

Regular Meeting (Thursday, February 9, 2023)
Northumberland County, VA

Members present:

Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Other Staff Present:

Mr. Luttrell Tadlock, County Administrator
Mr. Drew Basye, Assistant County Administrator
Ms. Morgan Wilson, Executive Assistant
Mr. Matthew Bailey, IT Assistant
Mr. Eric Gregory, County Attorney

The regular monthly meeting was convened by Chairman Haynie and held at the Northumberland Courthouse located at 220 Judicial Place, Heathsville, VA 22473.

1. Opening of Meeting 5:30 P.M.

Procedural: A. Invocation - Pastor Kori Kiss, Bethany Baptist Church
Pastor Kiss led the invocation.

Procedural: B. Pledge of Allegiance
Chairman Haynie led us in the Pledge of Allegiance.

Action: C. Approval of Agenda
Motion to approve the agenda for today's meeting.

Motion by: Ronald L. Jett, second by: James M. Long.
Final Resolution: Motion Carried
Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

2. Approval of Minutes

Action, Minutes: A. January 9, 2023 Called Meeting
Motion to approve the minutes from the special called meeting on January 9, 2023.

Motion by: Thomas H. Tomlin, second by: Ronald L. Jett.
Final Resolution: Motion Carried
Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W Brann

Action, Minutes: B. January 11, 2023 Called Meeting
Motion to approve the minutes from the special called meeting on January 11, 2023.

Motion by: Thomas H. Tomlin, second by: Ronald L. Jett.
Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Minutes: C. January 12, 2023 Regular Meeting

Motion to approve the minutes from the regular meeting on January 12, 2023.

Motion by: Thomas H. Tomlin, second by: Ronald L. Jett.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Minutes: D. January 17, 2023 Called Meeting

Motion to approve the minutes from the special called meeting on January 17, 2023.

Motion by: Thomas H. Tomlin, second by Ronald L. Jett.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Minutes: E. January 26, 2023 Called Meeting

Motion to approve the minutes from the special called meeting on January 26, 2023.

Motion by: Thomas H. Tomlin, second by: Ronald L. Jett.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

3. Presentations

Information: A. Callao Hometown Community Association - Park Update

Lisa Deitz, President of the association, provided an update to the Board on the County Park. When Mrs. Deitz came before the Board at the regular meeting on June 9, 2022, she informed the Board that Mr. Bobby Burgess donated over 2 acres of land to help with the development of the park. Mrs. Deitz announced that Callao Hometown Community Association (CHCA) has received an additional land donation from Primis Bank that will be used for parking. Along with this, CHCA decided to name the park “Hometown Community Park,” to reflect the hometown nature of the County and its design for all ages and levels of ability for residents/visitors. Mrs. Deitz shared the larger version of the plan for the park while describing the plan to the Board.

Supervisor Tomlin asked County Administrator Tadlock if the tea-21, Transportation Equity Act, grant still exists. Mr. Tomlin stated that other localities have used this grant, so he would like staff to look into this opportunity for CHCA.

County Administrator Tadlock stated that staff would look into this.

Supervisor Tomlin asked CHCA to send the park plan digital copy to the newspapers to help spread the word on the park.

Supervisor Brann asked what the total acreage is with the additional land donation.

Lisa Deitz informed Mr. Brann that it is close to three (3) acres total.

Information: B. Update from the Virginia Department of Transportation

Mr. David Beale gave a report to the Board that consisted of brush cutting, shoulder repair, ditch cleaning, patching potholes, and trash pick-up. Mr. Beale also stated that the jack and bore pipe replacement on route 360 is almost complete.

Supervisor Long reported a sign down at the intersection of route 605 and route 200. Mr. Long would like to see trash picked up in the Wicomico Church area.

Supervisor Brann stated that there are several locations that need trash picked up such as Lewisetta Road, Lively Hope Road, Valley Drive, and Fruit Plain Road.

Supervisor Brann also informed Mr. Beale that a citizen with a work order down Lewisetta lost communication with VDOT, so they would like to be contacted.

Information: C. Update from Northumberland County Schools

Superintendent Wargo went through the school highlights and Finance Director Tara Booth gave a brief finance update to the Board. Finance Director Booth stated that the school will be having a budget work session at the upcoming School Board meeting on Monday, February 13, 2023 at 3:00 p.m. before their regular meeting at 6:00 p.m.

Supervisor Long asked how many students are in the technical center.

Superintendent Wargo stated that they have about 49 students enrolled in the technical center which is a high number when compared to regional participants.

Supervisor Long also asked how many students are in the STEM program and requested a copy of the school's athletic schedule.

Superintendent Wargo assured Mr. Long that she would send this information to County Administrator Tadlock because she did not bring this information to tonight's meeting.

4. County Administrators Report

Information: A. Building Permit Report

Action: B. Re-appointment - Michael Baughan, Board of Zoning Appeals

Motion to approve the re-appointment of Michael Baughan to the Board of Zoning Appeals.

Motion by: James W. Brann, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Information: C. Supplemental Appropriation - Sheriff's Department

Motion to approve a supplemental appropriation in the amount of \$227.50 from account 10-273 to account 3102-1006 for ball games.

Motion by: James W. Brann, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: D. Supplemental Appropriation - Sheriff's Department

Motion to approve a supplemental appropriation in the amount of \$7,650.00 to line item 3102-5414 for half of the total payment and to transfer the remaining balance of \$7,650.00 from account 10-264(donations account) to account 3102-5414.

Motion by: James W. Brann, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: E. Supplemental Appropriation - Department of Forestry Grant

Motion to approve a supplemental appropriation in the amount of \$3,239.41 to line item 10-1209-8006 for the Department of Forestry grant.

Motion by: James W. Brann, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: F. Supplemental Appropriation - Stormwater Repair

Motion to approve a supplemental appropriation in the amount of \$137,002.16 to line item 10-4302-3100 for the Northumberland Elementary stormwater repair.

Motion by: James M. Long, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Information: G. Opioid Litigation Resolution

Motion to approve the opioid litigation resolution as presented:

RESOLUTION

A RESOLUTION OF THE NORTHUMBERLAND COUNTY BOARD OF SUPERVISORS
APPROVING OF THE COUNTY'S PARTICIPATION IN THE PROPOSED SETTLEMENT
OF OPIOID-RELATED CLAIMS AGAINST TEVA, ALLERGAN, WALMART,
WALGREENS, CVS, AND THEIR RELATED CORPORATE ENTITIES, AND DIRECTING
THE COUNTY ATTORNEY AND/OR THE COUNTY'S OUTSIDE COUNSEL TO
EXECUTE THE DOCUMENTS NECESSARY TO EFFECTUATE THE COUNTY'S
PARTICIPATION IN THE SETTLEMENTS

WHEREAS, the opioid epidemic that has cost thousands of human lives across the country also impacts Northumberland County by adversely impacting the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services by Northumberland County's various departments and agencies; and

WHEREAS, Northumberland County has been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of the Northumberland County; and

WHEREAS, Northumberland County has filed suit against Teva, Allergan, Walmart, Walgreens, CVS, and certain of their related corporate entities for their role in the distribution, manufacture, and sale of the pharmaceutical opioid products that have fueled the opioid epidemic that has harmed Northumberland County; and

WHEREAS, the County's suit seeks recovery of the public funds previously expended and to be expended in the future to abate the consequences and harms of the opioid epidemic; and

WHEREAS, settlement proposals have been negotiated that will cause Teva, Allergan, Walmart, Walgreens, and CVS to pay billions of dollars nationwide to resolve opioid-related claims against them; and

WHEREAS, the County has approved and adopted the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (the "Virginia MOU"), and affirms that these pending settlements with Teva, Allergan, Walmart, CVS, and Walgreens shall be considered "Settlements" that are subject to the Virginia MOU, and shall be administered and allocated in the same manner as the opioid settlements entered into previously with the Distributors and Janssen; and

WHEREAS, the County's outside opioid litigation counsel has recommended that the County [City] participate in the settlements in order to recover its share of the funds that the settlement would provide; and

WHEREAS, the County Attorney has reviewed the available information about the proposed settlements and concurs with the recommendation of outside counsel;

NOW THEREFORE BE IT RESOLVED that the Northumberland County Board of Supervisors , this 9th day of February, 2023, approves of the County's participation in the proposed settlement of opioid-related claims against Teva, Allergan, Walmart, Walgreens, CVS, and their related corporate entities, and directs the County Attorney and/or the County's outside counsel to execute the documents necessary to effectuate the County's participation in the settlements, including the required release of claims against settling entities.

Motion by: Thomas H. Tomlin, second by: James M. Long.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Information: H. Other County Administration Items

County Administrator Tadlock explained that last month the Board was presented with information on how the Department of Wildlife Resources (DWR) defines a loaded firearm and how that impacted several hunt clubs. It was also brought to the Board's attention that there is a Virginia code section that is referenced in our County's code that has been repealed and is now defined under Virginia code section § 15.2-915.2. The Board asked for further clarification on if the County could define a loaded firearm and after further review by County Attorney Gregory, Mr. Gregory suggested the County not define it since it is already done so by DWR. Virginia code section § 29.1-504 states that Courts shall take judicial notice of the laws and regulations published by DWR.

County Attorney Gregory informed the Board that there are three options: amending the County's current ordinance with the corrected Virginia code section, repeal the County's code section, or leave it as it is, and the ordinance can still be enforced even though it references what is now a repealed state code section. County Attorney Gregory stated that the County could try to define the term loaded firearm, but he would not recommend it.

Vice Chairman Jett would like to see the revision be consistent with neighboring counties that will allow firearms in vehicles, so no issues arise when crossing County lines.

Supervisor Brann agrees with Mr. Jett and would like things to be consistent with neighboring counties.

Supervisor Tomlin would like Mr. Gregory or staff to consult with the Commonwealth Attorney, Jane Wrightson, to see what her opinion is in prosecution.

County Administrator Tadlock provided the Board with two estimates for paving a section of the parking lot in front of the old courthouse.

Motion to approve the estimate of \$14,500.00 from B.C. Paving for pavement work at the old courthouse provided that the Board of Contractors has no regulatory actions.

Motion by: James M. Long, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Lastly, County Administrator Tadlock stated that the Board needs to start looking at the replacement of a portion of the roof on the new courthouse that has about 5-6 years left on the life of the shingles. Mr. Tadlock asked the Board how they would like to proceed, whether it be through an invitation for bid (IFB) or the hire of an engineer, request for proposal (RFP) process.

Supervisor Tomlin believes if the Board considers other options besides shingles, it would be beneficial to get some expertise from an engineer.

County Administrator Tadlock stated that staff could also check to see what possibly is out on state contact that could be cooperatively procured.

5. Board of Supervisor Items

Action: A. Approval of Check Register

Motion to approve the check register for February 2023.

Motion by: James M. Long, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Information: B. Board Comments

Supervisor Long asked for an update on the old EVB roof building.

County Administrator Tadlock stated that it's just a matter of how the Board would like to proceed.

Supervisor Long also asked for an update on the old school board office building in Lottsburg.

County Administrator Tadlock informed the Board that the paperwork has been finalized so it's just a matter of getting the deed recorded in the Clerk's office.

Supervisor Brann believes they need to take a look at many County buildings. Mr. Brann would like to see money put into the budget that takes care of and maintains these properties.

Supervisor Tomlin was curious about the status of the radio system.

County Administrator Tadlock informed the Board that the letter was submitted to join the Upper Middle Peninsula Regional radio system as requested, but he hasn't heard anything back from them on this. County Administrator Tadlock stated he'd get with Sheriff Beauchamp to see if he received anything.

Supervisor Tomlin asked to send the county property list to the Planning Commission for their review. Mr. Tomlin would like to know if the properties should be retained due to governing functions such as building, or if the property has significance of any sort for future buildings/departments/water accesses/etc. Along with this, he also asked to identify those properties that should be deemed surplus.

Supervisor Tomlin announced that he does not choose to run for re-election as a Board member in 2023.

Vice Chairman Jett referenced the traffic back up at the Horsehead trash site and asked what the issue was there.

County Administrator Tadlock stated that there is a piece of equipment currently out of order and the part for that has been ordered. Mr. Tadlock will follow up on this.

Supervisor Brann mentioned that trash needs to be picked up between the Lottsburg trash site and the VDOT office.

6. Items Related to Closed Meeting

Action: A. Convene into Closed Meeting

Motion to Action: A. Convene into Closed Meeting: convene into closed meeting as permitted by Virginia Code Section 2.2-3711 (A)(1), (29); 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively. 29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

Motion by: Ronald L. Jett, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: B. Reconvene into Open Meeting

Motion to reconvene into open session.

Motion by: Thomas H. Tomlin, second by: Ronald L. Jett.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: C. Certification of Closed Meeting

Motion that the Northumberland Board of Supervisors return to Public Meeting and certify by roll call vote that only public business matters lawfully exempted from open meeting requirements by the Virginia Freedom of Information Act, and as were identified in the motion convening the closed meeting were heard, discussed or considered during the closed meeting. The vote on the motion was passed by a roll call vote as follows:

Aye: Richard F. Haynie, Ronald L. Jett, Thomas H. Tomlin, James M. Long, James W. Brann

Motion by: James W. Brann, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Information: D. Action(s) taken from Closed Meeting

No action(s) was taken.

7. Public Comments

Mr. Maurice Johnson spoke on behalf of the Northern Neck Patriots on the incidents occurring at the Northern Neck Regional jail. Mr. Johnson stated that he attended the last jail board meeting which consisted of an hour and a half work session and a “nothing to see here” speech given by the chairman.

Mrs. Cheryl Johnson, also a member of the Northern Neck Patriots, commented on how poorly the detainees are treated at the Northern Neck Regional jail. Mrs. Johnson also attended the jail board meeting and stated that she witnessed how far people will go to hide the things that are occurring. Mrs. Johnson and the Northern Neck Patriots are working to help detainees receive better treatment.

Mr. Mark Mally installed a solar field next to his house that is a 25KW system, but he would like to upgrade it to 36 KW, so he would like the Board to consider his petition.

Mr. Tom Jeffreys also spoke on the concerns of the Northern Neck Regional jail and read a letter from a detainee describing their experiences. Mr. Jefferey urged the Board to keep an eye on what is going on at the jail, understand it, and allow themselves to become aware of these issues.

8. Public Hearings 7:00 P.M.

Action, Information: A. Request by Manna Properties, LLC, owner, and Kyle Yeatman, applicant, for a Conditional Use Permit to allow construction of a boathouse larger than the allowed 700 Sq. Ft. The property is shown as Tax Map Parcel # 8-A(1)-1 and is located at 1474 Lodge Road.

Mr. Yeatman, the owner, presented his request to the Board.

Public Hearing Open.

No comments were given.

Public Hearing Closed.

Zoning Administrator Marston read the suggested conditions if approved as follows:

Suggested Conditions if Approved:

1. All required permits and/or licenses shall be obtained from all appropriate regulatory agencies.
2. The boathouse shall be constructed as shown on the joint permit application.

Motion to approve the conditional use permit to allow construction of a boathouse larger than the allowed 700 Sq. Ft. with the suggested conditions.

Motion by: James W. Brann, second by: James M. Long.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Information: B. Request by Randy Coulson and Jacquelynn Konzelman, owners, to allow a multi-dwelling unit consisting of three (3) one-bedroom apartments on property zoned R-1, Residential. The property is shown as Tax Map Parcel #38-B(1)-118-B and is located at 181 Main Street in Reedville.

Mr. Coulson provided a plat to the Board for the subject property and presented his request to the Board. Based on Mr. Marston's recommendation, there's been a minor change in the setback of the building which has been moved to from the centerline of the state-maintained highway to comply.

Public Hearing Open.

Mr. Vincent Haynie referred to the eight parking spots at the back of the property and stated that vehicles must go across the museum's property, festival hall, to access those parking spaces. Mr. Haynie suggested clearing up deeded access to this parking lot.

Mr. Haynie also asked if there was going to be any regulation on how "mature" is defined since Mr. Coulson stated the purpose was for mature adults.

Mr. Vincent Haynie was also concerned about how the sewer connections will be handled at the property.

Lastly, Mr. Haynie said that the museum has run into the issue of the trash from the apartments ending up in their dumpster, so he asked if Mr. Coulson will supply trash pickup for the additional units or will this be an issue the museum continues to face.

Mr. Coulson came to speak about Mr. Haynie's concerns. Mr. Coulson believes the easement already exists for accessing the eight parking spaces in the back, but if not, he assured the Board that would be no problem to complete. In terms of the sewer connections, there is an existing six-inch sewer that serves the existing nine units. There will be a new six-inch main sewer installed that will serve the additional three units, each branching off individually. Lastly, as far Mr. Coulson is concerned, all tenants take care of their own garbage by taking it to the nearest trash site except for one tenant who is unable to drive. Mr. Coulson informed the Board that this individual tenant pays someone to pick up her trash and transport it to the dumpsite.

Public Hearing Closed.

Zoning Administrator Marston read the suggested conditions if approved as follows:

Suggested Conditions if Approved:

1. All required permits and/or licenses shall be obtained from all appropriate regulatory agencies.
2. All lighting shall be non-reflective and directed downward.
3. Applicant shall provide proof of a properly recorded access easement across the adjacent property granting access to the subject property.

Motion to allow a multi-dwelling unit consisting of three (3) one-bedroom apartments on property zoned R-1, Residential with the suggested conditions.

Motion by: Ronald L. Jett, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Information: C. A revision to the Northumberland County Zoning Ordinance § 148-155, Solar Energy Facilities, to prohibit solar energy facilities in R-1, Residential General and R-2 Residential Waterfront zoned properties, require a solar siting agreement, an environmental impact statement, a landscape agreement and surety, reduce the time for revision of the decommissioning plan from every five years to every two years, and increase the time to decommission a solar energy facility from six to twelve months.

County Planner, Stuart McKenzie presented the matter to the Board.

Public Hearing Open.

Jacob Carasella is a part of the Energy Right organization and came to discuss his concern in the Board restricting solar in zoning districts R-1 and R-2. Mr. Carasella understands the Boards standpoint, but putting a restriction in the ordinance could hinder the ability of the Board to pass a good project in the future. Mr. Carasella urged the Board to move forward on the consideration and approval of solar developments in Northumberland County so projects can be considered and the benefits of American made energy can be fully utilized in the County.

Mr. Philip Haynie believes that putting restrictions on solar facilities is denying landowners of their property rights and he would like the Board to figure out how we can move forward by taking advantage of solar in the County.

Ms. Schiro asked why staff doesn't look at an environmental assessment before requiring an environmental impact statement.

Public Hearing Closed.

Supervisor Brann would like to see the matter postponed, allowing the Board to meet with Energy Right for better education on solar.

Motion to carry over a decision to another meeting date to be determined.

Motion by: Thomas H. Tomlin, second by: James M. Long.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

9. Closing of Meeting

County Administrator Tadlock announced that Paul Lee from Robinson, Farmer, Cox Associates will be present at next month's regular meeting on March 9, 2023 at 5:30 p.m. to present the County's fiscal year 2022 audit.

Action: A. Carry Over

Motion to carry over to the joint quarterly meeting with the School Board on February 22, 2023 at 5:30 p.m.

Motion by: Thomas H. Tomlin, second by: James M. Long.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann