

BOOK 33

VIRGINIA:

At a regular meeting of the Board of Supervisors of Amherst County held at the Administration Building thereof on Tuesday, the 20th day of October, 2009 at 7:00 p.m. at which the following members were present and absent:

BOARD OF SUPERVISORS:

PRESENT: Mr. C. Adams Mr. D. Kidd Mr. R. Vandall Mr. V. Wood	ABSENT: Mr. L. Parrish
--	-------------------------------

The meeting was called to order by Mr. C. Adams, Vice Chairman.

Mr. V. Wood led in the invocation and pledge of allegiance.

IN RE: AGENDA

On motion of Mr. Vandall and with the following vote, the Board of Supervisors approved the agenda with the following changes:

AGENDA

**TUESDAY, OCTOBER 20, 2009
 ADMINISTRATION BUILDING – 153 WASHINGTON STREET
 SCHOOL BOARD MEETING ROOM
 7:00 P.M.**

- I. Call to Order**
- II. Invocation and Pledge of Allegiance**
- III. Approval of Agenda**
- IV. Zoning Public Hearing**

2009-18 Request by Arthur E. Newcomb Jr. for a conditional zoning from R-2 General Residential District to B-2 General Commercial District. The proposed rezoning is to allow a photography studio and a residence at the property. The parcel is located at 929 Wright Shop Road, and is further identified as tax map number 161-A-9.

2009-19 Request by Dale Carson for a conditional zoning from R-2 General Residential District to B-2 General Commercial District. The proposed rezoning is to provide for the continued business use of the property. The parcel is located at 351, 353, 355, 357, 359, 361 Old Wright Shop Road and is further identified as tax map number 156 B-6-B-1. The request will include an amendment to the Amherst County future land use map 2027 to change the land use category from Village District to General Commercial.

2009-23 The request is for a change in an existing condition for a special exception that was approved by the Board of Supervisors on February 19, 2008 for Timothy R. Campbell. The original request was for a special exception in the A-1

Agricultural Residential District to allow machinery sales and service use at 2152 North Amherst Highway, and further identified as tax map number 67 A-1-A. The existing condition states: "all work done on machinery shall be performed inside the facility, equipment and all miscellaneous parts shall be stored inside the building". The Board of Supervisors will be considering removing the existing condition as stated above, or modify the existing condition.

2009-22 Request by Christopher B. von Elten for a zoning text amendment to allow a *substance abuse treatment facility* as a special exception use in the A-1 Agricultural Residential District, and the B-2 General Commercial District. The definition of a *substance abuse treatment facility* has been included in the proposed zoning text amendment.

Request by Leo Garland to operate a café that may include a comedian and music located at the Seminole Shopping Center. The Seminole Shopping Center is zoned B-2 General Commercial District, and this type of expanded use should be considered by the Board of Supervisors. According to Section 707.02 (29) shopping centers are a permitted use in the B-2 District, and Section 909.02 (55) of the Shopping Center ordinance allows the Board of Supervisors to consider "other compatible uses approved by the Board of Supervisors". Therefore, the request is to allow Mr. Garland to open a café that may include a comedian and music located at the Seminole Shopping Center.

IV. Public Hearing

- a. To discuss the following: (1) the transfer of the Historic Amherst Train Depot and the land it rests on to Amherst County by the Friends of the Historical Amherst Train Station and (2) the County accepting full responsibility for completion of the Depot Project.

V. Citizen Comments

VI. Consent Agenda

- a. Building Safety & Inspections Month Report - September 2009
- b. Parks, Recreation & Cultural Development – September 21, 2009
- c. Amherst County Office of the Sheriff – July 2009
- d. Amherst County Public Safety – September 2009
- e. Campbell County Community Development – Notice of Public Hearing Proposed Update of Comprehensive Plan
- f. Dominion Resources Services, Inc.- Integrated Resource Plan of Virginia Electric and Power Company Pursuant to VA Code §56-599 Case No. PUE-2009-00096
- g. Appomattox County Dept of Community and Economic Development – Notice of Public Hearing-Proposed Zoning Ordinance Revision and Zoning Map Revision
- h. Department of Environmental Quality – Notification of Litter Prevention and Recycling Grant
- i. Letter of 10/13/09 – Request for Prior Authorization – CDBG – Old Madison Heights Project
- j. Department of Transportation – Return to private ownership of property
- k. Department of Agriculture and Consumer Services – Gypsy Moth Suppression Program
- l. Biosolids – Public Notice – Environmental Permit
- m. VDOT Traffic Alert – October 12-16, and 19-23, 2009

VII. Department Report

Tourism

- a. 2011 Dixie Youth World Series

VIII. County Administrator's Reports

- a. VACo's Annual Business Meeting
- b. Amherst County Legislative Agenda
- c. Recognition of citizen advisory assistance with County Administrator selection process

IX. County Attorney's Reports

- a. Dr. David Orvos Biosolids Discussion Invitation update
- b. Springsted, Inc. Amherst County Personnel Plan Work Session Scheduling Request

X. Matters from Members of the Board of Supervisors

XI. Closed Meeting (§2.2-3711.A, Code of Virginia, as amended)

§2.2-3711.A.1 Discussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter which involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

- a. Personnel
 - (i) Maintenance Director Position

XII. Appropriations and/or Transfers

XIII. Adjourn

Note: Von Elten and Garland cases are not public hearing items but Board of Supervisors' Action Items. Delete Closed Session and move Maintenance Director Position to VIII. County Administrator's Reports, (d) Maintenance Director Position.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood
 NAY: None
 ABSENT: Mr. L. Parrish

IN RE: ZONING PUBLIC HEARINGS

2009-18 Request by Arthur E. Newcomb Jr. for a conditional zoning from R-2 General Residential District to B-2 General Commercial District. The proposed rezoning is to allow a photography studio and a residence at the property. The parcel is located at 929 Wright Shop Road, and is further identified as tax map number 161-A-9. The request will include an amendment to the Amherst County future land use map 2027 to change the land use category from Manufacturing/Limited Residential to General Commercial.

The Planning Commission recommended approval with the voluntary proffers as follows:

1. Other Uses. All other uses other than single-family residential and a retail sale and/or service store within the same main structure will not be allowed on the property.
2. Lighting. All proposed outdoor lighting will be glare-shielded and directed so as to prevent illumination across the property line.
3. Hours of Operation. Monday thru Friday 9:00 a.m. – 9:00 p.m., Saturday and Sunday 9:00 a.m. – 10:00 p.m.
4. Trash Receptacles/Recycling Activities. Must be conducted inside the building only.

The Board of Supervisors asked questions.

Ms. Tyree was asked to speak.

The public hearing was closed.

Mr. Adams asked for proponents to speak. There were none.

Mr. Adams asked for opponents to speak. There were none.

On motion of Mr. Kidd and with the following vote, the Board of Supervisors approved the request per the recommendation of the Planning Commission with the conditions offered by the petitioner and amends the land use category from Village District to General Commercial.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None

ABSENT: Mr. L. Parrish

2009-19 Request by Dale Carson for a conditional zoning from R-2 General Residential District to B-2 General Commercial District. The proposed rezoning is to provide for the continued business use of the property. The parcel is located at 351, 353, 355, 357, 359, 361 Old Wright Shop Road, and is further identified as tax map number 156 B-6-B-1. The request will include an amendment to the Amherst County future land use map 2027 to change the land use category from Village District to General Commercial.

The Planning Commission recommended approval with the voluntary proffers as follows:

1. Trash receptacles will be kept outside except for one morning per week when they are emptied by a contract trash service.
2. Lighting for signs or advertising is not utilized at this site. Small security lights are occasionally used after business hours.
3. Business hours are established within a 6:00 a.m. to 9:00 p.m. window. Customer traffic is extremely light after 5:00 p.m.
4. Utilization of the parking lot by service equipment will continue to be allowed provided the asphalt surface is not damaged.

The Board of Supervisors asked questions of Mr. Bryant.

Mr. Adams brought out that this was spot zoning.

The Planning Commission had talked about changing to Village or B-2.

Mr. Kidd asked if the business closes what happens. They have a 24 month window and then you cannot open another business.

Mr. Hunt – spot zoning should be discouraged.

Mr. Vandall wanted to know the difference between V-1 and General Commercial.

Proponents: Mr. Carson – bought the property 10 years ago. He rents out 4 spaces and 2 are empty at this time.

On motion of Mr. Vandall and with the following vote, the Board of Supervisors postponed action on this request until after the train depot public hearing.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None

ABSENT: Mr. L. Parrish

Public Hearing was reopened after the train depot public hearing.

Mr. Carson provided letter requesting withdrawal of his request for conditional zoning.

Mr. Adams directed Mr. Bryant to ask the Planning Commission to consider changes in the V-1 district as soon as possible.

2009-23 The request is for a change in an existing condition for a special exception that was approved by the Board of Supervisors on February 19, 2008 for Timothy R. Campbell. The original request was for a special exception in the A-1 Agricultural Residential District to allow machinery sales and service use at 2152 North Amherst Highway, and further identified as tax map number 67 A-1-A. The existing condition states: “all work done on machinery shall be performed inside the facility, equipment and all miscellaneous parts shall be stored inside the building”. The Board of Supervisors will be considering removing the existing condition as stated above, or modify the existing condition.

Mr. Bryant presented 4 options for the Board to consider:

Option A: Due to public necessity, convenience, general welfare and good zoning practice, I move to remove the condition imposed during a public hearing on February 19, 2008 for zoning case 2007-52, that states: *“all work done on machinery shall be performed inside the facility, equipment and all miscellaneous parts shall be stored inside the building”*. The property is located at 2152 North Amherst Highway and further identified as tax map number 67 A-1-A.

Option B: Due to public necessity, convenience, general welfare and good zoning practice, I move to remove the condition imposed during a public hearing on February 19, 2008 for zoning case 2007-52, that states: *“all work done on machinery shall be performed inside the facility, equipment and all miscellaneous parts shall be screened from public view with a six (6) foot non-transparent fence or vegetative buffer that meets the requirements set forth in the Amherst County Landscaping Ordinance. New equipment for sale may be displayed in the front yard of the property, provided the equipment does not occupy the parking area or impede sight distance along Route 29 and Route 610”*.

Option C: Due to public necessity, convenience, general welfare and good zoning practice, I move to remove the condition imposed during a public hearing on February 19, 2008 for zoning case 2007-52, that states: *“all work done on machinery shall be performed inside the facility, equipment and all miscellaneous parts shall be screened from public view with a six (6) foot non-transparent fence or vegetative buffer that meets the requirements set forth in the Amherst County Landscaping Ordinance”*.

Option D: Due to public necessity, convenience, general welfare and good zoning practice, I move to remove the condition imposed during a public hearing on February 19, 2008 for zoning case 2007-52 that states: *“all work done on machinery shall be performed inside the facility, equipment and all miscellaneous parts shall be stored inside the building, new equipment for sale may be displayed in the front yard of the property, provided the equipment does not occupy the parking area or impede sight distance along Route 29 and Route 610”*.

These are suggested options and you make use one of them or make you own.
Mr. Kidd commented on his vegetative buffer.

Mr. Campbell is asking the Board to remove the condition and would like to keep new equipment in front.

Mr. Vandall would not like to see a lawn mower graveyard.

Vice Chair opened the public hearing.

Proponents: Mark Labadie as customer of Mr. Campbell.
Sam Delaura as customer of Mr. Campbell.

Opponents: Ellen Magruder – commended Mr. Campbell but cautioned the Board about everything piling up outside.

Vice Chair closed the public hearing.

On motion of Mr. Vandall and with the following vote, due to public necessity, convenience, general welfare and good zoning practice, I move to modify the condition imposed during a public hearing on February 19, 2008 for zoning case 2007-52, that states: that ~~“all work done on machinery shall be performed inside the facility, equipment and all miscellaneous parts shall be stored inside the building”~~, *New equipment for sale may be displayed in the front yard of the property, provided the equipment does not occupy the parking area or impede sight distance along Route 29 and Route 610” and further more repaired equipment may not stay outside more than forty-five (45) days.*

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None

ABSENT: Mr. L. Parrish

IN RE: 2009-22 CHRISTOPHER B. von ELTEN

This is a request by Christopher B. von Elten for a zoning text amendment to allow a *substance abuse treatment facility* as a special exception use in the A-1 Agricultural Residential District, and the B-2 General Commercial District. The definition of a substance abuse treatment facility has been included in the proposed zoning text amendment.

On October 1, 2009 the Planning Commission discussed the proposed text amendment, and recommended that *substance abuse treatment facilities* be included in the A-1 Agricultural Residential District, and the B-2 General Commercial District. The Planning Commission determined that the particular use should not be included in the residential districts. This is a “first reading” for the Board of Supervisors, if approved the text amendment will go to public hearing.

After discussion among the Board members, on motion of Mr. D. Kidd and with the following vote, the Board of Supervisors tabled request for thirty (30) days for further review at next board meeting.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None

ABSENT: Mr. L. Parrish

IN RE: REQUEST BY LEO GARLAND

Request by Leo Garland to operate café that may include a comedian and music located at the Seminole Shopping Center. The Seminole Shopping Center is zoned B-2 General Commercial District, and this type of expanded use should be considered by the Board of Supervisors. According to Section 707.02 (29) shopping centers are a permitted use in the B-2 District, and Section 909.02 (55) of the Shopping Center ordinance allows the Board of Supervisors to consider “other compatible uses approved by the

Board of Supervisors". Therefore, the request is to allow Mr. Garland to open a café that may include a comedian and music located at the Seminole Shopping Center.

After questions by the Board of Supervisors, on motion of Mr. Vandall and with the following vote, the Board of Supervisors approved the café zoning permit.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None

ABSENT: Mr. L. Parrish

IN RE: PUBLIC HEARING TRAIN DEPOT PROPERTY

The Amherst County Board of Supervisors will hold a public hearing on Tuesday, October 20, 2009, beginning at 7:00 p.m., or as soon thereafter as possible, in the Amherst County Administration Building, 153 Washington Street, Amherst, Virginia 24521, to discuss the following: (1) the transfer of the Historic Amherst Train Depot and the land it rests on (the "Depot Project") to Amherst County (the "County") by the Friends of the Historical Amherst Train Station; and (2) the County accepting full responsibility for completion of the Depot Project. A copy of the proposed agenda and related documents are available Monday through Friday, during regular working hours, in the Office of the County Administrator at the above address.

Opened Public Hearing:

Proponents: Marlene Fitzgerald, President of the Friends of the Historical Amherst Train Station

The original intent of the Friends was to convey the property to the County after completion but now they find that it needs to be turned over to the County for completion. She went on to convey the good this building could do for the County.

Sandy Esposito – spoke in favor of the train depot project

Opponents: Mark Labadie – wants figures on what has been spent – called the building decrepit

Closed public hearing

Mr. Adams he remembered the project was on list for stimulus funds.

Mr. Proffitt explained that we had received information that it would not be funded except through VDOT grants.

On motion of Mr. Vandall and with the following vote, this was tabled until the next available meeting.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None

ABSENT: Mr. L. Parrish

Mr. Kidd asked Mr. McCormack if County does take the property, how long before it could be sold.

Mr. McCormack explained that if not used for designated use, all the funds expended by VDOT would have to be returned.

Mr. Vandall – is there a period of time before this could be done.

Mr. McCormack repeated if not used as intended purpose, the County would have to repay the loans.

IN RE: CITIZEN COMMENTS

Mark Labadie – Thanked the Board of Supervisors for a good job at that meeting.

IN RE: CONSENT AGENDA

- a. Building Safety & Inspections Month Report - September 2009
- b. Parks, Recreation & Cultural Development – September 21, 2009
- c. Amherst County Office of the Sheriff – July 2009
- d. Amherst County Public Safety – September 2009
- e. Campbell County Community Development – Notice of Public Hearing Proposed Update of Comprehensive Plan
- f. Dominion Resources Services, Inc.- Integrated Resource Plan of Virginia Electric and Power Company Pursuant to VA Code §56-599 Case No. PUE-2009-00096
- g. Appomattox County Dept of Community and Economic Development – Notice of Public Hearing-Proposed Zoning Ordinance Revision and Zoning Map Revision
- h. Department of Environmental Quality – Notification of Litter Prevention and Recycling Grant
- i. Letter of 10/13/09 – Request for Prior Authorization – CDBG – Old Madison Heights Project
- j. Department of Transportation – Return to private ownership of property
- k. Department of Agriculture and Consumer Services – Gypsy Moth Suppression Program
- l. Biosolids – Public Notice – Environmental Permit
- m. VDOT Traffic Alert – October 12-16, and 19-23, 2009

The Board of Supervisors reviewed and made no comments.

The County Administrator move to change to correspondence and action list.

IN RE: 2011 DIXIE YOUTH WORLD SERIES

This is status update on securing the 2011 “Ozone” World Series for 11-12 year old division.

David Proffit in place of Joe Bondurant (sick) explained that Mr. Bondurant had been touch with Lynchburg and Chamber and has promises for the majority of the \$20,000 requested by Ronnie Adams.

Mr. Vandall suggested that they explore CIP and see if funds would be available in Recreation session. Look for money elsewhere – cannot commit to Tourism in following years.

Mr. Wood also requested staff to look for money elsewhere.

On motion of Mr. Adams and with the following vote, the Board instructed staff to contact Ronnie Adams and allow him to confirm commitment for 2011 Dixie Youth World Series and to cover the \$8,000 out of next three (3) years.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, and Mr. V. Wood

NAY: None

ABSENT: Mr. L. Parrish

IN RE: VACO'S ANNUAL BUSINESS MEETING

The 2009 annual VACo business meeting will be held on Tuesday, November 20, 2009 at the homestead in Bath County. VACo bylaws state that each County shall designate a representative of its Board of Supervisors to cast its vote(s) at the annual meeting, or a non-elected official may be designated or a Board member from another County. At this time Mr. Adams is the only Board member registered to attend this meeting.

On motion of Mr. Vandall and with the following vote, the Board of Supervisors designates Mr. Adams as the Amherst County Board of Supervisors designee to cast vote(s) at the 2009 VACo annual business meeting.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None

ABSENT: Mr. L. Parrish

IN RE: AMHERST COUNTY LEGISLATIVE AGENDA

In relation to the legislative agenda, the School Board has invited the Board of Supervisors to join with them for their annual legislative meeting on Wednesday, December 2, 2009 at the Central Elementary School at 10:30 a.m.

On motion of Mr. Wood and with the following vote, the Board of Supervisors accepts the School Board invitation.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None

ABSENT: Mr. L. Parrish

Mr. Wood suggested emailing any suggestion for the legislative agenda to staff for the November 3rd board meeting.

IN RE: RECOGNITION OF CITIZEN ADVISORY ASSISTANCE WITH COUNTY ADMINISTRATOR SELECTION PROCESS

On motion of Mr. Wood and with the following vote, the Board of Supervisors directed staff to purchase \$100.00 gift certificates and prepare a resolution for each.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None

ABSENT: Mr. L. Parrish

IN RE: MAINTENANCE DIRECTORY POSITION

Mr. Lintecum asked the Board to let him think on this for a little while.

IN RE: BIOSOLIDS DISCUSSION WITH DR. DAVID ORVOS

Dr. David Orvos, Sweet Briar College Professor and Amherst County's Biosolids Monitor, has accepted the Amherst County Board of Supervisors' ("BOS") invitation to conduct a general discussion on the state of biosolids in Amherst County at the November 3, 2009 BOS meeting.

IN RE: PERSONNEL PLAN WORK SESSION/SPRINGSTED

John A. Anzivino, of Springsted Inc., is available the evenings of November 3, 5, 11, 18, 23 and 24 to conduct a follow-up Work Session to finalize the revisions to the Amherst County Personnel Plan. For what it's worth, I will be unavailable November 11th. Please advise if any of the aforementioned dates work for the Board.

None of the dates worked for the Board and they directed staff to check on December dates that he might be available.

IN RE: MATTERS FROM MEMBERS OF THE BOARD OF SUPERVISORS

Mr. Wood – None

Mr. Vandall – None
 Mr. Kidd – None
 Mr. Adams – he thinks the board needs another work session
 Mr. Kidd – he thinks the board needs another retreat session after 1st of year.
 Mr. Vandall thinks it ought to be before Mr. Wood leaves.

Mr. Hunt informed the Board that Ken White would be available for the December 1 meeting regarding the train station depot VDOT funds.

IN RE: APPROPRIATIONS/TRANSFERS

On motion of Mr. Vandall and with the following vote, the following appropriations and/or transfers were approved:

a. APPROPRIATIONS

FY09-10

Office of the Sheriff

31020	1008	Traffic Enforcement (PT)	\$10,000.00
31020	1008	Traffic Enforcement (FT)	\$ 9,414.00
31020	1009	Clerical Salary	\$ 4,877.30
31020	2001	FICA	\$ 1,030.76
31020	2002	VS.	\$ 1,877.87
31020	2005	Health Ins.	\$ 2,264.63
31020	2006	Life Ins	\$ 117.19
31020	2017	Health Credit	\$ 30.02
31020	7001	Equipment	\$21,304.06
		(Fine Revenue Money)	
31020	1007	Forest	\$ 3,425.00
31020	1010	Narcotics	\$ 373.80
31020	5410	Uniforms	\$ 355.00
31020	5501	Travel	\$ 6.00
31020	7001	Equipment	\$ 125.00
33010	3001	Doctors	\$ 184.23
8-3125	1008	DMV	\$ 3,399.12
8-3130	7001	Bike Grant	\$ 985.00
		(Pass through revenue)	

b. TRANSFERS

Tourism Department

Transfer from:

81600	7001	Equipment	\$ 173.00
-------	------	-----------	-----------

Transfer to:

81600	3010	Repairs & Maintenance	\$ 173.00
-------	------	-----------------------	-----------

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood

NAY: None
ABSENT: Mr. L. Parrish

IN RE: ADJOURN

On motion of Mr. Wood and with the following vote, the Board of Supervisors adjourned.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall and Mr. V. Wood
NAY: None
ABSENT: Mr. L. Parrish

Christopher R. Adams, Vice Chairman

C. Lee Lintecum, County Administrator