,000.00; to accept an amendment to the grant from DOAV in the amount of \$11,368.42 when it is offered; to transfer \$7,578.95 from the contingency fund to budget line #504-94200-1080 to provide adequate funds to cover the County share of the project; and if, required, transfer \$11,368.42 from line #504-81700-3314 of the FY08 budget to line #504-94200-1080 if the State does not meet its full funding obligation for this project. Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: ADDITIONAL FUNDING FOR CSA PROGRAMS

Ted Coberly, Assistant County Administrator, stated that on May 8, 2007, the Board approved an appropriation of an additional \$144,900 to match the \$100,000 in CSA contingency funds that the County projected were required to meet current year costs. The Director of the Office on Youth now projects that an additional \$120,462 will be required to fully cover FY 07 CSA costs for mandated services. Based on the normal cost allocation, the State's share of this amount will be \$71,278 and the County's share will be \$49,184. He explained that there is \$28,074.09 remaining in the contingency fund. If all of the contingency fund money is transferred to cover this requirement, an additional \$21,109.91 unfunded requirement remains. Staff is confident that it will be able to cover this shortage during year-end close out without appropriating additional funds from the General Fund balance. Mr. Coberly concluded by saying that staff recommends the Board authorize use of the remaining contingency funds and provide the County Administrator the authority to reallocate other funds as required to meet the need.

Mr. Graves moved, seconded by Mr. Dodson and carried, to approve the appropriation of \$71,278.00 in new State revenues to support mandated CSA services; to transfer \$28,074.09 from the contingency fund for the same purpose; and to authorize the County Administrator to transfer \$21,109.91 as required from existing appropriations for the same purpose. In total, \$120,462.00 is to be placed in the following accounts: \$30,460.00 into line #53510-5651; \$10,000.00 into line #53510-5652; and \$80,000.00 into line #53510-5653. Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: EXPENSE LINE FOR AMBULANCE REVENUE RECOVERY COSTS

Ted Coberly, Assistant County Administrator, stated that upon implementation of the Revenue Recovery program, the Board of Supervisors authorized County staff to contract with Diversified Ambulance Billing (DAB) to process the paperwork required to obtain reimbursement for the services provided by the County. The fee for these services is 7.5% of revenue. From the time of implementation, DAB's fee has been paid out of the revenue line into which the proceeds of the collection effort are deposited. This is an improper accounting practice and must be corrected. He explained that to correct the problem, the Finance Department has established an Ambulance Billing Service expense line in the Fire and EMS budget. The next step is for the Board to appropriate funding into the line to properly account for the payments already made to DAB and those expected to be made before the end of the month. Mr. Coberly noted that this problem also exists in the recently approved FY 08 budget. The FY 08 problem should be corrected in the same way as this year, by the appropriation of funding into the new Fire & EMS expense line. He stated that the amount disbursed to DAB thus far in FY 07 is \$50,792.54. At the current pace of billing and receipt of revenues, staff estimates that \$60,000 will be sufficient for this fiscal year's billing costs. It should be noted that the County paid this fiscal year for revenues collected in the previous fiscal year since significant revenue was not actually received

until June, 2006. It is estimated that billing costs for the next fiscal year will be \$49,000 to produce the planned net revenue of \$600,000. He concluded by saying that since the budgeted revenue for both this year and next year are estimated as revenue after expenses, this change will not produce an overall revenue shortfall.

Mr. Wallace moved, seconded by Mr. Graves and carried, to approve the appropriation of \$60,000.00 from budget line #32310-3123 to properly account for the fees paid to Diversified Ambulance billing for services in FY 07, and that the FY 08 budget be increased by an appropriation of \$49,000.00 into budget line #32310-3123 for the same purpose. Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: AGREEMENT BETWEEN THE BOARD OF SUPERVISORS AND THE CIRCUIT COURT JUDGE OF ORANGE COUNTY

Ted Coberly, Assistant County Administrator, explained that Judge Bouton's administrative assistant is an Orange County employee without status under the County's personnel policies and procedures and without status with the State Compensation Board. To remedy this unsatisfactory situation, the County Administrator proposed that the Judge enter into an agreement with the Board of Supervisors similar to that in place with the Clerk of the Circuit Court or other constitutional officers, to place this person under the County Personnel Policies and Procedures Manual. He reported that Judge Bouton has determined that he wishes to do this and, based on models provided by the County, has prepared an agreement for the Board's review and approval. Mr. Coberly concluded by saying that staff has reviewed the proposed agreements, believes it is satisfactory, and recommends its approval. He noted that any additional costs associated with the agreement will be shared, as is the cost of the employee's pay and benefits among, Madison, Greene and Orange counties.

Mr. Dodson moved, seconded by Mr. Wallace and carried, to approve the proposed agreement between the Board of Supervisors and the Circuit Court Judge of Orange County to extend the provisions of the Orange County Personnel Policies and Procedures Manual to the Judge's Administrative Assistant. Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: YEAR END BUDGET AUTHORITY FOR THE COUNTY ADMINISTRATOR

Ted Coberly, Assistant County Administrator, stated that in order to facilitate close out of the fiscal year, the Board of Supervisors has provided the County Administrator authority normally reserved to the Board to transfer budget authority among accounts, departments and funds. He explained that the requested authority does not include the authority to approve new projects, fund new positions, or take any action that is not consistent with the programs approved by the Board in the budget or subsequently during the fiscal year. It is administrative in nature and would cover items normally recommended for consideration on the consent agenda.

Mrs. Pace stated that she prefers to see the transfers first even if the Board has to have a worksession to review the information.

Mr. Dodson moved, seconded by Mr. Graves and carried, to provide the County Administrator authority to transfer budget authority among accounts, departments, and funds as necessary to complete year-end budget close out. This authority applies only to the fiscal year 2007 budget, as amended by previous Board action. Ayes: Johnson, Graves, Dodson, Wallace. Nays: Pace.

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

Mr. Graves nominated Benny Sedwick to fill the unexpired term of Jennifer Arnhold as the District Two representative on the Airport Commission.

Mr. Wallace nominated Waldron Rosheim for reappointment as the District Five representative on the Library Board. Mr. Wallace nominated Grover Wilson for reappointment to the Rapidan Service Authority.

Mr. Johnson nominated Jo Satterfield for reappointment as the District One representative on the Litter Control Committee.

Mr. Dodson nominated Ellen Pitera for reappointment as the District Five representative on the Litter Control Committee.

Mrs. Pace nominated Eugene Ernst for reappointment as the District Four representative on the Litter Control Committee. Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: DISCUSSION ITEMS

RE: GROCERY STORE

Supervisor Johnson requested that this item be added to the agenda for discussion. He stated that he is tired of there being only one grocery store in the Town of Orange. He suggested that the Board ask the Economic Development Authority to try to get another grocery store chain in the Town of Orange. Mr. Dodson stated that that is the single largest common complaint that he gets.

By consensus, the Board requested that the Department of Economic Development contact a grocery store chain for potential store location in the Town of Orange.

RE: EASEMENT – BARBOURSVILLE CONVENIENCE CENTER

Supervisors Johnson requested that this item be added to the agenda for discussion. He stated that the people who own property adjacent to the Barboursville Convenience Center are requesting an additional right-of-way (easement) as their daughter would like to build a house on their property.

By consensus, the Board directed the County Administrator and the County Attorney to research information pertaining to a request by an adjoining property owner adjacent to the Barboursville Convenience Center to obtain an easement for their daughter to build a home.

RE: INFORMATION ITEMS

The following information was presented to the Board for its information:

- Treasurers Report;
- Delinquent tax suits 2007 payoffs from May 7, 2007 to May 31, 2007.

RE: CALENDAR

The Board received copies of its calendar for the months of June, July and August, 2007.

RE: INTRODUCTION ON NEW INFORMATION TECHNOLOGY DIRECTOR

Mr. Rolfe introduced Vanetta Pledger, the newly hired Information Technology Director. The Board welcomed Ms. Pledger to Orange County.

RE: RECESS

The Board recessed at 5:27 p.m. for dinner and reconvened at 7:00 p.m.

RE: PUBLIC COMMENT

Chairman Johnson opened the floor for public comment. There being none, public comment was closed.

RE: BOARD COMMENT

There were no comments made by Board members at this time.

RE: CLOSED SESSION

At 7:02 p. m., Mr. Wallace stated, "Mr. Chairman, I move this meeting be recessed and that the Orange County Board of Supervisors immediately reconvene in closed session for the following purpose:

- Consultation with legal counsel retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel, regarding actual litigation by James and Barbara Lovelace, as permitted by Virginia Code section 2.2-3711(A)(7)."

The motion was seconded by Mr. Dodson and carried. Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: OPEN SESSION

The Board recessed Closed Session at 7:30 p.m. and reconvened in Open Session.

RE: PUBLIC HEARING:

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

- An amendment to Chapter 70 (Zoning) of the Orange County Code of Ordinances to establish provisions for creating cluster subdivisions pursuant to §15.2-2286.1 of the Code of Virginia. The ordinance provides for the by-right creation of cluster subdivisions on property zoned for agricultural or residential use throughout the county and requires the following: land to be developed as a cluster subdivision must be a minimum of 112 acres; 90% of the total land area must be reserved as open space with a contiguous concentration of lots on the remaining 10%; the open space must be placed under easement with the Virginia Outdoors Foundation or similar agency as approved by the Board of Supervisors; minimum lot sizes must meet the requirements of the underlying zoning classification; and all lots shall front on the development street and not on a secondary or primary highway.

Deborah S. Kendall, Director of Strategic Planning, stated that in accord with §15.2-2286.1 of the Code of Virginia, Orange County must have in place a zoning ordinance provision to allow for by-right cluster housing developments by July 1, 2007. At the request of the Board, the Orange County Planning Commission drafted an ordinance and on May 17, 2007 held a public hearing to receive public comment on the draft. The Planning Commission took action to forward the document to the Board with a recommendation for approval. Mrs. Kendall stated that the draft document was reviewed by outside legal counsel hired by the county for ordinance review. She noted that comments made by counsel were incorporated into the document prior to commission action. She stated that generally, the ordinance provides for the by-right creation of cluster subdivisions on property zoned for agricultural or residential use throughout the county and requires the following: land to be developed as a cluster subdivision must be a minimum of 112 acres; 90% of the total land area must be reserved as open space with a contiguous concentration of lots on the remaining 10%; the open space must be placed under easement with the Virginia Outdoors Foundation or similar agency as approved by the Board of Supervisors; minimum lot sizes must meet the requirements of the underlying zoning classification; and all lots shall front on the development street and not on a secondary or primary highway.

The following individuals spoke: Rick Wilkinson, 305 Cadmus Circle, Gordonsville; Ron Mallard, 3520 St. Augustine Lane, Oakton; William H. Hedger, Sr., 32075 Zoar Road, Locust Grove; Jack Snyder, 12574 Chicken Mountain Road, Orange; Del Garnett, 7271 Old Rapidan Road, Rapidan; Harvey Gold, 3100 Lafayette Blvd, Fredericksburg; Doug Rogers, 113 Birchside Circle, Locust Grove; Lee Frame, 103 Woodland Trail, Locust Grove; Zack Burkett, 14162 Marquis Road, Unionville; Steve Satterfield, 21041 Clarks Mountain Road, Rapidan.

There being no further public comment, Chairman Johnson closed the public hearing at 8:10 p.m.

Mr. Dodson explained that the State has mandated that Orange County do something in the way of a Cluster Ordinance. He felt that the proposed ordinance is too cost prohibitive, needs more consideration, and deserves more thought.

Mr. Wallace stated that he feels the proposed ordinance is too restrictive; cost prohibitive; and just another document by the Planning Commission to prohibit growth.

Mr. Graves suggested that the Board table a decision on this matter to the second meeting in June to allow time to consider the comments made and review the letters received concerning the proposed ordinance.

Mrs. Pace stated that this is a huge incentive with the cluster division. The Board cannot develop a "one size fit all" ordinance. She felt that it would be very incompetent for the Board to allow by right clusters in a large scale because the tax payer has no voice in it. The Board is not to serve a special interest group.

Mr. Graves moved, seconded by Mr. Dodson and carried, to continue consideration of the proposed ordinance on June 26, 2007. Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: CLOSED SESSION CONTINUED

The Board reconvened in Closed Session at 8:15 p.m.

RE: OPEN SESSION

At 8:43 p.m., Mr. Wallace moved, seconded by Mr. Graves and carried, to reconvene in open session where upon the Board adopted the following resolution:

WHEREAS, the Orange County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Orange County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Orange County Board of Supervisors.

The motion carried. Ayes: Johnson, Graves, Dodson, Pace, Wallace. Nays: None.

RE: ADOURNMENT

There being no further business to discuss, the meeting was adjourned at 8:43 p.m.