

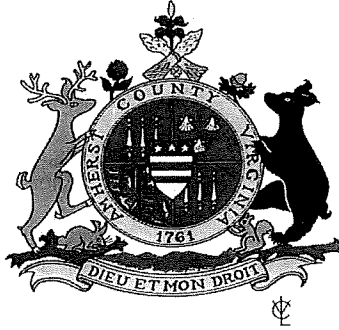
Agenda Item V. A.

Meeting Date: June 6, 2017

Consent Agenda: Minutes - May 2, 2017

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

County Attorney
Ellen Bowyer

AMHERST COUNTY BOARD OF SUPERVISORS

MINUTES

May 2, 2017

Administration Building - 153 Washington Street - Public Meeting Room
1:00 p.m.

Informal Luncheon - 12:00 p.m.
Meeting Convened - 1:00 p.m.

- I. **Call to Order**
- II. **Invocation and Pledge of Allegiance**
- III. **Approval of Agenda**
- IV. **Citizen Comment**
- V. **Consent Agenda**
 - A. Minutes - April 4, 2017
 - B. Finance - FY17 Appropriation of Revenue: 1) Sheriff's Office; 2) Circuit Court Clerk; 3) Public Works
 - C. Resolution 2017-0004-CR, commemorating and celebrating the service of Trenton ("Trent") Richie, Jr. to Amherst County.
- VI. **Fiscal Year 2018 Budget Adoption**
 - A. Resolution 2017-0017-R - General Fund Budget
 - B. Resolution 2017-0018-R - Capital Improvement Plan
 - C. Resolution 2017-0019-R - School Budget
 - D. Resolution 2017-0020-R - Solid Waste Fund
 - E. Resolution 2017-0021-R - Tax Rates
- VII. **New Business**
 - A. EDA as Agent for Winton Development
- VIII. **County Administrator's Report**
 - A. Boards/Committees/Commissions - Building Appeals Board - appointment

B. Projects Status Report

IX. Liaison and Committee Reports

A. Central Virginia Metropolitan Planning Organization - April 20, 2017

B. Lynchburg Regional Business Alliance Executive Board - April 21, 2017

X. Departmental Reports

A. Building Safety and Inspections - March 2017 Report

B. Treasurer - March 2017 Report

XI. Citizen Comment

XII. Matters from Members of the Board of Supervisors

XIII. Closed Session

A. Pursuant to § 2.2-3711(A)(7) of the Code of Virginia, to consult with legal counsel retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

B. Pursuant to § 2.2-3711(A)(3) of the Code of Virginia, to discuss the disposition of publicly-held real property, where discussion in open session would adversely affect the County's bargaining position or negotiating strategy.

C. Pursuant to § 2.2-3711(A)(7) of the Code of Virginia, to consult with the County Attorney regarding the litigation involving the Phelps Road School building.

XIV. Adjournment

MINUTES

At a regular meeting of the Board of Supervisors of Amherst County and held at the Administration building thereof on Tuesday, the 2nd day of May, 2017, at 7:00 p.m. at which 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

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

OTHER PRESENT: EDA Director Victoria Hanson
Attorney H. (Sam) Darby of Glenn, Feldman, Darby & Goodlatte

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

Supervisor Marks recommended moving Item A., VII. New Business, to a closed session. This item addresses guidance provided to the Board by the County Attorney and an outside source

identified as privileged or confidential communication and that would be pertinent to this particular matter.

Supervisor Marks stated the County Attorney provided the Board guidance on the Board's relationship with Winton Country Club and that guidance should be a part of the discussion of the resolution. He stated he had no objection if the Board desired to waive its privilege to discuss this matter in open session; however, believed it should be discussed in a closed session regarding the Board's relationship with Winton, any comments by the Board, and the resolution.

Chair Tucker stated there was nothing the Board would be hearing from outside counsel that would require a closed session and this was confirmed by Attorney H. (Sam) Darby who was present.

Supervisor Marks asked if the Board would waive its privilege to the information the County Attorney has provided.

Chair Tucker advised that relationship would be ending and the issue before the Board is ready to be heard in an open session and made the recommendation. Chair Tucker further stated that if the County Attorney has information to speak on in a closed session, she would need to make that recommendation.

Ms. Bowyer advised the Board to strike the matter under Closed Session relating to disposition of county property and labeled as Item XIII. B.

By motion of Supervisor Campbell and with the following vote, the Board amended the Agenda for May 2, 2017 by striking Item XIII. B. under Closed Session.

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

IV. Citizen Comment

There was no public comment.

V. Consent Agenda

A. Minutes - April 4, 2017

B. Finance - FY17 Appropriation of Revenue: 1) Sheriff's Office; 2) Circuit Court Clerk; 3) Public Works

C. Resolution 2017-0004-CR, commemorating and celebrating the service of Trenton ("Trent") Richie, Jr. to Amherst County.

By motion of Chair Tucker and with the following vote, the Board approved the Consent Agenda for May 2, 2017.

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

VI. Fiscal Year 2018 Budget Adoption

A. Resolution 2017-0017-R - General Fund Budget

County Administrator Rodgers explained a public hearing was held on April 18, 2017 and no public comment for or against the proposed budget was received.

Mr. Rodgers stated the following five resolutions addressed the budget that the Board previously approved and required individual votes by the Board.

By motion of Chair Tucker and with the following vote, the Board adopted Resolution 2017-0017-R appropriating the General Fund Budget as part of the Amherst County Budget for Fiscal Year 2017-2018. **(See Attachment 1)**

Roll Call Vote

Supervisor Marks	Nay
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Nay
Chair Tucker	Aye

B. Resolution 2017-0018-R - Capital Improvement Plan

By motion of Chair Tucker and with the following vote, the Board adopted Resolution 2017-0018-R for the Fiscal Year 2018-2022 Capital Improvement Plan and assigning fiscal year 2018 Capital Improvement Plan funds within the General Reserve Fund. **(See Attachment 2)**

Roll Call Vote

Supervisor Marks	Nay
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Nay
Chair Tucker	Aye

C. Resolution 2017-0019-R - School Budget

By motion of Chair Tucker and with the following vote, the Board adopted Resolution 2017-0019-R appropriating the School Budget as part of the Amherst County Budget for Fiscal Year 2017-2018. **(See Attachment 3)**

Roll Call Vote

Supervisor Marks	Nay
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Nay
Chair Tucker	Aye

D. Resolution 2017-0020-R - Solid Waste Fund

By motion of Chair Tucker and with the following vote, the Board adopted Resolution 2017-0020-R appropriating the Amherst County Solid Waste Budget as part of the Amherst County Budget for Fiscal Year 2017-2018. **(See Attachment 4)**

Roll Call Vote

Supervisor Marks	Aye
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Aye
Chair Tucker	Aye

E. Resolution 2017-0021-R - Tax Rates

By motion of Chair Tucker and with the following vote, the Board adopted Resolution 2017-0021-R establishing County tax rates for Fiscal Year 2017-2018. (See Attachment 5)

Supervisor Marks	Aye
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Aye
Chair Tucker	Aye

VII. New Business

A. EDA as Agent for Winton Development

County Administration Rodgers stated at the April 18, 2017 Board meeting, the Board requested a resolution be prepared using the motion made by Supervisor Ayers at that meeting. A resolution was crafted by outside counsel, Attorney H. Sam Darby and EDA Counsel Attorney Ted Cradock. The resolution accomplished what was proposed in Supervisor Ayers' motion.

Mr. Rodgers said he inserted language from Supervisors Ayers' motion to read, on page 2, section 1, "for a twenty-four (24) month period beginning the date of adoption of this Resolution."

Mr. Rodgers advised the resolution was sent to the Board previously, which he received no comments.

Supervisor Marks requested that one statement on page 2 of the resolution be changed to read "County Administrator" instead of "County Attorney".

Supervisor Marks questioned the language on page 1, second WHEREAS clause, ... "counsel and advisors have been uncertain about the alienability of the Property and whether or not it is bound or restricted by the terms of the gift or other trust doctrine or limitation";

Supervisor Marks stated that counsel has ruled on the facts that Winton was a restricted gift.

Mr. Rodgers said the advice that counsel has provided to the County has given us a variety of alternatives in terms of eliminating the property. He said the County would have to go to the Attorney General and the Circuit Court to determine the extent of the restrictions and, therefore, there is no certainty until going through all those final steps. Mr. Rodgers stated he believed that was an accurate statement.

Vice-Chair Pugh said he would like to see some of the legal guidance in this process be released so the public will know what the Board has been informed of. Vice-Chair Pugh said there is no question that Winton is a restricted gift and held in trust for the citizens of the County.

Supervisor Marks questioned on page 1, the third WHEREAS clause, that the "Corporation is economically untenable"..... He said that Winton has a new board that has aggressively gone out and made membership drives and presented actions to improve the status of Winton.

Supervisor Marks remarked that if this resolution is approved and the matter turned over to the EDA, he believed it appeared that the County was giving up on Winton.

Supervisor Marks asked Mr. Darby the question if Winton fails because the County has interfered with their business plans, was the County setting itself up for a lawsuit.

Mr. Darby's response was that he could not answer that question.

Chair Tucker said that Winton is in her district and she has talked with Board members of Winton and wants nothing but their success. She stated that having the EDA to assist is an effort and tool to market that property properly and to assist Winton's success.

Chair Tucker asked Supervisor Ayers to restate his motion with the noted amendments.

Supervisor Ayers requested an amendment to Resolution 2017-0023-R, page 2, section 1, to read "for a twenty-four (24) month period beginning the date of adoption of this Resolution."

Mr. Rodgers requested Supervisor Ayers to also amend page 2, section 5 to read, "The County Administrator does hereby hire the law firm of Glenn, Feldmann, Darby & Goodlatte and approve its engagement letter signed by the County Administrator....

By motion of Chair Tucker and with the following vote, the Board amended Resolution 2017-0023-R on page 2, section 1, by adding the following underlined language: The EDA take responsibility for a twenty-four (24) month period beginning the date of adoption of this Resolution....; and page 2, section 5, to read, "The County Administrator does hereby hire the law firm of Glenn, Feldmann, Darby & Goodlatte and approve its engagement letter signed by the County Administrator.... (See Attachment 6)

Roll Call Vote

Supervisor Marks	Nay
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Nay
Chair Tucker	Aye

VIII. County Administrator's Report

A. Boards/Committees/Commissions - Building Appeals Board - appointment

Mr. Rodgers advised the Board is being asked to appoint a representative to the Building Appeals Board. Mr. John Maynard has requested to fill this vacancy.

Supervisor Campbell said he has worked with Mr. Maynard over the years and he would be an excellent representative.

By motion of Supervisor Campbell and with the following vote, the Board appointed John E. Maynard as the District 1 representative to the Building Appeals Board.

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

B. Projects Status Report

Mr. Rodgers reported that the only change to this report is the grant for design work for Riveredge Park has been approved.

IX. Liaison and Committee Reports

A. Central Virginia Metropolitan Planning Organization - April 20, 2017

B. Lynchburg Regional Business Alliance Executive Board - April 21, 2017

For Board information only.

X. Departmental Reports

A. Building Safety and Inspections - March 2017 Report

B. Treasurer - March 2017 Report

For Board information only.

XI. Citizen Comment

There was no public comment.

XII. Matters from Members of the Board of Supervisors

Supervisor Marks made a request to address the Board in response to Supervisors Ayers' comments at the April 18, 2017 meeting. Supervisor Marks stated he had questions to ask Supervisors Ayers as a result of his comments. Supervisor Marks requested his statement and Supervisors Ayers' comments be included in the official minutes of this meeting.

Supervisor Marks read his statement. (See Attachment 7)

Supervisor Ayers stated he would respond to the questions included in Supervisor Marks' statement:

- Supervisor Ayers stated he does not know if Runk & Pratt will seek to again purchase Winton; Supervisor Ayers said he recused himself concerning Runk & Pratt and Winton; and Supervisor Ayers stated he assumed Runk & Pratt will come back to discuss with the EDA.
- Supervisor Ayers responded regarding the April 10, 2017 memorandum and stated this came from members of County staff and they could release that memorandum if they so desire.
- Supervisor Ayers stated that if the County can find a viable use for that property other than selling it, he believes that is what should be done with the Winton property.
- Supervisor Ayers stated he cannot confirm the price.
- Supervisor Ayers commented on emails regarding Runk & Pratt and stated he could not control what hits his County email account; therefore, his email account was terminated and he used his personal email address instead.

Supervisor Marks made a request that the April 10, 2017 memorandum be released. He then made a motion that the Board of Supervisors waive its privilege to the April 10, 2017 memorandum from the County Attorney and outside counsel that Supervisor Ayers referred to in his comments of April 18, 2017. (See Attachment 8)

Roll Call Vote

Supervisor Marks	Aye
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Aye
Chair Tucker	Aye

Supervisor Marks stated he did not believe Supervisor Ayers answered his question concerning his opinion regarding a selling price of the property for less than fair market value.

Chair Tucker stated that it would be ethically wrong for the County to make a profit on that gift. If the County can find a purchaser or developer to assist with this property to bring people to this County, allow retirees to stay there, allow the Winton Manor and the golf course to flourish, she stated "yes" she would be willing to accept less than what that property is assessed at.

Supervisor Campbell had no matter to discuss.

Supervisor Ayers had no matter to discuss.

Vice-Chair Pugh commented on several issues regarding Winton concerning the fair market value, restriction of Winton and the issue of obtaining new legal counsel.

Vice-Chair Pugh made a request to revisit the issue that specific legal guidance be released to the public regarding Winton.

Chair Tucker stated she believes it would set a dangerous precedent to start releasing legal guidance and voiding that privilege on specific instances. Chair Tucker asked the County Attorney to opine.

County Attorney Bowyer advised that the Board, as the elected representatives of Amherst County, holds the privilege for the County. The Board's decision to waive privilege with respect to one or more specific documents or items does not necessarily imply wholesale waiver.

Chair Tucker responded to Vice-Chair Pugh that she had no issue with his request and invited him to bring back to the Board a list of the documents that he wished to waive the Board's privilege.

Chair Tucker remarked that sometimes the legislative process is "messy" and the more transparent we are as a body, and the more citizens know, the better off everyone is.

Chair Tucker had no other matter to discuss.

XIII. Closed Session

A. Pursuant to § 2.2-3711(A)(7) of the Code of Virginia, to consult with legal counsel retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

~~B. Pursuant to § 2.2-3711(A)(3) of the Code of Virginia, to discuss the disposition of publicly held real property, where discussion in open session would adversely affect the County's bargaining position or negotiating strategy.~~

C. Pursuant to § 2.2-3711(A)(7) of the Code of Virginia, to consult with the County Attorney regarding the litigation involving the Phelps Road School building.

Supervisor Marks 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 legal counsel retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel; and § 2.2-3711 (A)(7) of the Code of Virginia, to consult with the County Attorney regarding the litigation involving the Phelps Road School building.

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

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

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

CERTIFICATION OF CLOSED MEETING

Supervisor Marks moved that the Amherst County Service Authority Board 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.

Mrs. Tucker	AYE
Mr. Pugh	AYE
Mr. Ayers	AYE
Mr. Campbell	AYE
Mr. Marks	AYE

XIV. Adjournment

By motion of Supervisor Ayers and with the following vote, the Board adjourned at 2:25 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