

MEETING #48– December 8

At a Regular Meeting of the Madison County Board of Supervisors on December 8, 2015 at 4:00 p.m. in the Madison County Administrative Center Auditorium located at 414 N. Main Street:

PRESENT: Doris G. Lackey, Chairman
R. Clay Jackson, Vice-Chairman
Jonathon Weakley, Member
Robert Campbell, Member
Daniel J. Campbell, County Administrator
V. R. Shackelford, III, County Attorney
Jacqueline S. Frye, Deputy Clerk

ABSENT: Kevin McGhee, Member

Agenda Items:

Call to Order

Pledge of Allegiance & Moment of Silence

1. Determine Presence of a Quorum/Adopt Agenda:

Chairman Lackey noted that Supervisor McGhee was absent; a quorum was established.

Chairman Lackey called for adoption of today's Agenda.

Suggested changes include:

Delete Item 8-c (Proposed Legal Agreement for SCC Filing [this will be recognized as a closed session item])

Move Item 8-d (Riddleberger Bros. Agreement for Courthouse) to Item 8-c

Add Item 8-d (Chrysalis Counseling Center)

Supervisor Jackson moved the Board approve today's Agenda as amended, seconded by Supervisor Weakley. *Ayes: Lackey, Jackson, Weakley, Campbell. Absent: McGhee. Nays: (0).* \

2. Constitutional Officers:

a. Supplemental Appropriation – Sheriff's Office: Documentation was provided by the County Administrator regarding the Sheriff's desire to receive a supplemental appropriation related to a reimbursement (totaling \$4,037.00) for the Administrative Assistant with the Blue Ridge Task Force; copies of payment details were also provided for review and advisement.

Terri Weaver, Office Manager, was present and stated the reimbursement request is normally done on a monthly basis. It was also explained that the salary for the BRTF clerical personnel is split between all participating localities, and that administrative staff is fiscally handled through the Sheriff's Office (through the use of funds attained from participating localities).

Supervisor Campbell moved the Board approve the supplemental appropriation requested by the Sheriff's Office in the amount of \$4,037.00 (for payment of BRTF administrative staff salary), seconded by Supervisor Jackson. *Ayes: Lackey, Jackson, Weakley, Campbell. Absent: McGhee. Nays: (0).*

Miscellaneous: Erik Weaver, Sheriff, advised that his office has cleared out the buildings situated behind the Old ABC Building, and questioned which department (Sheriff/Facilities) will be responsible for removal of the buildings.

Vehicle Purchase: Erik Weaver, Sheriff, also noted that the Sheriff's Department received approval (in June 2015) to purchase two (2) new vehicles and one (1) used vehicle; a used vehicle has been found that is priced below the amount that was approved for usage. In closing, it was noted that all paperwork has been forwarded onto the County Administrator for review/consideration.

The County Administrator noted that one of the claims in today's set of documents includes the cost of the used vehicle (from Eddin's Ford, Inc.) to be approved.

Supervisor Campbell questioned whether the Sheriff's departmental budget has sufficient funding to cover expenses associated with moving equipment to the storage building located at the transfer station.

The Sheriff advised that his department will be renting an enclosed trailer; department has sufficient funding to cover associated costs.

The County Administrator advised of a plan to advertise the building; removal of sheds will be done in a timely manner so fencing can be erected at the Old ABC Building; contract for fencing has been awarded – no date scheduled to begin the work.

The Sheriff noted that estimated costs to move the larger storage buildings is about \$600.00 (rear roof on the smaller building has deteriorated).

3. County Departments:

a. Erosion & Sedimentation – Brian Daniel, E&S Technician: Documentation was presented from Brian Daniel, E&S Technician, to request of the erosion & sedimentation bond release for Yoder’s Country Market (\$55,700.00) and Autumn Care (\$48,375.00). A brief overview of the projects was provided for review and information. Certification letters were received from the engineers to advise that all plans were completed and appropriate.

Supervisor Jackson moved the Board release the erosion & sedimentation bond for Yoder’s Country Market totaling \$55,700.00, and Autumn Care totaling \$48,375.00, seconded by Supervisor Campbell. *Ayes: Lackey, Jackson, Weakley, Campbell. Absent: McGhee. Nays: (0).*

4. Independent Committees/Organizations: None.

5. Committee Reports: None

6. Finance: Post Year

i. Claims – December 2015 – FY2016

Vendor Payments Register:

The County Administrator advised there were two (2) sets of claims (i.e. vendor payments):

\$103,889.14 (December 4’2015)

\$24,711.59 (December 8’2015)

The County Administrator noted that today’s claims include an invoice from:

Mary Earhardt (for pre-audit work)

SHDR (costs for post-employment benefits [state requirement for the school system])

RDA (annual payment totaling \$50,079.00)

The Interim Finance Director noted that the budget information presented for review is an updated version of the reports previously provided in October. Additional highlights focused on the fact that:

- Expenditures are currently in line within the forty to fifty percent [40%-50%) range with the exception of a \$150,000.00 building payment due to the volunteer rescue squad at the end of December
- Public works is generally a month behind
- EOC received grant funding (\$150,000.00) that was approved and filed, but a supplemental appropriation was never recorded
- Fees from Verizon that resulted in a large credit (Combined Clerk’s Office) - credit will be given in return

Supervisor Campbell moved the Board approve the vendor payments/claims (\$103,889.14 [as of December 4’2015) and \$24,711.59 [as of December 8’2015) as presented, seconded by Supervisor Weakley. *Ayes: Lackey, Jackson, Weakley, Campbell, McGhee. Nays: (0).*

Discussion:

The County Administrator stated that the Facilities Director has researched specifics regarding the error and discussed (with Verizon) how to alleviate the expense. In closing, it was noted that a credit was be provided over time.

7. Minutes

a. #43 through #45: Supervisor Jackson moved the Board approve Minutes #43 through #45 as presented, seconded by Supervisor Weakley. *Ayes: Lackey, Jackson, Weakley. Absent: McGhee. Nays: Campbell.*

8. Discussions/Actions

a. Madison County Planning Commission [Expiration of Terms (3)]: Chairman Lackey noted that correspondence was received from Betty Grayson, Zoning Administrator, to advise of terms that will be expiring (i.e. two (2) commission and (1) BOS representative).

The County Administrator asked if the Board was in agreement to advertise the two (2) vacancies, as the appointments end in January 2016.

Discussion:

- Supervisor Campbell advised there are three (3) vacancies, as Supervisor Jackson filled the position formerly established for former commission member, Albert Tartaglia.
- Supervisor Jackson suggested the Board advertise for the three (3) vacancies as noted in the letter.

- Chairman Lackey suggested the Board refer to the letter provided, which actually notes that the commission actually has two (2) members' whose terms will expire; the third seat in question refers to the role of the BOS representative, currently held by Supervisor Jackson; encouraged the County Administrator, County Attorney and Zoning Administrator to verify what seats are actually needed and to only advertise what's truly needed.

In closing, it was the consensus of the Board to advertise for the upcoming vacancies on the commission.

Further discussion focused on:

- Whether the Board would like to advertise for all the committee/commission appointments that will expire at the end of 2015, and also noted there are some committees that currently have several vacancies.

It was later suggested the Board either:

- *Address committee/commission terms during the December workshop session*
- *Take action during the organization meeting in January 2016 (for BOS representatives)*
- *Assess which slots will actually need to be advertised*

Supervisor Campbell advised disfavor of making any decisions until the new Board is in place (in January 2016).

b. Department of Social Services Board [Expiration of term (1)]: Valerie Ward, DSS Director, was present and advised of an oversight in one appointment on the DSS Board that expired in June 2015; the member (Norris John) was appointed in June 2011 and has expressed a willingness to serve an additional term. In closing, she recommended the Board consider reappointing Mr. John for an additional four (4) year term.

Supervisor Jackson moved the Board reappoint Norris John to the DSS Board for an additional four (4) year term (to be retroactive to June 30, 2015] with an expiration date of June 30, 2019, seconded by Supervisor Weakley. *Ayes: Lackey, Jackson, Weakley, Campbell. Absent: McGhee. Nays: (0).*

c. Chrysalis Counseling Center. Chairman Lackey noted concerns that it has been advised that Chrysalis Counseling Center will not accept Medicare as a form of payment for services, which will cause concern for prospective clients that have Medicare as their form of insurance. In closing, it was questioned if there was something the County and DSS can do to assist in developing a resolution.

Supervisor Weakley noted that in speaking with a representative, it was advised that problems have been encountered with receiving payment/reimbursements from Medicare in the past; measures will be initiated with an ongoing case to see if a resolution can be attained.

Ms. Ward noted that Chrysalis Counseling Center will accept private insurance and Medicaid, and is committed to serve Madison County as best they can; the staff are open to dialogue and problem solving in order to serve those with the greatest need.

In closing, Chairman Lackey noted that in localities (like Madison) that have an aging population and no available mental health services, prospective providers need to be Medicare certified.

Ms. Ward also noted that DSS will be hosting a 'cookies & coco' event in conjunction with Madison Strong Communities to show appreciation to local law enforcement from 6:00 p.m. to 8:00 p.m. on Tuesday, December 15th at the American Legion. Certificates will be presented to local law enforcement; children/families will also have an opportunity to take pictures with Santa; all are welcome to attend.

d. Riddleberger Bros., Agreement (for Courthouse): The County Administrator provided a copy of the Riddleberger Bros. Agreement for the services provided at the courthouse. The Facilities Director has been well pleased with the level of service provided to the County, and has shared some of his thoughts; with the Board. The County Attorney has been consulted to review the 'terms and conditions' noted in the agreement.

Reference was made regarding:

Statutes related to local governmental ability to indemnify and hold harmless contractors

Item #19 ("Customer shall not have the right to assign the agreement in hold or in part to any other person or entity without the written consent of the contractor....");

It was further suggested the aforementioned portion of the agreement be modified. In closing, the Board was urged to consider the fee structure as presented in the agreement.

The County Attorney agreed with the County Administrator's prior concerns and noted the document is a form contract that has some indemnification language. Due to the fact that localities don't indemnify, he agreed with initiating change in the provisions listed, and noted no additional problems with the general contract.

Supervisor Campbell moved the Board follow the recommendations as provided by Roger Berry, Facilities Director, to renew the contract agreement with Riddleberger Bros., Inc., after the indemnification language is modified and approved by the County Administrator and County Attorney, seconded by Supervisor Jackson. *Ayes: Lackey, Jackson, Weakley, Campbell. Absent: McGhee. Nays: (0).*

10. Information/Correspondence:

Presentation: Supervisor Campbell presented Chairman Lackey with parting gifts in light of this being the last regular meeting of her term.

Miscellaneous: Supervisor Weakley noted there were no public restrooms available during the recent holiday event hosted by the Chamber of Commerce; suggested that restrooms at the WMB or the tourism office be available to the public during future events.

The County Administrator recognized efforts made by Roger Berry, Facilities Director, in preparation for the holiday parade, and following the celebration.

PRA Agreement: Chairman Lackey asked for an update on the PRA MOU agreement.

The County Administrator advised that Eddie Dean, PRA Chair, will plan to attend the December workshop session to provide an update; there will also be discussion regarding the PRA budget. In closing, he suggested that any discussion on the matter be deferred until that time.

State Inspection (Animal Shelter): Supervisor Weakley congratulated the ACO's and shelter staff for another stellar annual inspection.

2016 Organizational Meeting: It was noted that the 2016 Organization Meeting is scheduled for Monday, January 4, 2016, 9:00 a.m. in the auditorium (414 N. Main Street).

Chairman Lackey advised that the Board will need to enter into a closed session; is uncertain if action will be taken afterwards. The Board was asked whether to proceed with public comment before or after the closed session.

After discussion, it was the consensus of the Board to proceed with public comment.

9. Public Comment: Will be held as close to 6:00 p.m. as possible.

Chairman Lackey opened the floor for public comment.

The following individuals provided public comment:

- Joe May (Comment focused on the purchase of rocking chairs [for constitutional officers]; closed session on Martino case [recoup boarding fees]; article on school board extending superintendent's contract)
- Tony Morris (Comment focused on service (by BOS); transmission line project; improvement in sound quality; whether a contract exists for the County Attorney)

Chairman Lackey clarified that the County Attorney is responsible for representing/defending the Board of Supervisors; any supervisor that chooses to do something independently isn't covered by that representation.

- Dave Ashley (Questioned whether a letter has been written to the CVRJ (pertaining to jail workforce); whether any action has been taken on issue involving former Emergency Services Coordinator [Carl Pumphrey]; invited the public to attend a Christmas celebration at his home in Rochelle and to bring donated canned goods for MESA)

Supervisor Campbell noted that the issue (involving Mr. Pumphrey) was discussed at a previous board meeting and the individual was to have been contacted.

Supervisor Jackson advised that he did meet with Mr. Pumphrey and instructed him to respond within the upcoming week; no response has been received to date.

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

11. Closed Session – [2.2-3711 (Consultation with Legal Counsel – Martino/Animal Control Case)]

a. Closed Session:

On motion of Supervisor Jackson, seconded by Supervisor Weakley, the Board moved to convene in a closed session, pursuant to Virginia Code Section 2.2-3711(A)(7), pertaining to consultation with legal counsel on actual litigation, being *Commonwealth vs. Martino* (criminal case) and *Martino vs. Madison County* (civil case), and pursuant to Virginia Code Section 2.2-3711(A)(1), pertaining to employment of legal counsel to represent Madison County on the application by Dominion Virginia Power to the SCC for the Remington/Gordonsville Transmission Project, Case No. PUE-2015-00117, with the following vote recorded:

Supervisor Campbell asked that Mr. Jim Alexander be present today (as his personal legal representative) and be allowed to remain in closed session to provide advice (on his personal behalf) regarding the Martino case. In closing, he noted that Mr. Alexander will be bound to the 'attorney/client' privilege and will be required to adhere to the same rules of confidentiality as the Board members present.

Chairman Lackey questioned whether the aforementioned request was appropriate.

The County Attorney noted that the aforementioned request is unusual, as there are issues discussed in closed session that are, at times, of a confidential nature and subject to the knowledge of the Board and County Attorney only; this is an important concept that he suggested the Board preserve. In closing he advised the final determination will be decided by the Chairman of the Board.

Chairman Lackey asked Charlotte Hoffman, Board elect, to remain in closed session, as today's cases for discussion will provide her with background knowledge on the matter.

In closing, Chairman Lackey ruled that the request being presented by Supervisor Campbell is inappropriate and that private counsel will not be allowed to be present during the Board of Supervisors' closed session.

Supervisor Weakley clarified that the Board serves as a unit and also opposed the request (presented by Supervisor Campbell).

Supervisor Campbell elected to be excluded from today's closed session and departed the meeting forum.

Ayes: Lackey, Jackson, Weakley. Absent: Campbell, McGhee. Nays: (0).

Chairman Lackey called for a five (5) minute recess.

Chairman Lackey reconvened the meeting.

b. Motion to Reconvene In Open Session:

On motion of Supervisor Jackson, seconded by Supervisor Weakley, the Board reconvened in open session, with the following vote recorded:

Ayes: Lackey, Jackson, Weakley. Absent: Campbell, McGhee. Nays: (0).

c. Motion to Certify Compliance:

On motion of Supervisor Jackson, seconded by Supervisor Weakley, the Board certified by roll-call vote that only matters lawfully exempted from open meeting requirements pursuant to Virginia Code 2.2-3711(A)(7) and 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: *Ayes: Lackey, Jackson, Weakley. Absent: Campbell, McGhee. Nays: (0).*

No action was taken as a result of closed session

The County Attorney suggested the Board decide whether to formulate a contract for his services; no written contract was initiated during his time of hire (in the mid 1970's) and he has served at the pleasure of the Board.

The County Administrator stressed the fact that the County doesn't need to lose the institutional knowledge of current staff. In closing, he provided a brief overview of how the process was handled in a previous jurisdiction, and noted that it isn't a requirement to have a contract in place (between the County and County Attorney).

Chairman Lackey noted that a contract would provide a safety factory for all parties involved, as there is an 'element' within the county that will not disappear.

The County Attorney stressed the fact that he isn't a 'county employee', but works as an independent contractor without any benefits. Charlotte Hoffman, Board elect, was present advised of hearing rumblings about a contract of if there is a contract; she also questioned if there is a contract; is there a state law that if you make over \$50,000.00 as the County Attorney, you have to have a contract.

The County Administrator advised there is a public disclosure for an employee that receives over \$10,000.00 in compensation, but not for contractors.

12. Adjournment:

With no further action being required, on motion of Supervisor Jackson, seconded by Supervisor Weakley, Chairman Lackey adjourned tonight's meeting.

Doris G. Lackey, Chairman
Madison County Board of Supervisors

Clerk of the Board of the Madison County Board of Supervisors
Adopted on: January 26, 2016
Copies: Board of Supervisors, County Attorney & Constitutional Officers



Agenda
Regular Meeting
Madison County Board of Supervisors
Tuesday, December 8, 2015 at 4:00 p.m.
County Administration Building, Auditorium
414 N. Main Street, Madison, Virginia 22727



Call to Order

Pledge of Allegiance & Moment of Silence

- 1. Determine Presence of a Quorum / Adopt agenda
- 2. Constitutional Officers
 - a. Supplemental Appropriation – Sheriff's Office
- 3. County Departments
 - a. Erosion & Sedimentation – Brian Daniel, E&S Technician
 - i. Bond Release for Yoder's Country Market
 - ii. Bond Release for Autumn Care
- 4. Independent Committees / Organizations
- 5. Committee Reports
- 6. Finance
 - a. Claims for December 2015 – FY2016
- 7. Minutes:
 - a. #43 through #45
- 8. Discussion/Action:
 - a. Madison County Planning Commission [Expiration of Terms (3)]
 - b. Department of Social Services Board [Expiration of Term (1)]
 - c. Riddleberger Bros. Agreement for Courthouse (formerly Item 8-d)
 - d. Chrysalis Counseling Center
- 9. Public Comment Will be held as close to 6:00 p.m. as possible
- 10. Information
- 11. Closed Session [if necessary]
- 12. Adjournment

AMENDMENTS/ADDITIONS DENOTED IN ROYAL BLUE WITH YELLOW HIGHLIGHT
DELETIONS NOTED IN ROYAL BLUE