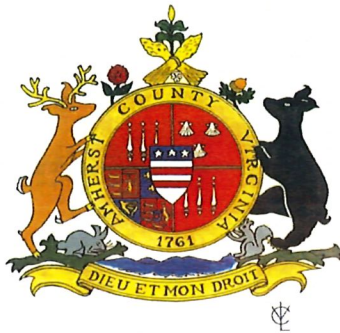


Board of Supervisors

Claudia D. Tucker, Chair
District 2
David W. Pugh, Jr., Vice-Chair
District 4
L. J. Ayers III, Supervisor
District 3
Kenneth M. Campbell, Supervisor
District 1
John A. Marks, Jr., Supervisor
District 5



County Administrator
Dean C. Rodgers

Interim County Attorney
Michael W. S. Lockaby

AMHERST COUNTY BOARD OF SUPERVISORS

MINUTES

AGENDA
October 3, 2017
Administration Building - 153 Washington Street - Public Meeting Room
Amherst, Virginia 24521
1:00 p.m.

- I. Call to Order**
- II. Invocation and Pledge of Allegiance**
- III. Approval of Agenda**
- IV. Citizen Comment**
- V. First Readings**
 - A. Ordinance 2017-0007, amending §§ 15-122 and 15-123 of Article IV of Chapter 15 of the Amherst County Code to increase water and sewer service charges and fees.
 - B. Ordinance 2017-0006, amending § 916 of Appendix A to the Code of the County of Amherst to eliminate the regulations that limit the use of a short-term tourist rental of a dwelling in a platted subdivision.
- VI. Consent Agenda**
 - A. Minutes - September 5, 2017
 - B. Finance - FY18 Appropriation of Revenue: 1. Sheriff's Office 2. Human Society
 3. Tourism 4. Clerk Circuit Court 5. Commonwealth's Attorney
- VII. Special Presentation**
 - A. Delegate Ben Cline
 - B. Delegate T. Scott Garrett
 - C. Senator Mark J. Peake
- VIII. New Business**
 - A. Planning/Zoning - Resolution 2017-0026-R, a resolution, requesting the Virginia Department of Transportation add two streets (Stonefield Court and Mansfield Drive) located in the Pleasant Ridge Estates Subdivision to the secondary system of state highways, pursuant to Virginia Code §33.2-705, and the Department's Subdivision Street Requirements.
- IX. County Administrator's Report**
 - A. Projects Status Report

X. Liaison and Committee Reports

- A. Region 2000 Workforce Development Council
- B. Region 2000 Local Government Council

XI. Departmental Reports

- A. Finance - General Fund Availability
- B. Department Spotlight - Planning/Zoning

XII. Citizen Comment

XIII. Matters from Members of the Board of Supervisors

XIV. Adjournment

MINUTES

At a Regular Meeting of the Board of Supervisors of Amherst County, Virginia and held at the Amherst County Administration building thereof on Tuesday, the 3rd day of October 2017, at 1:00 p.m., the following members were present:

BOARD OF SUPERVISORS:

PRESENT:	Claudia D. Tucker, Chair David W. Pugh, Jr., Vice-Chair Kenneth M. Campbell, Supervisor L. J. Ayers, III, Supervisor John A. Marks, Jr., Supervisor	ABSENT: None
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STAFF PRESENT: County Administrator Dean C. Rodgers; Deputy County Administrator David R. Proffitt; Interim County Attorney Michael W. S. Lockaby; and Executive Administrative Assistant Regina M. Rice

OTHERS PRESENT: Service Authority Director Bob Hopkins
Planning/Zoning Director Jeremy Bryant

I. Call to Order

Chair Tucker called the meeting to order at 1:00 p.m.

II. Invocation and Pledge of Allegiance

Supervisor Marks led the Invocation and Pledge of Allegiance.

III. Approval of Agenda

By motion of Supervisor Ayers and with the following vote, the Board approved the Agenda for October 3, 2017.

AYE:	Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY:	None
ABSTAIN:	None

IV. Citizen Comment

Mr. Sammy Mays of Amherst, Virginia, addressed the Board on behalf of the Pedlar Ruritan Club. Mr. Mays asked permission to use the Pleasant View Elementary School building to hold

a function on October 28. Mr. Mays said this event would be a fall festival and include a "trunk or treat" and local talent playing music.

Chair Tucker informed the Board she would respond to the request by Mr. Mays and asked County Administrator Rodgers to look into a process for using this building.

Supervisor Marks commented that the County Administrator should also look at liability issues.

By motion of Supervisor Marks and with the following vote, the Board directed the County Administrator develop a policy for the use of this facility.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

V. First Readings

A. Ordinance 2017-0007, amending §§ 15-122 and 15-123 of Article IV of Chapter 15 of the Amherst County Code to increase water and sewer service charges and fees.

Service Authority Director Robert Hopkins addressed the Board regarding Ordinance 2017-0007 pertaining to the 2018 water and sewer rates adjustments. Mr. Hopkins advised the water and sewer rate increase has been advertised and requested that the ordinance move forward to a public hearing on October 17, 2017.

By motion of Supervisor Marks and with the following vote, the Board directed staff to schedule and announce an October 17th public hearing to consider water and sewer rate adjustments.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

B. Ordinance 2017-0006, amending § 916 of Appendix A to the Code of the County of Amherst to eliminate the regulations that limit the use of a short-term tourist rental of a dwelling in a platted subdivision.

Planning/Zoning Director Jeremy Bryant presented his report regarding an amendment to § 916 of Appendix A concerning short-term tourist rentals of a dwelling. This would also include Air B-n-Bs, which is a rental of a dwelling for a period of less than thirty consecutive days in subdivisions.

Mr. Bryant explained it is difficult defining platted subdivisions, and the current regulation "over-regulates" all short term tourist rentals.

The Planning Commission recommended adoption of this amendment by removing number 9 of the ordinance and thus allowing a person to submit an application through the special exception process.

Vice-Chair Pugh asked about the procedure if a person rents a dwelling on a short term basis that is detrimental to the subdivision, creating a public nuisance.

Mr. Bryant said this amendment will allow residents in a platted subdivision to come to the Planning Commission and ask for permission. The process would ensure that all questions are addressed, including public safety and traffic.

County Attorney Mike Lockaby explained two specific ways that the Board would be allowed to enforce this. Mr. Lockaby said the Planning Director could issue a notice of violation, and if it

is a violation of a special exception or special use permit, the Board can then revoke it based upon the violation.

Vice-Chair Pugh expressed his concern about having short-term tourist rentals across from his property.

By motion of Supervisor Campbell and with the following vote, the Board directed staff to advertised Ordinance 2017-0006 for a public hearing on October 17, 2017.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

VI. Consent Agenda

- A. Minutes - September 5, 2017
- B. Finance - FY18 Appropriation of Revenue: 1. Sheriff's Office 2. Human Society
- 3. Tourism 4. Clerk Circuit Court 5. Commonwealth's Attorney

By motion of Supervisor Ayers and with the following vote, the Board approved the Consent Agenda for October 3, 2017.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

VII. Special Presentation

- A. Delegate Ben Cline
- B. Delegate T. Scott Garrett
- C. Senator Mark J. Peake

The Board welcomed Delegates Cline and Garrett and Senator Peake. Each gentleman provided the Board with updates on current issues and received comments from Board members regarding issues affecting Amherst County.

VIII. New Business

- A. Planning/Zoning - Resolution 2017-0026-R, a resolution, requesting the Virginia Department of Transportation add two streets (Stonefield Court and Mansfield Drive) located in the Pleasant Ridge Estates Subdivision to the secondary system of state highways, pursuant to Virginia Code §33.2-705, and the Department's Subdivision Street Requirements.

Planning/Zoning Director Jeremy Bryant presented his report regarding two streets, Stonefield Court and Mansfield Drive, which have been constructed to VDOT's standards and are ready to be taken in the secondary system of state highways.

Mr. Bryant asked that the Board consider adoption of Resolution 2017-0026-R.

By motion of Supervisor Ayers and with the following vote, the Board adopted Resolution 2017-0026-R. (See Attachment 1)

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

IX. County Administrator's Report

- A. Projects Status Report

County Administrator Rodgers provided the Board the following updates:

- 1) County-wide Broadband - received an unsolicited PPEA proposal for broadband services for the County and he will bring that to the Broadband Authority Board; and
- 2) Winton Country Club - Judge Garrett recused himself from the case and Judge Yeatts appointed himself to the case. The County is now waiting for Clerk of the Court to issue the publication order to allow time for public comment on the case

X. Liaison and Committee Reports

- A. Region 2000 Workforce Development Council
- B. Region 2000 Local Government Council

For Board information.

XI. Departmental Reports

- A. Finance - General Fund Availability

County Administrator Dean Rodgers reported that as of September 30, 2017, there is available to the Board \$2,162,067, which is unobligated or unassigned. Assigned and committed funds include the entire five year Capital Improvement Plan.

- B. Department Spotlight - Planning/Zoning

This item was not presented.

XII. Citizen Comment

There was no public comment.

XIII. Matters from Members of the Board of Supervisors

Supervisor Campbell had no matter to discuss.

Supervisor Ayers had no matter to discuss.

Vice-Chair Pugh had no matter to discuss.

Chair Tucker had no matter to discuss.

Supervisor Marks read the following statement:

"Madam Chair: I would like to address some comments made and some not made in the Board's pleading for relief in the Winton Country Club matter. Let me state at the very beginning that my comments are made from a layman's point of view, since I certainly am not qualified to judge the legal aspects of these pleadings. Aside from the fact I find it interesting that it seems the Board's argument for relief is based on the premise that the Attorney General made an error in his 1982 opinion that a trust was created, I have two items of concern:

My first comment deals with the COMPLAINT FOR DETERMINATION THAT AN ORAL CHARITABLE TRUST WAS NOT CREATED OR, IN THE ALTERNATIVE, FOR APPROVAL OF THE TERMINATION OR MODIFICATION OF A CHARITABLE TRUST, item number eight(8). The statement reads as follows, "The County recently identified a potential purchaser/developer that would have provided for the management and operation of the golf course, hospitality services, social memberships and pool, but which required that the County convey clear title of the Winton Farm. As the County was not able to assure clear title, the purchaser/developer declined to make a formal proposal on the transaction. The County and the EDA believe that the

purchaser/developer might yet be interested and that other potential purchaser/developers might also be identified and become interested in the Winton Farm.” I am of the opinion that the words “The County and the EDA believe that the purchaser/developer might yet be interested” should be modified to at least remove the reference to the County. I cannot speak about the EDA because I have no way of knowing what they knew. However, as a member of this Board I had no reason to believe that the same purchaser/developer might still be interested in purchasing Winton. To the contrary, I had every reason to believe that this purchaser/developer was no longer interested. My support for this conclusion rests in the actions of Supervisor Ayers, who is employed by this purchaser/developer. Supervisor Ayers was at the forefront of trying to remove the cloud from the Winton title and he has repeatedly indicated that he does not know if his employer would again be interested in seeking to purchase Winton. On April 18, 2017 Supervisor Ayers made two motions, one that made the EDA the agent for finding a business or potential developer for Winton, and one that would hire private legal counsel to work with the EDA. On August 1, 2017 Supervisor Ayers voted with the majority to proceed with a lawsuit to remove the cloud on the Winton title. I consider Supervisor Ayers to be an honorable person, with integrity, and I am convinced he would not have taken these positions if he had any reason to believe his employer was still interested in purchasing the Winton Country Club. To indicate the County, this Board, believes this purchaser/developer is possibly still interested in purchasing Winton could be interpreted to convey the idea this Board believed this all along. Such an interpretation, I believe, casts this Board in a bad light. I see no reason for these words to be in the pleadings and believe they should be eliminated.

My second comment deals with something that was not included in the submitted pleadings that I could find. In a Memorandum to the Board of Supervisors, dated April 10, 2017, to provide the Board guidance, the former County Attorney made the following statement, “Matt and I continue to stand behind our original legal guidance that the Winton property is in the form of a restricted gift; and that the Attorney General and the Circuit Court will require clear evidence supporting the County’s arguments that the restrictions must be lifted to allow redevelopment of the property. Our legal guidance is supported by an opinion from an Attorney General who later became Governor of Virginia, and two law professors, including one who co-authored the amici brief in the Sweet Briar case.” I have read the pleadings several times and can find no reference to the fact that opinions have been rendered that Winton could be a restricted gift. Consequently, it seems to me this Board finds itself in a situation where it has knowledge of an opinion rendered by the former County Attorney, one outside counsel hired by this Board, and two law professors that the Winton property is in the form of a restricted gift and we have not made that information available to the court. From a legal standpoint I do not know our obligation, however, from a layman’s perspective it troubles me that this information has not been made available to the Court as a part of these pleadings.

Consequently I would make a motion that our Special Counsel:

- 1. Provide this Board why he thinks the County (This Board) believes that the purchaser/developer might yet be interested in Winton and why such a statement provides some legal assistance to the discussion concerning the Oral Trust.*
- 2. Provide this Board the reason why it was not necessary to include the rendered opinion by the former County Attorney, former outside counsel hired by this Board, and two law professors that Winton is in the form of a restricted gift as part of the pleadings.*

Thank you”. (See Attachment 2)

Chair Tucker stated that the motion was on the floor.

Chair Tucker commented that the County is in the middle of the legal case and this issue has been handed over to the EDA for marketing. She said she has no "appetite" to pursue anything that could endanger our legal standing or progress the County is making; and furthermore, did not have any issue with Supervisor Marks contacting legal counsel directly to speak with them.

Supervisor Marks made the following motion:

"Consequently I would make a motion that our Special Counsel:

1. Provide this Board why he thinks the County (this Board) believes that the purchaser/developer might yet be interested in Winton and why such a statement provides some legal assistance to the discussion concerning the Oral Trust.
2. Provide this Board the reason why it was not necessary to include the rendered opinion by the former County Attorney, former outside counsel hired by this Board, and two law professors that Winton is in the form of a restricted gift as part of the pleadings".

ROLL CALL VOTE

Supervisor Marks	AYE
Supervisor Campbell	NAY
Supervisor Ayers	AYE
Vice-Chair Pugh	AYE
Chair Tucker	NAY

County Administrator Rodgers said he would schedule Mr. Darby to answer those questions via email or at the next meeting.

XIV. Adjournment

By motion of Supervisor Marks and with the following vote, the Board adjourned at 2:07 p.m.

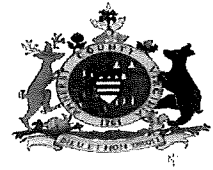
AYE:	Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY:	None
ABSTAIN:	None



Claudia D. Tucker, Chair
Amherst County Board of Supervisors



Dean C. Rodgers, Clerk



Amherst County Board of Supervisors
County Resolution No. 2017-0026-R

For consideration on October 3, 2017

A RESOLUTION, NO. 2017-0026-R

A resolution, requesting the Virginia Department of Transportation add two streets (Stonefield Court and Mansfield Drive) located in the Pleasant Ridge Estates Subdivision to the secondary system of state highways, pursuant to Virginia Code §33.2-705, and the Department's Subdivision Street Requirements.

Approved as to form by the County Attorney

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

I. That the Board of Supervisors of Amherst County ("Board") hereby requests that the Virginia Department of Transportation ("Department") take certain subdivision streets into the secondary system of state highways, as follows:

WHEREAS, § 33.2-705 of the Code of Virginia provides authority for the Department to add new streets to the secondary system of state highways from time to time as public safety or convenience may require; and

WHEREAS, the streets described on Additions Form AM-4.3 (hereafter, "Streets"), which Form is attached hereto and fully incorporated herein as Exhibit A to this resolution, are shown on plats recorded in the Clerk's Office of the Circuit Court of Amherst County in Plat Cabinet 3, slide 3-14, and at Deed Book 1207, Pages 48-52; and

WHEREAS, the Area Land Use Engineer for the Department has advised the Board that the Streets meet the requirements established by the Department's Subdivision Street Requirements; and

WHEREAS, the Board, as the governing body of Amherst County, wishes to request the addition of the Streets to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

That the Amherst County Board of Supervisors requests that the Department add the Streets, described on the attached Additions Form AM-4.3, to the secondary system of state highways, pursuant to Virginia Code §33.2-705, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED:

That the Amherst County Board of Supervisors guarantees a clear and unrestricted right of way, as described on the attached Additions Form AM-4.3, and any necessary easements for cuts, fills and drainage, as of the date of this resolution.

BE IT FURTHER RESOLVED:

That the Clerk is instructed to send a certified copy of this resolution to the Department's Area Land Use Engineer.

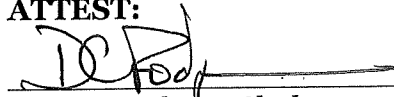
II. That this resolution shall be in force and effect upon adoption.

Adopted this 3rd day of October, 2017.



Claudia D. Tucker, Chair
Amherst County Board of Supervisors

ATTEST:



Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

Ayes 5

Nays Ø

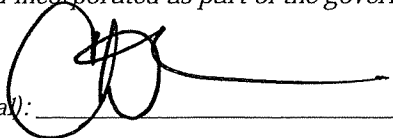
Abstentions Ø

In the County of Amherst

By resolution of the governing body adopted October 3, 2017

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee

Signed (County Official): 

Report of Changes in the Secondary System of State Highways

Project/Subdivision Pleasant Ridge Estates

Type Change to the Secondary System of State Highways:

Addition

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change: New subdivision street

Pursuant to Code of Virginia Statute: §33.2-705

Street Name and/or Route Number

◆ Stonefield Court, State Route Number 1154

Old Route Number: 0

- From: Int. Rte. 1150

To: 0.23 Mi. S. Rte. 1150, a distance of: 0.23 miles.

Recordation Reference: BK 1207, PG 48-52; PC 3, SL 3-14

Right of Way width (feet) = 50

Street Name and/or Route Number

◆ Mansfield Drive, State Route Number 1155

Old Route Number: 0

- From: Int. Rte. 1150

To: 0.29 Mi. N. Rte. 1150, a distance of: 0.29 miles.

Recordation Reference: BK 1207, PG 48-52; PC 3, SL 3-14

Right of Way width (feet) = 50

Street Name and/or Route Number

◆ Mansfield Drive, State Route Number 1155

Old Route Number: 0

- From: 0.10 Mi.S. Rte. 1150

To: Int. Rte. 1150, a distance of: 0.10 miles.

Recordation Reference: BK 1207, PG 48-52; PC 3, SL 3-14

Right of Way width (feet) = 50

Presented under comments from the Board at the October 3rd, 2017 Board of Supervisors meeting.

Madam Chair: I would like to address some comments made and some not made in the Board's pleading for relief in the Winton Country Club matter. Let me state at the very beginning that my comments are made from a layman's point of view, since I certainly am not qualified to judge the legal aspects of these pleadings. Aside from the fact I find it interesting that it seems the Board's argument for relief is based on the premise that the Attorney General made an error in his 1982 opinion that a trust was created, I have two items of concern:

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