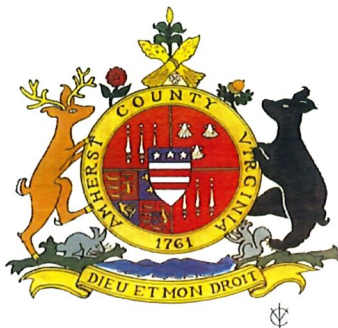


Board of Supervisors

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 17, 2017
Administration Building - 153 Washington Street - Public Meeting Room
Amherst, Virginia 24521
7:00 p.m.

- I. Call to Order**
- II. Invocation and Pledge of Allegiance**
- III. Approval of Agenda**
- IV. Citizen Comment**
- V. Public Hearings**
 - A. CY18 Water and Sewer Rates
 - B. U. S. Cellular Lease
 - C. Short-term tourist rental of dwellings in platted subdivisions
- VI. Consent Agenda**
 - A. Minutes - September 19, 2017
 - B. FY18 Appropriation of Revenue
- VII. New Business**
 - A. Riveredge Park - Phase IV
 - B. Pleasant View School Temporary Usage Policy
 - C. Redevelopment of Phelps Road School
- VIII. County Administrator's Report**
 - A. Projects Status Report
 - B. Roger Floyd Bridge Dedication
- IX. Liaison and Committee Reports**
- X. Departmental Reports**

- A. Building Safety and Inspections Report, September
- B. Treasurer's Monthly Report
- C. Tourism Report

- XI. Citizen Comment**
- XII. Matters from Members of the Board of Supervisors**
- XIII. 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 17th day of October 2017, at 7:00 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: Amherst County Service Authority Director Bob Hopkins
Planning/Zoning Director Jeremy Bryant
Recreation and Parks Director Sara Lu Christian

I. Call to Order

Chair Tucker called the 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 Ayers and with the following vote, the Board approved the Agenda for October 17, 2017.

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

IV. Citizen Comment

There was no public comment.

V. Public Hearings

- A. CY18 Water and Sewer Rates

Service Authority Director Hopkins addressed the Board regarding the 2018 water and sewer rates adjustments.

Mr. Hopkins advised that water service charges will increase from \$4.42 to \$4.67 per one hundred cubic feet of water used. The basic service charge will increase from \$22.00 to \$23.00.

Mr. Hopkins stated that the sewer service charge will increase from \$6.30 to \$6.79 per one hundred cubic feet of water used. The basic service charge will increase from \$2.00 to \$3.00.

The new rates will become effective January 1, 2018.

Mr. Hopkins advised the money generated from the rate increases will keep the Service Authority solvent and be used for future infrastructure upgrades.

Chair Tucker opened the Public Hearing.

Proponents: None

Opponents: None

Chair Tucker closed the Public Hearing.

By motion of Supervisor Marks and with the following vote, the Board adopted Ordinance 2017-0007. **(See Attachment 1)**

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks

NAY: None

ABSTAIN: None

B. U. S. Cellular Lease

Deputy County Administrator Proffitt reported that the existing U. S. Cellular lease will expire on October 31, 2017. The lease has been in existence since November 1, 1997. The term of the lease was for five years, with three five-year extensions. Mr. Proffitt advised this extension will expire on October 31, 2017.

Mr. Proffitt stated that Attorney Theresa Fontana of Guynn & Waddell has finalized the ground lease and memorandum of lease and recommended approval. U. S. Cellular has agreed to both of these documents.

Mr. Proffitt asked that the Board approve the proposed leases and authorize the County Administrator to execute the same.

Chair Tucker opened the Public Hearing.

Proponents: None

Opponents: None

Chair Tucker closed the Public Hearing.

By motion of Supervisor Ayers and with the following vote, the Board approved the new "Ground Lease" as presented between Amherst County and U.S. Cellular, and the corresponding "Memorandum of Lease" and authorized their execution by the County Administrator.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks

NAY: None

ABSTAIN: None

C. Short-term tourist rental of dwellings in platted subdivisions

Planning/Zoning Director Bryant reported on an amendment to Section 916 Appendix A of County Code. This amendment would eliminate regulations that limit the use of short-term tourist rentals within a platted subdivision.

Mr. Bryant mentioned that Amherst County has seen a surge in short-term tourist rentals, such as Air B-n-Bs, which provide income revenue for property owners.

Mr. Bryant advised the Planning Commission has recommended adoption of this amendment to the ordinance on September 21, 2017.

Chair Tucker opened the Public Hearing.

Proponents: None
Opponents: None

Chair Tucker closed the Public Hearing.

By motion of Supervisor Ayers and with the following vote, the Board adopted Ordinance 2017-0006. (See Attachment 2)

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

VI. Consent Agenda

- A. Minutes - September 19, 2017
- B. FY18 Appropriation of Revenue

By motion of Supervisor Marks and with the following vote, the Board approved the Consent Agenda for October 17, 2017.

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

VII. New Business

- A. Riveredge Park - Phase IV

Recreation & Parks Director Sara Lu Christian presented her report regarding Phase IV allowing the Riveredge Park to develop the remaining 1,800 feet of trail along the James River.

Ms. Christian advised there is available a VDOT grant that would fund 80% of the cost for development of Phase IV. The County's share would be 20% of the total design and construction expense. The 20% of the cost would be a committed fund from the unassigned general fund.

The Board discussed the issue of the remaining 1,800 feet of property running through private property.

Mr. Marks asked about the County's acquisition of needed private property and Mr. Rodgers advised he has spoken with the property owner and will negotiate with the family to resolve that issue. Due to the application deadline, it is necessary that the County move forward with the grant application to apply for funding for the easement by November 1.

By motion of Supervisor Campbell and with the following vote, the Board adopted Resolution 2017-0027-R and committed funding for 20% of the cost of engineering and construction plans for Phase IV from the unassigned general fund balance. **(See Attachment 3)**

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

B. Pleasant View School Temporary Usage Policy

Deputy County Administrator Proffitt stated that at the last Board of Supervisor meeting, the Pedlar Ruritan Club requested permission to use Pleasant View School (PVS) during the last week in October. At that meeting, the Board asked the County Administrator to draft a usage policy for PVS. This policy has now been developed for the Board's consideration.

Supervisor Campbell asked if a fee was associated with this request.

Mr. Proffitt said it was determined that this is a temporary policy in order to accommodate the immediate request by Pedlar Ruritan Club. No fee would be charged in this particular case.

Mr. Proffitt advised that a fee schedule would be developed later.

By motion of Vice-Chair Pugh and with the following vote, the Board approved the Pleasant View School Temporary Usage Policy and authorized the County Administrator to approve properly submitted requests that comply with the established requirements and limitations.

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

C. Redevelopment of Phelps Road School

County Administrator Rodgers explained that the County has negotiated a performance agreement with Waukeshaw Development who is interested in redeveloping the Phelps Road School property. Waukeshaw Development has negotiated a purchase with the current owner, Phelps Road Development LLC.

Mr. Rodgers explained Waukeshaw will purchase the property for \$50,000 from the owner and deed it to the EDA for \$10. The EDA will hold the title and give Waukeshaw an option to walk away if certain developments are not met. If Waukeshaw leaves, the EDA will reimburse Waukeshaw the \$50,000 with funds pledged by the County. The County will then take control of the property.

Mr. Rodgers explained that Waukeshaw has experience in renovating old structures and redeveloping those buildings into studio apartments. Waukeshaw will maintain the property and secure a historic designation. The goal will be to have 30-50 market rate apartments. Pursuant to the agreement tonight, the County has agreed to assist with up to \$400,000 in credits for water and sewer fees. The Service Authority will also gain new customers.

Mr. Rodgers further explained the alternative option would be to tear down the building, which would cost \$420,000 for demolition plus the \$50,000 to exercise the option that the County would own it.

County Attorney Lockaby advised this will ensure that the County and the EDA maintain control while giving Waukeshaw time to develop the property.

Chair Tucker stated that this project was extensively deliberated by the Board and now the Board has heard the true cost of demolition.

Supervisor Marks expressed several concerns regarding the ownership of the property that included if the County could buy the property for \$50,000; if a zoning hearing was held and there was strong public opposition; and if after 36 months, that Waukeshaw could sell the building to anyone.

Mr. Rodgers explained that historically Waukeshaw tends to retain those buildings it has renovated; however, they could sell it.

Vice-Chair Pugh read a statement expressing his opinion on the matter. (See Attachment 4)

Supervisor Marks commended Attorney Lockaby on preparing the performance agreement; however, he was concerned that the County will again have no control over this property.

Supervisor Ayers commented that the County has let this property deteriorate and it has become unmarketable. He asserted there would be a return on this property if the County invested \$400,000. If the County demolished the building and created a park, there would not be any return on that investment. The County would continually burden taxpayers with the upkeep of the park. Supervisor Ayers said that having a performance agreement assured that within the next 36 months there would be some economic growth. He also said that Waukeshaw has been successful with renovating similar-styled buildings.

Chair Tucker said that the Board has talked about its vision and creating economic growth and what we want Amherst County to become. The street that Phelps Road School sits on has become mostly rental properties. She said there is much redevelopment across the river and it would be beneficial if the County could bring something better to this community.

By motion of Chair Tucker and with the following vote, the Board voted to approve the Phelps Road Performance Agreement as presented.

ROLL CALL VOTE

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

VIII. County Administrator's Report

A. Projects Status Report

County Administrator Rodgers provided the following update:

- Learning Lane continues to progress and construction is under way.
- Grand opening for the new addition to the County Administration building will be on November 7, 2017 from 12:00 p.m. - 1:00 p.m.
- Broadband - received today an unsolicited PPEA proposal and \$5,000 check for review of that proposal. The procurement officer will accept proposal and prepare a solicitation for competing proposals to advertise for 45 days. Staff will use citizen appointees to identify an expert to use when the proposals come in for review.
- Winton Development - waiting on hearing date.

- Pleasant View School - waiting on grant applications.

B. Roger Floyd Bridge Dedication

County Administrator Rodgers stated the Roger Floyd bridge dedication will be held on November 12, 2017 at 2:00 p.m.

Supervisor Ayers advised he has met with family and suggested all folks assemble at St. Luke's Church. He requested that the Recreation & Parks Department provide a shuttle to transport folks to the bridge for the dedication ceremony.

IX. Liaison and Committee Reports

X. Departmental Reports

- A. Building Safety and Inspections Report, September
- B. Treasurer's Monthly Report
- C. Tourism Report

For Board information only.

XI. Citizen Comment

There was no public comment.

XII. Matters from Members of the Board of Supervisors

Supervisor Marks read the following statement:

"During the Board meeting on October 3rd, 2017 the Board voted to have Special Counsel provide some clarification to several items regarding the pleadings submitted for Winton Country Club. Special Counsel provided a response to that request by email on October 10th. I make a motion that the Board release any privilege that may be associated with Special Counsel's response and that Special Counsel's response be reflected in the minutes for this meeting. This action will close the loop on this matter". (See Attachment 5)

Chair Tucker understood Supervisor Marks' request to have this Board release its privilege.

County Attorney Lockaby stated that the privilege lies with the client and since the County is the client, it can release that privilege. He will check with Mr. Darby to make sure that by having the two clients, the Board of Supervisor and the EDA, he does not believe Mr. Darby's response directly to the Board of Supervisors would be something that the EDA could hold privilege on.

Chair Tucker asked if there was any risk of harming the County's legal standing by taking this action.

County Attorney Lockaby advised that to waive your attorney/client privilege really never does you any favors, but it never does you any favors legally speaking; it may be a wise political decision there are sometimes non legal decisions that you take into account.

Supervisor Marks said we are talking about a response to a public question relative to a public document and he sees no reason why the response should not be made public.

By motion of Supervisor Marks and with the following vote, the Board voted to release any privilege that may be associated with Special Counsel's response and that Special Counsel's response be reflected in the minutes of this meeting. This action will close the loop on this matter. (See Attachment 6 for Special Counsel's response)

ROLL CALL VOTE

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

Supervisor Campbell had no matter to discuss.

Supervisor Ayers had no matter to discuss.

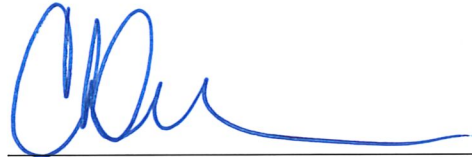
Vice-Chair Pugh had no matter to discuss.

Chair Tucker had no matter to discuss.

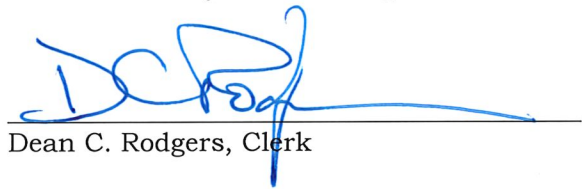
XIII. Adjournment

By motion of Supervisor Marks and with the following vote, the Board adjourned at 7:58 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 Ordinance No. 2017-0007**

AN ORDINANCE, NO. 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.

Approved as to form and legality by the County Attorney

**FIRST READING: Board of Supervisors, October 3, 2017
PUBLIC HEARING: Board of Supervisors, October 17, 2017**

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Sections 15-122 and 15-123 of Article IV of Chapter 15 of the Code of the County of Amherst be and hereby are amended, as follows:

Sec. 15-122. - Water service charges.

- (a) Each premises that is supplied water by the Amherst County Service Authority shall be charged for water service as metered. The charges for the provision of water service shall be based on metered water consumption. The rate for water, per one hundred (100) cubic feet of water metered, shall be four dollars and ~~forty-two cents (\$4.42)~~ sixty seven cents (\$4.67).
- (b) Each billing for water service also shall include a ~~twenty-two dollar (\$22.00)~~ twenty three dollar (\$23.00) water basic service charge.
- (c) Payment is due on the first day of each billing month.

Sec. 15-123. - Sewer service charges.

- (a) All premises that dispose of sewage to the Amherst County Service Authority sewerage system shall be charged for sewer service. The system shall not accept sewage of the strength or quality prohibited either by division 2 of article III of this chapter or by the City of Lynchburg, Virginia sewer use ordinance, as provided by the regional agreement between the county and the City of Lynchburg. Any user whose waste effluent exceeds the limits below shall immediately stop discharging to the system and take steps to bring the waste within the following limits:

Wastewater Limits

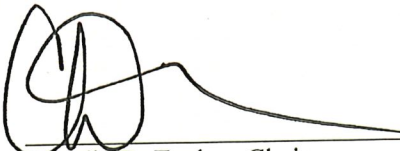
Characteristic	Limits
BOD ₅	300 ppm
Suspended Solids	400 ppm
pH	6.0 to 8.0
COD	1400 ppm
Total Oil and Grease	50 ppm

- (b) Premises served with water shall be charged for sewer service based on metered water consumption. The rate for sewage produced shall be six dollars and ~~thirty cents (\$6.30)~~ seventy nine cents (\$6.79) per one hundred (100) cubic feet of water metered.
- (c) Each billing for sewer service shall include a ~~two dollar (\$2.00)~~ three dollar (\$3.00) sewer basic service charge.

§ 2. That this ordinance shall be in force and effect upon adoption.


§ 3. That the fees and charges established by this ordinance shall be used to calculate water and sewer bills issued January 1, 2018, and thereafter, unless and until they are amended further.

Adopted this 17th 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 0
2

Abstentions 0



**Amherst County Board of Supervisors
County Ordinance No. 2017-0006**

AN ORDINANCE, NO. 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.

Approved as to form and legality by the County Attorney

**PUBLIC HEARING: Planning Commission, September 21, 2017
PUBLIC HEARING: Board of Supervisors, October 17, 2017**

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Section 916 of Appendix A to the Code of the County of Amherst be and hereby is amended, as follows:

916. - Short-term tourist rental of dwellings.

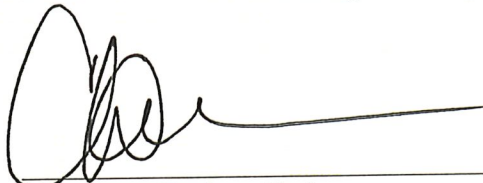
The following regulations shall apply to all short-term rentals of residential dwelling units:

1. Site Plan. Before a building and zoning permit shall be issued for any dwelling to be rented to transients for any period less than thirty (30) consecutive days, a site plan of the proposed development shall be approved by the planning commission or the zoning administrator, whichever is applicable, in conformance with Section 1003 and Article XI herein. In addition to the requirements thereof, site plans pursuant to this section shall include a maintenance schedule proposed by the developer or property owner, and shall incorporate low impact development techniques, such as those about which information is available from the Virginia Department of Environmental Quality.
2. There shall be no change in the outside appearance of the dwelling or premises, or other visible evidence of the conduct of such short-term rentals.
3. The maximum number of occupants in the dwelling unit for overnight accommodation shall be calculated as two (2) adults per bedroom. An adult, for the purpose of this regulation, is any person over the age of sixteen (16). The number of bedrooms shall be determined by reference to health department permits specifying the number of bedrooms or the certificate of occupancy issued by the Amherst County Department of Building Inspections. Private septic systems shall be pumped out or inspected once every three (3) years.

4. All vehicles of tenants shall be parked in driveways or parking areas designed and built to be parking areas. In the case of multi-family dwellings, all vehicles must be parked in spaces specifically reserved for the dwelling unit being rented. No vehicles shall be parked in, along, or on the sides of roads at any time.
5. All boats and trailers of tenants shall be parked on the lot on which the dwelling unit is located. In the case of multi-family dwellings, boats and trailers must be parked in areas specifically reserved for the dwelling unit being rented. No boats or trailers shall be parked in, along, or on the sides of the roads at any time.
6. There shall be a working, two-pound minimum, ABC rated, fire extinguisher located in a visible and readily accessible area (i.e., kitchen or hallway) within each dwelling unit. Working smoke detectors shall be installed in each bedroom of the dwelling unit as well as one (1) on each floor (including the basement) outside of any bedrooms.
7. Property boundaries, or limitations within the property's boundaries where transients are allowed, must be clearly marked at all times.
8. Notice of the application for special exception, and the hearing thereon, shall be conspicuously posted on the property, in the same manner and for the same duration as though the property were the subject of an application for variance, rezoning, or conditional zoning.
9. ~~There shall be no short term tourist rental of any dwelling upon property located within a platted subdivision, unless a recorded declaration recorded in the land records of the county expressly permits such a use, or in the absence of a recorded declaration, the owners of all lots, tracts, and parcels in the subdivision unanimously agree to such a use.~~


§ 2. That this ordinance shall be in force and effect upon adoption.

Adopted this 17th day of October, 2017.



Claudia D. Tucker, Chair
Amherst County Board of Supervisors

ATTEST:



Dean C. Rodgeys, Clerk
Amherst County Board of Supervisors

Ayes 5

Nays 0

Abstentions 0



Amherst County Board of Supervisors
County Resolution 2017-0027-R

For consideration on October 17, 2017

ARESOLUTION, NO. 2017-0027-R

A resolution, requesting that the Commonwealth Transportation Board establish a project, specifically the Riveredge Park Trail Extension Phase IV.

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 hereby requests that the Commonwealth Transportation Board extend additional funding to the existing project, specifically the Riveredge Park Trail Extension Phase IV, as follows:

WHEREAS, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring jurisdiction requesting the Virginia Department of Transportation ("Department") establish a Transportation Alternatives Set-Aside project to be administered by Amherst County.

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

That the Board of Supervisors of Amherst County hereby requests the Commonwealth Transportation Board to extend funding to the established, Riveredge Park Trail Extension Phase IV ("Project"). The existing project provides for the design and engineering of a forty-two hundred (4,200) foot extension of the ten (10) foot wide asphalt trail in Riveredge Park. This application request is to fund design and engineering for an additional 1,800 feet of the Riveredge Trail extension. The trail extension will begin at the end of the trail constructed in Phase III, and will terminate at the property boundary on Tax Map Parcel 161-A-150 where it will connect with the James River Heritage Trail.

BE IT FURTHER RESOLVED:

That the Board of Supervisors hereby commits to provide a minimum twenty (20) percent matching contribution for the Project and any additional funds necessary to complete the Project.

BE IT FURTHER RESOLVED:

That the Board of Supervisors hereby agrees to enter into a project administration agreement with the Department, subject to approval as to legal form by the County Attorney, and to provide the necessary oversight to ensure the Project is developed in accordance with all state and federal requirements for design, right-of-way acquisition, and construction of a federally funded transportation project.

BE IT FURTHER RESOLVED:

That the Board of Supervisors will be responsible for ongoing maintenance and operating costs of the Project following its completion unless other arrangements are or have been made with the Department or other persons.

BE IT FURTHER RESOLVED:

That if the Board of Supervisors subsequently elects to cancel this project, Amherst County hereby agrees to reimburse the Department for the total amount of costs expended by the Department through the date the Department is notified of such cancellation. Amherst County also agrees to repay any funds reimbursed by the Department that are thereafter deemed ineligible by the Federal Highway Administration. The funds received pursuant to the Grant are hereby designated a special fund for the purposes of this clause, and this section does not constitute a pledge of the full faith and credit of Amherst County in violation of Article VII § 10 of the Virginia Constitution.

BE IT FURTHER RESOLVED:

That the Board of Supervisors hereby authorizes the County Administrator to execute the Project agreement if the Project is approved a Transportation Alternatives Set-Aside project for Fiscal Years 2019/2020.”

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

Adopted this 17th day of October, 2017.



Claudia D. Tucker, Chairman
Amherst County Board of Supervisors

ATTEST:



Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

Ayes 5

Nays 0

Abstentions 0

In 1991 Madison Heights Elementary School was built and Phelps road school then known as Seminole elementary was closed down . For the past 26 years this property has been abandon and neglected at the expense and detriment of the surrounding community. After many failed attempts over the years to repurpose and reuse this building, now, is the time for us the Board of Supervisor to finally do something right for this location.

Before us tonight, we have yet another proposal that claims it will alleviate the County of its problems with Phelps Road School. This performance contract certainly sounds good on the surface but one only has to look a little deeper to realize this project is completely unfair. It is unfair to the citizens. It is unfair to the local developers and it is unfair to local business owners. It is unfair because this proposal is asking for the County to use \$400,000 of taxpayer funds to waive tap fees as well as other fees associated with this project including waterline upgrades in excess of \$80,000. How is this just to our community when local residents, businesses, and other developers are not granted these same provisions?

There is no doubt that a large sum of money will have to be spent on this school one way or another. However, I contend that demolishing Phelps Road School and turning the area into a park or green-space will finally rid this County of the headaches, blight, and nuisance that have so long frustrated and haunted this board. I ask that you all support this idea so that we can make right the mistakes of the past and do something honorable for the residents of Phelps Road and the surrounding community.

Matters from Members of the Board: October 17, 2017

Madam Chair: During the Board meeting on October 3rd, 2017 the Board voted to have Special Counsel provide some clarification to several items regarding the pleadings submitted for Winton Country Club. Special Counsel provided a response to that request by email on October 10th.

I make a motion that the Board release any privilege that may be associated with Special Counsel's response and that Special Counsel's response be reflected in the minutes for this meeting. This action will close the loop on this matter.

Forwarded by Dean C Rodgers/Amherst on 10/20/2017 10:48 AM -----

From: Sam Darby <HDarby@glennfeldmann.com>
To: "dcroddgers@CountyOfAmherst.com" <dcroddgers@CountyOfAmherst.com>
Cc: "mlockaby@CountyOfAmherst.com" <mlockaby@CountyOfAmherst.com>
Date: 10/10/2017 10:52 AM
Subject: RE: Marks comments 100317

Dean,

I see three questions here:

1. Is Runk & Pratt currently interested in developing Winton?

Runk & Pratt declined in a March 6, 2017 letter to make an offer to develop Winton. However, in the last sentence in Runk & Pratt's letter was "R&P may very well be interested in revisiting this opportunity at some point in the future." The letter stated that "the legal position the county is taking on taking the 'gift' that started [Winton]" was a factor that "must be resolved between R&P and the County before R&P can enter a partnership with the County for the Winton Farm Property." In other words, the title needed to be cleared up.

On May 19, 2017 I called Runk & Pratt's attorney, Sherwood Day, and asked him if his client might yet be interested in developing the property. He indicated that his client was not currently interested in developing any property with questions about the title, but acknowledged that there would possibly exist an interest if the title were cleared and if Runk & Pratt still had capacity to take on additional developments. (Runk & Pratt has since then committed to develop another golf-themed community, Ashley Plantation in Botetourt County.) We agreed that if the County were able to straighten out the legal issue, the EDA would get back to them to see if there were interest in the development. The clear condition precedent was that the title needed to be cleared.

2. Why did I not tell the court about the former county attorneys' and two law professors' opinions?

A lawyer is ethically charged with representing his client's interests zealously. His only ethical duty as to adverse authority is to reveal to the court the existence of any binding authority that does not support his client's legal position. Opinions - even opinions of the Attorney General - are just opinions and not binding. (The 1982 Attorney General's opinion was included in Paragraph 5 of the Complaint.)

3. What limitation, if any, does Mr. Ayers have as to the Complaint and Winton?

Mr. Ayers is an employee of Runk & Pratt, and certainly has a personal interest in Runk & Pratt. He would also have a personal interest in any contract between the County and Runk & Pratt and in any transaction that the County might be considering with Runk & Pratt. The

Virginia Conflicts of Interest Act defines "contract" as "... any agreement to which [the County] is a party ..." and "transaction" as "... any matter considered by [the Board of Supervisors] ... on which official action is taken or contemplated." Obviously there is no contract under consideration with Runk & Pratt. Since Runk & Pratt is not a party to the Complaint and is not currently considering a development of Winton, there is no transaction with Runk & Pratt under consideration by the County. Once the title has been cleared, the EDA will be in a position to identify and negotiate with potential developers of Winton, one of which may or may not be Runk & Pratt. The EDA won't know until the court case is completed.

Sam

GLENN FELDMANN DARBY & GOODLATTE	Harwell M. Darby, Jr. Attorney Direct: 540.224.8006 Firm: 540.224.8000 Fax: 540.224.8050 HDarby@glennfeldmann.com
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From: dcrodgers@CountyOfAmherst.com [mailto:dcrodgers@CountyOfAmherst.com]
Sent: Friday, October 06, 2017 3:04 PM
To: Sam Darby <HDarby@glennfeldmann.com>
Cc: mlockaby@CountyOfAmherst.com
Subject: Fw: Marks comments 100317

Sam,

Please see the attached motions that were passed at the last BoS meeting. They are questions to you for which I am directed to obtain answers. The answers may be provided orally or in writing--even an email response. Please feel free to call me or Mike about this if you need clarification.

Best regards,

Dean

Dean C. Rodgers
Amherst County Administrator
(434) 946-9400

The mission of Amherst County's government is to provide limited, efficient and effective government services that promote liberty and a high quality of life for our citizens. We are a County open for business in a secure community dedicated to providing a superior work force through investments in education and economic development. Our citizens expect and we deliver a fiscally responsible and transparent government.