

**MINUTES**  
**Amherst County Board of Supervisors**  
**June 16, 2015 – 7:00 p.m.**

**Book 34**

- I. Call to Order
- II. Invocation and Pledge of Allegiance
- III. Approval of Agenda
- IV. Citizen Comments
- V. Special Presentation
  - A. Megan Lucas, Region 2000 Business and Economic Development Alliance Activity Report
- VI. Public Hearing
  - A. Board Appointments – School Board
  - B. Planning/Zoning – Special Exception Request #2051-02 – Stefany N. Krantz
- VII. Consent Agenda
  - A. Minutes – May 19, 2015
  - B. FY15 Appropriations – Receipt of Revenues (pass through)
- VIII. New Business
  - A. Planning/Zoning – Phelps Road Place Apartments II
  - B. Planning/Zoning - Proposed Wireless Communication Tower at Elon Elementary School
  - C. Brown Edwards FY15 Budget appropriation request for auditing services
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- X. County Administrator Report
- XI. County Attorney Report
  - A. Ordinance 2015-0004 – Business Licenses
- XII. Liaison and Committee Reports

- XIII. Departmental Reports
  - A. Building Safety and Inspections – May 2015
- XIV. Citizen Comments
- XV. Matters from Members of the Board of Supervisors
- XVI. Closed Session
  - A. Virginia Code § 2.2-3711 (A)(7): Consult with the County Attorney regarding actual litigation involving Sweet Briar College
- XVII. Adjourn

## MINUTES

At a regular meeting of the Board of Supervisors of Amherst County and held at the Administration building thereof on Tuesday, the 16<sup>th</sup> day of June, 2015, at 7:00 p.m. at which the following members were present:

BOARD OF SUPERVISORS:

PRESENT: Mr. David W. Pugh, Chairman  
Mrs. Claudia D. Tucker, Vice-Chairman  
Mr. Robert M. Curd, Supervisor  
Mr. John A. Marks, Jr.  
Mr. Donald W. Kidd, Supervisor

ABSENT: None

STAFF PRESENT: Dean Rodgers, County Administrator, David Proffitt, Deputy County Administrator, Ellen Bowyer, County Attorney, and Regina Rice, Executive Administrative Assistant.

OTHERS PRESENT: Austin Mitchell, Zoning Administrator/Planner

## I. Call to Order

Chairman Pugh called meeting to order at 7:00 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 Tucker and with the following vote, the Board approved the Agenda for June 16, 2015.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Curd, Mr. Marks and Mr. Kidd  
 NAY: None  
 ABSENT: None

#### IV. Citizen Comments

Ms. Amy Thompson of Madison Heights, Virginia, addressed the Board regarding the proposed cell tower at Elon Elementary School. Ms. Thompson voiced her opposition and provided a

handout to Board members concerning cell towers and emission of low radio frequencies to human life.

Ms. Thompson expressed her concern that homes would be devalued as well as the aesthetics to the neighborhood. She asked the Board to take a serious look at this issue and to place a moratorium on all cell towers in the County.

Chairman Pugh stated he will ask for a public hearing by the School Board on this matter.

Mr. Jason Ferguson of Madison Heights, Virginia addressed the Board concerning the cell tower issue and asked the Board to be objective and to find true transparency regarding this issue.

Mr. Jim Thompson of Madison Heights, Virginia, thanked the Board for placing this issue on the agenda regarding cell towers on school property. Mr. Thompson stated he spoke to the School Board and understood the agreement with Milestone Communications is to be rescinded. He is asking the Board of Supervisors to revise the current cell tower ordinance to exclude placing cell towers on school properties and minimum offsets to playgrounds. He asked the Board to declare a moratorium until the Board can make a decision to address this issue.

The citizen comment section was closed.

## **V. Special Presentation**

### **A. Megan Lucas, Region 2000 Business and Economic Development Alliance Activity Report**

Ms. Megan Lucas of Region 2000 addressed the Board and provided an update. She outlined her participation in numerous meetings and the potential of companies expanding here. Ms. Lucas advised that broadband was an issue and a critical element to recruiting and bringing businesses here. She stated that Central Virginia Training Center has an \$87 million dollar impact to our region and it is necessary to sustain this facility.

Ms. Lucas thanked the Board and said she enjoys working with Amherst County.

## **VI. Public Hearing**

### **A. Board appointments – School Board**

Chairman Pugh opened the Public Hearing for the District 2 and District 4 vacancies for the School Board.

Mr. Jim Thompson came forth and spoke in favor of Priscilla Liggon. Mr. Thompson stated he always found her to be a wonderful lady and of great character and would recommend Ms. Liggon's reappointment to the District 4 seat on the School Board.

The Public Hearing was closed.

Chairman Pugh stated the recommendations will be made at a special meeting on June 23, 2015 at 9:00 a.m.

### **B. Planning/Zoning – Special Exception Request #2015-02 – Stefany N. Krantz**

Austin Mitchell presented a report to the Board regarding approval of a special zoning exception allowing a tattoo studio in an existing structure located at 929 Wright Shop Road, Madison Heights, Virginia.

Mr. Mitchell stated that the Planning Commission recommended approval of this request at their May 21, 2015 meeting.

Chairman Pugh opened the Public Hearing for comment.

Ms. Stefany Krantz spoke in favor of this business and passed information to the Board that showed examples of her husband's work and certificate.

No one spoke against this issue.

Chairman Pugh closed the Public Hearing.

By motion of Supervisor Tucker and with the following vote, the Board approved Zoning request 2015-02 for a special exception for Ms. Stefany Krantz.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Curd, Mr. Marks and Mr. Kidd  
 NAY: None  
 ABSENT: None

## **VII. Consent Agenda**

### **A. Minutes – May 19, 2015**

Mr. Rodgers commented the May 19<sup>th</sup> Minutes improperly referred to "Delegate Tom Garrett". It should read as "Senator Tom Garrett" and corrections have been made.

### **B. FY15 Appropriations – Receipt of Revenues (pass through)**

By motion of Chairman Pugh and with the following vote, the Board approved the Consent Agenda with the amended changes to the minutes.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Curd, Mr. Marks and Mr. Kidd  
 NAY: None  
 ABSENT: None

## **VIII. New Business**

### **A. Planning/Zoning – Phelps Road Place Apartments II**

Mr. Rodgers explained that Ron Mittleman wants to construct a 34-unit apartment complex on Phelps Road. This will be in the same area as the 22 units are located and completed in 2013.

In an effort to receive some funding for this project, Mr. Mittleman is asking for a letter of support from the County to the Virginia Housing Development Authority (VHDA).

Supervisor Kidd voiced his concern that this will be a federal housing tax project for anyone in the United States who qualifies to move into and said his concern is if the County can continue to support projects such as this. Supervisor Kidd said there are issues with water lines that are too small to support fire suppression and he does not want to encourage this.

Supervisor Marks agreed with Supervisor Kidd and remarked that the water lines would need upgrading.

Supervisor Tucker stated she has visited the area and looked at the current facility. She believed Mr. Mittleman has done a good job and was pleasantly surprised. She does not

understand why there is no support by some Board members that allows housing for people who need services.

Supervisor Kidd asked if the County wanted to continue with the demographics going that way or to improve Amherst County.

Supervisor Tucker replied that the Board is not approving any action but supporting the issue of providing safe housing in the County.

Supervisor Kidd stated he understood the County cannot stop this project and that all Mr. Mittleman is asking the Board for is a letter of County support; however, Mr. Kidd does not want to continue putting a federal housing project on Phelps Road.

Chairman Pugh agreed with Supervisor Marks's previous statement and said there is not enough information about this project.

Mr. Rodgers appreciated the Board's concern with three members against sending a letter of support and he will inform Mr. Mittleman accordingly. Mr. Rodgers stated this will not prevent Mr. Mittleman from applying for funding.

#### B. Planning/Zoning - Proposed Wireless Communication Tower at Elon Elementary School

Chairman Pugh explained this issue stands with the School Board; however, the Board of Supervisors can look at the cell phone tower ordinance.

Supervisor Marks questioned if this cell tower will fix some dead areas that do not get coverage.

Chairman Pugh stated he does not know whether the motivation for this project is to fix a problem or be a revenue stream.

Supervisor Tucker would like the School Board to continue the process they are engaged in; have an open meeting to gather citizen comments and then come back to the Board of Supervisors with a recommendation.

Supervisor Tucker suggested there needs to be some clarification to understand the School Board's position of placing cell towers at the schools.

Chairman Pugh stated it would be advantageous to find out more information about this project and have the School Board allow citizens to speak at a public hearing.

Mr. Rodgers recommended sending a request to the School Board asking if the current ordinance needs to be amended regarding placing a distance limit on cell towers from school property.

By a motion of Supervisor Tucker and with the following vote, the Board of Supervisors requested the School Board gather information at a public forum then make a recommendation to the Board of Supervisors whether this ordinance should be amended to exclude school buildings.

AYE:	Mr. Pugh, Mrs. Tucker, Mr. Curd, Mr. Marks and Mr. Kidd
NAY:	None
ABSENT:	None

#### C. Brown Edwards FY15 Budget appropriation request for auditing services

Mr. Proffitt addressed the Board regarding a request to appropriate additional funds from the unobligated general fund to cover auditing cost for the 2014 FY Audit.

The Auditor of Public Accounts required for the 2014 FY Audit an examination of VRS pension records for an additional cost of \$4500.

By a motion of Supervisor Marks and with the following vote, the Board moved to appropriate \$9,563 from the unobligated general fund to budget line 11010-3002 for the 2014-2015 fiscal year to pay the cost of Brown Edwards invoice number 1142211 for completion of the County's Fiscal Year 2014 Audit.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Curd, Mr. Marks and Mr. Kidd  
 NAY: None  
 ABSENT: None

Supervisor Tucker asked Mr. Rodgers if there is a record keeping a running total of requests that come out of the unobligated general fund. Mr. Rodgers stated affirmatively and that he will submit a report to the Board on a quarterly basis.

#### D. Brown Edwards FY16 Budget appropriation request for auditing services

Chairman Pugh stated this is another request presented by Mr. Proffitt to amend the FY16 Budget by appropriating addition funds from the unobligated general fund to cover anticipated cost for the 2015 FY audit.

Supervisor Marks questioned why did the VRS audit drop from \$4500 last year to \$3500 this year. Mr. Rodgers advised that last year was the first time it was required and we now have this information in place. This is a requirement by the State in every audit.

By a motion of Supervisor Curd and with the following vote, the Board voted to appropriate \$7,900 from the unobligated general fund to budget line 11010-3002 for the 2015-2016 fiscal year to cover the cost of Brown-Edwards annual proposal.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Curd, Mr. Marks and Mr. Kidd  
 NAY: None  
 ABSENT: None

#### E. EDA – Re-purposing of EDA Funds for Economic Development Strategic Plan

Mr. Bill Robertson, Mr. Edgar Kinnier, Ms. Victoria Hanson and Mr. Mike Russell addressed the Board regarding the re-purposing of EDA funds for the Economic Development Strategic Plan.

Mr. Robertson explained the EDA is looking for approval for a matching fund for the Federal Economic Development Administration Strategic Plan grant. The EDA has approved Victoria Hanson as the authorized representative for these grant applications.

Ms. Hanson explained the strategic plan outline and will be hiring a consultant to look for strengths in Amherst County and to look where our time and money should be spent. Currently the EDA has three pending grants, one which is very favorable that requires matching dollars. \$54,000 has already been allocated and this money now needs to be re-purposed for strategic planning.

Ms. Hanson explained there are two more grants she must submit before the end of month to help with this funding with the prospect for a very good response.

Supervisor Marks questioned the grant for \$54,000 re-purposing and whether these grants are relative to Sweet Briar College or Central Virginia Training Center.

Ms. Hanson explained the plan and that due to what is happening at Sweet Briar College and Central Virginia Training Center, this is a window of opportunity to make our case for the EDA's strategic planning.

Mr. Rodgers explained the EDA currently has \$54,000 in this year's budget and in two weeks the budget year ends and this money disappears. The EDA is asking the Board to change the money from an operational line item to a general fund assignment, allowing the EDA to apply

for these grants. As an "assignment" of the general fund, the money will be carried forward in our general fund each year until the EDA spends it.

By a motion of Chairman Pugh and with the following vote, the Board approved the assignment of \$54,000 from the General Fund to strategic planning by the EDA.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Curd, Mr. Marks and Mr. Kidd  
 NAY: None  
 ABSENT: None

## **IX. Old Business**

### **A. Monelison Fire & Rescue Building Construction**

Chairman Pugh explained this matter was on the Board's Agenda last month and the Board now needs to make a recommendation.

Supervisor Marks stated he appreciated the Board not discussing this matter since he was unable to attend the June 2, 2015 meeting.

Supervisor Marks made a request to the Board to read a statement he prepared which follows:

For the last two and one half years this board has been dealing with the issue of constructing a new Public Safety Building in the Amelon Commerce Center. We currently have proposals from two contractors for construction of such a structure under the PPEA concept. It is my opinion that this board needs to make a decision, up or down, on this matter. There are a number of options concerning this project which I would like to discuss.

Option 1: Do nothing: Doing nothing is always an option. However, in this case I believe this is not a feasible option. As I stated in my previous email to the board I believe we owe a decision to the contractors we have been working with, to the Monelison Fire and Rescue Corporation, to the public and to ourselves. In addition there is the realization that improvement in the facilities currently utilized by the Fire and Rescue personnel is required.

Option 2: Repair and expand the existing facilities. Our study indicates the cost to bring current fire and rescue facilities at Monelison up to an appropriate level would cost 1.3 million. There is also the possibility an abbreviated work scope could suffice for some period of time. However, there is the issue of limited space for expansion. In addition I would take the position that this board should not commit tax payer money to improve structures the tax payers do not own and have no control over.

Option 3: Postponing construction to some later date. This is certainly an option, however, there are some significant consequences to this approach. First, any building permit issued after July 14<sup>th</sup>, 2015 must conform to the new code requirements. It is a conservative estimate that these new requirements will add \$100,000 in additional costs to the project. Second, according to reports construction starts in this area are up 10% from last year. Material prices are increasing and interest rates, if not already increasing, will soon be doing so, which could conservatively add another \$100,000 to the cost of the project.

Third, with increase in construction work becoming available contractors can be more selective in the projects they want to invest in, verses taking projects to stay in business.

Fourth, we have been told that we will, in all probability, never again have the opportunity to build this building at a cost this low.

Option 4: Obviously option 4 would be to proceed with construction of the new Public Safety Building in the Amelon Commerce Center. The next question, should that be the decision, is how do we fund the



project without requiring a tax increase. I believe the Davenport and Company report, dated December 16, 2014 provides the answer to that question. Based on the numbers in that report we could borrow the cost of the building from the unobligated fund, and if we fund the debt service at the 2016 level we could pay ourselves back in four years, or we could borrow the necessary money for the building and other infrastructure needs and use the debt service surplus to pay the loan. This can be accomplished without raising taxes. In addition on a motion by Mrs. Tucker the Public Safety Building Committee voted unanimously to recommend that the Board of Supervisors move forward with the proposed Public Safety Building project.

Based on these thoughts I would make the following motion. I move that the Board of Supervisors accept the recommendation of the Building Committee and move forward with the construction of the new Public Safety Building in the Amelon Commerce Center at a maximum cost of \$2,233,811; that the contract be awarded to the Jamerson-Lewis Company; that MRG Consulting, LLC be hired to manage the project during construction at a fee of \$53,000; that the Board of Supervisors appropriate \$30,000 from the unobligated fund in order to have the building design completed before July 14<sup>th</sup>, 2015. Appropriating the \$30,000 to allow the design to proceed will also provide the Board of Supervisors time to receive the infrastructure estimates for the schools and to decide on the funding mechanism. (See Attachment 1)

Supervisor Marks provided the Board a copy of his motion.

Supervisor Tucker said she understood that the Building Committee recommendation was to provide all the information to the Board of Supervisors and give them the opportunity to make a decision and she thought it was agreed upon to wait until August.

Supervisor Marks questioned why wait until August when it will cost \$100,000 more. Supervisor Marks provided the Board a handout with calculations. (See Attachment 2)

Chairman Pugh commented that he would need more information before he makes a decision.

Supervisor Marks explained the numbers for the school system really do not matter at this stage and if we do the \$30,000 we still have an option to borrow money from ourselves and give ourselves the opportunity to save the taxpayers \$100,000.

The Board continued the discussion with regard to making a decision.

Mr. Rodgers asked if we obligate money before July 14 and the completion of the design before July 14, will this keep us under the old rules and is it this that locks us in?

Supervisor Tucker asked if we needed to have a building permit prior to July 1. Mr. Rodgers explained that date is when the new Building Code rules start with regard to fire stations.

Supervisor Marks asked why did the Building Committee made a recommendation if it did not want the Board to proceed?

Supervisor Tucker explained this was to provide input to the Board of Supervisors for a discussion in August.

Supervisor Marks then requested a roll call vote on his motion on the floor. Supervisor Marks made a motion that the Board of Supervisors accept the recommendation of the Building Committee and move forward with the construction of the new Public Safety Building in the Amelon Commerce Center at a maximum cost of \$2,233,811; that the contract be awarded to the Jamerson-Lewis Company; that MRG Consulting, LLC be hired to manage the project during construction at a fee of \$53,000; that the Board of Supervisors appropriate \$30,000 from the unobligated fund in order to have the building design completed before July 14<sup>th</sup>, 2015. Appropriating the \$30,000 to allow the design to proceed will also provide the Board of Supervisors time to receive the infrastructure estimates for the schools and to decide on the funding mechanism. (See Attachment 3)

AYE: Mr. Marks, Mr. Kidd



NAY: Mrs. Tucker, Mr. Curd and Mr. Pugh

By motion of Chairman Pugh and with the following vote, the Board voted to consider the May 18, 2015 recommendation from the Public Safety Building Committee and address the timing of construction in its upcoming strategic planning retreat.

AYE: Mrs. Tucker, Mr. Curd and Mr. Pugh

NAY: Mr. Marks and Mr. Kidd

#### **X. County Administrator Report**

Mr. Rodgers provided information to the Board regarding the retreat and the invitee list. Mr. Rodgers asked the Board if the School Superintendant should be included in addition to the Chairman of the School Board.

Chairman stated he would like to invite the School Superintendent to the retreat.

Mr. Rodgers said he has invited people and asking them to send a representative if they are unable to attend. The goal is to have the Board of Supervisors adopt a common vision for the County. Mr. Rodgers advised he will provide the Board a copy of the invitees and issue invitations.

#### **XI. County Attorney Report**

##### **A. Ordinance 2015-0004 – Business Licenses**

Chairman Pugh explained he has received several emails and concerns from constituents regarding Ordinance 2015-0004 and the potential loss of a business license if a business owner drinks socially at his/her place of business that is also their residence.

Ms. Bowyer stated she has communicated with the Commissioner of the Revenue and has come to the same conclusion as outlined in the Ms. Bowyer's memorandum dated June 8, 2015. (See Attachment 4)

Ms. Bowyer said this ordinance created a new provision which she will monitor and if changes are needed she will bring this back to the Board.

#### **XII. Liaison and Committee Reports**

#### **XIII. Departmental Reports**

##### **A. Building Safety and Inspections – May 2015**

For information only.

#### **XIV. Citizen Comments**

Mr. Jason Ferguson of Madison Heights, Virginia, addressed the Board and asked for clarification of the previous motion made in reference to cell towers on school properties.

Supervisor Tucker restated the motion asking for the School Board to have a meeting with public input, come back to the Board of Supervisors with a recommendation whether the current ordinance should be changed, and if so, would that exclude school properties.

Supervisor Tucker stated the Chairman of the School Board has heard these concerns based on both constituents and those here tonight and knows there will be experts representing both sides.

Mr. Rodgers explained the process has stopped and Milestone Communications has withdrawn its application and cannot go forward. The cell tower ordinance has been adopted; therefore the School Board will need to inform the Board of Supervisors if there needs to be a change to

this ordinance. No action will occur until the Board of Supervisors receives that recommendation.

Mr. Jim Thompson of Madison Heights, Virginia, thanked the County Administrator and advised the Board he was approached to have a tower placed on his property and that he declined the offer. Mr. Thompson stated he wants to preserve the Village of Elon.

Mr. Harvey Sellers of Amherst, Virginia addressed the Board and asked what the purpose of putting the cell tower on school property and if it is Verizon's choice, how do we act on this if we do not have any information?

Chairman Pugh addressed Mr. Sellers stating it is the School Board's choice.

Ms. Abby Thompson of Madison Heights, Virginia, thanked the Board for talking about a public hearing that the School Board will be holding in August and to encourage this Board to attend to hear objective information from both sides. Ms. Thompson expressed her concern for the health of the children and urged the Board to rewrite the ordinance to protect children on school properties.

Chairman Pugh stated the School Board will have a public meeting in September.

Mr. Eldon Cox of Amherst, Virginia addressed the Board regarding the Public Safety Building. He stated he was on the Building Committee to evaluate the circumstances and to come up with a plan. A decision was made for a new building as the old building was not worth saving. A plan was made and the motion at that meeting was to recommend these plans be accepted by the Board of Supervisors. Mr. Cox stated that Supervisor Marks provided information to save \$100,000 but felt this was cast aside without reason.

Mr. Cox stated he was very disappointed and does respect the job the Board does; however, he believes the Board has made a terrible mistake.

Mr. Richard Wilkins of Amherst, Virginia addressed the Board regarding the Public Safety Building and the motion Mr. Marks made. Mr. Wilkins expressed his disappointment with the Board's vote. Mr. Wilkins stated he has been a volunteer for over 50 years and not to discount those sacrifices made by the volunteers.

#### **XV. Matters from Members of the Board of Supervisors**

Supervisor Kidd had no matter to discuss.

Supervisor Curd had no matter to discuss.

Supervisor Tucker had no matter to discuss.

Supervisor Marks had no matter to discuss.

Chairman Pugh had no matter to discuss.

#### **XVI. Closed Session**

Supervisor Kidd moved that the Amherst County Board of Supervisors convene in closed session pursuant to § 2.2-3711 (A)(7) of the Code of Virginia, to consult with the County Attorney regarding actual litigation involving Sweet Briar College.

AYE:	Mr. Pugh, Mrs. Tucker, Mr. Curd, Mr. Marks and Mr. Kidd
NAY:	None
ABSENT:	None

Supervisor Kidd motioned to come out of closed session and was approved with the following vote:

AYE: Mr. Pugh, Mrs. Tucker, Mr. Curd, Mr. Marks and Mr. Kidd  
NAY: None  
ABSENT: None

#### **CERTIFICATION OF CLOSED MEETING**


Supervisor Kidd moved that the Amherst County Board of Supervisors certify by a recorded vote that, to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed session were heard, discussed, or considered in the closed session.

Mr. Pugh	AYE
Mrs. Tucker	AYE
Mr. Curd	AYE
Mr. Marks	AYE
Mr. Kidd	AYE

#### **XVII. Adjourn**

On motion by Supervisor Tucker and with the following vote, the Board moved to adjourn.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Curd, Mr. Marks and Mr. Kidd  
NAY: None  
ABSENT: None

  
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David W. Pugh, Jr., Chairman  
Amherst County Board of Supervisors

  
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Dean C. Rodgers, Clerk