

BOOK 33**VIRGINIA:**

At a regular meeting of the Board of Supervisors of Amherst County held at the Administration Building thereof on Tuesday, the 5th day of October, 2010 at 1:00 p.m. at which the following members were present and absent:

BOARD OF SUPERVISORS:

PRESENT:	Mr. D. Kidd	ABSENT: None
	Ms. C. Tucker	
	Mr. R. Vandall	
	Mr. R. Curd	
	Mr. F. Campbell	

Mr. D. Kidd, Chairman, called the meeting to order.

Mr. R. Vandall gave the invocation and led the pledge of allegiance.

IN RE: INTRODUCTION

Mr. J. Bryant introduced the newest employee, Matthew Rowe, Assistant Planner and Zoning Administrator.

IN RE: CITIZEN COMMENTS

Mr. Reginald Wilburn, Lowesville Road, asked the Board of any update on his problem with paying fees to disagree with county. He was informed that the Board would be setting a workshop in the near future to discuss this and various other items.

IN RE: APPROVAL OF AGENDA

Mr. Lintecum requested a closed session be added to the agenda to discuss a legal matter.

Mr. F. Campbell made a motion to approve the following agenda with the addition:

AGENDA

**TUESDAY, OCTOBER 5, 2010
ADMINISTRATION BUILDING – 153 WASHINGTON STREET
SCHOOL BOARD MEETING ROOM
1:00 P.M.**

- I. Call to Order**
- II. Invocation and Pledge of Allegiance**
- III. Citizen Comments**
- IV. Approval of Agenda**
- V. Public Hearing**
 - a. Proposed conveyance of an exclusive easement over County property for use in connection with a restaurant, as a delivery area, employee parking and building exit**

VI. Special Appearance and Presentations

- a. Citizens for Adult Literacy and Learning – Roberta Peters, Vice President and Tutor

VII. Amherst County Public School – Dr. Brian Ratliff**VIII. Consent Agenda**

- a. Board of Supervisors Minutes – September 7th, 21st, and 22nd, 2010
- b. The Virginia Wine and Garlic Festival
- c. The Apple Harvest Festival

IX. Correspondence

- a. Office of the Sheriff – August 2010 Monthly Report
- b. Memorandum – David Proffitt – Sheriff Department vehicles
- c. Application of Virginia Electric and Power Company
- d. VDOT Traffic Alerts – September 27-October 1, 2010, October 4-8, 2010

X. Interview District 4 Planning Commission Applicant

- a. George J. Brine, Jr.

XI. Department Reports**Recreation Department**

- a. Proposed Budget Request for Amherst County's 250th Anniversary
- b. Amherst County 250th Anniversary
- c. County Park signage

XII. County Administrator's Reports**XIII. County Attorney's Reports**

- a. Proposed work session on County enforcement against public nuisances
- b. Proposed closing of the Animal Shelter night boxes

XIV. Appropriation/Transfers/Disbursements**XV. Matters from Members of the Board of Supervisors****XVI. Closed Meeting (§2.2-3711.A, Code of Virginia, as amended)**

§2.2-3711.A.7 Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation which has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

XVII. Adjourn to Thursday, October 7, 2010 at 6:00 p.m. for a joint meeting with the Planning Commission

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell
 NAY: None

IN RE: PUBLIC HEARING ON PROPOSED CONVEYANCE OF AN EXCLUSIVE EASEMENT OVER COUNTY PROPERTY FOR USE IN CONNECTION WITH A RESTAURANT, AS A DELIVERY AREA, EMPLOYEE PARKING AND BUILDING EXIST

The Chairman turned the meeting over to the County Attorney, Ellen Bowyer.

She explained what the public hearing was about and was open for questions.

Ms. Tucker: Was the Board giving a perpetual easement or an easement that could be recalled if owner changed.

Mr. Kidd called for the opening of the public hearing.

Proponents: None

Opponents: None

Public Hearing was closed.

Supervisors:

Mr. Vandall: Does not think they should issue a perpetual easement. It should be for this owner only.

On motion of Mr. Vandall and with the following vote, the Board approved to convey an exclusive easement over county owned property.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

Ms. Tucker made a motion to reconsider Mr. Vandall's motion.

There was further discussion as to the meaning of exclusive easement. The County Attorney provided new wording for the easement document.

Ms. Tucker wanted it clear that this did not affect his getting a loan. Ms. Bowyer did not know but did not think so.

Mr. Vandall made a motion to approve the second easement resolution with additional wording as follows:

**RESOLUTION TO AUTHORIZE CONVEYANCE OF AN EXCLUSIVE EASEMENT OVER COUNTY PROPERTY,
AS AUTHORIZED BY VA CODE ANN. § 15.2-1800**

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

I. That the Board of Supervisors wishes to convey an exclusive easement over County-owned property, as follows:

WHEREAS, there is proposed for location in Amherst County a Vito's Restaurant, which will be located at the site now occupied by the former Amherst Mini-Mart at 188 Richmond Highway, Amherst, Virginia, 24521; and

WHEREAS, there lies behind that site a parcel of land owned by the County; and

WHEREAS, Vito's Restaurant, to ensure its safe and effective operation, requires access to that parcel of land for the purposes of receiving deliveries, accommodating employee parking, and facilitating building egress; and

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

That the Amherst County Board of Supervisors approves, pursuant to the authority granted to it under §§ 15.2-1800 *et seq.* of the *Code of Virginia* (1950), as amended, the conveyance of an exclusive easement over County property located behind the closed Mini-Mart at 188 Richmond Highway, Amherst, Virginia, 24521, for use, in connection with Vito's Restaurant, as a delivery area, employee parking, and building exit, which easement is approximately 118 feet in length and 30 feet in width, and would extend in length from the light pole at the southeastern corner of the Mini-Mart to the southwestern corner of the car wash, and in width from the rear of the Mini-Mart to within 10 feet of the evergreen buffer; and

BE IT FURTHER RESOLVED, that no construction or other improvement activities shall commence on the County property burdened by the easement until the deed of easement has been executed by the grantor; and

BE IT FURTHER RESOLVED, that the deed of easement shall contain terms providing for its termination upon a majority vote of the Board of Supervisors subsequent to either (i) the failure of Vito's Restaurant to begin operation at 188 Richmond Highway, Amherst, Virginia, 24521, or (ii) the grant of a rezoning or special exception permit changing the use of the dominant estate, except that such terms shall not be included in the deed of easement in the event that their inclusion renders a mortgage on the property infeasible; and

BE IT FURTHER RESOLVED, that the deed of easement effecting the conveyance shall be prepared by the grantee, but the County Attorney shall review the deed of easement, and the grantor shall not execute the deed of easement until the County Attorney has approved it as to form and legality; and

BE IT FURTHER RESOLVED, that the members of the Board of Supervisors and the County Administrator are authorized and directed to take all such actions necessary or expedient to carry out the purposes and intents of this resolution, including without limitation, the execution of any documents necessary to effectuate conveyance of the easement.

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

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: CITIZENS FOR ADULT LITERACY AND LEARNING – ROBERTA PETERS

Ms. Peters, Vice President of Citizens for Adult Literacy and Learning and a tutor for adult reading, appeared before the Board and provided some information about Citizens for Adult Literacy and Learning. She explained that they had one fund raiser and has decided to have another.

CALL's Walk-a-thon for Literacy
Saturday, November 6, 2010

She wished to invite everyone to attend and provided forms for registering and Sponsors Form.

IN RE: SCHOOL BOARD – DR. BRIAN RATLIFF

Dr. Ratliff was called away from the office and was not available.

IN RE: BOARD OF SUPERVISORS SEPTEMBER MINUTES

On motion of Mr. Vandall and with the following vote, the Board approved the September 7th, 21st and 22nd minutes.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: VIRGINIA WINE AND GARLIC FESTIVAL

On motion of Mr. Vandall and with the following vote, the Board of Supervisors approved the Virginia Wine and Garlic Festival permit to be held October 9 and 10, 2010.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: APPLE HARVEST FESTIVAL

On motion of Mr. Vandall and with the following vote, the Board of Supervisors approved the Apple Harvest Festival permit to be held October 5 and 6, 2010.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: CORRESPONDENCE

- a. Office of the Sheriff – August 2010 Monthly Report
- b. Memorandum – David Proffitt – Sheriff Department vehicles
- c. Application of Virginia Electric and Power Company
- d. VDOT Traffic Alerts – September 27 – October 1, 2010 and October 4-8, 2010

Information Only

IN RE: INTERVIEW DISTRICT 4 PLANNING COMMISSION APPLICANT

On motion of Mr. Vandall and with the following vote, the Board determined to move this section to after the County Attorney reports.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: PROPOSED BUDGET REQUEST FOR AMHERST COUNTY'S 250TH ANNIVERSARY

Ms. Christian presented a request for an appropriation for the Amherst County 250th anniversary from the Sesquicentennial Steering Committee.

After discussion, Mr. Vandall moved to table the request until the November 2, 2010 meeting.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: AMHERST COUNTY 250TH ANNIVERSARY RESOLUTION

Ms. Christian presented a resolution for the 250th anniversary, asking that the Board approve it.

On motion of Mr. C. Tucker and with the following vote, the Board approved the following resolution:

AMHERST COUNTY 250th ANNIVERSARY

WHEREAS, the County of Amherst was established on May 1, 1761, by an act of the Virginia legislature in consideration of growth with regards to population and development in central Virginia ; and

WHEREAS, the County of Amherst has continued to grow by effectively promoting the beauty, integrity, and quality of life in the County and providing bountiful job opportunities with excellence in education ; and

WHEREAS, Amherst County citizens have consistently valued the county's history, treasured landmarks, community events and the people who have lived here; and

WHEREAS, the first two hundred fifty years of Amherst County have been fruitful in experience and forward looking ventures; and

WHEREAS, on April 30, 2011, Amherst County residents and friends will gather at the Amherst County High School to celebrate the 250th anniversary of the establishment of Amherst County;

NOW, THEREFORE, we, the Board of Supervisors representing Amherst County, do hereby recognize the **250th ANNIVERSARY** of Amherst County in our **COMMONWEALTH OF VIRGINIA**, and we call this observance to the attention of all our citizens; and

IN TESTIMONY WHEREOF, we have hereunto set our hands and caused to be affixed the seal of the County of Amherst on this 5th day of October, 2010.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: COUNTY PARK SIGNAGE

Ms. Christian presented a request to the Board for new park signs and repairs to existing signs.

On motion of Ms. C. Tucker and with the following vote, the Board moved to decline the request for now.

Mr. Vandall made the comment that this should be put in the budget for next year.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

IN RE: COUNTY ADMINISTRATOR'S REPORT

The County Administrator invited Mr. Roakes to sit in and explain his request for additional help. As the Board knows, Mr. Boon is retiring and the Board had authorized advertising for a replacement. In the mean time he has some one on staff that he thinks could be used to work emergencies.

By consensus the Board asked to have this placed on the agenda for November 2 and have a work session to discuss this more fully.

Mr. Curd informed the Board that the EMS Committee would like to have a work session with the Board but he thought that they should wait until the other person was on board.

Ms. Tucker asked if this was increasing head count or raising one person's responsibility. The answer was discussion of increasing of head count. She asked if there was something that needed to be done now. Mr. Roakes' stated that he needed day to day help. The major critical issues he has covered.

IN RE: PROPOSED WORK SESSION ON COUNTY ENFORCEMENT AGAINST PUBLIC NUISANCES

The County Attorney, Ellen Bowyer, presented a draft agenda for a work session on County enforcement against public nuisances and was requesting possible dates for the session.

The consensus of the Board was to try for November 16, 2010 at 1:00 p.m. before the Board's normal 7:00 p.m. meeting. She was to see if the Sheriff, Deputy Givens, Building Official and Mr. Christie from the Region 2000 Office.

IN RE: PROPOSED CLOSING OF THE ANIMAL SHELTER NIGHT BOXES

The County Attorney, Ellen Bowyer, provided the Board with some information on the animal shelter night boxes. She stated that the county is liable for any animals that are placed in these boxes. There is no state law regarding these boxes. Kids are opening the boxes and if a mean dog was in there it might attack whoever opens the box. The boxes can be locked but didn't want the supervisors to be surprised if they get calls.

By consensus the Board deferred this matter to the County Administrator. Mr. Lintecum declared that the boxes would be locked, signs posted and other means of advertisement would be done.

IN RE: INTERVIEW OF DISTRICT 4 PLANNING COMMISSION APPLICANT

The Board proceeded to interview Mr. George J. Brine, Jr., of 128 Crickett Hills Drive, Madison Heights, VA 24572 for the position representing District 4 on the Amherst County Planning Commission.

Mr. Brine began by telling something of his self and why he would like to serve on the Planning Commission. He seems willing to learn, attend the planning certification schooling in Charlottesville or Richmond and anything he could do to help the County.

Ms. Tucker sorry to be losing the experience with Bob Fener, but Mr. Vandall stated that he understood her feelings but the Board had decided to try to get representatives from all five districts and Mr. Brine was the only applicant from District 4.

On motion of Mr. Vandall and with the following vote, the Board approved the appointment of Mr. George J. Brine, Jr. to the position of representing District 4 on the Amherst County Planning Commission.

AYE: Mr. D. Kidd, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: Ms. C. Tucker

IN RE: APPROPRIATIONS/TRANSFERS

On motion of Mr. F. Campbell and with the following vote, the Board of Supervisors approved the following appropriations/transfers:

APPROPRIATIONS

Community & County Projects Fund 001

81090 3002 100 100	County Space and Other Studies	\$3,275.00
(To appropriate funds for the mold study conducted by Engineered Systems LLC for the courthouse. Funds should be from the Capital Improvement Fund (094) which has available funds for this purpose.		

TRANSFERS

County Attorney

Transfer from:

22020 5411	Books and Subscriptions	\$ 100.00
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Transfer to:

22020 5801 Dues & Association Membership \$ 100.00
(To cover LGA annual dues for Fiscal Year 2011)

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell
NAY: None

IN RE: MATTERS FROM THE BOARD OF SUPERVISORS

Mr. R. Vandall: None

Mr. R. Curd: EMS Council work session at some point. Also the ball field at Phelps – what is happening about this?

Mr. F. Campbell: None

Mr. D. Kidd: None

Ms. C. Tucker: SNAP FITNESS – offering discount prices to employees
Chamber of Commerce – wants more involvement with Board of Supervisors and EDA

IN RE: CLOSED SESSION

Mr. Vandall moved to go to closed session for consultation and briefings by legal counsel, consultants, or staff members pertaining to actual or probable litigation or other legal matters pursuant to § 2.2-3711.A.7 of the Virginia Code.

This was seconded by Mr. Kidd and approved with the following vote:

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Vandall, Mr. R. Curd and Mr. F. Campbell
NAY: None

Mr. R. Vandall moved to come out of closed session, seconded by Mr. D. Kidd and approved with the following vote:

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Vandall, Mr. R. Curd and Mr. F. Campbell
NAY: None

Mr. Kidd moved the closed session resolution and was approved with the following roll call vote:

Mr. D. Kidd	AYE
Ms. C. Tucker	AYE
Mr. R. Vandall	AYE
Mr. R. Curd	AYE
Mr. F. Campbell	AYE

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Amherst County Board of Supervisors has convened a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

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

NOW, THEREFORE, BE IT RESOLVED that the Amherst County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Amherst County Board of Supervisors.

Any member who believes that there was a departure from the requirements of clauses (i) and (ii) shall state the substance of the departure that, in his judgment, has taken place. (If any member cites a departure, his statement shall be recorded in the minutes.)

IN RE: ADJOURNMENT TO THURSDAY, OCTOBER 7 2010 AT 6:00 P.M. FOR A JOINT MEETING WITH THE PLANNING COMMISSION

On motion of Mr. R. Vandall, seconded by Mr. D. Kidd and with the following vote, the Board moved to adjourn to Thursday, October 7, 2010 at 6:00 p.m. for a joint meeting with the Planning Commission.

AYE: Mr. D. Kidd, Ms. C. Tucker, Mr. R. Curd, Mr. R. Vandall and Mr. F. Campbell

NAY: None

Donald W. Kidd, Chairman
Amherst County Board of Supervisors

C. Lee Lintecum, County Administrator