

**BOARD OF SUPERVISORS
REGULAR MEETING
DECEMBER 8, 2020**

At a regular meeting of the Board of Supervisors of Floyd County, Virginia, held on Tuesday, December 8, 2020 at 8:30 a.m. in the Board Room of the County Administration Building thereof;

PRESENT: Joe D. Turman, Chairman; Jerry W. Boothe, Vice Chairman; W. Justin Coleman, Linda DeVito Kuchenbuch, and Lauren D. Yoder, Board Members; Terri W. Morris, County Administrator; Cynthia Ryan, Assistant County Administrator, Tabitha Hodge, Operations Manager and Angie Ellis, Accounting Clerk to livestream and film the meeting.

Agenda Item 1. – Meeting Called to Order.

Chairman Turman called the meeting to order at 8:30 a.m.

Agenda Item 2. – Opening Prayer.

The Opening Prayer was led by Supervisor Coleman.

Agenda Item 3. – Pledge of Allegiance.

Chairman Turman led in the Pledge of Allegiance.

Agenda Item 4. – Approval of minutes of November 17, 2020.

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Coleman, and unanimously carried, it was resolved to approve the minutes of November 17, 2020 as presented.

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

Agenda Item 5. – Approval of monthly disbursements.

Questions and discussion followed.

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Yoder, and unanimously carried, it was resolved to approve the December 2020 monthly disbursements and additional bills as presented.

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

Supervisor Turman – yes

Agenda Item 7.a. – Subdivision plats as approved by Agent for November 2020.

Ms. Morris – I will be happy to relay any questions or concerns regarding the November 2020 subdivision plats to Ms. Turman.

Agenda Item 7.b. – Appointment to Floyd-Floyd County Public Service Authority as the Town/County representative for a position beginning December 14, 2020 to December 13, 2024.

Ms. Morris – The Town was kind enough to advertise this Town/County position for us. I understand the incumbent was the only letter of interest received.

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Boothe, and unanimously carried, it was resolved to reappoint Mr. Rick Parrish to the Floyd-Floyd County Public Service Authority (PSA) as the Town/County representative for a position beginning December 14, 2020 and expiring December 13, 2024.

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

Agenda Item 7.c. – Pepper’s Ferry Regional Wastewater Treatment Authority Memorandum of Understanding (MOU).

Ms. Morris – This is the same MOU we have had with Pepper’s Ferry Regional Wastewater Treatment Authority for years and years. We don’t use them as much as we once did but we want to keep this in effect in case we do need to.

On a motion of Supervisor Boothe, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to approve the Pepper’s Ferry Regional Wastewater Treatment Authority Memorandum of Understanding and authorize the County Administrator to execute the MOU (Document File Number 1145).

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

Agenda Item 7.d. – Request from Sheriff to approve a one-time \$500 bonus payment effective December 1, 2020 for sworn positions in the Sheriff’s Office.

Ms. Morris – You have a request from the Sheriff to approve a one-time \$500 bonus for sworn officers. This directive comes from the State Compensation Board. They will fund their positions, but we have several County funded positions. The Sheriff is requesting funding from

his budget to take care of those. He indicates that he has enough in his budget to cover the bonuses for locally funded positions.

Supervisor Coleman – This item is regarding the Sheriff's Office, of which I am an employee. The item would affect the entire department and not just me individually. Together we constitute a group of three or more individuals who are similarly employed by the Sheriff's Office and similarly affected by the discussion. Therefore, the exception of State and Local Government Conflict of Interests Act section § 2.2-3112 A (i) applies to this situation and I am able to participate in this discussion fairly and in the public interest.

Vice Chairman Boothe – As a department head he has the authority to move funding around within his department. Please be sure to thank Sheriff Craig for keeping us informed of his decisions like this.

The Floyd County Board of Supervisors gave consensus for a one-time bonus payment of \$500 effective December 1, 2020 for sworn positions in the Sheriff's Office.

Agenda Item 8. – Old/New Business.

Ms. Martin provided the current status on the new building at the Commerce Center and posed 3 questions to the Board:

- 1) There has been an update to the floor plan with an open area being made into a couple of offices;
- 2) The main floor will be about 13,392 sq. ft. and the mechanical will be up in the mezzanine directly above the offices to reduce wasted space;
- 3) Much of the mezzanine will be taken up with mechanical but there should be extra space that could be used for inventory or even become offices if needed;
- 4) It gets the space to around 16,000 sq. ft. at very little extra cost;
- 5) Right now, the proposed schedule if nothing goes wrong is:
 - a. Advertise for a contractor and inspector of services in February;
 - b. Interview and negotiate in March;
 - c. Sign contracts in April;
 - d. Mobilization and site work beginning at the end of April or first of May;
 - e. Actual building construction beginning in the fall;
 - f. We will have one year to complete the building construction according to the United States Economic Development Administration schedule.
- 6) Our first industrial subdivision will divide off parcel A where building 1 is and create a lot for a portion of the new road or driveway; the rest of the property will not be divided at the moment;
- 7) The first question is, "Do you have a preference for a road name for the new driveway?" The Floyd County Economic Development Authority (EDA) suggest Growth Center Drive but are open to what you recommend.

By consensus the Board agreed to allow the EDA to name the new driveway.

- 8) The next item are the sign locations – Thompson & Litton has proposed two sign locations. One for the whole Growth Center would be up at Commerce Center Drive

and would be 49' back from the edge of Virginia Department of Transportation's (VDOT's) pavement and 26' back from the front property line;

- 9) The other sign would be located along the other driveway and would be information about building 1.

Vice Chairman Boothe – If you put up the second sign and it is primarily for the one building and if you build another building you will either have to change that sign or prepare a new sign. I think I would do the one at the top and then let the company put one up on their property if they want one. It is really the EDA's decision.

Ms. Martin – That was what I was going to recommend. I think we can do without that second sign. The first sign at Commerce Center Drive would have slots for multiple buildings or tenants. It is roughly 7' wide and 6' tall.

- 10) The last question is regarding water and sewer availability fees from the PSA for building 1. When the Commerce Center was built, there was a parallel project to extend water and sewer to a subdivision. The County contributed \$92,000 to the PSA to meet their match obligation on a grant. The agreement was that the County would get 10 water and sewer connections in the future wherever and whenever they chose. To the best of Ms. Morris' and my recollection three of those prepaid water and sewer sets have been used to date – one for Hollingsworth & Vose Plant 2, one for the former Dreaming Creek Building and one for the Innovation Center. I would like to ask you to consider using one water and sewer set for building 1 which would save about \$8,000 in the budget.

Vice Chairman Boothe – I think that we should since that is what they are for.

Supervisor Kuchenbuch – I think we should. This seems to point out that there hasn't been a paper trail and we need to document what we have and use in the future.

On a motion of Supervisor Yoder, seconded by Supervisor Boothe, and unanimously carried, it was resolved to use one water and sewer availability set with the Floyd-Floyd County Public Service Authority for building 1 at the Floyd Growth Center.

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

Ms. Martin – I want to congratulate Ms. Morris on this capping off hundreds of Board meetings and her amazing service to Floyd County. I want to pass along word to each of you that businesses and self-employed people are very appreciative of the support you have provided to them through the CARES dollars. This last round, people told me they actually cried when we told them because of gratitude and relief. Things for the winter are looking bleak for many of them. Thank you very much.

Agenda Item 6.a. – Public Comment Period.

Chairman Turman read the handicapping statement and opened the floor for Public Comment.

Mr. Will Griffin, Courthouse District and Mayor of Town of Floyd – I am here at the request of Town Council to offer our congratulations and gratitude to Ms. Morris on her retirement after many years of service. We were thinking about it and we are pretty fortunate at the Town. Our front office, we love those two ladies and part of their ability to do their job comes from you as well. They both got their start under your umbrella. You did a fine job training them. We are very fortunate to have them, and we are very fortunate to have you in our community. We wish you the best.

Ms. Morris – Thank you very much. We didn't want to let you have them though.

Mr. Griffin – I know you didn't. We'll stop the pilfering now. On another note I serve as the Vice Chair of the PSA and I want to thank the County for the CARES money allotted for the water meters. That will be a big, big plus for the PSA. Thank you Chairman Turman and everybody. I wish you a happy holiday.

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

Agenda Item 6.b. – Constitutional Officers Reports.

Sheriff Craig stated that he had submitted a request for a \$500 bonus for sworn officers as approved by the General Assembly.

Ms. Morris – The Board has already approved your request.

Supervisor Kuchenbuch – Have you thought about your non-sworn employees?

Sheriff Craig – I think about them all the time. There are some other things that I will approach you about in the upcoming months. Through attrition, the way the Compensation Board works, and one soon to be vacant position which carries completely over; once we get close to the end of the budget cycle, I will approach you. It is easier to keep people here than having to keep retraining.

There is a ton of behind the scenes things that Ms. Morris has done for me and the Sheriff's Office. I was elected 5 years ago on my first term. On day one the majority of all the seniority retired. Literally I went from being 6 or 7 in experience to number 2 in experience and nobody to bounce things off. I didn't want to keep calling retired employees and Terri [Ms. Morris] stepped up. She was there to bounce things off. You have no idea how much I appreciate it. There were numerous times I stepped into her office and shut that door and asked for advice. She never steered me in the wrong direction, but she always looked out for the funds of the County too. Personally, I will truly miss you. I truly appreciate you and everything you have done for me. I cannot thank you enough. Enjoy yourself.

Supervisor Kuchenbuch – Thank you Sheriff Craig for always wanting to keep this Board informed on what you are doing. You don't have to do that, but the type of person you are is an open book and it is very gratifying to this Supervisor.

Ms. Morris – The Sheriff has helped us out by delivering masks in the community and items from New River Agency on Aging. It is teamwork.

Sheriff Craig – It really is. We all get along.

Agenda Item 6.c. – Public Hearing on Proposed Ordinance to Ensure Continuity of County Government in Response to the COVID-19 disaster.

Ms. Morris read the advertisement of the Public Hearing.

Mr. Durbin, County Attorney, provided an overview of the proposed Continuity of County Government ordinance which would largely accomplish the same measures as the previously adopted ordinance. Under the Code of Virginia Freedom of Information Act there is really only one way to vary from the standard provisions and that is during a declared emergency or disaster in which Board members can meet remotely without being physically present but that is only to respond directly to the disaster. That is too limiting. I don't think it was ever envisioned that we would have a pandemic quite like we are where actually meeting together sometimes and, in some circumstances, may serve not to respond to the pandemic but to worsen the pandemic. This is designed to give you some freedom to continue the operations of local government. We are seeing a spike nationwide and it may become necessary sometime in the near future to alter your current meeting procedures. It is recommended to have this in place just to give you that ability. The one passed in May can only stay in place 6 months at a time. Not only does this allow you to adopt alternative meeting procedures and delay certain actions if necessary due to the pandemic, it also delegates authority to constituent bodies to do the same. Hopefully before this ordinance elapses there will be no need for another one.

Vice Chairman Boothe – Three months from now if we no longer need it, we can rescind the ordinance and resume normal practices.

Chairman Turman opened the Public Hearing for public comments.

Hearing no comments, Chairman Turman declared the Public Hearing closed.

On a motion of Supervisor Coleman, seconded by Supervisor Yoder, and unanimously carried, it was resolved to adopt an Ordinance to Ensure Continuity of County Government in Response to the COVID-19 disaster (Document File Number 1146).

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

Agenda Item 7.e. – Approval of resolution to appropriate the third quarter of the approved FY21 budget.

Ms. Ryan – Basically this is the same request from last quarter, but last quarter you approved a one-step increase for all County employees beginning December 1. This quarter's resolution appropriation includes a budget transfer from contingency in the amount of \$10,147.89 to continue the one-step increase for the third quarter – January through March 2021.

Supervisor Yoder – I am assuming that at the end of the year we will have to take that out of contingency to make it work?

Ms. Ryan – When you approve this resolution you are including that budget transfer from contingency. I am making the request as we appropriate each quarter, so we have a good idea where our contingency stands.

Supervisor Kuchenbuch – What is left in contingency now?

Ms. Ryan – I did not run that report, but we made transfers out of contingency for PSA's valves and for the one-step increase for County employees for the month of December.

Supervisor Kuchenbuch – Would you please provide us with the contingency balance?

Ms. Ryan – Yes, I will do that.

On a motion of Supervisor Yoder, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to approve a Resolution of Appropriation for the third quarter of FY21 in the amount of \$9,224,807.50 and a budget transfer of \$10,147.89 from contingency to appropriate line items to continue a one-step pay increase for County employees for January 1, 2021 – March 31, 2020 (Document File Number 1147).

Supervisor Boothe – yes

Supervisor Coleman – yes

Supervisor Kuchenbuch – yes

Supervisor Turman – yes

Supervisor Yoder – yes

Agenda Item 7.e. – Discussion of Legislative Recommendations for the 2021 General Assembly.

Ms. Morris – I added the items you discussed last month. Are there other items you thought of since then that you would want to add? We can try to schedule the legislators to come in January if you so desire or we can just send this to them.

By consensus the Board requested that Delegate Rush and Senator Suetterlein be invited to the January meeting either in person or virtually.

Supervisor Coleman – I do not see in here the item I mentioned about second amendment issues.

Ms. Ryan – From typing the minutes, you proposed and asked for Board feedback, but nobody responded. I wasn't sure that there was consensus for that one.

By consensus the Board agreed to add under General Government, "Floyd County requests that the General Assembly respect Second Amendment rights."

Ms. Morris – Did you feel that the wording for qualified immunity for the Sheriff's Offices was strong enough?

Supervisor Coleman – Have you had a conversation with the Sheriff about it?

Ms. Morris – Not in a little while. He might have some different wording.

Supervisor Coleman – He may.

By consensus the Board approved the Legislative Recommendations for the 2021 General Assembly.

Agenda Item 6.d. – Mr. David Clarke, Resident Engineer, Virginia Department of Transportation (VDOT).

Mr. Clarke provided construction and maintenance updates:

a. On the maintenance side –

Pothole patching	We got to Black Ridge Road and Canning Factory Road.
Milling	Scheduled on Rt. 8 South.
Ditching and shoulder repair	Good Neighbors Road and Gallimore Road.
Patching	Sawmill Road and Indian Valley Road.
Weather events	Flooding and snow.
Road naming	We have the approval to do that, but we will need a resolution from the Board.

b. On the construction side –

6 Year Plan	Finished Quesenberry Road. We are doing preliminary work on Ponderosa Road. We are having a few right of way issues.
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Supervisor Yoder – Thank you. I was talking to a landowner on Boothe Creek Road about all the pipe repairs done there. It had major issues with road washouts after some of the floods. They did some big work there which held up after the last flood. He communicated to

me that he was very thankful for the fix there. I received several complaints about Goose Creek Road. People have told me that it is pretty bad. I appreciate everything you all do.

Supervisor Kuchenbuch – Goose Creek Road would probably be good to check each time we have a flooding event. There are culverts that have been sitting there since the major washout that should be removed. On White Oak Grove Road on the side of the road going towards Carriage Road, it looks like a whole section of the road is going to fall off. There is a large tree hanging over Sunny Ridge Road. I know we don't have a bucket truck, but it really needs to come down. There are two potholes on Dobbins Hollow Road. Thank you for all the work on the flooding. Please send an email to me explaining what is going on at Brush Creek Bridge on Old Pike Road.

Supervisor Coleman – Thank you for your research on a couple of projects. Thank you for Quesenberry Road which looks great and the naming projects. I will share those with the rest of you when it gets a little bit closer. I have two minor things. On White Rock Road near the intersection with Dulaney Road there is a lot of runoff. Dulaney Road is a gravel road and the gravel is going onto White Rock Road and settling and causing a hazard. On Indian Valley Road going toward Montgomery County up from White Rock Road, there is either a ditch that needs cleaning or a spring that has developed. Water is running across both lanes of the road. At this time of the year it can turn to ice. It is in a curve right beside Indian Creek. I appreciate all the work that has been done. I hope everyone has a Merry Christmas.

Vice Chairman Boothe – I, too, want to thank you for all the work that has been done. I especially want to mention the work they are doing at the Baptist Church to get water drained off. I think it will be a great help. I want to remind you that they still haven't painted and taken the parking spaces away at Milestones. Those need to be done. If we are not going to remove the part of the handicapped parking space at the Courthouse, then we need to line off the parking space beside it. Right now, if a handicapped person pulls in, they have trouble getting out. Can we at least line it off with tape or whatever so they can get in and out of a vehicle? I wish everyone a Merry Christmas and hopefully a safe winter.

Chairman Turman – In my district I still have people who want to know if they can get their roads machined. On Quesenberry Road people are really thankful for it, but there is one person who said a section is like going over a rumble strip.

Mr. Clarke – That loose stone should work itself out. The same thing happened on Diamond Knob Road.

Chairman Turman – Most people have told us they really appreciate it. I appreciate all of your hard work and wish you a Merry Christmas and Happy New Year.

Agenda Item 7.g. – Discussion of uses of CARES [The Coronavirus Aid, Relief, and Economic Security Act] money.

Ms. Morris – We think we have everything listed on the requests that we have received. You will see that we have \$558,000 left for distribution. One thought we had was if you wanted

to do another hazardous duty payment to those who received it before, and I would like to add Solid Waste employees this time.

Supervisor Kuchenbuch – Can we?

Ms. Morris – The auditor has said they can't tell us not to do it. We will document it very well. I saw in the Town Council meeting the other night that they were giving hazardous duty pay to all of their employees, even their office folks. They have agreed that if it is not approved, they will take it from their budget.

Supervisor Yoder – That is the real risk that we are taking. We will have to take it out of contingency if it is not approved. With Solid Waste I agree.

Ms. Morris – I really think that will be approved. They are in more contact with possible COVID exposure than the deputies. In Recycling you touch every piece of everything that comes through there. Ms. Ryan has calculated the cost.

Supervisor Kuchenbuch – What is the cost?

Ms. Ryan – If we were to pay hazardous duty pay to Solid Waste employees from March through December 2020 plus September through December for the employees who received it previously, it will be about \$225,000.

Vice Chairman Boothe – I need to make a statement for the record: Today's discussion involves the utilization of certain CARES Act or other funds for the benefit of small businesses and self-employed citizens of Floyd County. I am currently self-employed and conduct business as Jerry Boothe Hardwood Flooring and we also have a farming operation and such employment results in annual income in excess of \$5,000. However, because a large number of County citizens are also self-employed, any interest I would have in the CARES Act program under discussion would be the same as other County citizens who are self-employed, and together we constitute a group of three or more individuals who are affected by the transaction in question. Therefore, in this situation, the exception to the Virginia State and Local Government Conflict of Interests Act, VA Code Section 2.2-3112(b)(1) applies to this situation. In accordance with that section, I hereby declare that I am able to participate in this discussion and voting on this topic fairly, objectively and in the public interest.

Supervisor Kuchenbuch – I affirm the same statement. My businesses are Linda DeVito, Realtor with Blue Ridge Land and Auction and also Maple Spring Christmas Tree Farm.

Supervisor Yoder – I make the same declaration. I have an LLC as Lauren and Chelsa Enterprises. I do heating and Chelsa does photography plus my farm.

Supervisor Coleman – I make the same statement. I have a small farming operation under my name. I just started Freedom Arms LLC but have not made any income with that business.

Chairman Turman – I make the same statement. I own Sugar Tree Farm-Beef Cattle and I own Sugar Tree Farm Auctions.

Ms. Morris – I am not aware of any other requests. We have made one payment to the Task Force for \$100,300. They are not planning on spending the entire amount of money. We are going to do a food distribution through the Task Force. They did one Friday in Giles County. I have not had a chance to talk to their County Administrator to see how it turned out. They were expecting a big turnout. I talked to Plenty! and we want to do it with them in January. I asked about doing something in December, but I have not heard anything back from her.

Supervisor Kuchenbuch – I really think there is hunger in this County and a lot of it. It is not just food insecurity; people are hungry right now. I believe that we need to figure out a way to feed people, to help them in some way with their heating, electricity if we can. There are people in a bad way. I don't know how we can manage to make this work, but as much as we are helping people with their businesses I think there are so many people right now who are living on the edge from COVID.

Vice Chairman Boothe – I don't think we have time with this, but if we get the next round of money that they are talking about, Social Services has their heating and air program. Doesn't Community Action also have some type of program? We could actually divert funds to those two programs to help at least on the heating part. They only have a certain amount of money and they spread it out as evenly as they can. It may not pay somebody's whole bill, but it may pay a quarter of it. If we could add to that, I think that would do what you are talking about on the heating part.

Ms. Morris –The Director of Plenty! said they usually serve about 110 for their food distribution. Maybe we could add some extra things to that like a turkey or a ham or something special for the holidays. I haven't heard back from her yet.

Supervisor Yoder – My thought is maybe that there is a two-way win. For full disclosure I am farming but I don't want anything out of it. There are people in the County who are selling things. I wonder if there might be a way to work with food banks and with the farmers, so it is a win-win where we buy directly from them in the County.

Vice Chairman Boothe – It could help the business and the people at the same time.

Supervisor Yoder – Next week I have some dates with my USDA processor for meat. Maybe we could even go so far as buy animals from a farmer and have products come back to go right to Plenty! and other food banks.

Vice Chairman Boothe – That comes back to our cold storage venture. Even if places wanted to take this on, they would need more freezers. Could CARES money be used to provide storage for the meat and produce?

Ms. Morris – Do you have a dollar amount in mind to put toward that?

Supervisor Yoder – Do you think this would qualify – the food and storage space?

Ms. Morris – I'm not sure about the freezers but we'll check on that.

Vice Chairman Boothe – I wouldn't be above us paying for the freezers out of contingency if it is necessary to feed people.

Ms. Morris – I would suggest that we not put all of our money towards this in case there are other things. How about \$200,000?

Vice Chairman Boothe – How about up to \$200,000?

Ms. Morris – Our problem with the freezers is buying them and getting them here before December 31.

Supervisor Yoder – There is a potential that we will have to call a special meeting in December.

Chairman Turman – I like the up to \$200,000 because it gives us wiggle room.

By consensus the Board of Supervisors agreed that CARES money would be used for hazardous duty pay for Emergency Medical Services employees, Emergency Service employee, sworn officers in the Sheriff's Office and Solid Waste employees so that all will have received the pay from March through December and up to \$200,000 for food and associated costs to store and deliver the food to food banks for distribution to County residents.

Supervisor Kuchenbuch – I just want to talk to all of our citizens. There are so many who are not comfortable asking and they are in a situation right now...this gets emotional for me because there are so many that have found themselves in a difficult time through no fault of theirs. They are not used to or are uncomfortable with and they are very proud. I know if I were in the same situation it would be very hard for me to ask for a Christmas turkey or a ham. I don't know that I could do it. I just want people to know that we are here thinking about this because we want you to not go hungry. We are here. I don't mean to get emotional, but this is very difficult. It is very difficult times for folks.

Vice Chairman Boothe – I think we have done a lot to help businesses so far. We talked about doing a payout to citizens but that was stopped by the federal government. I think if this next round comes out, I think we may be able to do more for the individual. I know helping businesses is all in the same pyramid, but maybe gear more toward individuals, at least at first.

Supervisor Kuchenbuch – That is the problem...it has to be within the guidelines. I know the guidelines are there for a reason.

Ms. Morris – Part of the problem is the short timeframe.

Vice Chairman Boothe – A lot of it is the terminology, the language you use to get something to qualify.

Supervisor Yoder – I want to ask about firewood because a lot of older homes in the County still heat with wood.

Ms. Morris – We will check on that. Thank you for all of the good ideas.

Agenda Item 7.h. – Appointment of Acting County Administrator effective January 1, 2021.

Ms. Morris – You need to appoint an Acting County Administrator effective January 1 in order to be able to execute documents and take care of things. I discussed with you some additional pay for some of the staff members.

On a motion of Supervisor Boothe, seconded by Supervisor Coleman, and unanimously carried, it was resolved to appoint Cynthia Ryan as the Acting County Administrator effective January 1, 2021 and to approve the salary adjustments for staff as previously discussed with the County Administrator.

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

Agenda Item 6.e. – Mr. Scott Wickham, Partner with Robinson, Farmer, Cox Associates, PLLC.

Mr. Wickham handed out and discussed the highpoints of the FY21 Financial Statements and the Audit Presentation:

- 1) Pages 2-4 of the Financial Statements has the Independent Auditors' Report, which is the opinion on the County, School Board, and EDA and it is a good clean unmodified opinion. This means that we feel the numbers presented are accurate. There is one additional paragraph in there this year for restatement of beginning balances. The School Board had some savings on one of their capital leases and amended their agreement which caused the beginning balances to need to be restated.
- 2) Page 5 has Management's Discussion and Analysis which is prepared by the County Administrator and Assistant County Administrator. It provides a good overview of the entire financial statements.
- 3) Page 15 Exhibit 1 displays the Statement of Net Position with full accrual accounting, which is more comparable to business accounting. The negative balance for the School Board is common for school boards across the State and it is caused by a calculated liability for teachers' pension.
- 4) Page 17 Exhibit 3 is the Balance Sheet with the focus on the County using modified accrual accounting with a short-term view on cash and short-term receivables and payables. The item to look at is the unassigned fund balance and the County has \$7.1 million. You had a big increase in fund balance in total, but \$10.3 million is from unspent bond proceeds for projects.
- 5) Page 19 Exhibit 5 is the Income Statement with the focus on modified accrual accounting. Revenues were less than expenditures by \$3.3 million which is because

- of expenditures for capital projects. Most of that was spent from the restricted fund balance.
- 6) Pages 128-129 is the Government Auditing Standards report, which is the report on all the testing required to be done by the state and federal government to meet auditing standards. We have the same two findings we had in the prior year. Staff worked hard to get the journal entries correct for us when we show up. We see an improvement each year, but there were more challenges this year with the COVID pandemic and the information technology emergency. It was tougher than ever. It was in pretty good shape, but I had to propose some material adjustments. The other item is lack of segregation of duties in the Treasurer's Office. There is not sufficient staff to have checks and balances.
 - 7) Page 130 Internal Control over Compliance is the testing on federal programs. This is a good opinion. There were no items noted there. All the testing came back clean.
 - 8) Pages 132-133 provides a summary of the federal funds from the various agencies, including expenditures related to COVID-19 funding.
 - 9) Page 2 of the Audit Presentation shows a 5-year trend summary:
 - a. The increase in property taxes is about 4% per year.
 - b. There is an increase in intergovernmental federal funds and a lot of that is driven by increased Children's Services Act (CSA) cases.
 - c. Administration expenditures increased by 11% over the period. This year a lot of that was because of the information technology repairs to fix that issue.
 - d. The large health and welfare percentage increase is due to the rising number of cases in both CSA and Social Services.
 - e. The increased percentage in community development was from beginning capital projects.
 - f. Overall, there was a 7.65% increase in expenditures which is higher than usual but the increase in cases is out of your control and the capital projects you had planned.
 - g. Debt service increased by 4% per year which is comparable to the general property tax increase.
 - h. Fund balance increased by about 23% which is inflated because of having bond money on hand at the end of the year.
 - 10) Page 3 shows the unassigned fund balance as a total percentage of operating expenditures. You have 18.1% and the Government Finance Officers Association recommends a minimum fund balance of 2 months or 16.67%.
 - 11) Page 4 shows trend information on your tax assessment. The 10-year trend is pretty flat.
 - 12) Page 5 shows a summary of debt beyond your bonded debt. It includes the net pension liability and group life liability. You have increased your debt in the last couple of years, but it is still below the state average.
 - 13) Page 7 shows in pie charts the source of your revenues and the categories of expenditures.
 - 14) Page 8 cash investments for FY20 does not include the bond proceeds.
 - 15) Page 9 is trend information for the School Board. The sizeable decrease in charges for services is because school meals are free this year. There was an increase in federal funds to offset some of that.

- 16) Page 11 expenditures per capita compared to the state average you are well above the average in all categories. The FY19 state average is \$1,681 per capita for total expense for schools and you are still below that average.
- 17) Page 12 shows how significant an estimate the net pension is. The amount reported in your books is the 6.75% estimate that Virginia Retirement System will earn each year. Sometimes they do better than estimated and sometimes they do not do as well. This year they reduced their estimate from 7% to 6.75% which led to an increase in the liability of about \$600,000 for the County and more than that for the Schools.
- 18) Page 13 shows similar information for group life and for the School Board health insurance credit as well.
- 19) Pages 14-15 lists upcoming pronouncements but most of these have been delayed due to COVID.
- 20) Pages 16-17 are an independent accountants' report we send to the state on your census data in the Virginia Retirement System. You had no issues.
- 21) Pages 18-19 has audit recommendations. The main one is reconciling the Bright accounting system and Thomas Brothers LASER system monthly. There is also a recommendation for Recreation procedures.
- 22) Pages 20-22 discuss the process of the audit. It went very well. Your staff worked hard to have everything ready for us ahead of time. We tried to work remotely as best as we could in the spring. That was a challenge and then you had an information technology challenge. The overall audit process went well. The County was in a good position financially as of June 30, 2020.

Supervisor Kuchenbuch – How is your firm positioning itself for COVID-19's expenses?

Mr. Wickham – That is a great question. The partners in our office have met several times. We have had many email exchanges with partners in other offices. At this point today, there is still no audit guidance for CARES money. We were told in August that it would be early September; then we were told it would be October and now we are told soon. For audits so far we have used the same guidance you have and tried to interpret that. We are hoping that the guidance that comes out will be more detailed and technical and provide us with what is allowed and not allowed, but I don't know if that will be the case. It will come from the Office of Management and Budget which is different than the Department of Treasury which issued the original guidance. They could be completely different. I hope they are similar. When asked by localities if particular things are allowable, our general response is, "Does it seem to meet the requirements, particularly when you have multiple people in the group who have read the guidance and they feel it is eligible and then document the reason for the decision. That makes us feel that the process was done correctly.

Vice Chairman Boothe – Overall did you see anything that is in compliance, but gave you concern?

Mr. Wickham – The process of getting the right procedures in place for Recreation, since that is a new operation for you. But no, nothing concerning essentially. I think everything worked out very well this year.

Agenda Item 6.f. – Mr. Steve Durbin, County Attorney with Sands Anderson.

- Discussion of Floyd County Code Section 62-31 – Vision sight distance requirements; setbacks.

Mr. Durbin – Since last month I had a chance to look at the Code and your subdivision agent has had a chance to look at some examples and practical considerations.

Ms. Karla Turman, Floyd County Planner – I know you want to get the regular setback in the Code to match the subdivision ordinance. From what I understood from the discussion, it would be measured from the public right of way. In the subdivision ordinance it is measured from the public right of way. Mr. Bolt wanted to know where to measure the regular building setback and whether it relates to private roads. In the discussion there was a mention of the setback possibly being measured from the center of the road or the center of the right of way. Ms. Martin and I discussed this. There may be an issue with that depending on where the road is and how wide it is. Route 8 at Storkers Knob Road has approximately 76' to 80' wide right of way. If you measured the 35' from the center of the right of way, you would still be in the right of way. If it were a subdivision, they could not do that. We have several areas along Route 221 and Route 8 where the right of way is larger than 50'. In those areas the setback could still be in the right of way. We would ask you to take that into consideration when you talk about where to measure from. The center of the road is not always in the center of the right of way. Before your last meeting it was measured from the edge of the pavement, which is better than the center of the road. If you want to do it from the center of the road you could possibly do it in stages if the right of way is larger than 50' wide. Right now, in the subdivision ordinance if it is a 35' prescriptive easement it has to be 60' from the center of the road, which would be the property line for a prescriptive easement. But if it is a 35' right of way that is not a prescriptive easement then it only has to be 35' from the property line. This is confusing to people with different requirements if a property is going to be subdivided or not. The subdivision ordinance committee has been working on this. If the subdivision ordinance committee were to recommend private roads, then we would also need to discuss whether there would be a setback off that private road and that could change the other ordinance as well.

Mr. Durbin – In addressing the problem of measuring from the centerline from a legal standpoint you probably could do that and have your ordinance be valid, but I think it would be impractical to do that for the reason that Ms. Turman explained. When a 35' setback from the centerline is still within the right of way it is like there is no setback at all. The enabling legislation §15.2-2279 has two clauses that are worded differently. The first clause states, "Any locality may by ordinance regulate the building of houses in the locality including the adoption of off-street parking requirements, minimum setbacks and side yards and the establishment of minimum lot sizes." There is no limitation on the language for houses. You might be able to measure from the center line and make the setback 75' or wherever you wanted to draw the line. But you would be limited for houses. When you go to the second clause that is your authority for other buildings. That clause provides, "Any locality may by ordinance require that no building be constructed within thirty-five feet of any street or roadway..." I really see that 35' limitation as the maximum setback that you can adopt for buildings. You are in the situation of potentially adopting different standards for buildings as you would for houses. You can measure from the edge of the finished road surface or the edge of the right of way. My recommendation for consistency is to measure from the edge of the right of way. And if you feel that 35' is too

much you can do less than that. The subdivision agent is measuring from the edge of the property.

Discussion was held as to whether the ordinance should be changed to address distance from edge of right of way or edge of finished road.

By consensus the Board asked Mr. Durbin to draft a definition for road that includes to measure from the edge of a finished road and eliminates private roads. They requested that he bring this definition back for the January meeting.

Ms. Turman – Ms. Martin asked me to ask if you approved the placement of the sign for the Floyd Growth Center, which is 20' off of the right of way. It will fall under the direction Mr. Bolt was given for measurement. She wanted confirmation that the placement was still okay.

The Board stated that the placement was still okay, and a variance could be requested if necessary.

– Closed Session § 2.2-3711 A.7. and § 2.2-3711 A.8., Consultation with Legal Counsel Pending or threatened litigation and specific legal matters and § 2.2-3711 A.1. Personnel.

On a motion made by Supervisor Yoder, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to go into closed session under § 2.2-3711 A.7. and § 2.2-3711 A.8., Consultation with Legal Counsel Pending or threatened litigation and specific legal matters – Update on pending opioid litigation, update on tax assessment litigation, discussion on possible enforcement of Solid Waste ordinance and § 2.2-3711 A.1. Personnel, Ongoing search for County Administrator.

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

On a motion of Supervisor Yoder, seconded by Supervisor Coleman, and unanimously carried, it was resolved to come out of closed session.

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

On a motion of Supervisor Boothe, seconded by Supervisor Yoder, and unanimously carried, it was resolved to adopt the following certification resolution:

**CERTIFICATION RESOLUTION
CLOSED MEETING**

WHEREAS, this Board convened in a closed meeting on this date pursuant to an affirmative recorded vote on the motion to close the meeting to discuss § 2.2-3711 A.7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. and § 2.2-3711 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. and § 2.2-3711 A.1. Personnel, Discussion, consideration, or interviews of prospective candidates for employment of the Virginia Freedom of Information Act;

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

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby certifies that, to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies; and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting to which this certification applies.

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

This certification resolution was adopted.

– Training session with the Board.

Mr. Durbin provided a brief training on Board and Administrator duties:

- 1) 15.2-1401 provides the powers of the localities are invested in their governing bodies and any action that can be taken under this section must be a majority vote of the governing body;
- 2) Exceptions are planning done through the Planning Commission or some other specific statutory carve out;
- 3) There is immunity for members of Boards of Supervisors for any action arising from the exercise or failure to exercise discretionary or governing authority of the governing body;
- 4) Immunity does not apply to intentional misconduct or gross negligence; it does not apply to federal law such as employment decisions for discrimination, Americans with Disabilities Act, etc.;
- 5) The best practice to avoid individual concerns is to adopt good general policies and then delegating administrative decisions to the County Administrator;
- 6) The County Administrator by Code is the Chief Administrative Officer;
- 7) It is not mandatory in the traditional form of government which Floyd County observes, but almost every locality has at least a part-time County Administrator;

- 8) If a County Administrator is appointed, then 15.2-1541 applies and outlines those duties;
- 9) This section states that the chief administrative officer of a locality shall be the administrative head of government responsible to the governing body for the proper management of all affairs of the locality;
- 10) Basically, the Board sets policy and the County Administrator implements their policy;
- 11) Specifically, the duties are:
 - a. See that all ordinances, resolutions, directives and orders of the governing body and all laws of the Commonwealth required to be enforced through the governing body or officers subject to the control of the governing body are faithfully executed;
 - b. Make reports to the governing body from time to time as required or deemed advisable upon the affairs of the locality under his control and supervision;
 - c. Receive reports from, and give directions to, all heads of offices, departments and boards of the locality under his control and supervision;
 - d. Submit to the governing body a proposed annual budget, in accordance with general law, with his recommendations;
 - e. Execute the budget as finally adopted by the governing body;
 - f. Keep the governing body fully advised on the locality's financial condition and its future financial needs;
 - g. Appoint all officers and employees of the locality, except as he may authorize the head of an office, department and board responsible to him to appoint subordinates in such office, department and board;
 - h. Perform such other duties as may be prescribed by the governing body.

Mr. Durbin – The County Administrator serves the entire Board. The Board only acts officially through majority vote and duly help public meetings. In best practice, communications should be with the entire Board when practical unless it only involves a specific member of the Board.

Ms. Morris – I think we found out this year that sometimes there are things that the County Administrator can't tell you...if we are under a State police investigation and there were things that I wasn't being told either. That was pretty tricky.

Mr. Durbin – Sometimes there are things that need to be shared with the Chair specifically.

Chairman Turman – This past year there were issues that were only to be shared with the County Administrator and Chairman.

Mr. Durbin – In the traditional form of government when no County Administrator is appointed, the Board serves as the administrative body and has the legal authority to act as administrator in any gap period. In addition to being the presiding officer, the Chairman shall be the head of local government. In the event there is no chief administrative officer designated, it shall be the duty of the Chairman to see that the functions of the County Administrator are carried out if the governing body has not acted otherwise.

Supervisor Yoder – When we hire a new County Administrator, at that time can we go ahead and delegate the duties to the Assistant if for some reason the County Administrator was unable to serve for a time?

Mr. Durbin – That is in your good judgement.

Supervisor Yoder – With COVID going on, I am concerned about us not having immunity from HIPPA [Health Insurance Portability and Accountability Act] violations.

Mr. Durbin – You would have to be covered by HIPPA and it is a fairly narrow scope, health care providers, insurers, business associates of those covered by HIPPA. My advice is to not disclose any medical information even though you are not covered by HIPPA.

Supervisor Yoder – If we have to close the office because some employees have tested positive for COVID, how do I reply if a citizen asks why the office is closed? Some of the offices only have 1, 2, or 3 employees.

Mr. Durbin – Reply that the office is closed for safety reasons during the pandemic and do not provide any details as to who was exposed. Just state that COVID precautions require us to take this action. The reason I am being careful, like Conflict of Interest Act, some actions are not a violation, but there is still the public perception of a conflict. This situation is similar.

Supervisor Kuchenbuch – It would be good for the County Attorney and Ms. Ryan to work on a statement that can be emailed to the Board and other employees to use when asked about office closures.

Mr. Durbin – This goes back to the importance of acting with a unified voice and we are operating with the same information as quickly as possible.

Agenda Item 9. – Board Member Time.

On a motion of Supervisor Yoder, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to approve a Proclamation of Retirement for Ms. Terri Morris (Document File Number 1148).

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

Chairman Turman – We don't want to see you leave. You know that. We have all voiced our opinion 100 times. We will miss you that is for sure.

Supervisor Yoder – I just want to tell Ms. Morris how much I appreciate her. I know when I was first elected, I replaced one of your best friends and someone you served with for a long time. I really appreciate the professional way you helped me to get established in my role here. You have been a friend and a great, great counselor to this Board. You have been a help in

so many areas, whether it be budget or personnel. You have served in so many roles so efficiently. I got to thinking about it today when I was driving in and you probably trained me at Slaughters when I worked there. You have probably trained me twice. I want to express how much I really do appreciate it and I think I speak for the County as a whole and how much they appreciate you.

Supervisor Kuchenbuch – I also reiterate some of the things we said when you announced your retirement. Your dedication to this County goes way beyond just a Monday through Friday job. Your years of service and sacrifices have not gone unnoticed. I know the years ahead hold so many amazing things for you. I hope you will embrace them with the dedication and the level of commitment that you have done here for the 36 years you have been in this office.

Supervisor Coleman – As a newly elected person, you received me with open arms. You provided needed support. You made me feel like I could ask and not be criticized for asking. The instruction and guidance you gave me was more valuable than the New Supervisor training. Just the memories I have of being an employee of the County when you were the Assistant County Administrator, for some reason it sticks out in my mind, I always had questions about insurance. Whether by email or in person, with additions to the family you always provided answers with precision. I appreciate all your hard work for our community, the County, and personally. I appreciate what you have done. I wouldn't be where I am at now, almost 3 years into my first term. Thank you. I mean that.

Vice Chairman Boothe – I reflected my feelings to Ms. Morris. She has been here the entire time that I have and some. I have said it before, there are many times I would not have gotten through without her guidance and her insight. It has been appreciated. She has made a lasting impression on this County that is positive. As I've said before, many generations ahead will feel that positive effect.

Chairman Turman – I remember when Ms. Morris came to work. I was working at the Sheriff's department. Over the years she has answered questions for me. My wife, Mary, and I were talking on the way home last night. She was the Treasurer and you and she worked well together. You were able to keep the County going. Everybody is saying, "We will never be able to fill your shoes." There is 30 some odd years of knowledge going out the door. It is going to be hard to catch up. The next person may not be filling your shoes, but they have a lot to learn of what you are taking with you.

Ms. Morris – I really don't know where to start to express my gratitude for the honor of working for this County for this long. Even though there were some days when I wanted to pull my hair out, all in all it has been a good run. I counted up a while back and I've worked with 23 different Supervisors and 5 different County Administrators. I have to say I respected and appreciated each and every one for the difficult job they had or still have. I've learned from each of them. I had someone ask me a few weeks ago what one of my most memorable experiences has been since I've been here. There have been so many that I've threatened to write a book one day. One that I do remember well...it was when our office was still at the Courthouse. There was a lady who came in one day and she was so angry, so irate, just screaming at the top of her lungs at us about the smell from a chicken farm. We needed to do something about it. We tried to get a word in edgewise and we could not. She finally got so mad that she dropped a whole

grocery bag of chicken parts on our floor. Our secretary at that time just about lost her lunch. After we finally got a word in, we told her that chicken farm was not in this County and there wasn't anything we could do about it. She proceeded to leave our office with the chicken parts still on the floor. That was a memory. As I've told you all many, many times you have an amazing staff here now. I have full confidence in all of them that they will continue their dedication and keep it a good place. Thank you.

Chairman Turman – Every time I have come into this building, every one of them has been working. They are always at their desk working. They are so quiet I accuse them of being mad at each other.

Vice Chairman Boothe – I just have one question. Did Wister or Hamilton have to clean it up?

Ms. Morris – I think I did it, I believe.

Vice Chairman Boothe – Of course.

Supervisor Yoder – Ms. Morris was always cleaning up the messes of others.

By consensus the Board of Supervisors agreed to pay Ms. Morris for her accumulated annual and sick leave at an amount previously discussed.

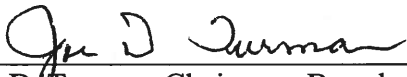
Agenda Item 10. – Adjournment.

Chairman Turman – I will announce that we will be meeting within 15 days at an undisclosed location for interviews of prospective applicants for the County Administrator position.

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Yoder, and carried, it was resolved to adjourn the meeting to January 4, 2021 at 5:30 p.m.



Terri W. Morris, County Administrator



Joe D. Turman, Chairman, Board of Supervisors