

## MEETING #47 – October 8

At a Regular Meeting of the Madison County Board of Supervisors on October 8, 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-Chair  
Jerry J. Butler, Member  
Pete J. Elliott, Member  
Jonathon Weakley, Member  
Ernie Hoch, County Administrator  
V. R. Shackelford, III, County Attorney  
Teresa Miller, Finance Director  
Jacqueline S. Frye, Clerk of the Board

### **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 that item “f-i” for supplemental requests should be for October instead of September; he also advised the Board will need to set a date for the November workshop session and the quarterly town hall meeting, which can be denoted as item “6-h.”

Chairman Allen called for further deletions, corrections or additions to today’s agenda.

On motion of Supervisor Lackey, seconded by Supervisor Butler, 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)***

##### **Madison County Emergency Management – Press Release:**

Carl Pumphrey, Director of Emergency Preparedness, was present and provided information on a press release for the Madison County Emergency Outreach Program to address the needs of the public during emergency situations; the thought was to have postings at various locations throughout the County (i.e. the three [3] general stores [Syria, Wolfstown, Brightwood]) and the local post office locations. During “emergency week”, postings were made at locations to advise the citizens of shelter sites and what actions they’d need to take in the event anyone was unable to contact anyone for assistance. As emergencies can create greater challenges for those with special needs stemming from communication/mobility limitations, reasonable accommodations in the areas of transportation, evacuation and emergency sheltering will be provided, excluding the needs for hospitalizations. A ‘call down list’ of names of citizens with special needs will also be composed and will include emergency notifications; citizens will also be advised that timely messages will be sent throughout the County by use of the Code Red instant alert system and posted on the County website. Also, when phone lines and computer lines are unable, citizens will be encouraged to use a battery operated radio to listen for information on 103.1 FM or other local radio stations. In closing, he advised that local emergency providers are in support of these efforts and will participate in question/answer sessions with citizens.

Supervisor Lackey advised that the various postmasters in the County should have information as to any citizens that are handicapped or immobile, and encouraged Mr. Pumphrey to reach out to the postmasters for assistance.

Mr. Pumphrey advised because of the existing HIPAA laws in place, the County must be very careful about asking anyone to provide information on the medical condition of any citizens.

Supervisor Butler asked if planning information will be posted to the website in the event of snow or other emergencies.

Mr. Pumphrey advised that he can write additional information after the meetings are held and have this posted to the website by using the two (2) links that are already in place on the County’s website.

Supervisor Weakley thanked Mr. Pumphrey for today’s information and asked whether the closing of any of the local post office sites would pose a problem in the future, and if there were alternative sites where information could be posted for the citizens.



Mr. Pumphrey advised that although post offices allow designated space for federal and local governmental offices to post information, he will also research alternative locations as well. In closing, he advised that in the event a local post office site should close, information can still be posted at the building for the public.

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

**Sheriff:**

Erik Weaver, Sheriff, was present and advised that a certificate of recognition was received from the Governor's Office to advise that Robert Finks (Director of Emergency Communications) was recognized in the 'top twenty-five (25)' persons in the nation for outstanding service to the citizens (in Madison County) for his contribution to improving emergency communications. In closing, the information has been passed along to the County Administrator as well.

The Board congratulated Mr. Finks on the recent accomplishment and Supervisor Butler clarified that being named among the 'top twenty-five' is a tremendous honor.

Mr. Finks thanked the Madison County Board of Supervisors for their continued support.

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

A monthly report of activities was provided by Roy Tate, Acting Transportation Director.

***i. Twyman's Mill Public Hearing (update)***

Chairman Allen asked if a representative was attending to provide a report on the recent public hearing.

The County Administrator indicated that no one had made contact as to whether there would be a representative present today nor has a report of the public hearing been provided to date; however, he did advise that VDOT is in the process of getting letters of notification out to residents regarding the rural rustic road program.

Supervisor Weakley asked if anything has been heard from Mr. Beatty, to which the County Administrator advised nothing more has been noted since the meeting and he will follow up on this issue.

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

Dr. Eberhardt, Superintendent, was present and advised that as of September 30, 2012, school enrollment was 1,831 students – thus far, six [6] students have dis-enrolled during the past week which brings the current total down to 1,825, which is a slight increase in enrollment numbers from this time last year; he also advised the percentage



for free-reduced lunch is thirty-seven percent (37%) division wide with the following breakdown:

- Madison Primary School: 46%
- Waverly Yowell Elementary: 38%
- Wetsel Middle School: 38%
- Madison County High School: 29%;

As reported by Ms. Patty Seale, Food Services Coordinator, despite the percentages provided, there has been a light increase in percentages from last year.

Dr. Eberhardt also advised that SAT scores have improved and County students have out-performed other localities within the State of Virginia, with two (2) local students being recognized as “national merit commended scholars.”

Dr. Eberhardt welcomed Chairman Allen and Supervisor Elliott to attend the CIP discussion scheduled to take place tomorrow with School Board Members, Ms. Tonya Taylor and Mr. James Nelson, to discuss CIP issues. Additionally, the School Board Members will meet with representatives from Crabtree, Rohrbaugh, Associates, Inc. next week to sign an agreement concerning the engineer and associated fees, and will also meet again on Wednesday, October 24, 2012 at 6:00 p.m. to review drawings that will be presented by Crabtree, Rohrbaugh Associates, Inc.

Supervisor Butler asked if the program had to be competitively bid, as he feels the competitive bid process might have lowered the overall price for the CIP projects.

Dr. Eberhardt indicated that the School Board wanted to move forward, as did the Madison County Board of Supervisors with the existing contract in place with Crabtree, Rohrbaugh Associates, Inc. for the CIP. In order for the school system to go to bid and have renovations done on the high school in late May-June 2013 (excluding the bleachers), would possibly have left the school system with the choice of securing someone who may not have been familiar with County events or able to adhere to the proposed 2013 construction schedule. In closing, the School Board believed moving forward with Crabtree, Rohrbaugh Associates, Inc. was sufficient and their final negotiations yielded a lower percentage with considerable savings being noted.

The County Attorney advised that he and the School Board’s Attorney recommended both governing Boards enter into Addendum #1 to the agreement with the reasoning being that the original contract provides for services up to six (6) years, and in reading the procurement laws, there will be a multiple project agreement in place that can be on a ‘per year’ basis - the amendment indicates that ‘either party can opt out at any yearly interval’ which was what the School Board and County entered into in



conjunction with the contract from Crabtree, Rohrbaugh Associates, Inc. The aforementioned process doesn't prohibit competitive bidding taking place, but it is felt that another company wouldn't provide a better deal than what is being provided by Crabtree, Rohrbaugh Associates, Inc. In closing, he and the School Board's attorney both agree that, with the amendment, the County is in compliance with the existing procurement laws.

Supervisor Elliott questioned the comment that indicated either party can elect to 'opt out' at the end of a year, to which the County Attorney advised it may be that either party can elect to opt out at any time upon giving thirty (30) days' notice; however, he will review the agreement for clarity and provide further input.

The County Administrator advised that the School Board will enter into another contract that will define the terms/conditions/specifics of the design work and the scope of the project. The agreement signed between the governing boards is only a written authorization to denote both boards will work together.

Supervisor Lackey asked if the national merit commended scholars program will provide scholarship opportunities for the students who have been recognized, to which Dr. Eberhardt advised the students have made the 'first cut' and will remain being denoted as 'commended' and it is hoped that some will move onto State competition, become finalists and be offered scholarship opportunities from universities at the national level. In closing, the Superintendent explained that some scholarships are only awarded to individuals from certain ethnic backgrounds (i.e. African American, Hispanic, Native American), as well as some groups who also recognize individuals who are acknowledged as being 'commended, finalist, or semi-finalist' which also increases one's chances of receiving a scholarship.

In closing, the Board thanked Dr. Eberhardt for sharing such good news regarding our students excelling.

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

None.

***f. Finance***

***i. Certificate of claims – General Operations (August 2012 – FY2013)***

On motion of Supervisor Lackey, seconded by Supervisor Weakley, the certificate of claims for general operations totaling \$641,234.89 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

**ii. Certificate of Claims- Debt Service (July 2012 – FY2013)**

On motion of Supervisor Lackey, seconded by Supervisor Weakley, the certificate of claims for the debt service totaling \$2,621.49 is 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

**iii. Certificate of claims – Tourism Enhancement (August 2012 – FY2013)**

On motion of Supervisor Weakley, seconded by Supervisor Butler, the certificate of claims for tourism enhancement totaling \$3,487.00 is 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

**iv. Supplemental Requests – General Operations (October 2012 – FY2013)**

1. Parks & Recreation	PRA Youth Programs – Sept’s Deposits #71100-5690 – 161201	\$ 3,977.00
2. Parks & Recreation	PRA Other Programs – Sept’s Deposits #71100-5691 – 161201	\$ 200.00
3. Water Quality Mgmt.	Sanitation Grant #82200-5898 - 240906	\$28,695.39
4. Animal Control	Spay & Neuter Program #35100-5640 - 240107	\$ 62.25
TOTAL:		\$32,934.64

On motion of Supervisor Weakley, seconded by Supervisor Lackey, the supplemental requests – general operations totaling \$32,934.64 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

***g. Minutes #40 through #42***

Supervisor Lackey noted errors on Minutes #40.

Supervisor Butler advised that he hadn't forwarded any corrections on Minutes #40 that he noted, as well.

Supervisor Lackey moved that the Board review Minutes #40 through #42 and all additional sets that may be forthcoming at the October workshop session and hold action until the November regular meeting, seconded by Supervisor Weakley, with the following vote recorded:

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

**5. Consent Agenda:**

None.

**6. Discussion/Action Items:**

**a. Recognition (Wes Aylor)**

The County Administrator advised that Wes Aylor, Animal Control Officer, has received a Certificate of Award for successful completion of (120) hours of instruction in "Animal Control Basic" held by the Rappahannock Regional Criminal Justice Academy.

The Board congratulated Mr. Aylor on his recent accomplishment.

**b. Animal Control (Topping Committee):**

The County Administrator provided an overview of projects that were recently discussed by the Topping Committee for presentation/recommendation to the Board for adoption which include:

- i. Possible purchase of a trailer: \$4,500.00
- ii. Fencing (permanent): \$2,500.00
- iii. Fencing (temporary): (Fencing is already available)
- iv. T&R Programs: (Still under discussion)



v.	Computer (shelter software):	\$2,500.00 (still under discussion)
vi.	Signs:	\$1,000.00 (still under discussion)
vii.	Memorial "Topping":	\$ 500.00 (plaque, other)
viii.	Training:	(Still under discussion)
ix.	Medical Fund	(Still under discussion)
x.	Grant matching funds:	(Still under discussion)

The County Administrator advised the largest of the recommended projects discussed was the adoption center expansion which involved an estimated amount, and will have to be placed out for bid after drawings and design information has been completed on the project. Additionally, the area will be 420 square feet and the budgeted amount is \$100.00 per square foot, but the total amount spent will depend on bids that are received. Another program that was discussed for consideration and referral onto the Board was a reduced cost spray/neuter program for residents as a means to increase adoptions.

Greg Cave, Animal Control Officer, advised the shelter struggles with accommodating several cats and he doesn't really want to house feral cats at the shelter; therefore, he strongly suggested the "Barn Buddies" program be put into place to cover the costs for cats to be spayed/neutered and vaccinated so they can be adopted and kept in local barns. In closing, he advised that Ms. Sheryl Jacobs (Voices for Animals) pick up stray cats (currently she has picked up sixty [60]), vaccinates them, and returns them into the community.

The County Administrator advised that Prince Michel Vineyards, Inc. has also donated funds to assist with adoptions and to cover costs to provide education to pet owners on the benefits of spaying/neutering their pet(s).

With regard to the suggestion to add to the existing facility, Board members verbalized the following questions and/or concerns:

- Is the existing structure is sound;
- The electrical costs are rather high;
- What is the timeline for spending the money that was donated;
- Can a pressure washer be purchased;

Mr. Cave advised the existing structure appears to be in good shape; however, he suggested that the Building Official be consulted regarding this concern. He also advised that:

- i) The existing pressure washer is a 'cold water system';
- ii) The kitten population seems to increase significantly from February through August of each year;



- iii) The shelter is currently receiving about twenty (20) feline rescues per week and the shelter can only accommodate thirty-five (35);
- iv) There are currently thirty-nine (39) cats at the shelter and eight (8) dogs;

The County Administrator advised that recommendations were also provided by the part-time staff at the shelter. He suggested the County not rush into replacing the existing pressure washer as it appears to be in good working order; however, he did suggest a replacement be investigated if there are future problems with the unit rather than to spend funds on expensive repairs.

Supervisor Lackey suggested the reduced fees for the spay/neuter program be offered for one quarter at a cost of \$10,000.00 and be assessed. In closing, she suggested that documentation be presented to the Board for review pertaining to reduced adoption fees and the Barn Buddies program [for cats]), and would like to see the proposed expansion project go out for bid.

Supervisor Elliott verbalized agreement that the spay/neuter program would be an asset. Also, he feels the donated funds were provided to the County for use at the shelter and the proposed cost of \$42,000.00 to expand the facility can be funded from the donated monies instead of burdening the taxpayers with funding the costs associated with the project. In closing, he asked if there was a timeline for spending the donated funds, to which the County Administrator advised there was no timeline in place.

Supervisor Butler suggested the adoption costs be reduced in an effort to get the animals adopted, which may result in there not being a need to expand the facility. He also suggested the pick-up fee be increased to \$50.00 (or more), as once the owner(s) is charged, they may be more responsible in keeping their animal(s) on their property.

The County Administrator advised that a spreadsheet format has been prepared to show the aspects of reduced adoption fees.

Mr. Aylor advised the normal adoption fee is \$45.00, which varies in all localities; the County's current pick-up fee is \$12.00 (for a stray dog) and this fee is charged to the owner to reclaim their animal. However, some localities charge a substantially higher fee, but if the fee is too high, most owners will refuse to reclaim their animal and let the shelter be responsible for re-adopting the animal to someone else. In closing, it is felt that if an individual pays \$45.00 to adopt an animal, they will be a more responsible pet owner.

Supervisor Butler advised the SPCA recently had an 'adopt-a-pet program' at the low rate of \$25.00 per animal, which was made possible by a grant that was geared toward helping the facility and the animals.

Mr. Cave advised that Orange County increases their pick-up fee each time the same animal is picked up, but they currently have a leash law in place, and Madison County doesn't.



After discussion, the majority of the Board was in favor of the proposed expansion at a cost of \$42,000.00.

Chairman Allen advised the money has been donated to benefit the shelter, and the committee has made recommendations to the Board for review adoption; therefore, he suggested their requests not be ignored, as waiting will not get anything accomplished.

Supervisor Lackey moved that the Board authorize an expenditure for up to \$42,000.00 for an addition to the Madison County Animal Shelter, pending bids received and development of plans for construction, seconded by Supervisor Weakley.

Supervisor Elliott advised he is in favor of spending \$42,000.00, and also suggested the purchase of a trailer to transport larger items, to which Supervisor Weakley concurred and also suggested hard numbers be attained on a hot-water pressure washer for future usage.

Supervisor Lackey indicated there is agreement amongst the Board on the costs of expansion at the facility, but feels the additional proposal will need more specific information. She also suggested the fees regarding 'adoption versus pick-up' be re-evaluated.

Supervisor Butler suggested the committee look at:

- (i) Implementing a graduated pick-up fee (similar to the guidelines in place for false alarm incidents), as an incentive for pet owners to keep their pets on their own property; and
- (ii) The cost to purchase a hot water pressure washer (in the event the existing system breaks down);

Mr. Cave advised there is an existing trailer housed at the facility that is used as a shared resource during disasters to house small animals that was purchased through an emergency management grant.

With the following vote recorded:

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

Supervisor Weakley suggested the committee members email some dates for a future meeting to discuss the implementation of the program.

### **c. Criglersville Elementary School (update)**

The County Administrator advised that the County Attorney has worked out a contract with the realtor and asked the Board to provide any concerns regarding this issue.

The County Attorney advised that the listing agreement is basically a formal agreement that all relators use for exclusive listings with nothing unusual being noted. He



suggested the Board first decide on the listing price, as the marketing plan submitted a listing price from \$350,000.00 to \$450,000.00, which he strongly suggested remain in place. He also checked on the reassessment of the facility which is currently \$705,300.00 and was \$850,000.00 during the previous reassessment in 2008.

Secondly, he reminded the Board that the total property consists of 5.7 acres; the survey previously implemented by Dewberry & Davis, LLC, and the title, shows three (3) separate parcels with parcel one (1) [containing 1.8154 acres], parcel two (2) [containing 2.866 acres] which must be sold together since the school building straddles the line of the property, and parcel three (3) [containing 1.147 acres] being situated on the opposite side of the road along the Robinson River – a right-of-way also runs along the northwestern side of the property.

In talking with the realtor and the County Administrator, the current proposal will market the entire property unless the Board decides otherwise; however, the Board can determine a different manner of sale for the parcels if desired.

The County Attorney read the guidelines denoted in Virginia Code 52.180 which included the notation that:

- \* The property contains three (3) parcels as shown on the plat and shall be marketed by the broker for sale of parcels one (1), two (2) and three (3);
- \*Broker's marketing of the property shall include the marketing plan set forth within the attached marketing proposal dated September 14, 2012;
- \*A special condition requires the seller to convey the property with special warranty and title;

In closing, he advised that in addition to deciding on a listing price as per the six (6) month agreement, the realtor will receive a seven percent (7%) commission, payable at the time of settlement.

Supervisor Butler questioned if the County will still be responsible to pay the seven percent (7%) commission if the property isn't sold after the public hearing, to which the County Attorney advised the commission is payable at the time of settlement; however, if the Board decides not to move forward after the public hearing is held, there will be nothing paid.

Supervisor Lackey moved that the Board accept the contact as outlined by the County Attorney and set the listing price at \$400,000.00, seconded by Supervisor Weakley:

Supervisor Elliott advised he feels it's unrealistic for the County to pay someone to perform a reassessment of the property and then ignore it; if the assessors have over assessed the building, then this may be the case with all County parcels that have recently been reassessed.

Supervisor Butler advised that he is opposed to selling the property.



Supervisor Weakley advised the set price is set in consideration of the cost to rehabilitate the property, as a walk through would favor a different tale to a potential buyer.

Supervisor Butler clarified that any homeowner can request an inside assessment of their property if they desire.

With the following vote recorded:

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

**d. Auctions (County Attorney)**

Chairman Allen advised the Board discussed auctions at the recent workshop session.

**\*Supervisor Elliott stepped down from the discussion\***

The County Attorney advised that he and Betty Grayson, Zoning Administrator, have assessed the issues and are trying to do what the Board has directed to be done. Furthermore, the current status regarding an auction establishment was deleted as one of the temporary uses (in the Ordinance) was a realm of uncertainty concerning how auctions would be treated. He also advised that amendments to any Ordinance must first be brought before the Planning Commission and then a public hearing must be held for the public to provide input. In closing, he clarified that the Board has already acted on the issue of an auction establishment as a temporary use, and there is nothing pending on this issue.

The Board questioned whether the aforementioned items are the only things to be considered and whether there were additional issues present.

The County Attorney advised that some ‘housekeeping’ issues were resolved.

Ms. Grayson was present and advised there are no pending Ordinance changes, to her knowledge, as the Board removed ‘estate auctions’ as a temporary use as well.

The County Attorney clarified there is a difference between an ‘auction’ and an ‘auction establishment’ and the existing issue involves whether or not a temporary auction should be treated as it was in the past (included as a permitted use depending on the zone). In closing, he stressed the fact that direction is needed from the Board at this time, and the procedures will be aligned with whatever the Board decides.

Chairman Allen stressed the fact that the Planning Commission recommended that auctions conducted on a temporary occasional basis should be exempt – in turn the Board removed the word “auction”, which Supervisor Butler feels was done after one citizen was persecuted for having auctions.



Further concerns verbalized by Supervisor Butler included the following:

- i. The Ordinance denotes that ‘uses not listed aren’t allowed’ – he feels that all parties should be treated fairly;
- ii. The Board should look at all auctions and refer changes onto the Planning Commission as part of a special expedited process;
- iii. The Board should not rely on the Zoning Administrator or the County Attorney to make these decisions;
- iv. A fee should be not be required if a special use permit is needed, as something will need to be in place to allow yard sales, garage sales and tent sales;
- v. Modifications need to be made for uses in an A-1 zone if the use isn’t listed to also allow yard sales, garage sales, and tent events, etc.;
- vi. What concerns were prevalent regarding the WJ Carpenter site, the American Legion and the Young Farmer’s Grounds;

Supervisor Lackey asked what was allowed ‘by right’ in an A-1 zone.

Ms. Grayson read the following definition of ‘use, seasonal or brief’ that was adopted by the Board:

**“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.”**

She advised the aforementioned definition was in place prior to the Board adopting changes to the definition, as the Board wanted to remove two (2) items. In closing, she advised the Board will need to provide clarification as to what is to be considered as a ‘private auction.’

Supervisor Butler indicated that a private auction would be a case where an auctioneer brings items to a specific location to be auctioned, which he feels should be allowed if the event takes place at a private hours; if items are brought to the American Legion or the Young Farmer’s Grounds to be auctioned, a special use permit should be required.

Ms. Grayson clarified that:

- i. The American Legion: The building has been in place since the 1950’s and has been used for a variety of uses (i.e. dance hall, weddings, auctions, tool sales) and is ‘grandfathered’;
- ii. The Young Farmer’s Grounds: This property does have a special use permit, although it doesn’t specifically indicate ‘auctions’ as a use, but does allow for ‘shows and carnivals.’ In the past, anyone desiring to hold an event at the site was required to purchase a special use permit; however, the representatives from the Young Farmer’s organization approached the Madison County Board of



Supervisors and applied for a 'blanket' special use permit that would cover all activities to be held at the site, which was approved.

- iii. The WJ Carpenter Property: This property was zoned Agricultural (A-1) with a 'grandfather status', as it was used as a furniture shop by Mr. Carpenter in the past; however, this activity ceased for a two-year period which caused the property to lose it's 'grandfather' status, as the Ordinance does advise.

Ms. Grayson advised that within the past few years, Mr. Elliott wanted to start an auction business at the location and was required to apply for a special use permit, which was allowed because someone in Etlan had been allowed to apply for a special use permit in an A-1 zone for an antique/craft business, thereby allowing both individuals to be treated fairly. In closing, she reiterated there is no way the County will ever be able to cover every situation in the Ordinance, and in speaking with representatives from other localities, there are times where an interpretation must be made regarding certain situations.

The County Administrator advised that he has spoken with the County Attorney regarding today's concerns and was advised that if a use isn't specified in the County's Ordinance, then it's not allowed; however, he questioned whether there were any means of making adjustments.

The County Attorney advised that any Zoning Ordinance does require some interpretation and reasonableness to be implemented when an individual feels a correction is needed.

Furthermore:

- a) An individual may appeal a decision and follow the procedures in place to handle these situations;
- b) The issue of appealing a decision is allowed within the Virginia Code;
- c) All appeals are heard by the Board of Zoning Appeals; and
- d) The Zoning Administrator generally provides an opinion on an issue after consulting with the County Attorney;

Supervisor Butler clarified that, in his opinion (and not the Board's) it appears some folks are favored in the County and receive different treatment than those who aren't. He also voiced similar concerns regarding the roadside stands and the interpretation behind that issue as well, as these uses weren't permitted in an A-1 or B-1 zone unless a building was involved with a certain number of parking spaces. In closing, if interpretations are needed from additional folks, he feels the Board should move in that direction, as the process should be fair to everyone involved.

The County Attorney advised the Board can request the Planning Commission look at potential changes, although the Ordinance has already been reviewed and may simply be referred back for an additional vote on behalf of the Board.



On motion of Supervisor Weakley, seconded by Supervisor Lackey, the Board voted to send Article 20-203A back to the Planning Commission for review and also hold a public hearing on this issue, with the following vote recorded:

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

Supervisor Lackey asked the County Attorney about the next step involved after an issue is referred to the Board of Zoning Appeals, to which the County Attorney advised the established process will call for the case to be referred onto the **Circuit** Court for consideration and advisement.

**e. Small Wind Ordinance (special use permit [Ordinance #2012-7])**

Chairman Allen advised the Planning Commission held a public hearing on the Small Wind Ordinance and voted to recommend the Madison County Board of Supervisors approve Ordinance #2012-7.

Supervisor Lackey moved that the Board approve Ordinance #2012-7 [Small Wind Ordinance], as recommended by the Madison County Planning Commission, seconded by Supervisor Weakley:

Supervisor Butler asked if the special use permit for the height increase (from sixty feet [60'] to one hundred feet [100']) will still for require the setback requirement to be included.

The County Attorney advised the setback requirement will be one of the issues that will need to be decided upon in the process of approving (or denying) the special use permit. Also, there is a setback provision for up to sixty feet (60') but that requirement wouldn't necessarily apply to a request from sixty feet (60') to one hundred feet (100'). He stated the setback requirement would basically depend on the topography, size of the parcel and other pertinent criteria and will be one of the issues that the Planning Commission and the Board will consider when a special use permit application is presented.

Supervisor Weakley clarified that he seconded the motion as it was his understanding the Planning Commission advised the tower height of one hundred feet (100') would include the tip of the blade, to which the County Attorney advised was correct.

The County Attorney also clarified there was no change to the definition as previously indicated in the discussions.

With the following vote recorded:

J. Dave Allen	Aye
Doris G. Lackey	Aye
Jerry J. Butler	Aye



Pete J. Elliott	Aye
Jonathon Weakley	Aye

**f. Business License Fee (Ordinance)**

Chairman Allen asked the County Attorney to provide an overview of the business license fee ordinance.

The County Attorney explained that as part of the budget process for 2010-2011, it was proposed that Madison County would enact a business license fee of \$30.00, although he is unsure if revenue generation was the primary motive behind the requirement. The Ordinance did come up for adoption at the time various other Ordinances were adopted, and was a part of the total package during that particular budget cycle. Although the Board of Supervisor adopted the Ordinance, there was a considerable amount of controversy when it was time for the application to be put into place; therefore, the Board decided to table enforcement which was to be effective January 1, 2012. After much discussion, he was instructed to prepare a revised Ordinance for review and consideration, which was done and is being provided today. The essential revision was in paragraph three (3) which would require all businesses to make an application, although not all would be required to pay the license fee, but the process would give the County a record of all existing businesses in operation here.

The County Attorney advised there was also much controversy about the exemptions denoted in the Ordinance (taken from the Virginia Code), and although there was no model of clarity, the wording used was pulled from the Virginia code.

The County Attorney also advised there was an issue as to who would administer this program.

Discussions continued regarding:

- a) Will the Commissioner be able to administer the fee;
- b) What costs will be involved to administer the program; and
- c) What businesses will be effected;
- d) Would business operators receive reciprocity (there are some businessmen who would rather pay a fee to Madison County than to other localities);

The County Attorney advised there will be no reciprocity unless the businessmen have paid a business license fee in Madison County; therefore, applying will not grant anyone reciprocity in the surrounding localities, and the implementation of the business license fee doesn't appear to be a great revenue generator; therefore, he suggested the Board resolve whether to continue or develop some other means of gaining this revenue.

Additionally, Supervisor Lackey feels the exemptions appear to be unbalanced; she also suggested all businesses be required to register with the local Chamber office, to which it was noted is already being done and calls for each business to pay a \$75.00 membership fee.



The County Attorney advised that he will work on this issue, if the Board so desires.

Supervisor Elliott and Supervisor Butler suggested the Board not pursue the business license fee.

Supervisor Weakley advised he has received comments from one citizen regarding this issue; therefore, he suggested the Ordinance be reworked with new language in an effort to help those who can benefit. Also, he suggested the Board investigate to see if it's legal to allow the Commissioner to administer the program, and if so, is she still willing to assist, to which the remaining members agreed.

Chairman Allen suggested the County Attorney determine if the business license fee process is a possibility.

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

Chairman Allen opened the floor for public comment.

Bill Campbell (Graves Mill) was present but advised that due to additional issues that still need to be discussed, he'd like to wait and comment later in today's session.

Chairman Allen advised that the Board will need to enter into a closed session at about 5:00 p.m. – therefore, he suggested that Item 6-g and 6-h be moved to the 7:00 p.m. session for discussion. He also advised that any action taken during the closed session will be announced at the beginning of the 7:00 p.m. session, followed by a public comment opportunity.

**8. Closed Session**

***a. Closed Session:***

On motion of Supervisor Butler, seconded by Supervisor Lackey, the Board convened in a closed session pursuant to Virginia Code Section 2.2-3711(A)(1) pertaining to personnel matters, specifically the County Administrator, 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. Motion to Reconvene in Open Session:***

On motion of Supervisor Butler, seconded by Supervisor Lackey, the Board reconvened 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 certify by roll call vote that only matters lawfully exempted from open meeting requirements pursuant to Virginia Code Section 2.2-3711(A)(1) and only matters that were identified in the motion to convene in 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

**\*Dinner break\***

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**7:00 p.m.**

**9. Reconvene Meeting**

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

Chairman Allen advised the Board entered into a closed session to evaluate the performance of the County Administrator during his first six (6) months of service; it was the consensus of the Board that he is exceeding the expectations set and the Board is very pleased with his performance thus far. In accordance with the provisions established in the contract that was signed in April 2012, he will receive a \$2,000.00 salary increase.

**[The Board continued with Item 6-g, 6-7 and Item 7 from the first session:](#)**

**Item 6-g: Tax Deferment (Elderly and Disabled):**

Chairman Allen advised the Board will need to discuss tax deferment for the elderly and disabled.

Supervisor Butler advised the program allows citizens (65 years and older) to defer taxes for five (5) years, and participants in the program must meet certain annual income and net worth requirements. Currently, if a senior owns a house on one (1) acre of land and his/her net worth is \$50,000.00 or less, and annual income is \$30,000.00 or less, an individual will qualify to participate in the program.



Although this program is available in Madison County, there were only about six (6) participants during the past year, as citizens aren't utilizing the program because of guidelines imposed by the State which requires that any surviving heir(s) must repay back taxes in the event the participant passes away while enrolled in the program, and it appears that most seniors don't want to place this type of burden on their heirs. Additionally, he feels since the County's Zoning Ordinance requires three (3) acres before a home can be built, he suggested the State's exemptions be revised to allow:

- i. Participants to own from three (3) to ten (10) acres [instead of only one (1) acre];
- ii. An increase in net worth income from \$50,000.00 to \$75,000.00 (based on net worth figures from surrounding localities); and
- iii. The annual income requirement be set at \$30,000.00, which applies to all parties residing in the home;
- iv. A provision (similar to what's in place in Rappahannock County) to help those sixty-five (65) and older, as no resident should be forced to sell their property in the event they can't pay their taxes and annually assessed fee for late repayment;

The County Attorney advised that prior to January 1, 2011, the guidelines pertaining to net worth income was repealed by the State and each locality was allowed the opportunity to establish its own net worth income limit. Also, the County hasn't updated its existing Ordinance since the aforementioned change and the three (3) examples provided by Supervisor Butler are correct in his assessments regarding criteria required for participation in the program, as many elderly citizens don't understand the criteria pertaining to income/wealth, and many don't have much income, but may own real estate, or have someone living in their home that owns real estate, which can eliminate participation in the program based on net worth guidelines listed in the County's ordinance. In closing, he advised the net income limit of \$30,000.00 is what most of the adjoining localities have in place, which has been verified by the Commissioner of the Revenue.

Supervisor Lackey questioned whether the total value of a house on one (1) acre was \$210,000.00, would this be exempt from taxes.

The County Attorney advised the amount is only exempt from the calculation of net worth (i.e. savings, pension, etc.) which also includes any other real estate that an individual may have, as this would be considered as 'not liquid' and is the main reason some citizens cannot participate in the program. In closing, he added that net worth calculations include income from anyone living in the house.



Supervisor Weakley asked if pension are included in making a determination for participation in the plan, to which the County Attorney was unsure if there are any citizens eligible based on a pension plan, but social security and other savings plans are to be considered.

Supervisor Butler advised that retirement plans, bonds, and any assets totaling more than \$50,000.00 in net worth would disqualify participation in the plan; therefore, he urged the County to look at his suggestion to increase the net worth amount up to \$75,000.00 with three (3) to ten (10) acres of land, and leave the total annual income set at \$30,000, in order to allow more seniors to participate in the tax deferral plan. In closing, he suggested the Treasurer be asked to provide the names of citizens who just can't seem to pay their taxes, and perhaps the Board may need to address this issue separately.

The County Administrator advised the taxes on property for five (5) years may cause the heir(s) to have to sell the property in order to pay the back taxes, and suggested that incremental steps be implemented during the upcoming year. In closing, he suggested that other localities be contacted regarding their numbers and base our decision on the needs of the citizens.

The County Attorney also advised that the program guidelines apply to those who are disabled.

Further comments from the Board referenced include:

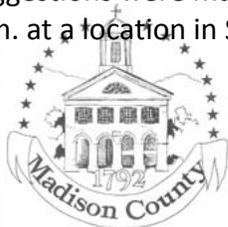
- i. Supervisor Elliott and Supervisor Weakley suggested the net worth be increased to \$50,000.00 plus three (3) acres;
- ii. Chairman Allen agreed with the proposal to increase the net worth to \$75,000.00;
- iii. Supervisor Lackey requested that when checking with the adjoining localities, the County should also determine their uses and how many acres they require in order to have a home in an agricultural zone;

After discussion, it was the consensus of the Board to add this topic to the agenda for discussion at the October workshop session.

#### **6-h: Scheduling of Town Hall Meeting & November Regular Meeting**

Chairman Allen advised the Board will need to determine whether or not to have a town hall meeting during the third quarter, and if so, should it be earlier than December 2012.

Suggestions were made to hold the session on Wednesday, November 28, 2012 at 7:00 p.m. at a location in Syria or at the Rapidan Hunt Club in Wolfstown.



After discussion, it was the consensus of the Board to schedule the meeting on Wednesday, November 28, 2012 with the Rapidan Hunt Club as the tentative location.

Chairman Allen advised that Supervisor Lackey and Supervisor Weakley will be attending a meeting in Richmond, Virginia on the day of the November Regular Meeting (November 12, 2012) and may be unable to make it back in time for the 3:00 p.m. session; therefore, he asked if the Board would like to schedule the meeting to a different day during the week.

After discussion, it was the consensus of the Board to reschedule the meeting to Thursday, November 15, 2012 at 3:00 p.m. and 7:00 p.m.

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

#### **Skyline CAP/Rappahannock River Basin/Park & Recreation Authority**

Supervisor Weakley attended the monthly meeting of the Skyline CAP, the Rappahannock Rapidan River Basin Committee, and the Park & Recreation Authority (where there was discussion about their ongoing fundraiser) – there was a good showing at the event on Saturday.

#### **Area Agency on Aging**

Supervisor Lackey attended a meeting of the Area Agency on Aging where there was discussion about an upcoming fundraiser and desire to provide better medication services.

#### **Park & Recreation Authority/Skyline CAP/Social Services/Planning Commission**

Supervisor Butler attended a meeting of the Park & Recreation Authority; the Skyline CAP, the Social Services Board and the Planning Commission;

#### **Regional Jail Board/Piedmont Workforce Development**

Chairman Allen attended a meeting of the Regional Jail Board and the Piedmont Workforce Development. He advised that the plans for expansion (of the jail have been processed and they have saved \$650,000,000.00 in construction dollars which they are planning to use to make the payments after they borrow a total of \$17,000,000.00 to cover the project. Although they are hopeful the State will agree to reimburse half of the total amount borrowed, nothing has been received thus far, and it is anticipated that Madison County will have to pay a portion of these funds.

### **10. Public Comment Opportunity (not to exceed five [5] minutes per speaker) [(from 4:00 p.m.)]**



Bill Campbell (Graves Mill) was present and advised there was new code information on: (i) the tax deferment program for the elderly and disabled – he suggested the Board refer to the code section pertaining to this issue; (ii) the business license tax was passed during the last budget cycle to attain additional revenue – this was discussed during a public hearing and all was completely ignored; there was discussion about the implementation of the tax and who would be effected – the issue was tabled and is now being kicked around again and he feels the County doesn't want to honor the ordinance because other localities are doing something different. In closing, he urged the Board not to make another mistake in voting for something, only to find out it will not work; (iii) the issue regarding auctions is a 'joke' (i.e. Article 20-203a) in that the Board wants to return to the Commission with a few words and not truly address the main issue that needs to be discussed; he feels the actions taken are shameful and illegal and everyone having auctions hasn't been required to attain a special use permit – there are different rules for different folks here; (iv) the Criglersville School facility was reassessed at \$705,300.00 and the Board would like to sell the structure for \$400,000.00 – questions have been asked which are still unanswered and a vote has been made (3-2) on everything pertaining to this property; (v) although he is excited about the recent town hall sessions, he suggested the Board members be better prepared to answer questions presented by the citizens; (vi) in reference to the farmer's market, he advised that Kite's Harm has a ham display in their office.

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#### **10. Public Comment Opportunity:**

Chairman Allen opened the floor for public comment at the 7:00 p.m. session and there was none; therefore, the session was closed.

Chairman Allen advised that the previously scheduled public hearing on small wind energy systems has been rescheduled until Wednesday, October 3, 2012 at 7:00 p.m.

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

The County Administrator advised the Board wanted to discuss the existing Festival Ordinance and asked the County Attorney to provide steps to move forward.

##### **a. Reassessment (Notice to the public)**

The County Administrator advised that notices have been mailed to the property owners; there is an appeals process that citizens can follow if they feel the reassessment is incorrect (i.e. too high/too low) that included a telephone number to call for an appointment. In closing, he advised the adjustment figures are down by approximately:

35% decrease in home site;

20% decrease on a home;



10% decrease on residual land;

And citizens will have the opportunity to meet with an assessor to discuss any issues they may have.

The County Administrator also advised that the advertisement to receive members to serve on the Board of Equalization will public in this weeks' edition of the local newspaper.

**b. CIP (Update)**

The County Administrator suggested that new terminology should be developed and the name "CIP" has been a 'catch all' for many things and has basically consisted of Crabtree, Rohrbaugh Associates, Inc. looking at County and school properties each year (five year contract) in an effort to assess any changes, update their plans and make future projections. A 'kick-off' meeting will be held tomorrow between members of both governing Boards, the School Superintendent, the County Administrator and Crabtree's representatives to discuss the overall CIP, the County's capital assets, and any changes that have developed within the past year. As per the MOU (Memorandum of Understanding), there will also be discussions about the construction projects for the school, the construction calendar and ground rules pertaining to the hiring of a general contractor and clerk of the works for the construction project(s). Additionally, the Superintendent has advised they are preparing to sign a contract and they need an assurance that the project will be funded. In the past, the Board has approved such projects contingent upon:

- i) Certain value and level of the project(s);
- ii) Having a Memorandum of Understanding being in place; and
- iii) Availability of financing;

The County Administrator advised that financing information will be provide next week and he hopes to present this information at the October workshop session for consideration/approval at the November Regular Meeting. After that process, the school system will be comfortable and move forward.

**c. Resolution to Honor Mr. John Fray**

Chairman Allen suggested the Board to agree to amend today's agenda to allow Mr. Steve Grayson to provide information on an upcoming event to honor Mr. John Fray.

Mr. Grayson advised that on October 13, 2012, Mr. Fray is being recognized for his long-term service with fire and rescue in Madison County.

Mr. Grayson advised that Mr. Fray has:

- i) Fifty-six (56) years with the local fire department;
- ii) Thirty-five (35) years with emergency medical services; and



- iii) Has been involved with the State Association since the mid 1970's where he received certification as an instructor;

Additionally, Mr. Fray was nominated and received induction into the Rescue Hall of Fame, which is a program that was begun by the Virginia Association of Volunteer Rescue Squad and he is the thirty-third (33<sup>rd</sup>) individual to have been inducted thus far, which is the highest honor placed among members in the Association. In closing, he advised the joint dinner scheduled for Saturday is being hosted by the Madison County Volunteer Rescue Squad in appreciation of the dedicated service Mr. Fray has given to Madison County.

On motion of Supervisor Butler, seconded by Supervisor Lackey, today's Agenda is amended as requested, with the following vote recorded:

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

Chairman Allen advised that it takes at least a two-thirds vote in order to approve today's amendment request. He then asked if the Board was in favor of presenting a Resolution to Mr. Fray to recognize his many years of dedicated service to the County.

After discussion, on motion of Supervisor Butler, seconded by Supervisor Lackey, the voted to present a Resolution to honor Mr. Fray on Saturday, October 13, 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

## **12. 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: December 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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