

October 14, 2008

County of Greene, Virginia

THE REGULAR MEETING OF THE GREENE COUNTY BOARD OF SUPERVISORS WAS HELD ON TUESDAY, OCTOBER 14, 2008 AT 5:30 P.M. IN THE COUNTY MEETING ROOM.

Present were:            Steve Catalano, Chairman  
                                Clarence Peyton, Vice Chairman  
                                Jeri Allen, Member  
                                Carl Schmitt, Member  
                                Mike Skeens, Member  
                                Ray Clarke, County Attorney  
                                Barry Clark, County Administrator  
                                Patti Vogt, Deputy Clerk

RE: EXECUTIVE SESSION

Upon motion by Clarence Peyton and unanimous vote, the Board entered into Executive Session to discuss legal and personnel matters pursuant to Section 2.2-3711 Subsection (a, 1-7) of the Code of Virginia.

**Contract Matters:**

- Region Ten Community Services
- Water and Sewer
- Solid Waste

**Land Acquisition:**

- Water and Sewer

**Legal:**

- Pending Litigation

**Personnel:**

- Administration

**Various Appointments:**

- Equalization Board

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Absent
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

Upon motion by Clarence Peyton and unanimous vote, the Board returned to Open Session.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

By unanimous vote, all members certified that only public business matters lawfully exempted from the Open Meeting requirement and only such matters as identified by the motion to enter into Executive Session were discussed.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: EQUALIZATION BOARD

Upon motion by Mike Skeens and unanimous vote, the Board approved the reappointment of Matthew Woodson to the Equalization Board.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: OPEN MEETING

The Chairman opened the meeting with the Pledge of Allegiance followed by a moment of silence.

RE: MEETING DATES

The Chairman announced the following schedule of meetings for the remainder of the year:

Tuesday, November 18, 2008 at 5:30 p.m.

Tuesday, December 9, 2008 at 5:30 p.m.

RE: EMPLOYEE SERVICE AWARDS

The Chairman presented the following employee service awards:

Charles Swingler	-	15 years
Stephen Borders	-	10 years
James Donahue	-	10 years
Gary Carpenter	-	5 years
Susan Rankin	-	5 years
Sean Sellari	-	5 years

RE: QUARTERLY MEETING WITH VDOT

Mr. Joel Denunzio, VDOT Staff Engineer, and Mr. Christopher Byington, Assistant Residency Administrator, were present to discuss road matters. Mr. Denunzio reported the following:

- **Route 634 – Bull Yearling Road** – Met with school representatives to identify locations for bus pull offs. School representatives feel that a 0.6 mile widening of the road is necessary to resume bus service on the road. A project would need to be created in the SSYP to widen the road.
- **Rural Rustic Guidelines – Simms Road** - Rural rustic roads will be evaluated based on different criteria. Simms Road (Route 42) has been evaluated and determined to be a rural rustic road project using this criteria. Appropriate time

for consideration will be when the Secondary Six Year Plan is considered next spring.

- **Business 33** – Traffic engineering is currently evaluating the request to extend the school speed zone.
- **Route 627 – Bacon Hollow Road** – Construction on project has started.
- **Route 607 – Matthew Mills Road** – No comments were received on the pre-scoping document submitted at the last quarterly meeting. VDOT has proceeded with a traffic analysis and will scope the project after the evaluation is complete.
- **Route 662 - Recreation Park Road** –Project has been cleared for advertisement.
- **Route 634 – Mutton Hollow Road** – Environmental permit work is underway. Construction is expected in 2009.

Mr. Denunzio said he would resend the Matthew Mill Road scoping document for review by the Board.

The County Administrator asked for confirmation of funding for Recreation Park Road.

Mr. Denunzio said he will forward a letter of confirmation.

Mr. Denunzio said Simms Road can be added to the Six Year Plan and prioritized. If designated as the top priority, the project could be done next construction season. The Six Year Plan will be reviewed again next spring.

Board member Carl Schmitt asked about Rosebrook Road. Mr. Denunzio said spot improvements were made on the curve and the road will be reviewed again as a possible rural rustic road project

Board member Jeri Allen asked about the number of children impacted by the decision to stop sending a school bus on Bull Yearling Road. Mr. Schmitt said an article in the paper indicated two children were affected by that decision.

Mr. Schmitt asked if it would be possible to work on the sections of Middle River Road impacted by high water. Mr. Denunzio said the road would be reviewed for possible spot improvements.

The Chairman opened the floor for public comment.

Mr. Delbert Frey and Mr. Robert Marshall spoke on the inclusion of Simms Road on the Six Year Plan as a rural rustic road project.

Ms. Sonya Ogura spoke on Middle River Road being designated as a rural rustic road project. She noted the majority of residents do not want the road paved and asked when the last traffic count was conducted. Mr. Denunzio will check on the most recent traffic count.

Mrs. Susan Gobal spoke against the paving of Middle River Road.

Mr. Jim Ballard spoke in favor of the paving of Middle River Road. He indicated he would be pleased with the paving of only the upper portion of the road. Winter weather and heavy rains impact the road greatly.

RE: LEGISLATIVE PROGRAM

Mr. David Blount, Legislative Liaison, was present to review the proposed 2009 Legislative Program which includes the following top priorities:

1. Local and State funding obligations
2. Land use and growth management
3. Transportation funding
4. Comprehensive Services Act
5. Public education funding

Mr. Blount said the annual legislative luncheon is scheduled for next Thursday.

Mr. Schmitt felt this would be the ideal time to really deal with some of the unfunded mandates. He said 16 states have passed legislation stating in effect, "if you don't provide funding for a mandate, then you can't enact the mandate", and asked if anything like this has been considered in Virginia. Mr. Blount will research.

After further discussion, the Board, upon motion by Carl Schmitt and unanimous vote, approved the 2009 Legislative Program as presented.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: REGIONAL JAIL

Mr. Glenn Aylor, Superintendent of the Central VA Regional Jail, and Mr. Ron Maupin, Attorney, were present to discuss the proposal of creating a Central VA Regional Jail Authority. Mr. Lee Estes and Sheriff Scott Haas, County representatives on the Regional Jail Board, were also present.

Mr. Maupin gave a brief overview of the history of the Regional Jail which was started twenty years ago. The facility has achieved a high rate of efficiency both fiscally and operationally.

The Jail Board is considering one further expansion of the facility. Without this expansion, the localities share of the cost of operation will grow every year. Mr. Maupin also said the Jail Board has to deal with the State "reaching its hand in the till to take part of the rainy

day money and money for capital expansions". The creation of an authority will allow the Jail to request an exemption from the General Assembly.

All five localities must approve this by December 1 in order for Senator Houck to propose legislation this session.

The Authority would also be allowed to issue revenue bonds in order to finance the proposed expansion project estimated at \$10 million.

Mr. Maupin said the localities are ultimately responsible for any deficit in revenue. The percentages are based on a three year average of prisoner day occupation. It is believed that this will reduce potential cost to the localities. He noted the Jail has not asked for funding for 18 years and hopes not to in the future.

Mr. Aylor said the Authority can request a 50% reimbursement of construction costs from the State. The Jail Board has approximately \$5 million in capital improvement funds to pay the other half of the project.

Mr. Lee Estes said he has served as a representative on the Jail Board for many years and feels the creation of an authority is the appropriate way to go.

In response to a question by Mr. Peyton, Mr. Aylor said the real need for the expansion is to accommodate local prisoners. Of course, if there are empty beds, the Jail will generate revenue by housing federal prisoners. Mr. Aylor noted a financial forecast report was completed by Robinson, Farmer, Cox Associates.

Mr. Aylor said legislation must be introduced to get an exemption from the moratorium on construction. He reviewed the recent State budget reductions and said the County's obligation for operational cost will double next year to around \$300,000.

Mr. Ray Clarke, County Attorney, asked under what circumstances, if any, would the switch to an Authority cost the County more money. Mr. Aylor said it would make no substantial difference if there is a Board or Authority. The five localities are ultimately responsible. He said there are provisions in the agreement to protect the five jurisdictions and noted the two previous expansions were funded entirely without contribution by localities.

If the Authority is approved, the exemption from the Federal government will be discontinued but the Jail will continue to hold federal inmates and inmates from other facilities.

Mr. Schmitt questioned funding for maintenance. Mr. Maupin said this is subject to annual appropriation by localities. Mr. Schmitt asked if this provision is also in the new agreement.

It was the consensus of the Board to have this issue on the agenda for the October 28 meeting. The Chairman thanked Mr. Maupin, Mr. Aylor, Mr. Estes and Sheriff Haas for attending the meeting.

RE: PUBLIC HEARING – NUISANCES AND ABANDONED VEHICLES

The County Attorney reviewed the proposed Nuisance Ordinance. He noted there is nothing in the State Code to deal with barking dogs. There is a provision in the State Code allowing citizens to file petitions with the Circuit Court requesting something be declared a public nuisance.

Mrs. Allen felt nuisances included pot belly pigs running amok, parking in driveways, barking dogs, etc. She questioned the use of the word “vexes” in the proposed ordinance. Mr. Clarke said that word should be removed.

Mr. Peyton asked who would enforce the ordinance. The County Administrator and the Sheriff would enforce.

The Chairman opened the floor for public comment.

Mr. Thomas Miller told the Board about an ongoing problem with chronic dog barking which greatly impacts his quality of life. He has asked his neighbors for cooperation, offered to purchase dog training collars or even pay for a trainer to no avail. He followed up with a friendly, neighborly letter asking again for cooperation and finally called the Sheriff's Department. The owners did put the dogs up but the barking resumed within a few days.

Animal Control Officers told Mr. Miller that nothing can be done with barking dogs. He felt he has followed proper protocol and said without an ordinance there is really nothing anyone can do about the sustained, unrelenting barking. He asked the Board to adopt an ordinance so citizens may have recourse.

Sheriff Haas expressed his compassion for Mr. Miller and suggested the Board table consideration of this ordinance as he did not believe he can enforce it. He suggested contacting VA Beach regarding their ordinance.

Mr. Clarke noted that VA Beach is a city, not a county, and has the authority to enact different ordinances. He said he would review this ordinance further.

Upon motion by Carl Schmitt and unanimous vote, the Board tabled action on the proposed Nuisance Ordinance.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: PUBLIC HEARING – ABANDONED VEHICLES

Bart Svoboda, Zoning Administrator, reviewed the proposed amendment pertaining to abandoned vehicles. He noted this ordinance deals primarily with the removal of abandoned vehicles from public property and that inoperable vehicles are covered in the Zoning Ordinance. There is a typographical error in the lettering of subsections in the ordinance that needs to be corrected.

The Chairman opened the floor for public comment. There were no comments from the public.

The County Attorney complimented Mrs. Stephanie Golon, Planner, on the excellent job she did of drafting this ordinance. He noted the course of action is against the vehicle, not the owner.

Mr. Svoboda said the vehicles would be removed from public property by a towing service and housing at their facility until auctioned.

Upon motion by Jeri Allen and unanimous vote, the Board approved the amendment to the Greene County Code, Chapter 38, Article V. – Abandoned Vehicles – as proposed. (See Attachment “A”)

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: MATTERS FROM THE PUBLIC

DENTAL CLINIC

Ms. Amanda Lamb presented a petition requesting the Board to reconsider any decision regarding the closing of the Dental Clinic.

RE: CONSENT AGENDA

Upon motion by Clarence Peyton and unanimous vote, the Board approved the minutes of the September 23, 2008 meeting as circulated.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: OTHER MATTERS FROM THE BOARD

COUNTY FINANCIAL MATTERS

The Chairman said the County needs to become defensive in regards to its financial position because of the unknown impact of State cuts to localities. He read a brief memo outlining actions to be taken as follows: institute a hiring freeze on new anticipated positions; evaluate the replacement of key personnel that tender resignations on a case-by-case basis; eliminate all take home vehicles with the exceptions of deputies living in the County; rescind allocation to travel, sustenance and lodging line items for all County agencies with the exception of mandated training/certification courses; and evaluate all fee structures and efficiencies.

Mrs. Allen suggested encouraging staff to also review operations for cost savings. Mr. Skeens suggested other departments, such as the schools, also look at cost saving measures.

The Sheriff's Office is reviewing internal operations and implementing changes such as the anti-idling policy for vehicles. The Chairman said he is hopeful that the County can protect itself to the best of its ability and also limit liabilities. The County needs to tighten the belt as tight as possible before going to outside agencies. Mr. Schmitt suggested sending a copy of the memo with a cover letter to other agencies asking for similar consideration in their operation.

Upon motion by Carl Schmitt and unanimous vote, the Board approved the memo as outlined by the Chairman.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

#### THOMAS JEFFERSON PLANNING DISTRICT COMMISSION

Mr. Schmitt said the Thomas Jefferson Planning District Commission has selected a new Executive Director and is waiting on acceptance of the position.

#### PARKS AND RECREATION COMMITTEE MEETING

Mr. Schmitt said participation in programs has increased and the Parks and Recreation Department collected \$71,000 in revenue which is \$6,000 more than anticipated. He also said the Department did not spend \$26,805 of budgeted funds last year.

ENERGY EFFICIENCY

Mr. Schmitt said the Energy Efficiency Committee would like to proceed with “a back of the envelope review” of specific buildings (i.e. County Administration, High School and Middle School) The Committee would utilize the list compiled by the State and the company would provide a proposal for energy savings. This would not require any commitment or contract on behalf of the County.

It was the consensus of the Board to authorize the Energy Efficiency Committee to proceed with a review of specific buildings.

RE: EXECUTIVE SESSION

Upon motion by Carl Schmitt and unanimous vote, the Board entered into Executive Session to discuss legal and personnel matters pursuant to Section 2.2-3711 Subsection (a, 1-7) of the Code of Virginia.

Personnel:

- Administration

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

Upon motion by Clarence Peyton and unanimous vote, the Board returned to Open Session.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

By unanimous vote, all members certified that only public business matters lawfully exempted from the Open Meeting requirement and only such matters as identified by the motion to enter into Executive Session were discussed.

Recorded vote:	Steve Catalano	-	Yes
	Clarence Peyton	-	Yes
	Jeri Allen	-	Yes
	Carl Schmitt	-	Yes
	Mike Skeens	-	Yes

Motion carried.

RE: CONTINUED MEETING

The meeting was continued to Tuesday, October 28, 2008, at 5:30 p.m. in the County Meeting Room.



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Steve Catalano, Chairman  
Greene County Board of Supervisors

Chapter 38

**ENVIRONMENT**

**ARTICLE V. ABANDONED VEHICLES**

**Sec. 38-151. Definitions**

For the purposes of this chapter, the following words and terms shall have the meanings ascribed to them by this section:

(a) "Abandoned motor vehicle" means a motor vehicle, trailer or semitrailer or any part thereof that:

- (1) Is inoperable and is left unattended on public property for more than 48 hours;
- (2) Has remained illegally unattended on public property for a period of more than 48 hours; or
- (3) Has remained, without consent, on private property, including, but not limited to, any commercial parking place, motor vehicle storage facility or establishment for the service, repair, maintenance or sale of motor vehicles, whether or not such vehicle was brought onto or left at such property with or without the consent of the owner or person in control of the property, for more than 48 hours.

(b) "Demolisher" means any person whose business is to convert a motor vehicle, trailer or semitrailer into processed scrap or scrap metal or otherwise to wreck or dismantle such vehicles.

(c) "Inoperable vehicle" means any vehicle:

- (1) Which is not in operating condition; or
- (2) Which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or
- (3) On which there are displayed no valid state license plates; or
- (4) On which there is displayed no valid state inspection decal; however,
- (5) This definition of "inoperable vehicle" shall not include a registered and licensed antique vehicle, classic vehicle, or prestige vehicle so long as the vehicle is in operating condition.

(c) "Inoperable abandoned motor vehicle" means an abandoned motor vehicle which is inoperable and whose fair market value, as determined by the locality's official responsible for assessing motor vehicles under § 58.1-3503, is less than the cost of its restoration to an operable condition.

(d) "Traffic hazard" means any motor vehicle, trailer or semitrailer found on the public streets or grounds of the county, unattended by the owner or operator and constituting a hazard to traffic, or which is parked in such a manner as to be in violation of law. (Code 1964, § 15-290; Code 1985, § 16-183).

State law reference – Similar provisions, Code of Virginia, § 46.2-1200.

#### **Sec. 38-152. Abandoned Vehicles**

(a) Any motor vehicle, trailer, semitrailer, or any part thereof may be removed for safekeeping to a storage area if:

1. It is left unattended on a public highway or other public property and constitutes a traffic hazard;
2. It is illegally parked;
3. It is left unattended for more than ten days either on public property or on private property without the permission of the property owner, lessee, or occupant;
4. It is immobilized on a public roadway by weather conditions or other emergency situation.

In this connection, the county may employ its own personnel, equipment and facilities or hire persons, equipment or facilities or firms or corporations who may be independent contractors for the purpose of removing, preserving and storing such vehicles.

(b) In the event an abandoned motor vehicle is on private property, the vehicle shall not be removed under this section, without the written request of the owner, lessee or occupant of such property. The person requesting the removal of such vehicle shall indemnify the county against any loss or expense incurred by reason of the removal, storage or sale of the vehicle. (Code 1964, § 15-291; Code 1985, § 16-184).

State law reference – Similar provisions, Code of Virginia, §§ 46.2-1213, 46.2-1217, 46.2-1201.

#### **Sec. 38-153. Notice of removal.**

(a) When the county removes and takes into custody a vehicle pursuant to this chapter, it shall notify, within 15 days thereof, by registered or certified mail, return receipt requested, the owner of record of the vehicle and all persons having security interests therein of record, that the vehicle has been taken into custody. The notice shall set forth the year, make, model and serial number of the vehicle and the location of the facility where the vehicle is being held, inform the owner and any persons having security interests of their right to reclaim the vehicle within three weeks after the date of the notice, upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody, and state that the failure of the owner or persons having security interests to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all persons having security interests of all right, title and interest in the vehicle, and consent to the sale of the vehicle at public auction.

(b) If records of the state Division of Motor Vehicles contain no address for the owner or no address of any person shown by such records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the vehicle was found shall be sufficient to meet all requirements of notice pursuant to this section as to any person who cannot be notified pursuant to the provisions of subsection (1) of this section. Such notice by publication may contain multiple listings of motor vehicles removed under this chapter. Any such notice shall be within the time requirements prescribed for notice by mail and shall have the same contents required for a notice by mail.

(c) The consequences and the fact of failure to reclaim a motor vehicle shall be as set forth in a notice given in accordance with and pursuant to this section. (Code 1964, § 15-292; Code 1985, § 16-185).

State law reference – Similar provisions, Code of Virginia, § 46.2-1202.

#### **Sec. 38-154. Sale.**

(a) If a vehicle has not been reclaimed as provided for in "Notice of Removal" the county or its authorized agent shall, notwithstanding the provisions of Section 46.2-617 of the Code of Virginia, sell the vehicle at public auction. The purchaser of the vehicle shall take title to the vehicle free and clear of all liens and claims of ownership of others, shall receive a sales receipt at the auction and shall be entitled to, upon application therefor, pursuant to Section 46.2-603 of the Code of Virginia, a certificate of title and registration card therefor. The sales receipt at such a sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking or dismantling and, in such case, no further titling of the vehicle shall be necessary.

(b) From the proceeds of the sale of a vehicle under this section, the county or its authorized agent shall reimburse itself for the expenses of the auction, the cost of towing, preserving and storing the vehicle, which resulted from placing the vehicle in custody, and all notice and publication costs incurred pursuant to "Notice of Removal" Any remainder from the proceeds of sale shall be held for the owner of the vehicle or any persons having security interests therein, as their interests may appear, for 90 days, and then shall be deposited into the treasury of the county. (Code 1964, § 15-293; Code 1985, § 16-186).

State law reference – Similar provisions, Code of Virginia, § 46.2-1203.

#### **Sec. 38-155. Disposition of inoperable abandoned vehicles.**

Notwithstanding any other provisions of this chapter, or the provisions of Section 46.2-617 of the Code of Virginia, any abandoned motor vehicle, trailer or semitrailer, or part thereof, which is removed by the county under this chapter and which is inoperable, and which, by virtue of its condition, cannot be feasibly restored to operable condition, may be disposed of to a demolisher, without title and without following the notification procedures prescribed by this chapter. The demolisher, upon taking custody of such motor vehicle, trailer or semitrailer, shall notify the state

division of motor vehicles, on forms and in the manner prescribed by the commissioner of such division, and notwithstanding any other provision of law, no other report or notice shall be required in such instance. Such demolisher, in disposing of such vehicle, shall follow the provisions of Section 46.2-1206 of the Code of Virginia. (Code 1964, §§ 15-294, 15-295; Code 1985, § 16-188).

State law reference – Similar provisions, Code of Virginia, § 46.2-1205.

**Sec. 38-156. Chapter does not affect rights granted to private property owners by state law.**

Nothing in this chapter shall be deemed to affect the rights granted by Section 46.2-1208 of the Code of Virginia to the owner or person in control of any private property upon which a motor vehicle is abandoned. (Code 1985, § 16-189).

State law reference – Authority of county to adopt ordinance similar to this chapter, Code of Virginia, § 46.2-1201. See also, §§ 46.2-1213, 46.2-1217.