

Note from the Clerk: These minutes are written as the agenda was presented. Some votes may appear out of order.

Virginia: The regular meeting of the Smyth County Board of Supervisors was held at the County Office Building on Wednesday, November 12, 2008 at 12:00 noon.

Board Members Present:
Mrs. Darlene R. Neitch
Mr. Todd Dishner
Mrs. Brenda Waddell
Mr. Michael Roberts
Mr. Wade Blevins
Mr. Charlie Clark *(arrived at approximately 12:40pm)*

Absent:
Mr. Marvin Perry

Staff Members Present:
Mr. Michael Carter
Mrs. Amber Johnson
Mr. John H. Tate, Jr.
Mr. Charlie Atkins

Chairperson, Neitch called the meeting to order at noon. Rev. Donnie Bailey, gave the invocation and Mrs. Lisa Richardson led the pledge of allegiance.

Upon motion of Mr. Blevins, seconded by Mrs. Waddell, and unanimously carried, the agenda was adopted as to form, along with the additional agenda.

Vote: 5 yea
 2 absent (Perry, Clark)

Upon motion of Mr. Blevins, seconded by Mrs. Waddell, and unanimously carried, the minutes of October 14, and 23, 2008 were approved with minor grammatical changes made by Mr. Tate (note: a amendment to these minutes is made later in this meeting).

Vote: 5 yea
 2 absent (Perry, Clark)

Upon motion of Mr. Blevins, seconded by Mr. Dishner, and unanimously carried, the following appropriations were approved:

General County	\$1,870,000
Animal Control (office supplies)	\$1,324.90
Department of Social Services (Nov. 13-30, 2008)	\$320,000
(Dec. 1-9, 2008)	\$80,000
Schools Operating Fund	\$4,250,000
Accounts payable listing	\$1,214,655.27

Vote: 5 yea
 2 absent (Perry, Clark)

CITIZEN'S TIME

Mr. Sidney Osborne of Kelly Hill Road, Atkins, spoke in regards to the recent posting of Glade Mountain Road, by a private citizen. He is unsure as to why the landowner on the road has posted the road. He distributed information to aid in proving that this is a public right of way. He explained that the road is and has been used by many travelers. He also left a petition signed by approximately 990 citizens in support of keeping the road a public right of way. Madam Chairman informed Mr. Osborne that the Department of Transportation would be at this meeting at 2:00 p.m., if he would like to speak with them at that time. VDOT may be able to shed some light on this situation.

Mr. Jimmy Harrington also commented on the same issue of the posting of Glade Mountain Road. He expressed his concerns for the public right of way.

Mr. Don Lambert addressed the Board on the time the Board currently meets during the day. He requested that the Board look at "more user friendly meeting times", such as maybe in the evenings.

NEW BUSINESS

With the recommendation of the Insurance Committee, the Board unanimously accepted the Anthem renewal for the calendar year 2009 at a 9.1% decrease. The rates are as follows:

	<u>Currently</u>		
	Total	Employer's	Employee's
Employee Only	\$419.58	345.40	74.18
Employee and One child	\$629.41	518.13	111.28
Employee and Children	\$965.08	794.45	170.63
Employee and Spouse	\$881.25	725.45	155.80
Employee and Family	\$1,342.73	1,105.34	237.39
Medicare Carve Out	\$427.97		427.97
	<u>Proposed</u>		
	Total	Employer's	Employee's
Employee Only	\$381.30	313.89	67.41
Employee and One child	\$571.98	470.85	101.13
Employee and Children	\$877.02	721.96	155.06
Employee and Spouse	\$800.84	659.25	141.59
Employee and Family	\$1,220.22	1,004.49	215.73
Medicare Carve Out	\$388.92		388.92

Vote: 5 yea (Roberts, Dishner, Waddell, Neitch, Blevins,
 2 absent (Perry, Clark)

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Upon motion of Mr. Roberts, seconded by Mr. Dishner, and along with the recommendation of the Ordinance Committee, the Board authorized the advertisement of a public hearing for the amendments to Section 6, Article, III (Musical or Entertainment Festivals) of the Smyth County Code.

Vote: 5 yea (Roberts, Dishner, Waddell, Neitch, Blevins,
2 absent (Perry, Clark)

Upon motion of Mr. Roberts, seconded by Mr. Dishner, and unanimously carried, the above public hearing is scheduled for the next regular meeting on Tuesday, December 9, 2008 at 3:00 p.m.

Vote: 5 yea (Roberts, Dishner, Waddell, Neitch, Blevins,
2 absent (Perry, Clark)

Upon motion of Mrs. Waddell, seconded by Mr. Dishner, and unanimously carried, the Board unanimously reappointed J. Patton Graham to the Smyth-Bland Regional Library Board, as the Atkins District representative. This new four (4) year term will expire December 31, 2012.

Vote: 5 yea (Roberts, Dishner, Waddell, Neitch, Blevins,
2 absent (Perry, Clark)

With a recommendation and explanation by Mr. Atkins and both Dr. Robinson and Dr. Cassell of the School Board, the motion below was made.

Upon motion of Mr. Clark, seconded by Mr. Blevins, and unanimously carried, the Board approved a recommendation from staff that the county's election of funds for the Secure Rural Schools Act (SRS) is under the state program, as opposed to 25% to the locality.

Vote: 6 yea (Roberts, Dishner, Waddell, Neitch, Blevins, Clark)
1 absent (Perry)

Note: Mr. Dishner, Mr. Roberts, Mr. Clark declared their family members that work for the School Board and could vote impartially.

Upon motion of Mr. Dishner, seconded by Mrs. Waddell, and unanimously carried, the Board continued the following request referred from the Budget Committee, until the full Board is present for discussion:

A written request from the Commonwealth Attorney, Treasurer, and the Sheriff. Mr. Roy Evans, Commonwealth Attorney was present for the committee meeting (on

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November 7) to explain the request on behalf of his office. He requested that the Board consider a raise for the Constitutional Offices equal with the raises of the county employees that was approved for fiscal year 2009. He stated that the requested raise would be from December 1, 2008 through June 30, 2009. The state has deferred their 2% raise for December 2008 to July 2009. He understands that this is a cost the Board does not usually bear and asked that they consider the request.

Vote: 5 yea (Roberts, Dishner, Waddell, Neitch, Blevins,
2 absent (Perry, Clark)

With the recommendation of the Budget Committee, the Board agreed that RCC Consultants of the Radio System project proceed with Task Order #2 in the amount of \$139,687.08.

Vote: 6 yea (Roberts, Dishner, Waddell, Neitch, Clark, Blevins)
1 absent (Perry)

With the recommendation of the Insurance Committee, the Board unanimously accepted the recommendation to change from Ameritas dental coverage to Delta Dental. This coverage is at the expense of the employee. Effective January 1, 2009.

Vote: 5 yea (Roberts, Dishner, Waddell, Neitch, Blevins)
2 absent (Perry, Clark)

With the recommendation of the Insurance Committee, the Board unanimously approved Lisa Vencille, of Vencille Insurance and Consulting Services, to be employed as the consultant for the insurance needs of the county. Cost is \$13,000 for the first year. If the Board chooses to exercise the right to renew for the two (2) additional years in the agreement, cost is \$6,000 each year after the first year (with an additional \$1500 in year 2 and 3 if the county chooses to go through the bidding process).

Vote: 5 yea (Roberts, Dishner, Waddell, Neitch, Blevins)
2 absent (Perry, Clark)

Upon motion of Mr. Clark, seconded by Mr. Dishner, and unanimously carried, the following portion of the October 14 minutes were amended to include as to what the services are for in the last Engineering Agreement listed:

Upon motion of Mr. Perry, seconded by Mr. Roberts, and unanimously carried, the following are approved, contingent upon the approval of Mr. Jeff Campbell (Water and Sewer Attorney):

- *Mount Rogers Planning District Commission Kent Street Agreement*
- *Execution of the Kent Street Engineering Agreement with Anderson & Associates*
- *Execution of the North Holston Construction Contracts – Funding Agency Edition*
- *Execution of the North Holston Engineering Amendment*

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- *Execution of the Pioneer, Shale Bank (Greenwood), Fox Valley Road Engineering Agreement - Funding Agency Edition (for contract administration, inspection, and permitting)*

Vote: 6 yea
1 absent (Blevins)

Vote: 6 yea (Roberts, Dishner, Waddell, Neitch, Clark, Blevins)
1 absent (Perry)

Mr. Scott Simpson, Engineer, briefly stated that he is awaiting Rural Development authorization to go to bid on the Pioneer Road water project. Also, the Long Hollow water project bids will be opened December 4.

Upon motion of Mr. Roberts, seconded by Mr. Dishner, and unanimously carried, the Board concurred with Shannon Williams, the E-911 Coordinator, that there be no change in policy regarding the request of Donna Wilson. Ms. Wilson of Still House Hollow Road appeared before the Board at the October meeting during citizen's time requesting that her drive way be named due to the fact that her home is a considerable distance off Still House Hollow Road and cannot be seen from the main road. Ms. Wilson is new to the area; the Board asked that she be informed that this is not an uncommon situation in this area. Emergency Services are able to reach homes off main roads if they are property marked.

Vote: 6 yea (Roberts, Dishner, Waddell, Neitch, Clark, Blevins)
1 absent (Perry)

Robert Hurt of the Virginia Department of Transportation gave the following updates on construction projects:

- The most recent construction on Route 622 will be open by November 14 or 17, they are awaiting guardrail posts.
- The next section of Route 622 to go to construction will be open for bids November 27 and is scheduled to begin in the spring of 2009.
- Construction on the bridge over I-81 at Exit 39 has a contract fixed date of October 1, 2009.
- Route 11 construction on the bridge over the railroad, west of Chilhowie (near Smyth/Washington County line) will be down to one lane in December for construction. It has a fixed contract date of December 31, 2009.
- Route 16 bridge construction in Sugar Grove near the Post Office has a fixed contract date of June 1, 2009. It will be one lane for construction by the end of December.

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Mr. Osborne from citizen's time was again present and was referred to the Department of Transportation. He spoke with the VDOT representatives during break. They will look into their records regarding this road for information.

Upon motion of Mr. Clark, seconded by Mr. Dishner, and unanimously carried, the Board unanimously closed the Nuisance Complaint of the Ruby Eller Estate, due to the fact that the matter has been completely resolved. The Zoning Department presented photos of the property, before and after which shows the property cleaned up.

Vote: 6 yea (Roberts, Dishner, Waddell, Neitch, Clark, Blevins)
 1 absent (Perry)

The following is a motion made in regards to the recommendation from the Planning Commission from the joint public hearing held on Thursday, October 23:

Upon motion of Mr. Blevins, seconded by Mr. Clark, and unanimously carried, the Board approved the recommendation from the Planning Commission on the request of Ira Lee Lowe Jr. for a Special Use Permit. This Special Use Permit is to expand his building for the addition of a garage for a non-conforming use business (garage, wrecker service and auto salvage) located at 575 Belle Hollow Road, Chilhowie. The property is zoned A/R and is identified as Tax Map No. 77-A-57.

Vote: 6 yea (Roberts, Dishner, Waddell, Neitch, Clark, Blevins)
 1 absent (Perry)

Mr. Tate gave brief updates on zoning cases in regards to Hagy, Berger, and Presley.

CLOSED SESSION

Upon motion of Mr. Clark, seconded by Mrs. Waddell, and unanimously carried, at 2:09 p.m., the Board agreed to enter into closed session as allowed by the Code of Virginia, Section 2.2-3711 (A) (5) and (7) as described below:

(5) Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

(7) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open

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meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

Vote: 6 yea (Roberts, Dishner, Waddell, Neitch, Clark, Blevins)
1 absent (Perry)

At 2:38 p.m. the Chairperson ended the closed session.

Upon motion of Mr. Clark, seconded by Mrs. Waddell, BE IT RESOLVED that the Smyth County Board of Supervisors unanimously adopts the following resolution:

WHEREAS, the Smyth County Board of Supervisors has convened in a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion (except for § 2.2-3711 (A) (5) convening the closed meeting were heard, discussed or considered by the Smyth County Board of Supervisors. It was determined that section 2.2-3711 (A) (5), discussion concerning a prospective business or industry, was not necessary.

Vote: 5 yea (Roberts, Dishner, Waddell, Neitch, Clark)
2 absent (Perry, Blevins - out of the room)

At 3:00 p.m. the Board proceeded with the following public hearing. Mr. Michael Carter read the rules for public hearings and the advertisement as published in the Smyth County News and Messenger on October 29 and November 5, 2008, both Wednesday editions. There were approximately 50 citizens in attendance.

NOTICE OF PUBLIC HEARING

Notice is hereby given that on Wednesday, the 12th day of November, 2008, the Board of Supervisors of Smyth County, Virginia, will hold a public hearing on the proposed issuance of general obligation public improvement bonds of Smyth County in one or more series and in the estimated aggregate maximum principal amount of \$20,000,000.

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The purpose of the proposed bonds is to finance, together with other available funds, a new courthouse facility.

The public hearing, which may be continued or adjourned, will be held at 3:00 p.m. or as soon thereafter as the matter may be heard on November 12, 2008, in the Board of Supervisors meeting room on the first floor of the Smyth County Office Building at 121 Bagley Circle, Marion, Virginia 24354. Interested persons may appear at such time and place and present their views.

*Edwin B. J. Whitmore, III
Clerk, Board of Supervisors
Smyth County, Virginia*

The list of citizens below spoke in opposition to the proposed amount for the courthouse renovations and the new structure itself. Some of their reasons for opposition were: placing a heavier burden on the citizens, idea of borrowing funds in the current economy, moving public offices from downtown, and impact on the historical value of the area. The most stressed reason for opposition was the need of funds for new schools.

Earl McClure	Roy Evans
Daniel Pickle	J.S. Staley
Fairfax Patterson	Tom Burkett
Joel Pugh	Martha Copenhaver
Jean Parks	Grant Harden
Clayborne Gwyn	Joe Copenhaver
Ken Heath	Melanie Lincoln
Joe Ellis	Allen Gray
Amy Harden	Bill Pugh
Donnie Brooks	Kelly Gray

This hearing was closed at 3:50 p.m.

OLD BUSINESS

1. Collection of delinquent taxes **(8-10-04)**.
2. Marevine Slemph, request for water service on Fox Valley Road **(5-11-04)**.
3. Re-codifying of the Smyth County Code **(1-10-2006)**. - *Mr. Tate has read through some of the draft code, which is going to require more time. Mr. Carter stated that the company making these changes has given the County until the third week in December to complete its review.*
4. Proposed revisions from the Planning Commission to the Subdivision Ordinance. (referred to the Ordinance Committee **6-13-06**).
5. Disposal of former school building at 105 East Strother Street **(7-11-06)**.
6. Request the Board appropriate \$15,120 to pay Wythe County their portion of taxes collected on air craft at the Smyth Wythe Airport for 2006 **(6-12-07)**. - *Staff will confirm that Wythe County has paid their portion of these taxes.*

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7. Appointments:

- Board of Zoning Appeals (2-12-08)
One Alternate - VACANT

8. Recommendation from the Budget Committee to discuss reconciliations with the Treasurer (5-13-08).

9. Gas bids (6-26-08). - *Mr. Clark explained that the County has made arrangements to purchase fuel from Rouses' in Chilhowie. This issue has been resolved.*

Upon motion of Mr. Clark, seconded by Mr. Blevins, and unanimously carried, this item is removed from old business.

Vote: 6 yea (Roberts, Dishner, Waddell, Neitch, Clark, Blevins)
 1 absent (Perry)

10. Radio System Project (6-26-08).

11. Staff is authorized to work with Mr. Tate on a property by the Allison Gap First Church of God. The Church is interested in purchasing this lot; the owners have failed to pay taxes on the property for quite sometime (8-12-08). - *Mr. Tate briefly updated that he has conducted work on this property in the past. There are approximately 35 heirs. He could meet with the Budget Committee at its convenience, to explain the time and cost to pursue if that is the direction the Board wishes to go.*

12. Nuisance complaint against the Ruby Eller Estate. Property owners have obtained a demolition permit and contractors have been seen on site (10-14-08). - *Upon motion of Mr. Blevins, seconded by Mr. Clark, and unanimously carried, this issue is removed from old business. It was resolved earlier in the meeting.*

Vote: 6 yea (Roberts, Dishner, Waddell, Neitch, Clark, Blevins)
 1 absent (Perry)

13. The remaining appropriation request from the School Board was continued for 120 days so that more information will be known on the status of the state budgets (10-14-08).

- Reduce debt service by paying off two (2) high interest loans - \$171,340
- Establish a school renovation and construction fund - \$250,000
- Replace roof at Smyth Career and Technology center - \$200,000
- Continue replacement of student desks at all schools \$100,000

Courthouse Committee meeting is scheduled for Tuesday, November 18 at 4pm.

CONTINUE THE MEETING

At 3:57 p.m., upon motion of Mr. Clark, and seconded by Mr. Dishner, the Board continued this meeting until Thursday, November 20, 2008 at 7:00 p.m.

Vote: 4 yea (Dishner, Waddell, Neitch, Clark)
 3 absent (Perry - absent, Blevins, Roberts - out of the room)

Darlene Neitch, Chairperson

Virginia: Continued meeting of the Smyth County Board of Supervisors held at the County Office Building on Thursday, November 20, 2008, 7:00 p.m. There were approximately 20 citizens present for this meeting.

Board Members

Present:

Darlene Neitch	Todd Dishner
Brenda Waddell	Michael Roberts
Wade Blevins	Charlie Clark
Marvin Perry	

Staff Members

Present:

Ed Whitmore	Amber Johnson
Scott Simpson	Charlie Atkins
John Tate	

1. Report from the Courthouse Committee.

Mr. Clark, Chairman of the Courthouse Committee reported that the Committee recommends site #3 at exit 44 for an administration building in relation to the courthouse renovation. Mr. Simpson distributed information from Custom Solutions regarding the property by exit 44 and information from Wiley & Wilson on the site feasibility study for the County Administration facility.

Madam Chairman continued further action on these documents so that the full Board could read and study the information.

2. David Rose of Davenport will discuss possible financing for the courthouse renovations.

Mr. Rose of Davenport & Company, LLC, reviewed his presentation of the general fund & enterprise fund. He explained the following points:

- Smyth County recently entered the Private Placement market to solicit approximately \$10 million for the first phase of its Courthouse project.
- Requests for Proposals (RFPs) for financing the Courthouse were sent to 13 local and regional banking institutions.
 - The County did not receive any suitable bids to fund the \$10 million in needs.
- The primary reasons for declining to fund the loan as cited by the banks' credit analysts were the following:
 1. Declining trend in General Fund and Enterprise Fund Balances.
 2. Use of Fund Balance to offset structural imbalances in annual operating budgets.
 3. No apparent meaningful actions to correct Enterprise Fund subsidy.

He stated that the Enterprise Fund is currently being addressed with some changes. He covered fund balance vs. total revenues, County Tax Collection & Rates, General Fund Budgets: Fiscal Years 2004 through 2009, and Water and Sewer Operations.

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The Board held a discussion with Mr. Rose, as he answered various questions.

Mr. Tate expressed the importance of the County designing the Courthouse facility which would be submitted to Judge Doherty. He stated that the County does not wish for the courts to design the facility.

3. Continued item from the last meeting (November 12) - Consider resolution in regards to the bond financing for Courthouse renovations.

Upon motion of Mr. Perry, seconded by Mr. Blevins, and unanimously carried, the adoption of the resolution in regards to the bond financing for the Courthouse renovations was removed from the agenda due to the fact that the funds will not be borrowed this calendar year.

4. Consideration of Hutton & Williams as bond counsel for courthouse financing.

Upon motion of Mr. Clark, seconded by Mrs. Waddell, and unanimously carried, the employment of a bond counsel was dropped from the agenda due to the fact that the funds will not be borrowed at this time.

5. Scott Simpson - Request the Board approve the Memorandum of Understanding, No.1 (Task Order) with Thompson & Litton in the amount of \$10,280 for the design of the ventilation improvements of the Animal Shelter facility.

Upon motion of Mr. Clark, seconded by Mr. Dishner, and duly carried, the Board approved the Memorandum of Understanding, No.1 (Task Order) with Thompson & Litton and appropriated the amount of \$10,280 (# 001-035010-9005) for the design of the ventilation improvements of the Animal Shelter facility.

Vote: 5 yea (Roberts, Dishner, Waddell, Neitch, Clark)
 2 nay (Blevins, Perry)

6. Appropriate payments from the Feeder Cattle line in the amount of \$40,015.04. Smyth County is the fiscal agent of these funds from the state Tobacco Commission.

Upon motion of Mr. Dishner, seconded by Mrs. Waddell, and unanimously carried, the Board appropriated payments from the Feeder Cattle line in the total amount of \$40,015.04 (#001-0011010-8888-15). Smyth County serves as the fiscal agent of these funds from the state Tobacco Commission.

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At 7:57 p.m., by motion of Mr. Clark, seconded by Mr. Blevins, and unanimously carried, this meeting was adjourned. The next regular meeting is on Tuesday, December 9, 2008, 12:00 noon.

Darlene Neitch, Chairperson