

**MEETING #37 – July 10**

At a Regular Meeting of the Madison County Board of Supervisors on July 10, 2012 at 3:00 p.m. in the Madison County Administrative Center Auditorium located at 414 N. Main Street:

PRESENT: J. Dave Allen, Chairman  
Doris G. Lackey, Vice-Chairman  
Jerry J. Butler, Member  
Pete J. Elliott, Member  
Jonathon Weakley, Member  
Ernie Hoch, County Administrator  
V. R. Shackelford, III, County Attorney  
Jacqueline S. Frye, Clerk of the Board

ABSENT: Teresa Miller, Finance Director

**1. Regular Meeting Agenda**

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

**2. Pledge of Allegiance & Moment of Silence**

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

**3. Adopt Agenda**

Chairman Allen advised today's agenda will need to be amended to add:

j-1: Minutes (Ordinance #2011-4 [April 12, 2011])

6-f: Fair Board (Request for waiver of landfill fees)

6-g: Madison County Women's Club (Resolution from the Board)

On motion of Supervisor Lackey, seconded by Supervisor Weakley, today's agenda is adopted 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. Monthly Reports**

##### ***a. Department Heads (if necessary)***

##### **i. Emergency Medical Services:**

Chairman Allen advised the Board received a request from Lewis Jenkins, Director of Emergency Medical Services, during the workshop session to fill a full time position.

Supervisor Butler verbalized concerns regarding the pay scale for public safety personnel and the fact that the Grade 14 for emergency services personnel is equivalent to a Grade 11 law enforcement (i.e. deputy); although he isn't opposed to the salary attached to today's request, he is opposed to the grade difference, and he's opposed to the grade difference. In closing, he suggested the County's pay scale be analyzed, as he feels there are discrepancies that need to be corrected.

Lewis Jenkins, Director of Emergency Medical Services, provided a brief overview as to why today's request is being presented; he also advised that during the budget workshop sessions, several grade changes were brought forth for EMS personnel as a result of various certifications that personnel possess in order to provide advanced emergency medical skills. Furthermore, he indicated he'd like to keep the paramedics at Step 14, and not Step 13, because of their ability to provide advanced life support services, which enables them to better assist the volunteers with their request for additional emergency support (i.e. A.L.S.).

As concerns were verbalized regarding whether the salary complies with the grade as indicated, the County Administrator provided documentation that explained today's request along with supporting funding mechanisms. In closing, he advised the salary/benefits do match the specified grade being sought for the EMS position being sought.

After discussion, on motion of Supervisor Weakley, seconded by Supervisor Lackey, the Board approved the request by Lewis Jenkins, Director of Emergency Medical Services, for the authority to hire one (1) full-time emergency services personnel at Grade 14, Step 1, with an annual salary of \$37,470.00, plus benefits, with the following vote recorded:

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



ii. Madison County Animal Shelter (recognition)

The County Administrator advised the animal shelter has annual inspections performed by the State of Virginia, with a recent visit by the State Inspector – during the inspection, the facility received excellent comments in all categories to include: 1) how nice the shelter facility is; and it's one of the best maintained facilities throughout the Commonwealth of Virginia. In closing, he and the Board members provided accolades to Mr. Cave, Animal Control Officer, shelter staff and volunteers for the fine job they all perform at the animal shelter.

iii. Emergency Preparedness (Resolution #2012-10 [To Adopt the 2012 Rappahannock-Rapidan Regional Hazard Mitigation Plan])

The County Administrator provided an overview of the resolution being presented along with documentation pertaining to the mitigation plan (i.e. local mitigation actions, and hazard mitigation planning, and a link - <http://www.rregion.org/mitigation>), and advised that each jurisdiction is responsible for providing this form to the State.

Carl Pumphrey, Emergency Preparedness Coordinator, was present and provided an overview of the community profile, capabilities, and mitigation strategies. In closing, he advised today's resolution will be a part of the County's overall mitigation plan and the finished product must be passed onto FEMA.

The Board inquired as to whether the Town of Madison was included in the plan.

Mr. Pumphrey advised the plan consists of 370 pages and was compiled by Mayor Willie Lamar, Barbara Roach, Town Administrator and Lisa Robertson, former Madison County Administration. In closing, he advised that a separate authorization will be obtained from the Town of Madison.

The Board inquired as to whether:

- Funding will be made available to purchase any needed equipment; and
- Whether shelter assistance will be provided for the public;

Mr. Pumphrey advised that grants are available; however, when localities form 'groups' and apply for grant funds, the chances of receipt are better recognized and accepted than when localities apply singularly. Additionally, Madison County doesn't have a "HAZ-Mat Team" in place here to address any long-term issues; therefore, responders usually come from Harrisonburg or Fredericksburg to assist. Furthermore, the County doesn't have access to a public 'bulletin board' but uses whatever means are readily available during emergency situations. In closing, the recent power outage was difficult since most citizens didn't have power for days; however, during that time, three (3) sites were made available to assist those with specific needs:



- a) Madison County Fire hall;
- b) Madison County Rescue Squad Building;
- c) Madison County High School;

Supervisor Elliott stressed the importance of the need to have more cell towers in the County, as last week's storm was proof of that factor.

After discussion, on motion of Supervisor Lackey, seconded by Supervisor Weakley, the Board approved Resolution #2012-10 [To Adopt the 2012 Rappahannock-Rapidan Regional Hazard Mitigation Plan] as presented, with the following vote recorded:

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

***b. Constitutional Officers (if necessary)***

***i. Commonwealth Attorney (supplemental request)***

George Webb, Commonwealth Attorney, was present and requested increased funding for part-time clerical staff due to the need to increase the work hours to twenty-five (25) hours per week.

The Board verbalized concerns regarding whether:

- a) Part-time staff was employed during the past year or if this was a full-time slot; and
- b) If the Board receive a monthly report of activities in the Commonwealth Attorney's Office;

Mr. Webb advised that a prior part-time assistant (who worked twenty [20] hours per week) took another position; his office has undergone several personnel changes (i.e. retirement, new Coordinator and full-time Administrative Assistance). In closing, he advised that due to time constraints and costs, he is unable to make additional copies, but did suggest the Board feel free to request copies from the agencies he sends reports to, or hire someone to handle this task.

The documentation presented by the County Administrator contained a spreadsheet with information pertaining to today's twenty-five hours per week that will total an additional \$7,105.00. Although Mr. Webb's part-time clerical funding for FY2013 was \$9,000.00; today's request for twenty-five (25) hours will exceed the aforementioned



amount, thereby causing him to have to 'lay off' the part-time help before the end of the fiscal year unless his department is supplemented the above referenced amount.

Supervisor Lackey moved that the Board authorize today's funding request by the Commonwealth Attorney for additional part-time hours of twenty-five (25) hours per week at additional cost for this fiscal year of \$7,105.00.

**\*Motion died due to the lack of a second\***

The Board verbalized concerns as to where the additional funding will be attained from, as it was suggested the County refrain from utilizing monies from the contingency fund.

The County Administrator advised the balance in the contingency fund is \$60,000.00, which could be utilized or savings can be sought elsewhere in the budget, as today's request is a non-budgeted item (i.e. new money), and there are no additional funds in the Commonwealth Attorney's departmental budget from which to pull today's funding request.

Chairman Allen asked if the Board desired to authorize the Commonwealth Attorney to proceed with allowing his part-time personnel to work twenty-five (25) hours per week effective July 1, 2012 by utilizing the existing part-time budgetary allocation and reconsider this request in the future.

Based on a financial standpoint, the County Administrator suggested the Board take action now and allow the Commonwealth Attorney to manage the amount of funding that will be provided. In closing, he advised that he will investigate where the funding can be attained and report back to the Board at the July workshop session.

After discussions, the Board acknowledged the importance of the tasks performed in the Commonwealth Attorney's Office, and concurred to authorize the County Administrator to research other possible funding categories from which to pull funds to accommodate today's request, and it was indicated that the County Administrator will provide input at the upcoming workshop session.

***c. VDOT (if necessary)***

A monthly report of activities provided by Dave Cubbage, Transportation Director.

Roy Tate, Resident Engineer, was present and advised the public hearing on the project for Route 614 (Twyman's Mill Road) will be scheduled in September 2012 (advertisement in June 2014) – the project will consist of the following:

**Route 614 (Intersection Improvement at Route 706 – Madison County)**

The purpose of this project is to improve the intersection of Route 614 (Twyman's Mill Road) and Route 706 (Turner Drive) in Madison County; the existing roadway of Route



614 has a vertical curve that restricts the sight distance at the intersection of Route 614 and Route 706 (i.e. from 0.011 Miles West of Route 706 to 0.083 Miles East of Route 706). The project is considered to be a 'rural connector' and will be federally funded with a design speed of 40 mph; construction will be along existing alignment, length of project is +/- 500'; roadway lane width 9' + 2' of curve widening with 2' shoulders, utility Relocations & right-of-way requirements affects four (4) parcels. The existing road is 16' – 18' wide with 0' – 1' shoulders and a 2009 Traffic Count reflected 420 vehicles per day at this location.

The Board members asked if:

- A map will be provided to area residents that will be affected by the detour routes;
- There will be management of storm water run-off; and
- Will an existing retention pond (located at 3374 Twyman's Mill Road) be addressed;

Mr. Tate advised that VDOT will manage the run-off of any storm water basis by sizing pipes for drainage areas. Additionally, there is nothing mentioned in the plans about a retention pond, however, most all new projects have storm water management basin concerns. In closing, he advised that anything "new" that VDOT disturbs will be maintained "new". Also, detour information is generally run through the media (for maintenance), and construction items will include signage being posted to make citizens aware of all events; information is published in the local media and posted at other places of interest about future projects and re-posted within three (3) to five (5) days prior to the start of the project.

The Board also advised that many roads are listed on the Six Year Road Improvement Plan, but the 'priority' doesn't reflect whether the road is heavily traveled; also, it appears the list hasn't changed in the past ten (10) years.

Mr. Tate advised that requests can be made on behalf of the Board with regard to the projects denoted on the County's road plan.

***d. School Superintendent (if necessary)***

Absent.

***e. Bond Release (if any)***

None.



***f. Certificate of Claims – General Operations (April 2012 & May 2012)***

Chairman Allen advised the Board will need to approve the general operations claims for April and May 2012 as discussed during the previous workshop session.

After discussion, on motion of Supervisor Weakley, seconded by Supervisor Elliott, the certificate of claims for general operations for April 2012 and May 2012 are approved as submitted with the following totals:

i. April 2012 totaling \$804,001.79; and

ii May 2012 totaling \$608,653.80;

with the following vote recorded:

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

***g. Certificate of Claims-.Capital Improvement – (April 2012 – FY2012)***

Chairman Allen advised the Board will need to approve the capital improvement claims that were discussed as the previous workshop session.

After discussion, on motion of Supervisor Lackey, seconded by Supervisor Weakley, the Board approved the certificate of claims – capital improvement for April 2012 - FY2012, totaling \$55.28, as submitted, with the following vote recorded:

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

***h. Supplemental Appropriations (FY2012- July 2012)***

Chairman Allen advised the Board will need to approve the supplemental requests that were discussed at the previous workshop session.

1. Circuit Court	Jury Fees Reimbursement (21100-3212; 10-16016)	\$ 684.00
2. Clerk, Circuit Court	Technology Grant (21700-5894; 10-230700)	\$ 5,805.20
3. Grant Septic Impr. Prog.	Sanitation Grant (82200-5898; 10-240906)	\$22,105.00



4. Parks & Recreation	Youth Programs, April's Deposits (71100-5690; 10-161201)	\$ 8,397.10
5. Parks & Recreation	Other Programs, April's Deposits (71100-5691; 10-161201)	\$16,104.40
6. Parks & Recreation	Sign Program, April's Deposits (71100-5692; 10-161201)	\$ 100.00
TOTAL:		\$53,195.70

After discussion, on motion of Supervisor Butler, seconded by Supervisor Weakley, the supplemental appropriations in the amount of \$53,195.70 are approved as submitted, with the following vote recorded:

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

***i. TOT Fund (May 2012 – FY2012)***

Chairman Allen advised the Board will need to approve the certificate of claims for the TOT Fund that were reviewed at the workshop session.

After discussion, on motion of Supervisor Weakley, seconded by Supervisor Elliott, the certificate of claims for the TOT Fund in the amount of \$140.00, as submitted, 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. Minutes #31 through #33***

Chairman Allen advised the Board discussed Minutes #31 through #33 at the workshop session.

After discussion, on motion of Supervisor Butler, seconded by Supervisor Elliott, Minutes #31 through #33 are approved as submitted, 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-1.Minutes Ordinance #2011-4 (April 12, 2011)***

Supervisor Butler advised that the Board approved Ordinance #2011-4 on April 12, 2011 and removed the use of ‘private auctions and tent events’ from the list of definitions listed in the document; however, Ordinance #2012-4 still has these items included in the text as authorized uses.

The County Attorney advised when this issue was raised during the recent workshop session, an investigation was done and the approved minutes do indicate precisely what Supervisor Butler as advised, by appropriate vote, to eliminate the two (2) items that have been verbalized. Furthermore, when the Ordinance was published by Ms. Robertson, former Madison County Administrator and signed by James L. Arrington, former Chairman of the Board, and contained a clerical error of not omitting the two (2) items indicated; therefore, he feels it’s just a matter of having the Board issuing an amended Ordinance to denote the correction. In closing, he suggested a motion be implemented today to correct the clerical error, and suggested that Supervisors Lackey and Weakley ‘abstain’ from voting since they were not on the Board at the time the document was adopted (i.e. in reference to adding a definition to Article 20-203A “use – seasonal or brief”).

Chairman Allen clarified that the minutes from the meeting dated April 12, 2011 were correct and the Ordinance that was adopted and signed by James L. Arrington, former Board Chairman, and Lisa Robertson, former County Administrator, was incorrect and the definitions being discussed were not stricken from Article 20-203A (i.e. ‘private auction’ and ‘tent event’). In closing, the Board will only need to take action today to correct the clerical error.

Supervisor Elliott asked the County Attorney for clarification that he could cast a vote on today’s discussion, to which it was denoted was appropriate.

After discussion, on motion of Supervisor Butler, seconded by Supervisor Elliott, the Board moved to correct the clerical error denoted on Ordinance #2011-4 [To Amend the Madison County Zoning Ordinance (setback regulations – seasonal or brief use {strike ‘private auction’ and ‘tent event’})], with the following vote recorded:

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

In regards to the recent storm that occurred, Valerie Ward, Director of Social Services, advised that the Department of Social Services did man a shelter at the rescue squad building during the weekend storm and provided the following emergency assistance:



- i) Five (5) meals were provided;
- ii) Nine (9) guests were housed temporarily;
- iii) Thirteen (13) individuals stayed overnight; and
- iv) Two (2) individual were placed in an assisted living facility;

The County Administrator advised that the State EOC was also advised of the emergency shelter; local postmasters were also notified to be on the lookout if they became aware of seeing anyone in stress or failing to pick up their mail – anyone with concerns was asked to please contact the County. Furthermore, discussions have been held with emergency services personnel to determine ways to provide better communications in the event of future storms and/or loss of power and phones. In closing, he stressed the need to ‘check on your neighbors’ during emergency situations and the fact that citizens need to be made aware of services that are available (i.e. food, water and shelter [fire house and rescue squad] to them during times of crisis.

The Board members asked if message boards were available for use and whether the County has a system that can alert citizens in the event of future disasters (i.e. tornado). In closing, it was also asked if anyone with a working telephone could’ve called the E911 Center for information.

Robert Finks, Director of Emergency Communications, was present and advised that citizens can sign up to the ‘reverse 911 system’ (through the “Code Red” system) which alerts citizens of major storms; however, during the recent storm, most citizens had no power or phone service and some cell towers were temporarily out of services as well which prohibited the County from using the ‘reverse 911 system’ as this system can only be received through a working telephone system and will continue calling a designated number until a connection is made; therefore, it was deemed best to utilize the media rather than the local telephone system. In closing, he advised that the Blakey Ridge repeater site also sustained damage and a loss of power as a result of the storm – the unit operated on the back-up generator for about five (5) days.

The County Administrator advised that an update will be provided at the July workshop session.

#### **5. Consent Agenda:**

None.

#### **6. Discussion/Action Items**

- a. EMS Coverage (Request by Volunteer Rescue Squad)

This item was already discussed in Monthly Reports, Item “a-i”.



**b. Supervisor Elliott**

**i. Rental of Farmhouse (at Hoover Ridge)**

Supervisor Elliott referred to a past request from Mr. Kenny Fisher to rent the farmhouse at Hoover Ridge, which was later rented to the Park & Recreation Authority for a total \$6,000.00 annually; he has reviewed the Budget and saw where the line item didn't contain the annual allocation for rental of the farmhouse, but only the \$1,500.00 collected monthly from Mr. Hunter Weaver; when he questioned Ms. Miller, he was advised the Chairman instructed her to remove the revenue as this was acted upon "by consensus of the Board"; however, Ms. Frye reviewed the minutes and there was nothing found to support any action was "by consensus" nor was it discovered by another Board member. In closing, he questioned how this revenue got removed and who authorized this action.

Chairman Allen indicated the issue of the farmhouse was slated for discussion at the June workshop session; however, two Board members weren't prepared to discuss the issue at that time; he further provided an overview of what transpired at a past budget work session in which Supervisor Weakley was preparing to attend a meeting of the recreation authority to gain insight as to whether they were satisfied with the existing agreement, but there was no discussion about the annual rental amount for the farmhouse and the issue was never re-discussed. In closing, this issue was added to the June workshop for further discussion and Supervisor Elliott's assessment was correct in that a vote was never taken, nor was Ms. Miller told to remove anything 'by consensus of the Board.'

It was also clarified that the Chairman and Supervisor Elliott were assigned as the Board's liaisons to work with Ms. Miller on the Department of Finance, Facilities & Maintenance, and the Park & Recreation Department – if the amount was left out, then it was missed. Further comments from the Board included the fact that it takes three (3) votes to warrant action on any item; perhaps the figure was dropped from the computer as an oversight; has a bill been sent to the authority for the rent; and whether the elimination of a figure from the budget negate a contract.

The County Attorney advised when the Board discusses budget issues in workshop sessions, etc., there are drafts presented; the document is discussed/reviewed, collectively and individually; after the public hearing is held, the Board takes a vote on the budget document, and he doesn't think one can ever precisely say when an item was changed in the budget; items are presented as a part of the budget in preliminary form and then in final form for action. Also, the lease is a valid, legal document that can be continued by the Board as a provision and can be cancelled by either party within thirty (30) days' notice, which neither party has advised of desiring to cancel.

Supervisor Butler stated "I would like to say when I was asked to review the tape I was told Mr. Elliott had contacted Ms. Miller and she said that Dave Allen had told her to take it out of the budget. So she's not here to explain that today, she's on vacation. But if that is the case, that's malfeasance of office. "Mr. Allen stated "that's pretty serious



charges, Mr. Butler” .....Mr. Butler replied “yes it is.” In closing, he asked the County Attorney if such an action had actually been committed.

Additional comments from the Board members pertained to the fact there’s a lack of evidence to warrant today’s accusation of malfeasance; oversights do occur; work sessions are held in order to resolve issues; the Board wasn’t given a ‘line-item budget’ at the time of adoption; and there is a maintenance tech position in the budget (with funding) that wasn’t previous discussed.

The County Attorney advised he doesn’t feel there is any offence (of malfeasance) that has been committed, as in his experience, many times budgets are formed and he doesn’t believe a vote is taken on every line item of the budget. Furthermore, when the budget is voted upon, as presented, and if it doesn’t have an item in there, then ‘so be it’, as the Board is voting on what has actually been presented. In closing, he expressed feelings of difficulty as to why Supervisor Elliott is having trouble following the logic of the funding ‘being taken out of the budget’ as he doesn’t think it was ever placed in the budget that was approved after the public hearing, as the process of forming a budget isn’t a process by which a vote is taken in regard to every item contained in the document.

Supervisor Elliott advised that every item denoted in the budget was discussed.

The County Attorney concurred that items are discussed and for whatever reason, today’s item wasn’t included (i.e. \$6,000.00) in the final budget document that the entire Board took action on.

Supervisor Lackey clarified that the maintenance tech position in question was discussed and acted upon by the Board during a prior budget work session.

Chairman Allen indicated that the Board received worksheets on every department contained in the budget with funding denoted. In closing, he advised that “ the ‘grand standing’ shown today is unconscious able and that neither Supervisor Elliott or Supervisor Butler bothered to contact him at home, by cell or email prior to today’s meeting, but chose to wait until a public meeting in an attempt to cause embarrassment. In closing, he commented regarding Mr. Butler’s accusation of ‘malfeasance’ and hopes this can be proven.

Supervisor Elliott returned a comment that there are many times when issues are on the agenda that he and Supervisor Butler aren’t made aware of, yet, Mr. Allen, Mr. Weakley and Ms. Lackey are well aware.

In closing, it was verbalized that any member of the Board can add an item to the meeting agenda and the agenda is emailed to all members well in advance of the meeting date.

Although there was an additional comment regarding the entry of a “closed session” being on today’s agenda with unknown origin, it was clarified that this is denoted on each monthly agenda as a formality.



**c. Social Services Board (Vacancies)**

Chairman Allen advised that two (2) applications have been received for the vacancies on the Social Services Board; therefore, he asked if the Board would like accept the applications or conduct interviews.

Supervisor Weakley advised that as a matter of consistency, he'd prefer the Board to conduct interviews, since this was the process for other positions, to which Supervisor Butler concurred.

In closing, the Chairman asked all members to review their calendars and a date/time will be discussed during the evening session.

**d. Industrial Development Board (expired terms)**

The County Attorney advised there are three (3) slots on the Industrial Development Board (IDA) that will need to be filled, and two (2) of incumbents do not wish to be reappointed; however, Mr. Dudley Pattie has served for several years and does wish to be re-appointed to continue serving as a member.

In closing, he advised that Woodberry Forest School is in the process of refinancing one of its educational bonds and will be coming to the IDA Board sometime before the end of 2012; therefore, he stressed the importance to get the appointment process underway in order to have a full Board in place.

Chairman Allen asked if the Board desired to advertise for the existing vacancies as discussed, to which the County Attorney advised has been the procedure in the past.

Supervisor Butler asked if there is a requirement to have one (1) member who is a 'banker' to serve, to which the County Attorney advised wasn't a requirement in Virginia Code, although the position is financial in nature.

After discussion, the Board decided to advertise the vacancies in the local newspaper with a closing date of July 27, 2012.

**e. Personal Policy Procedures**

Supervisor Butler advised the existing personnel policy listed on the County's website doesn't contain the revisions that were implemented in 2011. Furthermore, he asked if background investigations and random drug testing will be a future requirement for employment. In closing, there has been citizen complaints regarding a recent issue involving a County employee; therefore, he suggested the Board review the policy and provide input.

The County Administrator advised that random drug testing can be implemented if there is any suspicion of drug usage. In closing, he advised that changes can be made anytime to the personal policy and the County can establish a reasonable policy for pre-employment guidelines (i.e. background check and drug testing).



**f. Fair Board (Request for Waiver of landfill Fees)**

Chairman Allen advised the Board has received a request from the Madison County Fair Board to waive the landfill fees for the upcoming Madison County Fair.

Supervisor Butler verbalized concerns regarding:

- i) The County donated \$1,500.00 to the Madison County Fair this year; and
- ii) He suggested law enforcement/emergency personnel (and their families) be allowed to enter the fair without charge, in an effort to be able to provide additional assistance in the event of an emergency;

The Board verbalized concerns regarding the above referenced request concerning ‘off duty’ personnel being placed ‘on duty’ while at a public event and that this request may present legal concerns, to which the County Attorney concurred and suggested the Board allow the Madison County Fair Board to handle their own admissions policy.

Concerns were also verbalized as to the total amount of fees that will be waived, to which the County Administrator advised will depend on the weight.

After discussion, on motion of Supervisor Elliott, seconded by Supervisor Butler, the Board voted to approve the request presented by the Madison County Fair Board for a waiver of landfill fees for the local fair from July 17, 2012 to July 21, 2012, with the following vote recorded:

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

**g. Madison County Woman’s Club (Resolution from the Board)**

Supervisor Lackey advised that the Woman’s Club of Madison County would like to request a Resolution of commendation from the Madison County Board of Supervisors.

After discussion, on motion of Supervisor Lackey, seconded by Supervisor Butler, the Board voted to compose a Resolution of Commendation for the Woman’s Club of Madison, Virginia, with the following vote recorded:

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

**4:00 p.m. PUBLIC COMMENT OPPORTUNITY (not to exceed five [5] minutes per speaker)**

Bill Campbell was present and commended the Board on the process involving the recent town hall meeting, and suggested the Board hold a session each quarter; he also



questioned today's discussion about the ordinance and the issues regarding a 'private auction' and a 'tent event', and whether this is something that could be an oversight in the future as a result of the establishment of 'abbreviated minutes.'

Chairman Allen advised today's issue was adopted by a motion and second.

With no further comments being brought forth, the public comment opportunity was closed.

Chairman Allen advised that when the Board decided to hold a town meeting, the agreement was to look at having these sessions on a quarterly basis; therefore, this issue will be discussed at an upcoming workshop session.

## **7. Board of Supervisor's Meetings Attended In Past Month:**

### **Skyline CAP/Thomas Jefferson EMS Council/Park & Recreation Authority:**

Supervisor Butler attended a meeting of Skyline Cap, the Thomas Jefferson EMS Council and the Park and Recreation Authority.

### **Madison County Planning Commission:**

Supervisor Elliott attended a workshop session of the Madison County Planning Commission.

### **Skyline CAP/Parks and Recreation Authority:**

Supervisor Weakley attended a meeting of the Skyline CAP and the Park and Recreation Authority; the authority will be getting information to the Board shortly

### **Rappahannock Rapidan Regional Commission (PD-9)/Rappahannock Juvenile Detention Center:**

Supervisor Lackey attended a meeting of the Rappahannock-Rapidan Regional Commission (PD-9) where the focus was on investigating initiatives to provide affordable housing; Mr. Alfred Goossens accompanied her to a meeting of the Rappahannock Juvenile Detention Center.

### **Rappahannock River Basin/Central Virginia Regional Jail:**

Chairman Allen attended a meeting of the Rappahannock River Basin Commission where there was discussion about nitrogen and phosphates noted in the bay waters. Also, the addition to the Central Virginia Regional Jail is underway; the jail has saved about thirteen to fourteen percent (13% - 14%) in funding that will be used to make payments toward the funds they plan to borrow for the expansion (i.e. \$15,000,000.00 to \$17,000,000.00). In closing, he advised they are anticipating that some type of reimbursement of the costs will be received from the State.



**8. Closed Session (if necessary):**

**a. *Closed Meeting***

On motion of Supervisor Butler, seconded by Supervisor Lackey, the Board convened in closed session, pursuant to Virginia Code Section 2.2-3711(A)(7) pertaining to personnel matters involving a county employee, and Virginia Code Section 2.2-3711 (A)(29) pertaining to the discussion or negotiating strategy, specifically related to the Fray’s Mill Subdivision, with the following vote recorded:

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

**b. *Return to Open Meeting***

On motion of Supervisor Butler, seconded by Supervisor Lackey, the Board voted to reconvene in open session, with the following vote recorded:

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

**c. *Motion to Certify Compliance***

On motion of Supervisor Butler, seconded by Supervisor Lackey, the Board voted to individually certify by roll-call vote that only matters lawfully exempted from open meeting requirements pursuant to Virginia Code Section 2.2-3711(A)(7), and (A)(29) and only matters that were identified in the motion to convene a closed session, were heard, discussed or considered in the closed 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

**9. Reconvene Meeting**

Chairman Allen reconvened the meeting at 7:00 p.m. All members are present and a quorum is in place.



Also, the Board convened in a closed session before the dinner break; however, there was no action taken as a result of the closed session

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**10. Public Comment Opportunity:**

Chairman Allen opened the floor for public comment, and there was none; therefore, the session was closed.

**11. Public Hearing [Joint with Planning Commission (Ordinance Recommendations)]**

Chairman Allen advised that tonight's joint public hearing has been scheduled for five County Ordinances. Additionally, he asked that all comments from the public be addressed to the Madison County Planning Commission and then the Madison County Board of Supervisors for comment. In closing, he advised that no action will be taken on tonight's topics following the public hearing.

Lloyd Williams, Chair of the Madison County Planning Commission, called the joint session to order and advised that a quorum was present. Additionally, the Commission approved their minutes from the meeting held on June 6, 2012, as submitted.

Mr. Williams advised that the Commission is charged with constantly reviewing the County's Ordinances; when a 'gap' is denoted, the Commission makes recommendations to the Madison County Board of Supervisors. Additionally, the Commission will take action on tonight's Ordinances and make recommendations onto the Madison County Board of Supervisors. In closing, he advised there is a text amendment that will also need to be heard tonight, and representatives are present to provide input on this issue.

Mr. Williams asked that all speakers please:

- i) Limit comments to five (5) minutes; and
- ii) State your name and address clearly;

The County Attorney advised that he will provide a brief overview of each Ordinances and reference to where the issues are.

**a. Ordinance #2012-3 [Farm Sawmill/Farmer's Market/Farm Winery]:**

- o Farm Sawmill: The County Attorney advised the Commission establish a category for a 'farm sawmill' – anything allowed 'by special use permit' in a C-1 zone is also allowed in an A-1 zone. Additionally, it was denoted that the agriculture is the economic backbone of Madison County. In the past, a sawmill was allowed 'by right' and could be industrial and he feels the Commission was trying to balance things and allow a farm sawmill 'by right' and allow commercial sawmills in an M-1, Industrial zone.



- Farmer's Market: The County Attorney advised that Mr. Brad Jarvis addressed the definition of a farmer's market with regard to the percentage of products must be fifty-one percent (51%), which has caused some controversy;
- Farm Winery: The County Attorney advised there is State regulation in place regarding farm wineries, in that these can be allowed by Counties in a C-1 and A-1 zone 'by right';

Chairman Allen opened the floor for public comment:

Bill Campbell (Madison, Virginia) was present and reminded the Board how Malvern Subdivision is zoned (A-1) which will allow someone to establish a sawmill in the subdivision 'by right.' Also, he advised that a farmer's market can be allowed in a C-1 and Z-1 zone and made reference to the Old Chevrolet Building that is situated in a B-1 zone and is slated to open a farmer's market in the near future. In closing, he made reference to the Virginia Code and the fact that such an operation shouldn't be allowed in a structure that's situated in a B-1 zone. Also, he asked what was in place for the former Buffalo Hills, Inc. operation, to which it was denoted the operation was 'by right' in an M-1 zone.

Beth Burnam was present and made reference to a letter that she wrote regarding wineries; she also suggested the County realize what's going on with other localities and to encourage the need for agriculture (by special use permit). In closing, she suggested the County add the language that she referenced in her letter that was presented to the Board.

Bob Kane was present and commented on the County's new webpage and the fact that he didn't see tonight's documents online. Furthermore, he feels that something allowed 'by right' will cause issues in the future, and also suggested the percentage of fifty-one percent (51%) be increased to seventy-five percent (75%) for locally grown items sold at the farmer's market.

Jacki Eisenberg was present and feels the wording should be changed to allow crafts.

Concerns verbalized by the Madison County Board of Supervisors included:

- i) The farmer's market is an 'individual market' at fifty-one percent (51%);
- ii) The Virginia Code denotes that a farm winery must include products from local growers in Virginia and the producer must adhere to all regulations that are in place;
- iii) The wording referencing that fifty-one percent (51%) or more of products being produced should include "or grown"; and
- iv) Should the sale of poultry and pork be included 'for sale' at a farmer's market;



The County Attorney advised that the above referenced meat products are grown on several farms in the area.

Comments were also made regarding the fact that retail sales are allowed 'by right' in an A-1 zone, as well as allowances for roadside stands, and the fact that sellers can't purchase produce elsewhere for re-sale.

Betty Grayson, Zoning Administrator, was present and advised that retail items are allowed to be sold 'at wholesale' but not 'at retail.'

After discussion, the Madison County Planning Commission properly motioned and seconded to recommend Ordinance #2012-3 onto the Madison County Board of Supervisors for adoption.

**b. Ordinance #2012-4 [Wild Game Processing/Commercial Slaughterhouse/Showroom/Bio-diesel Fuel Production]:**

The County Attorney referenced that uses pertaining to Ordinance #2012-4 are allowed 'by special use permit' in an A-1 zone (i.e. wild game processing, commercial slaughterhouse and showroom), and that bio-diesel fuel production is allowed 'by right' in a C-1 zone.

Sue Ellen Johnson was present and asked about 'custom exemptions' for a family.

Mr. Kane asked about the definition of a 'showroom.'

Supervisor Butler suggested the wording 'mono-alkyl ester' combustible liquid fuel and 'other products' **be removed** as a part of the definition of bio-diesel fuel.

The County Attorney indicated that the County's Ordinance had no definition for a 'slaughterhouse.'

Ms. Grayson advised that any slaughterhouse in operation as of March 29, 1974 must be 'grandfathered in.'

Mr. Campbell was present questioned what meat processors are allowed to do.

After discussion, the Madison County Planning Commission properly motioned and seconded to recommend Ordinance #2012-4 onto the Madison County Board of Supervisors for adoption.

**c. Ordinance #2012-5 [Auction Establishment]:**

The County Attorney advised that the recommendation from the Commission was to allow this use 'by special use permit' in an A-1 zone and 'by right' in a B-1 zone, with a simple definition being established.



The floor was opened for public discussion and there was none.

After discussion, the Madison County Planning Commission properly motioned and seconded to recommend Ordinance #2012-5 onto the Madison County Board of Supervisors for adoption.

**d. Ordinance #2012-6 [Non-conforming Uses]**

The County Attorney advised there were issues regarding some cases where a citizen with a non-conforming use wanted to add to a structure; however based on the County's Ordinance, in order to expand/enlarge a non-conforming use, one must bring the use into conformance. In closing, the Commission has implemented a change that will allow for a structure to remain 'non-conforming' as long as any imposed expansion is in conformance within the setback regulations denoted in the County's Ordinance, and the second provision denoted was implemented in compliance with State Code concerning the fact that certain storage buildings do not require a building permit.

The floor was opened for public comment.

Based on the proposed change, Supervisor Butler questioned whether an addition to a house could only be done on the rear of the structure (and not the sides), to which the County Attorney advised that an addition can be implemented to the sides if current setback requirements can be met in order to accommodate an addition.

After discussion, the Madison County Planning Commission properly motioned and seconded to recommend Ordinance #2012-6 onto the Madison County Board of Supervisors for adoption.

**e. Ordinance #2012-7 [Small Wind Energy System]**

The County Attorney advised that the last Ordinance pertains to a text amendment brought forth by an applicant.

The County Attorney explained that the County does have an Ordinance on Small Wind Systems – the provisions being discussed tonight revolve around the maximum tower height, as the current Ordinance advises that the maximum height will be sixty feet (60') – the other issue to be discussed regards the setback, as the current Ordinance advises the tower must be at least 110% to include:

- The height of the tower and the blade;
- The structure must be 110% from any adjacent property line; and
- The structure must be 150% of the tower height, plus the blade length, away from any inhabited dwelling(s);



Additionally, tonight's request was published as it was submitted by the applicant who was unable to attend the Commission's workshop and was provided the opportunity to attend tonight's session to provide information/explanation as to why they feel tonight's request should be honored.

i. Fishbeck Application (request to install a small wind turbine)

Todd Loggins, Jonathon Fishbeck and Jeremy Hayes were present to provide input on high performance, multi-generational energy and tonight's text amendment that has been presented.

Mr. Williams advised that the Commission would like some level of rationale to support the change that was presented on behalf of the applicant.

Jeremy Hayes provided an overview of turbines, wind speed and other criteria associated with small wind systems and advised: a) indicated it's important to understand how wind turbines collect wind (i.e. vertical and horizontal access); b) the Fishbeck property is located just within the zone where it would be valuable wind power (just over twelve [12] miles per hour); c) an assessment was made to determine the wind index in the overall tree line in the area and three (3) class winds were generated with moderate 'flagging' being denoted; 4) tests were also implemented to monitor a one hundred foot (100') tower over a three (3) month time frame which produced 'seasonal results' (tests were implemented during the spring and fall); 5) a tower with a height of one hundred feet (100') will generate a value of about 124%, based on 'seasonal variance' results from tests conducted in the spring and fall, (there isn't much wind production in the summer and winter; 6) an average wind speed of 12.2 miles per hour can be produced which is just inside the requirement necessary to generate 375 kilowatt hours of wind speed needed in order to produce a return investment on the wind turbine system.

In closing, he suggested a special pipe (totaling thirty feet [30']) be installed for about three (3) months to collect data on the overall average wind speed at the Fishbeck property.

The Commission members verbalized concerns regarding the fact that:

- If a one hundred foot (100') tower can generate 124% wind energy, the difference calculated from today's numbers versus the County's required sixty foot (60') tower (as required in the County's Ordinance), don't seem very logical;
- What is the significance of degradation versus height reduction;
- Would there be any effects from an increase in wind speed; and
- Will today's request be able to meet the 500% requirement;



Mr. Hayes advised that in tonight's case, one must also assess the fact that the turbine will be situated in a turbulent zone and it will be more likely that the kilowatt hours will range between eighty to one hundred (80-100) kilowatt hours per month, with indicated speeds at a certain height. In closing, he advised that a turbine should be built at least thirty feet (30') above any turbulence zones and that the actual tower can be moved about twenty feet (20') in order to attain the distance requirement.

Mr. Fishbeck was present stated there is an agricultural building within close proximity to where the turbine site is shown in the photo presented (about one hundred feet [100'] away), which is felt to be sufficient in the event the tower ever fell. In closing, he feels 500% setback requirement will hinder smaller properties from erecting a tower; therefore, he suggested the setback requirement be reduced to 250%.

Mr. Williams opened the floor for public comment.

Ms. Burnam verbalized concerns regarding the setback requirements and also read a statement provided from another citizen pertaining to the height distance and property line requirements for wind turbines.

Mr. Kane was present and feels the County's suggestion for 500% distance is inadequate and questioned if anyone present had a copy of Virginia Code regarding this matter – there are about 119 turbine towers in place on the State of West Virginia that are up to 190' in height with limited landscape distance.

Mr. Campbell was present and feels that tonight's request is the only wind turbine case to come forth in Madison County and encouraged the County to move forward and implement adjustments in the future if needed.

Ms. Eisenberg stated there are very few locations in Madison County (excluding state or federal parcels) that consist of enough acreage to accommodate a wind turbine system; although she's unsure of the cost associated with tonight's request, she encouraged the County to consider the 'view shed' and its importance if there is a desire to promote tourism here for economic development.

The County Attorney clarified there is some confusion regarding the manner in which tonight's request is being presented that pertains to whether the tower height includes the blades, as the existing Ordinance doesn't include wording concerning blades.

The Board verbalized concerns regarding:

- a) Section 6 in the County's Ordinance;
- b) The existing Ordinance references the height above ground as being the fixed portion of the tower;
- c) Would the construction of two (2) sixty foot (60') towers be considered if one (1) one hundred foot (100') tower isn't approved;



- d) Are there any towers constructed within other localities in the State that have conditions in their Ordinances that have required tower(s) to be removed after installation; and
- e) The setback requirements do not include the guide wires that will be installed to hold the wind turbine tower in place;

In response to the aforementioned concerns on items (a), (b), (c) and (e), the County Attorney advised that Section 6 of the County's Ordinance was written with the idea that the maximum height would be sixty feet (60'); although this isn't clearly worded, he feels the only way tonight's request can be proposed in reference to the 500% setback would apply toward a one hundred foot (100') tower and not a sixty foot (60') tower as the Ordinance indicates. Additionally, under the existing Ordinance, the County allows a tower with a maximum height of sixty feet (60') with the setback, as a 'matter of right' in a C-1, A-1, B-1, R-1, M1 and M2, and 'by special use permit' in R-2 and R3 zones, county wide. In closing, if the height is increased from sixty feet (60') to one hundred feet (100'), would the County want to indicate that a one hundred foot (100') tower can only be accomplished 'by special use permit.'

In response to item (d), Mr. Hayes advised the costs associated with the aforementioned request would more than likely halt the entire project; also towers are designed to be in place for a one hundred (100) year time frame and once functionality is no longer up to par, installation is usually removed in its entirety.

Mr. Williams called for additional comments from the Commission.

The Commission members asked that citizens remember the fundamentals of the County's Ordinance as denoted within the document - the criteria of "sixty feet (60')" has been designated as a minimum distance for a homeowner so they could utilize a system to assist in serving their dwelling. In closing, it was the Commission's intent to keep tower heights at a minimum; if a request is brought forth for a larger tower, the applicant should be to apply for a special use permit before the request is considered.

Mr. Fishbeck stated it was their (Fishbeck Family) intent to apply for a special use permit; however, when talking with Ms. Grayson, it was advised the option wasn't available. In closing, he indicated they'd like to restudy tower height and setback distance in accordance with the specific conditions denoted in the County's Ordinance, and further advised the intent to withdraw tonight's text amendment request.

The County Attorney advised there are three (3) issues in place: 1) what is being zoned; 2) the height; and 3) setback requirements. In closing, he questioned whether this issue will just be 'left open.'

Rodney Lillard, Commission member, advised that when amendments are adopted to the County's Ordinance, the end result is for all citizens and not just the applicant, and



when amendments are incorporated/adopted into the County's Ordinance, it must be fair to all County citizens – not just the applicant; however tonight's request would affect an area where there are a lot of houses; if the County is considering amending the Ordinance, then he suggests the wording be listed as 'by special use permit' and not 'by right'; therefore, he isn't in support of tonight's text amendment request as the tower is being proposed for one hundred feet (100').

After discussion, the Madison County Planning Commission properly motioned and seconded to recommend the Madison County Board of Supervisors deny tonight's text amendment request.

Mr. Fishbeck withdrew tonight's proposed amendment request and will work with Mr. Williams, Commission Chair, and the County Attorney to compose a different proposal.

In closing, Mr. Williams advised the applicant has elected to withdraw tonight's request with the understanding that the Madison County Planning Commission will recommend the Madison County Board of Supervisors approach this request as requiring a special use permit.

With no further information being provided, the public hearing was closed.

## **12. Information & Correspondence (if any):**

Chairman Allen called for further information and/or correspondence.

### **Madison County Transfer Station:**

The County Administrator provided an update on the amount of landfill hangtags that have been handed out, along with the total amount of brush received to date through yesterday (July 9, 2012), as there has been a higher volume because:

- a) Some who didn't utilize the landfill before are now because they have a hangtag; and
- b) Debris is being cleaned from properties as a result of the recent power outage;

Supervisor Elliott advised that the few haulers in the County have advised a reduction in clientele now that citizens can utilize the landfill by way of a hangtag.

### **Interviews (Social Services/IDA Board vacancies)**

Chairman Allen advised the Board will need to determine a time to hold interviews for the vacancies on the social services board and the IDA Board.

After discussion, the Board decided to conduct interviews at 4:00 p.m. on Monday, July 30, 2012, following the workshop session, with sessions ranging fifteen (15) minutes apart.



**Town Hall Meeting**

Chairman Allen advised that Ms. Janice Carpenter has asked if the Board will consider holding a town hall meeting at the George James Loop towards the end of September 2012; therefore, he suggested the Board discuss this matter at the July workshop session.

**13. Adjournment:**

With no further action being required, 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

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J. Dave Allen, Chairman  
Madison County Board of Supervisors

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Jacqueline S. Frye, Clerk to the Board

Adopted on: September 11, 2012

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

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***Resolution #2011-4 [Amendment to Ordinance to Amend the Madison County Zoning Ordinance***



# ADDENDUM

## ORDINANCE #2011-4 (Amended)

### AMENDMENT TO ORDINANCE TO AMEND THE MADISON COUNTY ZONING ORDINANCE

AMENDED on the 10<sup>th</sup> day of July, 2012, on motion of Supervisor Butler, seconded by Supervisor Elliott to correct clerical error in Article 20, Definitions, Section 20-203A, to read as follows:

- 1. **Add Article 20 Definitions, Section 20-203A to read as follows:**

Use, Seasonal or Brief: A use or activity that occurs for a brief time and then ceases, and that occurs on not more than three (3) cumulative days per thirty-one (31) day period, such as a ~~private auction~~, land sale, yard sale, ~~tent event~~, horse show, and similar uses and activities. Seasonal or brief uses and activities are uses permitted by right in all zoning districts.

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J. Dave Allen, Chairman  
Madison County Board of Supervisors

	Aye	Nay	Abstain	Absent
J. Dave Allen	<u>  x  </u>	_____	_____	_____
Doris G. Lackey	_____	_____	<u>  x  </u>	_____
Jerry J. Butler	<u>  x  </u>	_____	_____	_____
Pete J. Elliott	<u>  x  </u>	_____	_____	_____
Jonathon Weakley	_____	_____	<u>  x  </u>	_____

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Ernest Hoch  
Madison County Administrator

