

V I R G I N I A:

At a meeting of the Washington County Board of Supervisors held Thursday, May 31, 1990, at 7:00 p.m., at the County Administration Building in Abingdon, Virginia, the following were present:

PRESENT:

James P. Litton, Chairman
 Maurice H. Parris, Vice Chairman
 Kenneth G. Mathews
 Aubrey E. Brown
 Charles O. Byrd
 Thomas Whittaker
 Cecil K. Simcox

Bruce E. Bentley, County Administrator
 Barry Proctor, Acting County Attorney
 Mark W. Seamon, Director of Accounting
 Elaine C. Burke, Acting Secretary

1. Call to Order

The meeting was called to order by Mr. James P. Litton, Chairman of the Board.

2. Invocation and Pledge of Allegiance - Rev. Lawrence Pace, Pastor, Abingdon Baptist Church

Reverend Lawrence Pace, Pastor, Abingdon Baptist Church, was present to give the Invocation and lead in the Pledge to the Flag.

Mr. Bentley asked for and was granted permission to modify the agenda as follows:

The minutes of the recessed meetings of May 24, 1990 and May 29, 1990 are submitted for review only and will be considered for approval at the next meeting.

Under the the County Attorney's Report, Mr. Bentley entered a resolution of Dog Damage claims previously submitted for approval concerning D. Arrington and J. Arrington. These claims came before the Board previously but no action was taken.

Mr. Bentley further requested that an Executive Session be included for personnel, section 2.1-344(a)(1), and prospective industry, section 2.1-344(a)(5).

Under the County Administrator's Comments, Mr. Bentley asked to add (c), potential hazardous waste sites in Washington County and item (d) under the same section, a resolution for litter control and recycling state grant in the amount of \$30,785.00.

3. Approval of Minutes

The following action was taken on approval of minutes:

On motion of Mr. Byrd, second by Mr. Brown, it was resolved to approve the following minutes:

:: Regular Meeting of May 14, 1990

Page 5055, Item 17., Consideration of Appointing A County Administrator (Aubrey Brown)

The vote on Mr. Whittaker's substitute motion should be 2-4-1 rather than 2-5.

The vote on Mr. Brown's motion should be 4-3 rather than 7-0.

Mr. Mathews noted that page 5068 is missing from the minutes. Mr. Bentley will check into this matter and report back at the next meeting.

Page 5048, Item 10., Selection of Architectural Firm for Courthouse Renovation

In the last paragraph where Mr. Byrd abstained from employing Beeson & Beeson, the name of the the company should be Hunt & Associates rather than Byrd & Goff Construction.

Page 5042, Item 5, Planning and Zoning Public Hearings

In Mr. Byrd's motion concerning the trailer park, the portion of the motion beginning, "that Mr. Fitzgerald will provide fire protection and provide a 6" waterline to service trailers in the area with T's provided to accommodate fire hydrants spaced so that no trailer will be no more than 500 -- and hydrants" should read "Mr. Fitzgerald will provide a 6" waterline in the trailer park with T's to accommodate fire hydrants spaced so that no trailer would be more than 500 feet from a hydrant when sufficient water is available to serve that area"

:: Recessed Meeting of May 16, 1990
 :: Recessed Meeting of May 17, 1990
 :: Recessed Meeting of May 21, 1990

The vote on this motion to approve the above minutes was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

Discussion ensued about the motion of April 26, 1990 whereby the Supervisors voted to pay for Supervisor Parris' attorney's fees related to legal action brought against him related to his resignation from the Board of Supervisors on January 9, 1990. Mr. Mathews and Mr. Byrd expressed a desire to change their vote from a yes to a nay. Mr. Brown commented that he received complaints about the Supervisors' action. Mr. Proctor was asked to advise the Board about changing the votes at this time and he concluded that it is not advisable. Mr. Mathews and Mr. Byrd requested the record reflect that they have changed their position on the matter.

4. Citizen Comments

At this time, Mr. Litton invited comments from citizens in the audience on items that do not appear on the agenda.

Lewis Atkins, resident of the Town of Abingdon, stated his concerns about Mr. Litton's failure to pay his 1989 taxes and asked the County Attorney if this failure to pay taxes constituted a conflict of interest on Mr. Litton's part due to the fact that he is a member of the Board of Supervisors and working on the County budget. Mr. Atkins also asks that the Sheriff's Department begin to give tickets for county residents who do not have stickers on their vehicles.

Mr. Litton responded that he always pays his taxes and that he paid some of his 1990 taxes months ago.

Mr. Proctor responded that Mr. Litton, as a citizen of this County, is subject to the enforcement of tax regulations the same as any other citizen. Mr. Proctor was unable to render an opinion on the conflict of interest question because he represents the Board and therefore cannot offer legal opinions to people in the public in this forum.

5. County Administrator Comments:

The following action was taken on County Administrator comments:

a. Lease/Purchase for Clinchburg Polling Place/Community Center

Mr. Bentley advised that no action has been taken on this issue.

b. Jim Salyers' Complaint About Animal Wardens

Mr. Bentley advised that Mr. Seamon investigated Mr. James Salyers' complaint and was told by Mr. Jessee that it was not the usual practice of the animal wardens to go on private property without talking with the property owner first. Mr. Seamon cautioned Mr. Jessee about the potential problems that could result when entering private property without permission or when the property owner is not at home.

c. Potential Hazardous Waste Sites in Washington County

A notice has been received from the Commonwealth of Virginia Department of Waste Management indicating that they have listed for Washington County three potential hazardous waste sites. The sites are the Mobay Chemical Corporation and the American Cyanide Diamide Company, which are one and the same location, and the Washington County Landfill. Mary Fraysier is to investigate these sites and advise the Board as to what action should be taken. Mr. Byrd asked how the landfill got on the list. Coy Martin advised the Board that the State Health Inspector turned the landfill in when it was under the direction of the Service Authority due to the fact that possible hazardous waste was buried there.

d. Resolution for Litter Control and Recycling

A state grant in the amount of \$30,785 could be applied for upon resolution of the Board of Supervisors. This application must be postmarked by May 31, 1990.

On motion by Mr. Mathews, second by Mr. Byrd, it was resolved to adopt a resolution to apply for the grant for litter control and recycling.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

6. County Attorney's Reports

The following action was taken on County Attorney comments:

a. Update on Dog Damage Claims Filed by Archie Bailey

After reviewing section 3.1-796.118 of the Code of Virginia, Mr. Proctor advised the Board that the Code specified three specific requirements for the payment of dog damage claims.

These requirements are that the claimant furnish evidence of the quantity and value of the livestock and his reasons for believing that the damage was caused by a dog within 60 days; that the animal warden or other officer be notified of the incident within 72 hours of its discovery; and that if

the owner of the dog can be ascertained, that the claimant first exhaust his legal remedies against the owner. This Code section does not specifically require that the claimant disclose any information concerning insurance coverage for his livestock, however, Mr. Proctor feels that this can be reasonably inferred from the requirement that the claimant furnish evidence concerning the value of the livestock since insurance compensation for loss or damage would directly bear upon the issue of value. The Code section makes payment of the claim mandatory provided that the three requirements set forth above are met. The section allows the local governing body to delete by ordinance the second and third conditions but does not allow for the imposition of additional prerequisites to recovery, such as requiring proof that the claimant had taken reasonable steps to protect his livestock against this type of loss. The statute was amended in 1987 to delete the requirement that the claims be paid from the "dog fund" so that now the the claims are to be paid from the general fund. The 1987 amendment also added a \$400 limit per animal.

On motion of Mr. Mathews, second by Mr. Brown, it was resolved to pay all approved dog damage claims, including Durad Arrington and Jack Arrington, as follows: The County will pay the difference between the approved claim and any insurance payment which has been made, with a \$400 limit per animal.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

b. Consideration of Senate Joint Resolution No. 14

Received communication from the Clerk of the Senate a copy of a joint resolution from the 1990 General Assembly urging local governing bodies to consider zoning ordinances prohibiting the construction of residential or institutional buildings in the vicinity of airports.

On motion of Mr. Byrd, second by Mr. Brown, it was resolved to refer Joint Resolution No. 14 to the Planning Commission for their consideration and to report back to the Board.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

c. County's Legal Liability to Shelton-Witt

Received from Shelton-Witt a letter stating their claim for costs incurred by them as a result of the County's delay in signing the documents necessary for the purchase of a dump truck. Mr. Proctor stated that he is unable to determine from the detail provided in this letter whether there is any merit to this claim against the County. He is unaware of any time limits imposed for the execution of these contracts and feels that the delay in signing the contracts was not unreasonable. Without further documentation of Shelton-Witt's claim, he would recommend against payment of the amount requested.

Discussions ensued on this matter and the Board directed the County Administrator and the County Attorney to draft a letter to Shelton-Witt stating the County's position that it has no obligation to pay this claim.

7. Consideration of Bristol Virginia Virginia Landfill Proposal, Vulcan Materials Quarry

After discussion, it was the consensus of the Board that no action needs to be taken at this time but that the matter should be carried on the agenda for the purpose of keeping the Board informed as to its status.

8. County Decals for Town Residents

Fred Parker gave the Supervisors a folder containing materials and figures to help in their review of this ordinance. During his presentation Mr. Parker stated that after reviewing the current personal property collections for the towns compared to last year, it appeared that the ordinance adopted by the Board requiring town residents to display the County decal produced more revenues. Mr. Parker also advised that his office has received many complaints about this ordinance from town residents. Discussion ensued and Mr. Parker and Mr. Bentley agreed to work together to attempt to obtain agreements with the towns that they will not issue town decals next year without the payment of County taxes.

After discussion, it was the consensus of the Board to allow Mr. Bentley and Mr. Parker to attempt to obtain agreements with the towns that they will not issue town decals next year without the payment of County taxes.

9. Recess

On motion of Mr. Mathews, second by Mr. Brown, it was resolved to take a ten minute recess.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

10. Industrial Park Access Road Update

Gayle Kilgore advised that a proposal has been received from Haren Construction Company for \$35,574 and a proposal has been received from Little B Construction Company for \$39,115. Both contractors have advised that it will take approximately forty days to complete the work. Ms. Kilgore further stated that approval has not yet been received from the Virginia Department of Housing and Community Development to proceed with awarding a contract. Notification is expected by tomorrow afternoon.

Mr. Whittaker asked if this project went out for bids. Ms. Kilgore stated that it did not go out for bids, that quotations were gotten from the two contractors that were still on the job because the project was being pursued as a change order. She further stated that according to the Virginia Department of Housing and Community Development that it was not necessary to go out for bids in order to be in compliance with the procurement laws.

Ms. Kilgore stated that she would like to come back at the next meeting to request approval for the change order. She and the engineer will prepare a letter of recommendation to be given to the Board for their information. This letter of recommendation will include a copy of the request for proposals, the proposals and the engineering drawings.

Mr. Byrd asked Ms. Kilgore for her recommendation concerning the liquidated damages issue. Ms. Kilgore stated that that issue would be discussed in her letter to the Board

11. Consideration of Board Appointments Expiring June 30, 1990:

The following action was taken on appointments to boards and commissions:

:: Airport Commission:

Emmitt Yeary, Harrison District

Mr. Mathews requested action on his appointment to the Virginia Highlands Airport Commission be tabled.

Bonsall Sykes, Jefferson District

On motion of Mr. Brown, second by Mr. Mathews, it was resolved to reappoint Bonsall Sykes to serve on the Airport Commission representing the Madison District for a term of four years effective July 1, 1990 to June 30, 1994.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

:: Building Code of Appeals:

Mr. Simcox requested action on his appointment to the Building Code of Appeals be tabled.

Mr. Litton questioned the fact that Gale Maiden's name is no longer on the list for appointment from the Jefferson District.

Mr. Bentley will check into the status of Mr. Maiden's appointment and advise the Board at the next meeting.

12. Consideration of Board Appointments Expiring June 30, 1990 (continued):

The following action was taken on appointments to boards and commissions:

:: Highlands Community Service Board:

Joan Worley, Jefferson District

On motion of Mr. Parris, seconded by Mr. Whittaker, it was resolved to reappoint Joan Worley to the Highlands Community Service Board representing the Jefferson District for a three year term effective July 1, 1990 to June 30, 1993.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

Georgia Polk, Monroe District

Mr. Byrd requested action on his appointment to the Highlands Community Services Board be tabled.

:: Public Library Board of Trustees:

Barbara Chavatel, Harrison District

On motion of Mr. Mathews, second by Mr. Brown, it was resolved to appoint Barbara Chavatel to the Public Library Board of Trustees representing the Harrison District for a four year term effective July 1, 1990 to June 30, 1994.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

Sue R. Watson, Monroe District

On motion of Mr. Byrd, second by Mr. Mathews, it was resolved to appoint Sue R. Watson to the Public Library Board of Trustees representing the Monroe District for a four year term effective July 1, 1990 to June 30, 1994.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

Lola Harris, Jefferson District

On motion of Mr. Parris, second by Mr. Brown, it was resolved to appoint Lola Harris to the Public Library Board of Trustees representing the Jefferson District for a four year term effective July 1, 1990 to June 30, 1994.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

:: Park Authority:

Louis Musser, Harrison District

On motion of Mr. Mathews, no second, it was resolved to reappoint Louis Musser to serve with the Park Authority representing the Harrison District for a four year term effective July 1, 1990 to June 30, 1994.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

:: Board of Social Services:

Dulsie Mumpower, Wilson District

On motion of Mr. Simcox, second by Mr. Mathews, it was resolved to reappoint Dulsie Mumpower to the Board of Social Services representing the Wilson District for a four year term effective July 1, 1990 to June 30, 1994.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

:: Washington County Service Authority:

Bobby Sproles, Tyler District

On motion of Mr. Whittaker, no second, it was resolved to appoint Bobby Sproles to serve on the Washington County Service Authority representing the Tyler District for a four year term effective July 1, 1990 to June 30, 1994.

The vote on this motion was as follows (4-0-3):

Mr. Mathews	Abstain	Mr. Litton	Aye	Mr. Brown	Abstain
Mr. Byrd	Abstain	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

:: Washington County School Board:

Charles W. Davidson, Monroe District

Mr. Byrd requested action on his appointment to the Washington County School Board be tabled.

13. Consideration of Nominations to the Youth Services Board

Buckey Boone recommended that Vassie Vaught, Linda Garnett and Jane Hargis be reappointed for three year terms on the Washington County Youth Services Citizen Board, that Lynn

Allison and Doug Lineberry be reappointed for one year terms, and that Kimberly Roberts and Faisal Riaz be appointed for one year terms.

On motion of Mr. Brown, second by Mr. Parris, it was resolved to approve Mr. Boone's recommended appointments to the Washington County Youth Services Citizen Board.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

Mr. Boone added two items for consideration of the Board, the first being that a grant in the amount of \$30,699 has been awarded to the County from the Department of Criminal Justice Service to operate an existing program called Reading for Jobs. This program provides tutoring for students who are having difficulty in school.

On motion of Mr. Mathews, second by Mr. Brown, it was resolved to accept a grant from the Department of Criminal Justice Service in the amount of \$30,699, and to authorize the County Administrator to sign a letter of acceptance.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

The second item Mr. Boone brought before the Board was a recommendation that the Board accept a grant from the USDA to provide breakfast and lunch to children at A Leg Up, a camp for handicapped children, and at the elementary schools during their summer school program and, conditioned upon the award in writing, appropriate those funds for use in this program. He also recommended that the Board authorize the County Administrator to sign a contract with Dairy Queen, the only bidder.

On motion of Mr. Mathews, second by Mr. Byrd, it was resolved to accept a grant from the USDA and to appropriate \$19,962 to operate a summer food service program for A Leg Up, a camp for handicapped children, and for the elementary summer school program, and to authorize the County Administrator to sign a letter of acceptance, this motion being contingent upon the actual awarding of the grant by the USDA.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

14. Consent Agenda:

Mr. Bentley advised the Supervisors that page 6 of the Consent Agenda had been improperly copied, cutting off a portion of the information. He then distributed a complete page 6 for substitution in each of the Supervisor's packets.

On motion of Mr. Byrd, second by Mr. Brown, it was resolved to approve the following Consent Agenda:

- a. Payment of Bills for the month of April 1990;
- b. Dog Damage Claim: Shirley Bailey, \$450.00
- c. Library Supplemental Appropriations: From the General Fund to the Library budget, donation for books, \$500.00; from the general fund to the Literacy Program, \$1,612.50.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

15. Executive Session Pursuant to Section 2.1-344(a)(1), (2) and (5) of the Code of Virginia, as amended, Personnel; Property Acquisition, Landfill; and Industry

On motion of Mr. Byrd, second by Mr. Parris, it was resolved to go into executive session to discuss matters related to personnel pursuant to section 2.1-344(a)(1), property acquisition, landfill, pursuant to section 2.1-344(a)(2), and industry locating in the County pursuant to section 2.1-344(a)5 of the 1950 Code of Virginia as amended.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

On motion of Mr. Mathews, second by Mr. Brown, it was resolved to come out of executive session and adopt the following certification:

WHEREAS, the Washington County Board of Supervisors has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, 2.1-344.1 of the Code of Virginia requires a certification by the Washington County Board of Supervisors that such executive meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Washington 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 executive meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion of convening the executive meeting were heard, discussed or considered by the Washington County Board of Supervisors.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

On motion of Mr. Byrd, second by Mr. Mathews, it was resolved to authorize Draper-Aden to do the geotechnical soil investigation for a potential site of the landfill.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

On motion of Mr. Byrd, second by Mr. Parris, it was resolved to advertise for a public hearing for a grant for the development of an unnamed industry.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

Mr. Bentley suggested that the Board schedule additional budget work sessions. It was agreed to schedule work sessions for 6/6/90 at 7:00 p.m. and 6/11/90 at 7:00 p.m.

16. Board Member Reports

Mr. Parris advised that there are no problems with the dumpsters at the Community Center in Taylor's Valley. The dumpsters are not at the Community Center but are on property owned by the Community Center.

Mr. Litton had questions concerning the hours of the convenience stations.

Mr. Coy Martin advised that the convenience stations are open from 11:00 a.m. to 5:00 p.m. Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturday. There was discussion regarding complaints from citizens about the hours of the convenience stations. No action was taken.

17. Adjournment

On motion of Mr. Byrd, second by Parris, it was resolved to recess the meeting to June 6, 1990 at 7:00 p.m. for the purpose of holding a work session on the FY 1990-91 budget.

The vote on this motion was as follows (7-0):

Mr. Mathews	Aye	Mr. Litton	Aye	Mr. Brown	Aye
Mr. Byrd	Aye	Mr. Parris	Aye	Mr. Whittaker	Aye
Mr. Simcox	Aye				

James P. Litton, Chairman