

**BOARD OF SUPERVISORS
REGULAR MEETING
September 9, 2014**

At the regular meeting of the Board of Supervisors of Floyd County, Virginia, held on Tuesday, September 9, 2014 in the Board Room of the County Administration Building, thereof;

PRESENT: Case C. Clinger, Chairman; Virgel H. Allen, Vice Chairman; J. Fred Gerald, Joe D. Turman, Lauren D. Yoder, Board Members; Daniel J. Campbell, County Administrator; Terri W. Morris, Assistant County Administrator.

The Chairman called the meeting to order at 8:30 a.m. with the reading of the handicapping statement.

The Opening Prayer was led by Supervisor Gerald.

Supervisor Allen led in the Pledge of Allegiance.

The minutes of August 12 and August 26, 2014 were presented to the Board for review and consideration.

On a motion of Supervisor Turman, seconded by Supervisor Yoder, and carried, it was resolved to approve the minutes of August 12, 2014 as presented.

Supervisor Yoder – aye
Supervisor Turman – aye
Supervisor Gerald – aye
Supervisor Allen – abstain – absent because of illness
Supervisor Clinger – aye

On a motion of Supervisor Allen, seconded by Supervisor Gerald, and unanimously carried, it was resolved to approve the minutes of August 26, 2014 as presented.

Supervisor Yoder – aye
Supervisor Turman – aye
Supervisor Gerald – aye
Supervisor Allen – aye
Supervisor Clinger – aye

The monthly disbursements were presented to the Board for review and approval. A list of additional expenses was also presented for the Board's consideration. Questions and discussion followed.

On a motion of Supervisor Turman, seconded by Supervisor Allen, and unanimously carried, it was resolved to approve the monthly disbursements, plus additions, as presented.

Supervisor Yoder – aye
Supervisor Turman – aye
Supervisor Gerald – aye

Supervisor Allen – aye
Supervisor Clinger - aye

Ms. Lydeana Martin, Subdivision Agent, next appeared before the Board. She presented the plat report for July 2014 and noted that it had been a fairly quiet month. She reported that the Planning Commission will hold their public hearing at 7:00 p.m. on Tuesday, September 16 for the proposed changes in the Subdivision Ordinance. She also invited the Board to the ribbon cutting for the Floyd Innovation Center on Monday, September 22, 2014 at 10:30 a.m.

Agenda Item 7c – Appointment to the New River Valley Agency on Aging for a one year term, representative and alternate needed.

On a motion of Supervisor Yoder, seconded by Supervisor Turman, and unanimously carried, it was resolved to reappoint Ms. Terri Morris as representative and Mr. Dan Campbell as alternate, to the New River Valley Agency on Aging Board of Directors for a one year term, October 1, 2014 – September 30, 2015.

Supervisor Yoder – aye
Supervisor Turman – aye
Supervisor Gerald – aye
Supervisor Allen – aye
Supervisor Clinger - aye

There were no Constitutional Officers reports for the month.

Agenda Item 7d – Fire Department Equipment Committee update. Mr. Campbell reported that the committee had met last week and reviewed the specs for the Station #3 tanker. He noted that the specs call for a functional, not extravagant, vehicle. He also presented an updated schedule for the Board's information. Hope to be able to present a recommendation from the committee to the Board at the January 2015 meeting. Estimated cost of the vehicle is \$450,000; a possible down payment may be needed to begin construction of the truck. Possible deducts may include: aluminum vs. steel wheels, suction device for the front of the vehicle which has some advantages in the field because of space restrictions, booster reel discharge system. These will be reviewed when bids are received. This tanker will replace reserve engine three – Fire Department does understand one vehicle in/one vehicle out of fleet.

Mr. Campbell reported that due to the Board's approval of a resolution last month that asked for a community meeting to take place with the company proposing the natural gas pipeline through the County, that a response had been received. That resolution, along with cover letters, did get sent to the company as well as some other parties. Just last night, we received a written response from EQT and their contact Joseph Dawley who is the Corporate Director of Government Affairs. His transmittal provides some information on their proposal. He indicates that the route is very preliminary at this time. It does appear that they are interested in doing what you asked, which is scheduling or attending a meeting, as early as Tuesday, October 28. They would describe the route and felt additional information would be available by that time and also discuss the project they are talking about, as well as the schedule, technical education and answer questions from you and the public. With that said, I think that by the time they received your resolution and letter, they responded very quickly. I'm actually a little surprised that they are willing to come and meet so quickly. I think we should follow up and extend a formal invitation if that date is acceptable to you and make arrangements to have the

school auditorium available. Consensus of the Board was to proceed with these plans as presented for the target date of October 28.

At 9:00 a.m., the Chairman called for the Public Comment Period.

Mr. Bill Ellis, Locust Grove District - I guess I'm here to report on the Check Elementary third grade. My daughter is in that class and I wanted to come down and personally thank you gentlemen for the work to add an extra teacher. Her class went from 26 to being cut in half to 12-13 per class. I was just over there and I saw the classroom environment yesterday, it was fantastic. It is wonderful to see them go from such a large group to a place where they can actually sit around and listen to the teacher read and interact and understand what is going on. It takes a lot of pressure off the kids and teachers. I know you guys did a lot of work for that. The only other thing I would add to keep in mind, just so you know what it is like on the ground. These are third graders, this change right in the middle of the year was hard on them. One thing that we picked up from talking to the parents is that all the kids, they don't see the bigger picture, all they see is that they are getting taken away from their friends and moved to a new class. So timing of it wasn't great for the kids. Kids are resilient and they will be fine. The reason why kids are resilient is because they have grownups around them that they trust to take care of them. I think as we move forward in the years to come if we could just keep in mind that they are looking at us to trust them and things are out of our control. We need to make decisions to keep them from having to have these inconsistencies in their lives. We can maybe make decisions ahead of time and do a little better planning but that's just a side note. The ultimate reason I came here was to say sincerely thank you for what you did, it means a lot to us, it helps morale at the school and it helps the parents believe in our community.

Mr. Jeremy Yuvanavattana, Little River District – I know usually in this portion of your meeting you're hearing from citizens who are either belittling your decisions or asking for something. I come to you today on a different route. I'm here today to express my gratitude. Myself and my family are grateful for the decision that you made at the last meeting to approve the funding for additional County teachers. I was not at that last meeting so I was not privy to exactly how it went down. With that being said, I've heard whisperings and rumors of the addition of the third teacher. If what I'm hearing is correct, I must say that I am impressed with the level of foresight that was shown. Fellas, I know how scary and tough any kind of financial decision can be. I know that you will look back and wonder if you've done the right thing. So many times when you're looking at finance and budget issues, it simply becomes about numbers on a page. But I want you to know your decisions directly affect real people, real families and the future. This little girl sitting right here is directly affected by your decision at the last meeting in a positive way. Her class went from 26 students to 19 children and the immediate results are nowhere short of stunning. While your timing was less than ideal, the end result is a positive one. I hope that you will continue to invest in my children, your grandchildren and your nieces and nephews because I wholeheartedly believe that there is no better investment, no better bang for your buck than them. Again, gentlemen, I thank you for your decision.

Miss Jasmine Yuvanavattana, Little River District – I wanted to say thank you to you gentlemen and Dr. Harris for making my class smaller and making it easier to concentrate and listen. Thank you.

Mr. Jeff Pennington, Little River District – Vice President of Virginia Education Association and a member of the Floyd County Education Association. This morning I'm speaking to you as a special education teacher at Floyd County High School. I want to thank you very much for your recent support and action that restored class sizes at two of our elementary schools to the levels that this community

has come to expect. Now you might be asking why a high school teacher cares so much about staffing at elementary schools. It is simple. My colleagues and I at the high school will benefit greatly from having students come up from these schools that are more prepared and better adapted. Why? Well you folks know the math. With smaller class sizes, students receive more individualized attention, they achieve at higher levels and they attain more confidence in their abilities. These students will reach high school ready, they are much more likely to graduate from high school and enter our community as productive citizens, taxpayers and voters. So in restoring these previously cut funds, you demonstrated strategic thinking that shows the community that you're thinking of Floyd County in the long term. This mind-set is critical for the development of our community. We ask for continued cooperation between the School Board and Board of Supervisors. The school system is our greatest economic investment. Thank you again.

After no further comments from the audience, the Chairman declared the Public Comment Period closed.

Ms. Tracie Brewster, Social Services Director, next appeared before the Board.

She reported that a notice had just been received that a self-assessment is required of the CSA Program in preparation for a 2015 audit by the State. The assessment is an 82 page document that staff and the CPMT will be working on.

Mr. David Clarke, Virginia Department of Transportation, next appeared before the Board. He reported:

- Route 642 will be closed for approximately one month for replacement of a culvert;
- Pipe replacements have been completed on Routes 623 and 611;
- Haycock Road paving will begin soon with a 16' wide road;
- Patching and mowing of secondary roads are being worked on as possible;
- Stonewall Road/Coles Knob Road intersection sight distance improvement was completed;
- Slurry seal and Route 615 paving schedules have not been completed but will be done before bad weather;
- Received a request for a Rural Addition for a 0.02 mile section off of Winery Road. VDoT did fix the drainage issue around the mailboxes at the end of the road that had been caused by paving. Did meet with the residents to explain the Rural Addition process to them.

Supervisor Gerald – Potholes on Route 787 are not fixed yet.

Mr. Clarke – we have approximately one mile left to fix, have approximately one more mile left to do. It is on the schedule. Have spent around \$50,000 so far in repairs.

Supervisor Allen – Stonewall Road – gravel was placed on top of two culverts replaced, has not been paved yet. There have already been two accidents there.

Mr. Clarke – it should have already been done, I'll check on it.

Supervisor Allen – Need lines painted on Shooting Creek Road.

Mr. Clarke – we will have to check the width and traffic count to see if the road meets specs. If there were lines on the road before paving, they can be re-done.

Supervisor Allen – received a request for a speed study on Coles Knob Road.

Mr. Clarke – if you can find out a specific section, we can check it.

Supervisor Turman – appreciate all the work in my district.
Mr. Clarke – the culvert will be replaced on Turnip Patch Road soon.

Supervisor Yoder – gravel roads need machining and potholes are getting deep when you have time.

Supervisor Clinger – nothing to report this month.

Mr. Campbell questioned when the guardrail would be installed on Route 8.
Mr. Clarke – it is on the schedule.

Supervisor Clinger – there are also two culverts on Route 8 just above the site where the guard rail will be installed that need to be checked. One is collapsing and the other seems to be stopped up.
Mr. Clarke – we will check it.

Mr. Campbell – there is another culvert just past Canning Factory Road on Route 8 that needs checking also.

Supervisor Yoder – on Route 221 North at the bridge just past Franklin Pike, the guard rail was torn out on one side and there is no protection from the bridge abutment.

Mr. Sherrell Thompson, Sanitation Superintendent and Mr. Jabe Graham, Assistant Sanitation Superintendent, next appeared before the Board.

They discussed with the Board all the problems they are having with greenboxes in the County. Several of the bear-proof boxes were purchased and placed at the sites where bears had been seen the most. Citizens are destroying the mechanical openings of the boxes or leaving their trash on top or around the boxes. This makes the bear situation worse. It is also putting staff in danger when they have to climb on the boxes to retrieve the trash. Also many problems with construction debris and furniture being put in the boxes. The situation worsens with lack of enforcement. The deputies do charge people when they are illegally dumping but the cases have been thrown out of court. One case was thrown out because there was not a sign on the greenbox that illegal trash had been dumped in, even though there were signs on all the other boxes at the site.

Consensus of the Board was for staff to explore options for enforcement such as surveillance, specific staff for enforcement, signage, etc. and report back to the Board for discussion.

On a motion of Supervisor Turman, seconded by Supervisor Allen, it was resolved to go into closed session under Section 2.2-3711, Paragraph A.3, discussion or consideration of the acquisition of real property for a public purpose or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Supervisor Yoder – aye
Supervisor Turman – aye
Supervisor Gerald – aye
Supervisor Allen – aye
Supervisor Clinger – aye

On a motion of Supervisor Yoder, seconded by Supervisor Turman, and unanimously carried, it was resolved to come out of closed session.

Supervisor Yoder – aye
Supervisor Turman – aye
Supervisor Gerald – aye
Supervisor Allen – aye
Supervisor Clinger – aye

On a motion of Supervisor Allen, seconded by Supervisor Gerald, and unanimously carried, it was resolved to adopt the following certification resolution:

**CERTIFICATION RESOLUTION
CLOSED MEETING**

WHEREAS, this Board convened in a closed meeting on this date pursuant to an affirmative recorded vote on the motion to close the meeting to discuss property in accordance with Section 2.2-3711, Paragraph A.3 of the Virginia Freedom of Information Act;

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

NOW, THEREFORE, BE IT RESOLVED that the Board hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies; and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting to which this certification applies.

Before a vote is taken on this resolution, is there any member who believes that there was a departure from the requirements of number (1) or number (2)? If so, identify yourself and state the substance of the matter and why in your judgment it was a departure.

Hearing no statement, I call the question.

Supervisor Yoder – aye
Supervisor Turman – aye
Supervisor Gerald – aye
Supervisor Allen – aye
Supervisor Clinger – aye

This Certification Resolution was adopted.

Dr. Kevin Harris, School Superintendent, next appeared before the Board. He presented a copy of the School Board meeting highlights of September 8, 2014. He reported:

During Public Comment, Mr. Fred Gerald, member of your Board, came asking the School Board to reverse the decision to ban Bibles that were being made available during open houses at the schools. I have given you a letter that I wrote on August 8..

Supervisor Gerald – I want to make something clear. I was there as a citizen not as a member of the Board of Supervisors.

Dr. Harris – Mr. Gerald I don't believe you can. I as Superintendent, you as a member of the Board of Supervisors, I don't believe you can clearly step over one line into another area without people knowing who you are and what you represent.

Supervisor Gerald – I disagree and I don't like your attitude.

Dr. Harris – well let's talk about that for just a moment. I don't think the Board sitting before me would appreciate me coming in as a taxpayer of Floyd County during Public Comment being critical of this Board for any decision they made.

Supervisor Gerald – why not, you're a citizen.

Dr. Harris – and then for me to come back..

Supervisor Gerald – why not, you have that right to speak.

Dr. Harris – and then for me to come back at 11:00 as the Superintendent and work in the manner that we have to work together cooperatively.

Supervisor Gerald – I just wanted to make it clear and I said that before your Board that I was speaking as a private citizen from Indian Valley and I emphasized that. I was not speaking as a member of the Board of Supervisors and I wanted that put into the record.

Dr. Harris – that's fine. And concerning my attitude about this, sir, if you'd let me continue. I've written a letter dated August 8 concerning a situation that occurred, it began in November of last year when I received a letter from an organization. The name of the organization is Americans United for the Separation of Church and State. They received a report that we were allowing the Gideons to distribute Bibles at open houses throughout Floyd County. This had been the practice for years and years and had gone unquestioned. Apparently someone wrote a letter to them complaining about what we had done. I did not answer the first letter. I received a second letter in January, again emphasizing what had happened and directing me to respond to their letter. At that point I did some pretty serious investigating. If you choose, go to their website and see what this organization basically does. Their premise is that they are responsible for ensuring that the First Amendment is followed. The Establishment Clause of the First Amendment says that there shall be separation of church and State. There have been any number of court cases that have ruled that passing out of Bibles during school functions or during school time, is unconstitutional. That's really not anything we can debate at this point. There has never been a case that has ruled that it is ok to do that. This organization has filed over 200 successful lawsuits against public entities who have refused to follow the guidelines of the Constitution and the First Amendment. As the Superintendent of this County, I took an oath of office basically to uphold the laws of Virginia and to uphold the laws of the United States, of which the U.S. Constitution is a part. It is very clear, in the absence of law, court cases take precedence. That's the way the laws of this nation work. All the court cases indicate very clearly that it is not permissible for schools to allow Bibles to be given during school sponsored events. It doesn't matter if school personnel gives them out or other organizations give them out. It was my decision after reviewing it with the Board, we decided, at my suggestion, that this was a path we could no longer follow because it is simply unconstitutional. Knowing this would be an issue, I called Mr. Gerald and I invited him to my office on July 18. We spent about 30 minutes together where I gave him copies of the letter from the Americans United for the Separation of Church and State. I explained the position that we were in as a school division. I think a lot of times there is a misconception that I get to make a lot of decisions about what we do. In the Public Comment Period last night, Mr. Gerald asked that we reverse our decision. To reverse our decision would be going against the Constitution of the United States, against every court case that has been filed in the name of the Establishment Clause. I simply don't see given our financial situation, how spending lots and lots of money to an end that we know the outcome of..

Supervisor Gerald – let me ask something else. You keep saying we're passing out Bibles, we didn't pass out one Bible, they lay on the table for anyone to come by and pick them up. We did not pass out Bibles at any time.

Dr. Harris – did you read any of the court cases that I gave you to read?

Supervisor Gerald – I read one.

Dr. Harris – what did it say? You may not give Bibles out in public schools. That is the law Mr. Gerald. To suggest that we do anything else is violating the law.

Supervisor Gerald – it's against the law for someone to come by and pick up a Bible?

Dr. Harris – it is against the Constitution of the United States and the Establishment Clause of the Constitution, so yes, the end answer is yes, it is against the law. And if we continue to do it, we would be sued. Right now, Pittsylvania County, a Federal judge just ordered them to pay the complainant \$54,000 for violating the Establishment Clause of the Constitution. I don't know about this Board, I do know, but we don't have extra money to be throwing at problems that I can't fix. In my meeting with Mr. Gerald in my office, as a professional courtesy, I explained to him the difficult situation we were in, as a Christian and someone who believes in God, I feel very strongly that Christianity has a place in our society. But making a decision that goes against all precedents is not a good decision and not one that I'm really in control of. So I've written this letter, I've given you a copy, I've given it to the Floyd Press, if they choose to print it they can, if they don't, that's their concern. It's not really a question that can be argued. We don't have the authority to supersede the Constitution of the United States. It would be a lose/lose situation to involve ourselves in a court case that would cost tens of thousands of dollars to which we know the outcome of, would be ridiculous. We didn't respond to Mr. Gerald in Public Comment because we don't respond during that time. It was brought up later by another Board member and we had a lengthy discussion about this in our Board meeting. That was probably the biggest thing we discussed last night as to how all of this played into the school system.

In other items, we approved our Gifted Plan, Local Special Education Plan, 504 Plan, Crises Action Plan, all overnight field trips for the year. We will be doing the Adult welding class again this year, it has been very well received. We have 15 slots open with a cost of \$395. Half of whatever money we bring in we use to pay the instructor, Mr. Thompson, and the other half goes back into the welding program to buy materials and supplies. I think this is something the community has really valued over the past year. The student membership for August was 1995 students, that's good. That's 45 students over what we projected. We lost students at a record pace last year, we seem to be gaining some of them back. For those 45 extra students, that's \$5000 per student. One of the next things that we talked about the week before where you agreed to cover any overages for the three teachers, those teachers are hired, the classes are separated. You can see on the back of the sheet, the class sizes have been lowered. I have been in every classroom and the teachers give me a thumbs up when they see me. I feel you'll have some teachers at your meeting later in the month. It has really improved those things. Right now with the number of students we have, it will not cost you an extra cent.

Chairman Clinger – you put in your information that we guaranteed up to \$130,000 in funding?

Dr. Harris - \$20,000 for the first part of the bi-annual appropriation and then \$110,000 for the latter part. We just lumped it together. As of right now, it will not cost you anything as long as we have students for ADM. Tennis court renovations – we have this out to bid right now. We ran into a little hangup. The people who are coming to evaluate our tennis courts are saying we really need to do more than just put a 2" lift over the courts. They have a process now where they bring in one of the machines that actually chips it up and puts it down like they did on Baker Street. They were saying that the shape the courts are in now, they really should be taken up down to the gravel and then put the asphalt back down to use as a sub-straight, then they use a laser level to level everything out and compact it, then put the asphalt down. We're a little slow getting the bids back but we hope to have the project done this fall with new fencing also. We went over the SOL test scores with our Board. We have one school, there are all sorts of levels of accreditation, for the first time ever, we have a school in warning. Willis

Elementary is accredited with warning. We have started an improvement process to improve their math scores. They need a pass rate of 70%, they had 69.6%. For that, we've joined 200+ schools in warning in Virginia. Still, for our County, first time ever we've had a school in warning and is something we'll have to work on. As the Standards get higher, our requirements get higher as well. We set the times for the School Board visitations that we do every year to sort of begin the budget process to hear from our constituents about things we need to look at closely as we enter into the budget.

Supervisor Yoder – did your Board take a formal action on the ban of Bibles, the whole issue?

Dr. Harris – no formal action was taken.

Supervisor Gerald – as a Christian I have to answer to a higher power than Federal courts and the Constitution. People have fought against God for years.

Supervisor Allen – out of the three new teachers hired, were any Floyd County residents?

Dr. Harris – yes, one was. The Check teacher is a Floyd resident. The other two, one just moved here from Florida, her husband is working on a graduate degree at Tech. She was a teacher in Florida last year. The other one just graduated from Radford University and she was substitute teaching in Montgomery County. We like to hire Floyd County residents when they are available.

Supervisor Yoder – what schools and classes did they go to?

Dr. Harris – one 3rd grade class at Check, one 3rd grade and one 2nd grade at Floyd Elementary.

Supervisor Yoder – we appreciate you getting them hired that quickly.

Dr. Harris – what helped us is that we had posted on our website anticipated vacancies so we had about 20 applicants already, kind of waiting in the wings. That Tuesday night after you approved for me to possibly exceed our budget, I called the principals and they began interviewing the next few days. My last interview I conducted at the Christiansburg Library, she was working over there, so we met there. By Thursday of the following week, they had their own classrooms and were up and running.

Agenda Item 8 – Old/New Business.

No items for discussion.

On a motion of Supervisor Allen, seconded by Supervisor Yoder, and unanimously carried, it was resolved to adjourn to Tuesday, September 23, 2014 at 7:00 p.m.

Supervisor Yoder – aye

Supervisor Turman – aye

Supervisor Gerald – aye

Supervisor Allen – aye

Supervisor Clinger – aye

Daniel J. Campbell, County Administrator

Case C. Clinger, Chairman, Board of Supervisors