

MEETING #9 – February 6

At a Joint Meeting of the Madison County Board of Supervisor and the Madison County Planning Commission held on Wednesday, February 6, 2013 at 7:00 p.m. in the Madison County Administrative Center Auditorium located at 414 N. Main Street:

PRESENT: J. Dave Allen, Chairman
Doris G. Lackey, Vice-Chair
Jerry J. Butler, Member
Pete J. Elliott, Member
Jonathon Weakley, Member
V. R. Shackelford, III, County Attorney
Ernie Hoch, County Administrator
Brian Daniel, Erosion & Sedimentation Technician
Betty Grayson, Zoning Administrator

ABSENT: Jacqueline S. Frye, Clerk of the Board

1. Call to Order/Determine the Presence of a Quorum:

Chairman Allen called the meeting to order and advised that all members are present and a quorum was established.

2. Pledge of Allegiance & Moment of Silence

The Board of Supervisors and the Madison County Planning Commission commenced their meeting with the Pledge of Allegiance and a moment of silence.

3. Adoption of Agenda:

Chairman Allen advised that Items 4a and 4b can be removed from the agenda, as these requests have been tabled. In closing, he called for further additions, deletions or corrections to tonight's Agenda.

On motion of Supervisor Weakley, seconded by Supervisor Lackey, the Board adopted the Agenda as amended, with the following vote recorded:

J. Dave Allen	Aye
Doris G. Lackey	Aye
Jerry J. Butler	Aye
Pete J. Elliott	Aye
Jonathon Weakley	Aye



4. Joint Meeting Agenda:

Mr. Brockman advised the minutes from the January Joint Meeting will need to be approved, which were then approved and adopted by the Commission members.

Cases:

- a) Case No. SU-09-12-06: Request by James C. and Rachel N. Graves for an indefinite special use permit to operate a campground (Graves Mountain Campground) on ten (10) acres of the 900.640 acre tract of land. This property is located at 3822 Old Blue Ridge Turnpike (off Route 670) near Syria, zoned C-1.

As per the request of David Lewis, Surveyor, the applicants have requested the case be tabled until the March 6, 2013 Joint Meeting.

- b) Case No. SP-02-13-02: Request by Shenandoah National Park for a site plan to construct a parking lot for Old Rag on property owned by Potomac Appalachian Trail Club, Inc. Also, the site plan shows a proposed future visitor contact station and a vault toilet. This property is located on Route 600 (Nethers Road) and contains 25.298 acres of land near Nethers, zoned A-1. An email has been received from Mr. Dwayne Dixon, Sanitarian, of the Madison Health Department that stated vault privies are allowed and a permit will be needed from the Department of Health prior to its construction. Mr. Steve Herzog hand-delivered a site plans to Mr. Anthony Hurlock of VDOT on January 28, 2013 and a reply hasn't yet been received to date. A message was left for Mr. Hurlock, but no response has been received; therefore, the no approval has been attained from the Virginia Department of Transportation. Also, Brian Daniel, Erosion and Sedimentation Technician, is still waiting on approval from Mr. Richard Jacobs of the Culpeper Soil & Water Conservation District; therefore, the request was tabled until the March 6, 2013 Joint Meeting.

With no further action being required by the Commission, the remainder of the meeting was turned over to the Madison County Board of Supervisors

5. Public Hearing: Ordinance #2013-1 [Amendment to Zoning Ordinance – Use (Seasonal – Brief)]:

Chairman Allen advised that tonight's public hearing process has been schedule to receive public comment on the proposed changes to the 'occasional use' definition to Article 20-203A.



The County Attorney read the proposed change to 'occasional use' being presented for discussion with regard to private auctions, land sales, yard sales, tent events, horse show and similar uses. Additionally, he advised that seasonal of brief uses/activities are uses permitted 'by right' in all zoning districts.

The County Attorney also explained that tonight's amendment was proposed in order to:

- a) Try to make the application of the County's Zoning Ordinance more 'friendly' to the users and landowners in Madison County; and
- b) To fill what was perceived to be 'a gap' in the County's Zoning Ordinance;

He also explained the past circumstances that led to tonight's proposed recommendation and advised the Commission will have to decide to take action to approve, disapprove, or recommend changes as they deem appropriate. In closing, he suggested tonight's discussion focus on the proposed additions of 'private auctions' and 'tent events', and feels the definition pertaining to thirty-one (31) days could be altered, He suggested it would be in the County's best interest to allow tents to be erected in place without the establishment of an approved time frame.

Supervisor Butler also questioned if the Board should look at the original Ordinance (with prior modifications) in an effort to make the process smoother for obtaining a special use permit; whether a festival permit should be required for events held at Grave's Mountain Lodge; and whether a special use should be required for the County Fair at the Young Farmer's Grounds.

Nan Coppedge, Commission member, questioned the fact that the days designated for tent events wouldn't include the days required for set up and dismantling.

The County Attorney advised this issue has been raised; however, he doesn't feel the above tasks are considered as 'use activity', but covers when the tent is actually being used for the use and activity. He also advised the Young Farmer's Grounds is covered by a special use permit which covers the events held there that involve tents.

Betty Grayson, Zoning Administrator, was present and advised that building permits are also required; she also advised that Mr. Graves purchases a permit from the County in order to have special events at the lodge, which also covers the tents used during the events.

Supervisor Lackey also questioned how a tent revival would be handled, to which Ms. Grayson, advised that based the existing Ordinance, the event will only be allowed to commence for three (3) days; she also advised that a church is allowed 'by right' in any zone and the tent would be considered as an accessory use to the event they are holding; however, they would be required to obtain permits from the Building



Department. In closing, she advised that festival permits are attained through the Board of Supervisors' Office and a fee is attached.

The County Attorney advised that a special use permit would be required in order for an event to transpire for an extended period of time.

The County Attorney advised the festival permit speaks specifically about a 'musical event'; however, if an event doesn't involve music, then a festival permit isn't required; fireworks displays are governed under the State Code regulations.

Ms. Grayson advised that estate auctions are allowed 'by right'; she doesn't believe the State Code imposes a time limit on these particular events.

The County Attorney advised there is an issue regarding the State's definition of an estate auction. He also advised the State has enacted specific code regulations for vineyards and the events held at these establishments. There is a current movement within the General Assembly to expand upon 'use-events'; also, there is a state code provision that deals with events at vineyards which supersedes the local Ordinance. In closing, he advised that a locality can't control the events that transpire at a vineyard unless it clearly affects the health, safety and welfare of the citizens (to include noise); the County does follow the guidelines contained within the State Code.

Supervisor Lackey questioned 'seasonality' and asked if events could be held no more than seventy-five (75) days a year, to which the County Attorney suggested the Board consider that the proposed days could be consecutive; however, he questioned whether this provision could still be characterized as a 'temporary use.'

Phil Brockman, Commission Chair, asked for an overview of the contents contained in the Virginia Code, to which the County Attorney advised the following:

"It's the policy of the Commonwealth to preserve the economic vitality of the Virginia Wine Industry while maintaining appropriate land use authority to protect the health, safety and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries, licensed in accordance with Title 4.4, to market and sell their products shall be reasonable and shall take into account, the economic impact of the farm winery of such restrictions and agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. The usual and customary activities and events of farm wineries shall be permitted without local regulation(s) unless there is a substantial impact on the health, safety or welfare of the public. No local Ordinance regulating noise other than outdoor amplified music arising from activities/events at farm wineries, shall be more restrictive than that in the general Noise Ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.'



The County Attorney feels the intent is to prevent a local ordinance from having any authority to regulate usual or customary activities at a farm winery. Also, the County changed its definition of a 'farm winery' prior to tonight's proposed amendment in an effort to bring the definition in line with the Code of Virginia, as a 'by right' use in A-1 and C-1 zones.

Carlton Yowell, Commission member, advised there are certain conditions that were enacted when the Plow & Hearth property was rezoned; therefore, he questioned whether there would be an option to review the conditions that were placed on the property.

The County Attorney advised the proffers have been modified about three times (3x) since they were originally enacted. Also, in the past, the property owner has applied for a special use permit in order to hold arts/crafts festivals (which were allowed by way of a special use permit). In closing, he advised the applicant can ask for the proffers to be modified (i.e. rezoning procedure) or can request a special use permit which doesn't require rezoning.

Supervisor Elliott recused himself from discussions, as the Ordinance does deal with auctions; however, in his opinion, he feels tonight's proposed amendment is very business unfriendly oriented.

Chairman Allen opened the floor for public comment; parties wishing to speak were asked to proceed to one of the podiums; identify yourself; and keep comments to a three (3) minute minimum.

Bill Gentry (Kinderhook) was present and feels the sales events produce revenue, sales tax, and also promotes the health, welfare and safety of Madison County.

Kim Smith (Brightwood, Virginia) is in favor of business here as long as it doesn't detract from the nature and quality of life here.

Rodney Graves (Graves Mill, Virginia) advised it wasn't the intent of a past sub-committee to be anti-business.

John Haydock (Charlottesville, Virginia) was present and advised that he works for Plow & Hearth, Inc. – the business holds four (4) tent events during the summer months at the retail stores.

Paul Abugattas (Brightwood, Virginia) feels the proposed amendment has good intentions, but doesn't make a good addition to the existing Ordinance.

Shirley Workman (Madison Senior Center) thanked Plow & Hearth, Inc. for their efforts and support of the senior center.

Bill Campbell (Graves Mill, Virginia) feels tonight's proposal is counter-productive.



James Graves (Syria, Virginia) of the Graves' Mountain Lodge stated the events held by Plow & Hearth, Inc. contribute a lot to the community.

Janice Aylor (Aylor, Virginia) was present and feels that yard sales are intrusive on her property rights.

With no further comments being provided, Chairman Allen closed the floor of the public hearing.

The meeting was then turned back over to the Commission.

Mr. Brockman advised the Commission members that a definition will be needed for 'use, seasonal/brief.'

After discussion, Daniel Crigler, Commission member, motioned that Ordinance #2013-1 be 'scrapped' and that a committee be formed to study it further and make recommendations, seconded by Kevin McGhee.

Chairman Allen asked if the Commission could do anything other than elect not to add the two (2) proposed definitions being discussed.

The County Attorney advised the Commission cannot revoke the proposed Ordinance, but they can refrain from making a recommendation and elect to perform a study.

Mr. Crigler questioned if an additional public hearing will be required in the event no action is taken and a study is proposed.

The County Attorney advised that an additional public hearing will not be required, but action must be taken within ninety (90) days. In closing, he advised it can be recommended that the Madison County Board of Supervisors not adopt the proposed change and consider another alternative.

Concerns were verbalized regarding the appropriate parliamentary procedures concerning tonight's issue, to which the County Attorney advised the member who made the initial motion may amend the motion if desired.

Daniel Crigler moved to amend his prior motion and motioned that the Madison County Board of Supervisors not approve Ordinance #2013-1 as presented, and that a Committee be formed to continue studying the aspects of this Ordinance, seconded by Albert Tartaglia, with all Commission members voting 'Aye.'

Supervisor Elliott, Board Liaison, 'abstained' from voting on the above motion

After discussion, the Commission formed a Committee with the following members: a) Albert Tartaglia; b) Daniel Crigler; c) Carlton Yowell; and d) Phillip Brockman; to perform a study of the definition of 'use, seasonal and brief.'



With no further action being required, the Commission voted to adjourn their meeting.

Chairman Allen called the Madison County Board of Supervisor's portion of tonight's meeting back to order.

Chairman Allen advised it's the normal procedure for the Madison County Board of Supervisors not to act on an issue presented on the same night as the public hearing; however, tonight's issue is different.

The County Attorney advised the Commission has made a recommendation to the Madison County Board of Supervisors to 'not' enact the Ordinance in its existing form, and have also made an additional recommendation that they will form a Committee to study the Ordinance in order to make another recommendation.

Supervisor Lackey questioned if the Board is in a position to affirm the recommendation by the Commission, and what action can be taken at this time.

The County Attorney advised the Madison County Board of Supervisors can take a vote on what's perceived to be an appropriate time, on the recommendation by the Commission not to adopt Ordinance #2013-1, elect to refuse tonight's recommendation, or make a new recommendation if desired.

The County Attorney advised the Board could refuse tonight's recommendation by the Commission and in turn, make a new recommendation, if desired.

After discussion, Supervisor Butler motioned that the Board not adopt Ordinance #2013-1, as recommended by the Madison County Planning Commission, seconded by Supervisor Lackey:

With the following vote recorded:

J. Dave Allen	Aye
Doris G. Lackey	Aye
Jerry J. Butler	Aye
Pete J. Elliott	Abstain
Jonathon Weakley	Aye

Supervisor Weakley questioned whether the motion should include the fact that the Madison County Planning Commission has formulated a Committee to perform a study.

The County Attorney suggested the aforementioned language be added as a 'follow up' motion, if desired.

Supervisor Weakley moved that the Board endorse the formation of a Committee by the Madison County Planning Commission to bring forth a new Ordinance to address the issues of tonight's projected Ordinance, seconded by Supervisor Butler.



With the following vote recorded:

J. Dave Allen	Aye
Doris G. Lackey	Aye
Jerry J. Butler	Aye
Pete J. Elliott	Abstain
Jonathon Weakley	Aye

After discussion, it was clarified that the motion is to endorse the formulation of a Committee and that a new Ordinance ‘may or may not’ be brought forth.

Supervisor Weakley commended the Committee for their efforts to perform a work study to be reviewed by the Board; it is hoped that any suggestions will not impose any restrictions.

6. Information & Correspondence (if any)

Budget Workshop

The County Administrator advised the Board will need to establish a time for the February Budget Work session on Wednesday, February 13, 2013.

After discussion, the Board rescheduled the February Budget Work session until Thursday, February 14, 2013 from 8:30 a.m. to 2:00 p.m. at the Thrift Road Office.

The County Administrator advised that he will be about an hour late, due to a prior commitment – the Finance Director will attend.

7. Adjournment

With no further action being required by the Board, on motion of Supervisor Lackey, seconded by Supervisor Weakley, Chairman Allen adjourned the meeting, with the following vote recorded:

J. Dave Allen	Aye
Doris G. Lackey	Aye
Jerry J. Butler	Aye
Pete J. Elliott	Aye
Jonathon Weakley	Aye

J. Dave Allen, Chairman
Madison County Board of Supervisors

Jacqueline S. Frye, Clerk of the Board



Adopted on: April 9, 2013

Copies: J. Dave Allen, Doris G. Lackey, Jerry J. Butler, Pete J. Elliott, Jonathon Weakley,
V. R. Shackelford, III & Constitutional Officers

