

**BOARD OF SUPERVISORS
REGULAR MEETING
NOVEMBER 27, 2018**

At a regular meeting of the Board of Supervisors of Floyd County, Virginia, held on Tuesday, November 27, 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 Turman, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to approve the November 2018 month-end disbursements as presented.

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

Agenda Item 6. – Public Hearing on a petition for the abandonment altogether as a public road of Oak Hill Drive, SW, beginning at the Floyd County Public Schools property and Baker Street, beginning at the intersection of Baker Street and Woods Gap Road.

Ms. Morris read the call for the Public Hearing and noted that it was published in the November 1, 2018 and November 8, 2018 editions of *The Floyd Press* and also posted on the County's web site.

Chairman Yoder called the Public Hearing open on “a petition for the abandonment altogether as a public road of Oak Hill Drive, SW, beginning at the Floyd County Public Schools property and Baker Street, beginning at the intersection of Baker Street and Woods Gap Road.”

Mr. Greg White, Courthouse District – I have the white house right beside the school and we are here tonight to find out basically if this petition harms us. For our property the only access we have is from Oak Hill Drive to the alley. We don't have the driveway. I do believe that where the old road goes in front of the houses down there by us ends before our house. I think the School Board still has the flat property at the bottom of our hill. That is why we are here tonight – to find out if this concerns us and exactly what your plans are. Is it going to be closing off the road and what that may entail? Thank you.

Chairman Yoder – Tonight we will take comments from the public. We don't necessarily have to take action on anything tonight. If we hear from people that there are concerns, we will try to rectify that situation before we take action.

Supervisor Boothe – If you noticed there is a pole across the road from the elementary school at the playground and there was a white notice attached to that pole.

Mr. White – I didn't notice that.

Supervisor Boothe – The road is looking to be abandoned from that point around to the high school and down to the road down there. There is a long section of that road which will stay in state maintenance.

Chairman Yoder – Let's continue the public hearing and we will take a break and we have a map here and you can talk to him.

Supervisor Kuchenbuch – I would like to say something. I know the Whites and have known them for years. Your house was one of the things I was most concerned about. I'm not your supervisor but I try to take into account all of our citizens and your house in particular did trouble me as to how and where and what. Just know we are thinking about you.

Mr. White – Thank you. Our access is through that alley.

Chairman Yoder – If you will hang around for a minute we will look at the map and talk about it.

After no further comments from the audience, the Chairman declared the Public Hearing closed. A short break was taken.

Chairman Yoder – My position is that we should not take any action on this at this time. Quite honestly the way I would vote on it would be determined by whether we did any renovations on the Career and Technical School. Without renovations it kind of makes it a moot point.

Supervisor Kuchenbuch – I would like to have Justin's [Supervisor Coleman's] thoughts from the safety point of view and not just students but if there was a fire and you don't have enough ingress and egress to get everybody where they need to be. I don't want to create a situation where we are trapping people. There is a lot to discuss.

Supervisor Boothe – I have been thinking about if they put that across from the main building to the vocational building, like you said there is one access to the high school and one access to the elementary school.

Chairman Yoder – I think that is the reason in some of the plans if they expanded Career and Technical there would be a driveway from the parking lot of the Career and Technical around the building to connect it, but it would still not be a public road. There are still a lot of things to think about within the school property and there are things to think about outside the school property. Quite honestly if we abandon the road all that maintenance falls back on us which is another part of the equation. That would be a lot of money if we had to repave it.

Supervisor Boothe – Just the snow removal would be a lot even without thinking about paving it.

Chairman Yoder – I'm glad we had the public hearing so we could hear your concerns. We appreciate your coming out. We will keep considering all of the different issues and make sure they are covered before we do anything.

Agenda Item 5. – Constitutional Officers' Report.

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

- 1) Provided an update of recent cases handled by the office.
- 2) Unsung heroes in the courthouse – Ms. Judy Bell and Ms. Penny Holley are the General District Court Clerks. In just the past few years the caseload, particularly for Juvenile Court and the child custody hearings has been increasing. They are adding extra court cases all the time. They have to keep up with the paperwork that is being generated in the court as well as people going through the process. They are doing a lot of work and we generally don't hear or see them. They are quietly in the courtroom going back and forth. The caseload they have is far heavier than what you have in Circuit Court. There are different things going on in each of course. They deal with a lot of paperwork and they do a great job keeping it all straight. They let us know when we are not doing it right. They are two unsung heroes of keeping the system going that you don't really notice until something messes up or they are not there.
- 3) Civil Asset forfeiture – Taking property in relation to a criminal event, usually involved in the drug trade. Citizens have a concern that this creates a profit motive for law enforcement.
 - a. Concern a result of federal government approach – They have a certain amount of evidence that a person is involved in the drug trade and they can seize property without actually bringing criminal charges.
 - b. Commonwealth of Virginia – There are more restrictions than the federal government and most other states. First we have to bring the charge. It has to involve drug distribution or manufacturing, not mere possession. The property seized has to be involved in the drug trade.
 - c. Floyd Commonwealth Attorney's Office – Our policy is to wait until we have a conviction or a person voluntarily gives up their property. Cars are the number

one thing we end up with because they are caught transporting the drugs. Even growing one marijuana plant would be considered manufacturing, but our policy is that it has to be a large significant grow for us to do anything toward asset forfeiture. We draw a line and go for major production and distribution. We are more aggressive than other Commonwealth Attorney's Offices in the New River Valley. When the Drug Task Force dissolved, we accounted for approximately 83% of the assets subject to forfeiture. In my estimation that was because of the extra work required to run these cases separately from the civil cases. We had the benefit of my assistant Ryan [Hupp] had a background in the civil field. I do the criminal side; he does the civil side of asset forfeiture and we keep it separate.

Agenda Item 7. – Public Comment Period.

Chairman Yoder called for the Public Comment Period.

Mr. Bob Smith, Indian Valley District – Good evening. I just wanted to greet all of you. I appreciate that you are out here on a snowy night as I know I had to be here. As always I just want to remind everyone that we need to preserve Floyd County. The best way we can do that is vote no on cluster and high-density development. It's not going to work here. I see a cascade of bad things that could happen once it comes in. So again please vote no on cluster development and high-density development. Thank you.

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

Agenda Item 8. – Mr. Billy Newcomb – Draper Aden Associates.

Mr. Billy Newcomb – I am here to update you on two issues related to the closed landfill:

1. Ongoing stormwater control activity –
 - a. Back in 2016 Department of Environmental Quality (DEQ) conducted site inspections and noticed that the stormwater control basin was filling up with sediment and the overflow structure had normal wear and tear.
 - b. They requested we repair the structure and dredge the sediment so that it would become a retention basin again.
 - c. They noticed severe erosion on the sides of the landfill itself in two erosion channels.
 - d. We worked with the County to hire a contractor who cleaned out the sediment basin, which has been working great.
 - e. The two erosion channels were lined with large rock and repurposed concrete. It held pretty well but there has been a lot of intense rain these days and we are seeing more erosion. In a recent inspection DEQ pointed that out and said we need to look at that.
 - f. The smaller erosion channel we can continue to line with rock and at some point we will be able to keep that together.
 - g. For the larger erosion channel it is not feasible to line it. We are looking at redoing the contour and grading to keep water away. While it will flow in that direction, we want to dissipate the energy and spread the same volume of water and direct it away from the larger channel.

- h. We have submitted this proposal to DEQ and we haven't heard back. We are waiting for their concurrence or their comments.
2. Corrective action groundwater program –
- a. This involves corrective action permit amendments and going through a groundwater monitoring program, called MNA (monitored natural attenuation). We are establishing the evidence that the bacteria and microbe entities that are in the ground already are in fact working consuming and degrading the contaminants in the groundwater.
 - b. You've stopped the source in that the landfill is no longer used. It has been covered and capped.
 - c. There is good grading which is reducing the leaching. The source is contained and controlled. The microbes need to do their thing which takes time.
 - d. Every 4 years we have to update DEQ on the status of corrective action, which we did most recently in 2017. We submitted the Corrective Action Status Evaluation (CASE). The latest was in August 2017.
 - e. We got comments from DEQ on the CASE report. They have focused on this part of the landfill.
 - f. DEQ's overarching recommendation is that we address their comments in an interim measures approach. It maintains the current status of the corrective action permit for the landfill. It allows us to work at improving the corrective action process within the permit. We can do an iterative approach by doing a pilot test and see if it is working right and buy some time for monitoring. This keeps oversight in the same division and doesn't bring in other parts of DEQ.
 - g. On December 17 we owe DEQ a work plan, which is a proposal on what we are going to do to address their comments.
 - h. There are two primary issues they are concerned about. One is the general pace of natural attenuation to show that we will ultimately degrade the concentrations to below the drinking water standards. We have just a handful of anolytes, chemicals in the groundwater, that are exceeding the facility groundwater protection standards. They exceed by sometimes 5 or sometimes 1 parts per billion. We are right there.
 - i. Comments from DEQ is that they need to know our end game to get this done.
 - j. In our corrective action plan we said that if we need to, every now and then we will give a little juice to the MNA process by injecting substrate, which is food grade vegetable oil for the bacteria.
 - k. DEQ's second concern is the orange we have seen in the creek. At one surface water location at the end of the underdrain pipe where it comes up it is clear, but if you go a foot or two down you see the orange because the water is mixing with the atmosphere and oxygen.
 - l. The second issue we are proposing in the December 17 work plan is to cap the underdrain, which will allow water to fill but then be static. The longer it stays in the ground, the more degradation we will have. It should reduce the load of iron in the stream which should knock out the matting.
 - m. We are also looking at putting in some passive flow through aeration systems in that monitoring location which will help to knock out the iron immediately there.

Agenda Item 9. – Closed Session.

On a motion made by Supervisor Boothe, and seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to go into closed session under Section 2.2-3711, Paragraph A. 1., Discussion, consideration, or interviews of prospective candidates for employment: assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body.

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

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

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

On a motion of Supervisor Boothe, seconded by Supervisor Kuchenbuch, 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 Personnel in accordance with Section 2.2-3711, Paragraph A.1 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 Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

This certification resolution was adopted.

Agenda Item 10.a. – Appointments (2) to the Floyd County Economic Development Authority (EDA), four year terms.

Ms. Morris – You have two open appointments on the EDA.

Chairman Yoder – We had some very good candidates this time. I really appreciated everybody that applied. It is a very active Board right now. It is an exciting time to be part of the EDA and I think that was reflected by having multiple candidates.

On a motion of Supervisor Boothe, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to reappoint Mr. George Nester to the Economic Development Authority for a four year term.

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

On a motion of Supervisor Turman, seconded by Supervisor Coleman, and carried, it was resolved to reappoint Mr. Daniel Vest to the Economic Development Authority for a four year term.

Supervisor Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – no
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 10.b. – Acceptance of Abstract of Votes for November 2018 General Election held on November 6, 2018 for the United States Senate; House of Representatives; Proposed Constitutional Amendment Question 1; and Proposed Constitutional Amendment Question 2.

Ms. Morris – Item 10.b. is the Acceptance of the Abstract of Votes from the November election. The Board is not approving the counts. We just have to show you accepted them in our minutes.

On a motion of Supervisor Boothe, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to accept the Abstract of Votes for November 2018 General Election held on November 6, 2018 for the United States Senate; House of Representatives; Proposed Constitutional Amendment Question 1; and Proposed Constitutional Amendment Question 2.

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

Agenda Item 10.c. – Request from Boy Scouts of America for Tax Exemption – Resolution.

Ms. Morris – The next item is the request from the Boy Scouts for tax exemption. We had this on the agenda last time. We heard from the County Attorney. There are 17 pages in State Code of organizations that are exempt already. Mr. Durbin said we could go ahead and do a resolution to endorse the request and provide the resolution to the Commissioner of Revenue.

Vice Chairman Turman – Do all the other counties they are in provide this exemption?

Ms. Morris – Yes, they have to because they are listed in the State Code.

On a motion of Supervisor Boothe, seconded by Supervisor Turman, and unanimously carried, it was resolved to adopt a resolution to endorse the tax-exempt status for real and personal property owned by the Boy Scouts of America in Floyd County, Virginia and requests that the Commissioner of Revenue of Floyd County, Virginia indicate this status on official records of the County (Document File Number (1017).

Supervisor Boothe – yes

Supervisor Coleman – yes

Supervisor Kuchenbuch – yes

Supervisor Turman – yes

Supervisor Yoder – yes

Agenda Item 10.d. – Legislative Recommendations for the 2019 General Assembly.

Ms. Morris – Do you have any additions, corrections, or deletions to the draft of the Legislative Recommendations for the 2019 General Assembly?

Supervisor Kuchenbuch – I like your new format.

Ms. Morris – We tried to contact the Legislators to see if they could attend the December meeting. Mr. Rush had a previous commitment in Richmond and he cannot be here. Mr. Suetterlein cannot get here until after lunch. Do you want to invite him?

Supervisor Kuchenbuch – There needs to be a correction on the second bullet on the last page. It needs to read Floyd County supports changes to “simplify” VDoT’s Smart Scale process.

Chairman Yoder – I would love for our State Senator to come even though it would put us into the afternoon. I feel like I go to Richmond all the time and it would be nice for them to come here if they are willing.

Ms. Morris – We can ask him to come at 1:00 p.m. so we will have time to go to Indian Valley Elementary School for lunch.

Supervisors Boothe – I have a question about the second item under Economic Development/Planning. What areas does that include? What were you thinking about “for improved truck access in and around the Town of Floyd”?

Chairman Yoder – We were thinking about the problem of turning into the Commerce Park across Christiansburg Pike.

Ms. Morris – Also the sharp curve on Parkview Road near the Legacy Building. We are not talking about a bypass.

Chairman Yoder – We have talked about getting the corner straightened out a little bit, the sight distance at Legacy for the left hand turn, roads matching up at the Commerce Center, and the left hand turn onto Christiansburg Pike.

Supervisor Kuchenbuch – I like that you used the phrase “workforce housing”. I think it looks great. For me, it is everything we’ve talked about.

By consensus the Board members approved the Legislative Recommendations for the 2019 General Assembly as presented (Document File Number (1018)).

Agenda Item 10.e. – Draft Resolution Concerning Cigarette Tax Legislation.

Ms. Morris – From reading the minutes of the last meeting I take it you have no interest in joining the Tax Fairness Coalition. If you are just interested in the cigarette tax, we have this draft resolution.

On a motion of Supervisor Turman, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to adopt a resolution to expressing Floyd County Board of Supervisors enthusiastic support for State legislation that would grant Counties the authority to levy a new tax on retail tobacco products including cigarettes, if and when such a measure was either approved by a majority vote of the Board of Supervisors or said measure was placed on a referendum and the voters passed said referendum by a majority vote (Document File Number (1019)).

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

Agenda Item 11. – Old/New Business.

Ms. Morris – For several years we’ve had the Fire and Rescue Equipment Committee. The Fire Department has already asked if we would be continuing with that.

Vice Chairman Turman – I think it is a good thing.

The other Board members concurred that this committee should continue and that Supervisors Coleman and Turman should continue to serve as their representatives to the committee.

Ms. Morris – When we originally started this committee we sent a letter to both the Fire Department and to Rescue organizations to get their recommendations for a person to serve as community members. Last year the Rescue committee representative did not participate in any of the reviews. The other person who served is now a chief at the Fire Department so we probably need someone else to serve for them. If it is okay with you I will send a letter to each organization. We will work on getting committee members.

Supervisor Boothe – I noticed on the Expenditure report that most departments are in the high 60% range of remaining budget, except for the E911 fund which is at 42% left in that budget item. Is that because we have already purchased some of the equipment?

Ms. Ryan – The call handling equipment has been encumbered but has not been paid for yet. But the encumbrance ties up the money so that it is no longer available for something else.

Ms. Morris – I sent you an email and gave you a copy of information about the Career Fair. We are very pleased with how that turned out.

Chairman Yoder – Please get the evaluation that was in your packet filled out. It is important. Get it to me before the December 11 meeting. Also, I serve on the Agriculture and Environment Committee on VACo. We've been dealing a lot with solar and how some large solar projects are getting tax breaks by the General Assembly but the tax breaks are of local money. The Code is so hard to understand that different people have different ideas. Counsel at VACo came up with a spreadsheet that shows what counties have to deal with because of tax breaks. Counties east of us are seeing a lot of agricultural land taken up by big solar farms and the counties are not getting any money from them. This may not impact us but the chart provides some good information.

Supervisor Kuchenbuch – I forwarded an email to you today. APCO is looking at 200MW which would give us control to not let them be exempt. We would have the option to tax them, but they could get creative.

Supervisor Boothe – The Blue Ridge Heritage Foundation is applying for an Appalachian Regional Commission grant for design and construction. We will ask for a letter of recommendation from the Town of Floyd, the Floyd County Board of Supervisors and other interested entities. I will get that information to you next week.

Agenda Item 12. – Adjournment.

On a motion of Supervisor Turman, seconded by Supervisor Coleman, and carried, it was resolved to adjourn to Tuesday, December 11, 2018 at 8:30 a.m.

Supervisor Boothe – yes

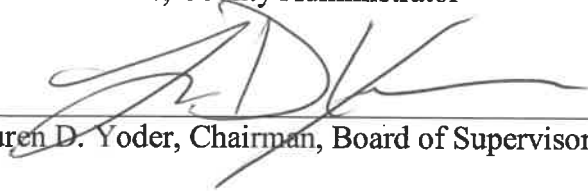
Supervisor Coleman – yes

Supervisor Kuchenbuch – yes

Supervisor Turman – yes
Supervisor Yoder – yes



Terri W. Morris, County Administrator



Lauren D. Yoder, Chairman, Board of Supervisors