

**BOARD OF SUPERVISORS
REGULAR MEETING
SEPTEMBER 25, 2018**

At a regular meeting of the Board of Supervisors of Floyd County, Virginia, held on Tuesday, September 25, 2018 at 7:00 p.m. in the Board Room of the County Administration Building thereof;

PRESENT: Lauren D. Yoder, Chairman; Joe D. Turman, Vice Chairman; Jerry W. Boothe, W. Justin Coleman and Linda DeVito Kuchenbuch, Board Members; Terri W. Morris, County Administrator; Cynthia Ryan, Assistant County Administrator.

Chairman Yoder called the meeting to order at 7:00 p.m. with the reading of the handicapping statement.

Agenda Item 2. – Opening Prayer.

The Opening Prayer was led by Supervisor Coleman.

Agenda Item 3. – Pledge of Allegiance.

Supervisor Boothe led in the Pledge of Allegiance.

Agenda Item 4. – Approval of month-end disbursements.

Questions and discussion followed.

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Turman, and unanimously carried, it was resolved to approve the September 2018 month-end disbursements and additional bills as presented.

Supervisor Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 5. – Public Comment Period.

Chairman Yoder called for the Public Comment Period.

Mr. Bob Smith, Indian Valley District – Good evening. I hope everybody is doing well and surviving all of this horrific, wet weather. Tonight I am going to have more like recommendations. I think the most important one is funding these debts and bonds. I know that there is a means by which it can be done without a public referendum. I strongly recommend that you don't do that, anything like that, that involves tax increases and debt should be subject to a referendum by the public. Another thing that I would like to recommend is that we do work on getting that video system set up so people can actually watch the meetings as they have

progressed without having to attend. When I was younger and working I never came to any of this stuff. I was too busy. I'm busy now but I can at least make time to come to meetings and point out things. Another idea would be to move the public comment period to the end of the meeting. That way people can have fresh ideas after you discuss something rather than have to wait two weeks to get the feedback on it. Just throwing that out there. And of course the last thing, please preserve Floyd County and vote no on cluster development. I thank you all for your time.

After no further comments from the audience, the Chairman declared the Public Comment Period closed.

Agenda Item 6. – Constitutional Officers' Report.

Mr. Eric Branscom, Commonwealth Attorney, discussed a couple of items his office has been working on:

- 1) Cost collection – The Commonwealth Attorney's Office acts as an agent for overdue fines and costs for the County. At the end of the year the County gets a portion of the collections into the General Fund. We started this process a year ago and at the end of the first year \$10,327.22 came back to the County for our half of the total collections. The previous year the Department of Taxation collected about \$11,000.00 but that all went to the State. Going forward any costs to collect these fines, like postage, will come out of the money previously collected.
- 2) Unsung excellence – Deputy Tim Dulaney has twenty years of experience. He has taken over the civil process service. He seems to be about everywhere. He responded rapidly to the incident when Deputy Stanley was shot. Last year when we had the death on Duncan's Chapel Road, he was the first deputy on the scene. In the past year we have seen an increase in the number of people demanding jury trials. That means more jurors have to be served. He is meeting the deadlines to serve while doing the rest of his job as well.
- 3) Sexual assault cases – We've had a number of these over the past year and there have been a wide variety of results. I try to be aggressive in pursuing these because we have victimization of women and children in these circumstances and we take them very seriously. We always follow the evidence. There is a stigma attached to them so you have to be careful before you bring the charge that there is a solid case to follow through on. These are always difficult cases, because as can be seen in the national cases, the victim almost always gets put on trial. We convey the difficulty of these cases to the victims upfront.
 - a. Commonwealth of Virginia vs. Michael Lovern – His stepdaughter was adopted into the family when she was very young. It was a case of long-term child sexual abuse. The end result was a 20-year sentence with 10 year suspended sentence and 10 year probation. There was a partial confession and we were able to proceed with that. There was a single victim. There was delayed reporting of over 5 years which was a weakness. She was reluctant to testify, but on multiple occasions said she would testify. In jail calls he made certain admissions. With this case we reached an agreement that we put in front of the judge and obtained the sentence that we did.

- b. Commonwealth of Virginia vs. Carl Puree – This case was a date rape involving a 17-year-old and a 16-year-old. We tried him as an adult. A weakness was there was no confession, but we had a highly motivated victim with a timely report so there was other evidence we could gather. There were in fact other victims of this defendant, but not all of them came forward. He ended up making a plea and received an 8-year sentence to serve.
- c. Commonwealth of Virginia vs. Jason Dalton – There was no confession by Mr. Dalton. Although there were multiple victims, they were reluctant and did not wish to testify if it could be avoided. The main interest for most of the victims is that he be made a sex offender and he in fact was. There was delayed reporting time as well, in one case over eight years. With multiple victims there would have been multiple trials over a longer period of time dragging this out.

Agenda Item 7.b. – Resolution for change of November regular meeting.

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Coleman, and unanimously carried, it was resolved to adopt a resolution to hold their regular meeting on the second Thursday of the month, November 15, 2018, at 8:30 a.m. and the fourth Tuesday of the month, November 27, 2018 at 7:00 p.m. in the Floyd County Administration Building and authorize the County Administrator to advertise same (Document File Number 1002).

- Supervisor Boothe – yes
- Supervisor Coleman – yes
- Supervisor Kuchenbuch – yes
- Supervisor Turman – yes
- Supervisor Yoder – yes

Agenda Item 7.c. – Resolution for cancellation of December’s second regular meeting.

On a motion of Supervisor Boothe, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to adopt a resolution to cancel their regular meeting scheduled for Tuesday, December 25, 2018 at 7:00 p.m. and authorize the County Administrator to advertise same (Document File Number (1003)).

- Supervisor Boothe – yes
- Supervisor Coleman – yes
- Supervisor Kuchenbuch – yes
- Supervisor Turman – yes
- Supervisor Yoder – yes

Agenda Item 7.d. – Resignation from Floyd-Floyd County Recreational Authority position ending December 16, 2018.

Ms. Morris – We have received a notice of resignation from the Little River representative on the Recreational Authority. Do you want to fill the Locust Grove position?

Supervisor Kuchenbuch – That seems to make sense. We should move my position into the Little River District and advertise the Locust Grove position.

Chairman Yoder – I would like to see us do that.

By consensus the Board of Supervisors requested that the Locust Grove District position on the Floyd-Floyd County Recreational Authority be advertised for an unexpired term ending December 16, 2018.

Supervisor Kuchenbuch – We hired a new Director who will start work Monday, October 1. His name is Andy Mabe. He is a Floyd County resident. He grew up in the Bassett area. He has been in the County and was excited to take over the position. He has worked in recreation in Henry County as well as Montgomery County. He has a degree in Recreation Management from Radford University. He is an extremely qualified candidate. He was interviewed by *The Floyd Press* by editor Wanda Combs. He has already met most of the staff and he will be at the first Board meeting in October to introduce himself to all of you.

Agenda Item 8. – Public Hearing.

Ms. Morris read the call for the Public Hearing and noted that it was published in the September 6, 2018 and September 13, 2018 editions of *The Floyd Press* and also posted on the County's web site.

Chairman Yoder called the Public Hearing open on “An Ordinance Amending Section 46-105 of the County of Floyd, Virginia Code, Relating to General Provisions of the Grant for the Exemptions from Taxation of Real Estate of the Elderly and Disabled.”

Mr. Bob Smith, Indian Valley District – I would like to say that I think this is a good move for the County and that you will help older residents stay in their homes. But frankly the numbers that I see there are pretty much just making up for the inflation over the past 8 to 10 years. I support that. I think it will be a good move for the County and help the old folks hang on to the farms. Thank you.

After no further comments from the audience, the Chairman declared the Public Hearing closed.

Agenda Item 7.a. – Ordinance for setting tax relief for the elderly.

On a motion of Supervisor Turman, seconded by Supervisor Boothe, and unanimously carried, it was resolved that Section 46-105 of the County Code of Floyd County, Virginia is hereby amended and Section 46-105(4) is hereby repealed and readopted to provide as follows:

(4) The total gross combined income of the owners during the year immediately preceding the taxable year shall be an amount not to exceed \$25,000 as determined by the Commissioner of Revenue. Gross combined income shall include all income from all sources of the owners and the owners' relatives living in the dwelling for which exemption is claimed, provided that the first \$6,000 of the income of each relative, other than the spouse of the owners, who is living in the dwelling shall not be included in such total.

Section 46-105(5) of the County Code of Floyd County, Virginia is hereby repealed and readopted to hereafter provide as follows:

(5) The net combined financial worth, including equitable interests, as of December 31 of the immediately preceding calendar year, of the owner, and of the spouse of any owners, excluding the value of the dwelling and the land, not exceeding one acre, upon which it is situated, does not exceed \$125,000. The value of furnishings, such as furniture, household appliances and other items typically used in a home shall also be excluded from the net combined financial worth of such owner.

All other provisions of Division 3, Taxation, of the Floyd County Code not in conflict herewith shall remain in full force and effect. This Amendment shall be effective September 25, 2018. (Document File Number (1004).

Supervisor Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 7.e. – Approval of FY19 Performance Contract between New River Valley Community Services and the State Department of Behavioral Health and Developmental Services.

Ms. Morris – This contract is actually between New River Valley Community Services and the State Department of Behavioral Health and Developmental Services. But they always want local government commitment and buy-in to it also. In speaking with the Director, Mr. Pritchett, he indicated there are no changes from last year other than the different funding received. Your approval is part of their standard formality. The Community Services Board has already approved it.

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Coleman, and unanimously carried, it was resolved to approve the FY19 Performance Contract between New River Valley Community Services and the State Department of Behavioral Health and Developmental Services as presented.

Supervisor Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 7.f. – Entity Authorization Resolution for borrowing – lease purchase of forklift.

Ms. Morris – This a resolution for borrowing for the lease purchase of a forklift. We reviewed the merits of doing this lease purchase during the budget workshops. Mr. Durbin has spent many months trying to negotiate an acceptable contract with the leasing and financing company that they use. After being unable to come to any kind of agreeable terms, we turned to one of the local banks for assistance. They were quite glad to help us with this. He has worked out this Entity Authorization that you have before you for consideration. We would need approval of this authorization to fund the lease purchase and an authorization for Chairman

Yoder and me to execute this. A forklift has been sitting down there for about a month and a half waiting on this. Mr. Durbin really watches out for us.

On a motion of Supervisor Boothe, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to approve a resolution for borrowing from Skyline National Bank for the lease/purchase of a forklift and to authorize Chairman Yoder and County Administrator Morris to execute the Entity Authorization for the lease/purchase (Document File Number 1005).

Supervisor Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 7.g. – Summary of 2016 Tax Collections as of 6/30/2018.

Ms. Morris – This Summary of 2016 Tax Collections was provided by the Treasurer. I also have the 2017 real estate, personal property and delinquent tax list, and the first half of 2018 delinquent list if anybody would like to review those. The Treasurer’s Office should really be commended for their collection rates.

Supervisor Boothe – These numbers are outstanding.

Ms. Morris – They have always had good collection rates. They have always worked hard.

Supervisor Kuchenbuch – I also think it is a testament to the people of this County.

Chairman Yoder – Having good collection rates helps us not to have to increase taxes.

Ms. Morris – We base our budget on 98% expected tax collections.

Agenda Item 10. – Old/New Business.

Ms. Morris – I want to report to you discussions about Rt. 8. Over the past year I have talked to people in Montgomery County and tried to encourage them to work on their side of Rt. 8. We have met with them several times. I spoke with the Administrator a week or so ago. They are not going to be able to get anything in their VDOT plan for this year. The approach they want to use is to go through the legislative side. They are drafting a letter to put with their Legislative Requests. They will send that over to us. Hopefully you will consider collaborating with them on that. We can add it to ours also.

Supervisor Kuchenbuch – You are to be commended for your tireless efforts. I live at that end and something needs to be done. I appreciate his desire to want to take it to the legislature, but I think we need to keep on and not let it go. They don’t want to see lives lost either. Nobody does.

Ms. Morris – Their main concern right now is the Riner area. They will come out further. Their next area is Camp Carys Brook Road.

Supervisor Kuchenbuch – They will be at the crest of Pilot Mountain and it is not going to be a cheap fix.

Ms. Morris – We've tried to encourage them to start from our side, but we didn't get too far with that. I've talked with Mr. King who is the Supervisor for that district several times. We haven't forgotten about it. We are still working on it.

Chairman Yoder – It is important for the safety of our citizens traveling that road, but economic development is also important.

Supervisor Kuchenbuch – From the bridge to Camp Carys Brook is the problem area. Everything else has pretty much been taken care of. It is mind boggling to think about what they will have to do to fix it.

Chairman Yoder – At one time we talked about straightening out the entrances to the Commerce Park. Rt. 615 at Rt. 221 is still an issue. That intersection needs to be changed to allow truck traffic. That is a concern for economic development and safety.

Supervisor Kuchenbuch – On Rt. 221 toward the dollar store water is rushing onto the street.

Ms. Morris – I am working on that spot too. I have given you a task order from Hurt & Proffitt who will take care of the civil engineering part of the site work on Lot 8 along with Thompson & Litton. We just got this today, but it has been reviewed by staff and counsel.

Chairman Yoder – We'll take a few minutes to look this over and ask any questions.

Vice Chairman Turman – We have seen this information before.

Chairman Yoder – Yes, but I don't want to put anybody on the spot. I want everybody to have the time to review this.

On a motion of Supervisor Boothe, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to approve the task order and authorize the County Administrator Morris to execute the task order with Hurt & Proffitt for civil engineering site work for the new shell building (Document File Number 1006).

Supervisor Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 9. – Mr. Stephen Durbin, Sands Anderson PC – Discussion of a draft “Ordinance Regulating and Prohibiting Tall Structures on Certain Ridgelines in Floyd County.

Mr. Durbin – You have before you a proposed ordinance which would regulate tall structures on protected mountain ridges within the County. This is substantially similar to an ordinance that this body has considered in the past, but the line drawing has changed. The Code of Virginia defines protected mountain ridges as having an elevation over 2000' above sea level and being at least 500' above an adjacent valley floor. Depending on how you look at the topography of Floyd County that could make the vast majority of the county a protected mountain ridge. The State Code provides that the counties determination as to where the protected mountain ridges are is definitive. You would have a large degree of discretion there. In any event if you draw the line at 2000' above sea level you are really covering most of the County. What we have done is taken a look at keeping the definitions the same under the State Code so a protected mountain ridge is still one having an elevation over 2000' next to an adjacent valley floor 500' below, but just because it is a protected mountain ridge does not mean that it is regulated. As it is currently submitted for your consideration, it would only be regulated if it were 3000' or greater and the other difference is that previously it prohibited all tall structures on protected mountain ridges. As we have submitted it now it would be structures in excess of 300'. The Code does provide an exemption also for relatively slender projections such as steeples, antennas, certain small flagpoles, flues, spires, belfries, cupolas, poles, wires or windmills. As I am reading it, the windmill exemption is if it is attached to a larger building.

Supervisor Boothe – Under the definitions you left 2000' elevation and the 40' for tall structures purposely?

Mr. Durbin – Yes, my thought there was is that it is presumptively correct if we use the State Code definitions. It says we may regulate on protected mountain ridges. So usually you can regulate less than what the State Code entitles you to. I think we are on solid ground here to say although we could regulate 2000' and above this Board made its determination for public health and safety is not implicated below 3000'. The way it is drawn up right now it prohibits things taller than 300'. You would have the ability to have a more regulatory ordinance as opposed to a prohibitory ordinance but that can create a lot more moving parts. The only other change I made was having the County Administrator be able to delegate enforcement duties. Previously we just said the County Administrator will enforce it. Now that duty can be delegated.

A motion was made by Supervisor Boothe to go to Public Hearing on October 23, 2018 at 7:30 p.m. with the proposed Ordinance Regulating and Prohibiting Tall Structures on Certain Ridgelines in Floyd County. The motion died for lack of a second.

Supervisor Coleman – With respect to Supervisor Boothe, this is in no way in any shape or form to insinuate that I support any type of structures, but ever since this was mentioned I've struggled with the fact of telling a property owner what they can and can't do with their property to some degree. These are not our ridges. These are property owners' ridges. I have to live with the fact every day that my neighbor can do to some extent whatever they want to do on their property. That is my personal struggle. I wholeheartedly love our mountains and live here and have hunted these mountains since I was a young boy. But I cannot get away from the fact of having a strong arm of the government intruding and telling people what they can do with their ridgeline. It has been said here, and I mean no disrespect by this, our ridges. These are not our

ridges. These are taxpayers' ridges, landowners, property owners. That is why I stumble over it personally. And again, I would not have one of these contraptions on my property if I had a ridgeline so I am not in support of that. I want to be clear about that with everyone. I'm just being mindful of the people who own this property.

Chairman Yoder – I feel the same way to a degree. I understand the problems that could be presented if a large windmill farm went in.

Supervisor Coleman – My district is going to be affected by that. It is just a matter of time.

Vice Chairman Turman – So is mine because they are talking about getting Indian Ridge and wind turbines.

Supervisor Coleman – If you look at station #4 Rescue right now you can see the site that is projected for the construction all across the Boy Scout Camp. It is coming.

Vice Chairman Turman – I can stand on the farm and look toward Carroll County and I am looking at their cell towers. Now they are talking about putting one behind my house. I can imagine one of those wind turbines. I am not against renewable energy but the damage those things would do to this County...we would never get it back. I don't think anybody has the right to tell me what I can and can't do with my property. I would like to protect the mountain ranges.

Supervisor Kuchenbuch – I agree that it is hard for me to tell somebody what they can do with their land. I live on one of those ridges. I struggle. I thought about it too. I guess not doing anything right now leaves us open and we'll have to see what comes of it.

Supervisor Boothe – I respect each of your opinions. Anybody who knows me knows I am one of the biggest property rights people there is, but I hope you keep that same frame of mind when we go into the Subdivision ordinance. To me the Subdivision ordinance is 10,000 times more restrictive to the property owner than this would be. I understand your positions.

Vice Chairman Turman – What really scarred me on this was when we went to Beech Ridge and I saw the amount of timberland that was destroyed for right of ways, feeder lines, and the amount of digging. Everybody talks about how fragile our water table is and if we allow this to come in and they get to blasting and dynamiting and digging, I don't know what it will do to the water. That is what is tearing me between protection and property rights.

Supervisor Boothe – We don't have plateaus. If they come in, they'll have to level it off and we'll look like places out in West Virginia, because they have to have a certain area to put those things.

Vice Chairman Turman – If they go belly up they can never put the mountain back to look like it does now.

Chairman Yoder – This is the conversation that has gone on for centuries – the role of government in protection and the role of government that is intrusion.

Supervisor Boothe – This topic may come up again from time to time. Until we actually vote and I am defeated, I can still bring it up.

Agenda Item 10. – Old/New Business continued.

Ms. Morris – I provided the audit of the Fire Department.

Supervisor Boothe – I thought the segregation of duties issue had been taken care of.

Chairman Yoder – I want to publicly thank Mr. Kevin Sowers for all the work he did and all the staff during what we thought was going to be a bad situation. It flooded some, but it wasn't as bad as it could have been. A lot of extra work was done by staff here and on weekends. I appreciate that. It goes a long ways toward making this County ready for those types of situations. We had the National Guard here and some firefighters from California who monitored the river for us.

Ms. Morris – Our local firefighters stayed at the station for 24 hours and monitored the situation. Our Board members also helped out during the emergency.

Chairman Yoder – Vice Chairman Turman took National Guard members on the water in the Willis and Indian Valley areas. Sheriff Craig took members on the Little River. I went with members in the Check and Copper Hill area. We wanted to give them an idea of what they might be dealing with if something bad happened.

Supervisor Kuchenbuch – It is important that we stay vigilant and be prepared. I know our staff has done a great job. Chairman Yoder put in countless hours as well. I want that to be recognized too.

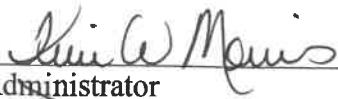
Supervisor Boothe – Our VDOT workers have been working day and night. They've had crews in from other areas.

Chairman Yoder – I would also like to publicly point out the school system. They worked on getting extra supplies in case we needed to open a shelter. I was impressed with how they tried not to get too far ahead of themselves as far as calling schools. They helped us prepare in case we needed shelters. I was thankful how they worked with us. Hopefully this won't happen again any time soon.

Ms. Morris – We will have a “hot wash” meeting in a week or so to discuss what worked and what could be improved.

Agenda Item 11. – Adjournment.

On a motion of Supervisor Boothe, seconded by Supervisor Turman, and carried, it was resolved to adjourn to Tuesday, October 9, 2018 at 8:30 a.m.



Terri W. Morris, County Administrator



Lauren D. Yoder, Chairman, Board of Supervisors

