

**BOARD OF SUPERVISORS  
REGULAR MEETING  
MAY 8, 2012**

At the regular meeting of the Board of Supervisors of Floyd County, Virginia, held on Tuesday, May 8, 2012 at 8:30 a.m. 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 Yoder led in the Pledge of Allegiance.

The minutes of April 10, 2012 and April 24, 2012 were presented to the Board for review and approval.

On a motion of Supervisor Allen, seconded by Supervisor Turman, and unanimously carried, it was resolved to approve the minutes of April 10, 2012 and April 24, 2012 as presented.

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

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

On a motion of Supervisor Allen, seconded by Supervisor Yoder, 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, Director of Planning and Community Development, next appeared before the Board. She presented Agenda Item 7a) Subdivision plats as approved by Agent for April 2012. She also reported that a management team has been formed for the innovation

center project. The team will focus on research, funding and other issues. Hope to have an A&E firm on board by September for design of areas for research/development, lab space and overall energy efficiency of the building.

Agenda Item 7b – Appointment to Montgomery-Floyd Regional Library Board, 4 year term, 1 appointment.

On a motion of Supervisor Yoder, seconded by Supervisor Turman, and unanimously carried, it was resolved to reappoint Mrs. Ginny Gardner to the Montgomery-Floyd Regional Library Board for a four year term.

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

Agenda Item 7c – Appointment to the VASAP Advisory Board, one year term.

On a motion of Supervisor Allen, seconded by Supervisor Yoder, and carried, it was resolved to reappoint Mr. Doug Thompson to the VASAP Advisory Board for a one year term.

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

Agenda Item 7d – Appointment to New River Community College Board of Directors, 4 year term, one appointment. The Board deferred the appointment as a result of no letters of interest being received.

Agenda Item 7e – Appointment to New River Valley Community Services Board, 3 year term, one appointment.

On a motion of Supervisor Turman, seconded by Supervisor Allen, and unanimously carried, it was resolved to reappoint Mr. William Gardner to the New River Valley Community Services Board for a three year term.

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

Agenda Item 7f – Appointment to New River Valley Planning District Commission, three year term, one appointment.

On a motion of Supervisor Allen, seconded by Supervisor Yoder, and unanimously carried, it was resolved to reappoint Mrs. Evelyn Janney to the New River Valley Planning District Commission for a three year term.

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

Agenda Item 7g – Update on Courthouse project. Mr. Campbell reported that Graham/Nolen had received the initial contract. They worked as long as they could last Fall to complete the project before cold weather. The contract was for \$118,660, of which \$50,000 has been paid. The repairs so far have cut down or prevented leakage around windows. They are now doing masonry repair and replacement of any needed bricks. They will then power-wash the entire building and apply the sealant. Hope to have everything completed this month with good weather. It seems to be a very successful project.

Agenda Item 7h – Update on Virginia Public Authority Lighting program. The Library lighting has been completely replaced in the old section with the new lights. We have received many compliments from the staff and patrons of the library. Mr. Cox, our Maintenance Supervisor, is replacing lights in the Administration Building and Courthouse as time allows. Will probably take him 30-60 days to complete as he works around other maintenance tasks. The project is expected to cost \$6045 with a reimbursement of \$5000 from the AEP grant.

Mrs. Stephanie Shortt, Commonwealth’s Attorney, next appeared before the Board. She reported:

- One jury trial last month, two more coming up;
- Continue to handle large numbers of drug cases;
- Preliminary capital murder case is scheduled for October;
- Will apply to the Compensation Board in June for temporary funding for part-time Commonwealth’s Attorney position. Will be applying for the same requested amount.
- The Sentencing Commission determines staffing standards based on number of cases. Am working on this because our case numbers seem to be extremely low.
- Funding for the part-time attorney is holding well – will use State funds first, still have some County funds remaining.
- Long term planning of the State and County should include another attorney for the office;
- Looking at upgrades for two computers in the office, they are 2003 models and older;
- Have updated camera, recorder and CD duplicator with Asset Forfeiture Funds.

Agenda Item 7i – Distribution of draft Virginia “Utility-Scale Wind Energy Project Ordinance”. Mr. Campbell commented that this is the official State model ordinance. We may never get to a point where we have an ordinance but this should assist the Task Force as they go through their research.

Supervisor Yoder commented that the Task Force has had one meeting to date and have communicated by e-mail also. There is some confusion on the part of the Task Force as to what we are supposed to be doing. We would like to compile a list of the concerns and get those to the Board to focus on top starting points. Would like to bring that list to the Board meeting on May 22.

The Chairman called for the Public Comment Period.

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

Mr. Carl Ayers, Social Services Director, next appeared before the Board. He reported:

- Meth lab was busted this morning by Sheriff's Office with two children involved that came into our care;
- Very challenging month with substance abuse being the main factor, especially with treatment delays;
- Case loads have been steady for three months – 2100 participants in SNAP and 2700 in Medicaid;
- Transportation issues and felony convictions of applicants for our services cause problems with employment. This is especially seen in WIA and DRS programs, which will not serve anyone that has a felony conviction.
- Presented copy of Local Profile Report for the Board's information. Received this report at a meeting he and Mr. Campbell attended in Richmond provided by the Social Services Commissioner. He noted that numbers of cases and persons served have doubled since 2005 with the same amount of staffing. Report shows that we are in very good shape as a locality and how we operate.

Sheriff Shannon Zeman next appeared before the Board. He reported:

- Meth lab was taken this morning; clean-up costs will be involved.

Mr. Campbell presented a draft proclamation for the Board's review, recognizing National Law Enforcement Week.

On a motion of Supervisor Gerald, seconded by Supervisor Turman, and unanimously carried, it was resolved to adopt the proclamation as presented, recognizing National Law Enforcement Week (Document File Number \_\_\_\_\_).

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

Sheriff Zeman continued in his report:

- Appreciate all the team effort in the County – his staff, Board of Supervisors, Town Council, and the community.
- Patriot system – have had a few minor things to work on, doing final punch list now. Request has been sent in for reimbursement receipt of the costs.

Chairman Clinger questioned the Sheriff concerning the draft Agreement with the Town for law enforcement services, if he was agreeable to it.

Sheriff Zeman stated that he was. Also working with Town Council on some speed issues and pedestrian crosswalks. The new bicycle patrol program is also working well.

Delegate Nick Rush next appeared before the Board. He presented certificates of commendation from the General Assembly to Mrs. Maggie Sutphin, retired Commissioner of Revenue; Mrs. Mary Turman, retired Treasurer; and Mr. Wyatt Gearhart, champion of the National Tractor Driving Competition. He also provided a certificate to Mr. William Gardner for his service as a Board of Supervisors member who was unable to attend.

On a motion of Supervisor Yoder, seconded by Supervisor Gerald, and unanimously carried, it was resolved to amend the agenda to include discussion on the Agreement between the Sheriff and Town Council, Tourism Authority Agreement and the proposed CDBG project.

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

In discussion of the Agreement between the Sheriff and Town Council for law enforcement service, the Board deferred the matter for discussion with the County Attorney later in the morning.

Chairman Clinger reported that the Town Council finds the Tourism Authority Agreement acceptable; they have sent it to the Chamber of Commerce for their review. The County is scheduled to contribute no more than \$21,000/year, the Town \$30,000/year and \$20,000 will be raised in private funds. Discussion ensued on the disbursement schedule – one lump sum or quarterly as other agencies. The Board deferred the matter for discussion with the County Attorney.

Mr. Campbell next reported that an application had been submitted to CDBG for a planning grant and was approved for the initial phase, in the amount of \$3000. The grant could turn into a possible grant of up to \$30,000. He and Chairman Clinger had completed a windshield tour of the Newtown Road neighborhood for possible use of this grant. The grant would cover housing repairs, drainage improvement, road improvement and possible sidewalk installation. A management team would need to be set up, with possible assistance from the New River Valley Planning Commission, for items needed for the application. Community meetings must be held to gauge interest of the neighborhood. The funds would be available to low and moderate income households. Items 1-6 of the application (as presented to the Board)

need to be completed by June 30. This may entail the use of a private or outside contractor to meet the deadline.

Consensus of the Board was to proceed with the application. Consensus also to enlist the assistance of Sonny Vaughn, Bruce Turner and Connie Hayden for community involvement if they are willing to serve.

Dr. Kevin Harris, School Superintendent, next appeared before the Board.

He presented the School Board meeting highlights from the April 18, 2012 meeting. He noted that applications are being accepted for the principal position at Floyd Elementary School. Hope to have someone on board by July 1.

Dr. Harris presented the draft FY13 budget with the following comments: Our budget committee has worked very hard putting this budget together. It was presented to the School Board last night. I wanted to bring the draft copy to you today so you could see why we are where we are right now. There is a story behind it and we remember stories better than numbers so I'll start off with a story first so you'll understand why we're asking you for the things that we're going to ask you for. If you look at our budget this year, we realized very early on that even though we'd made about \$1.38 million in cuts over the last two years, we still had to make additional cuts. Because of the funding formula from the State, the Governor made a big deal about increasing funding for schools, but he put it in categories that we didn't have a lot of discretion with. The other thing that came down toward us in bits and pieces was the passing on of VRS to our employees. That took a number of twists and turns and is a part of the story too which I'll talk about in a moment. I just want to make this Board well aware that these are cuts that we've made in addition to the last \$1.38 million over the last two years. We have a program in the school system where we bring back former employees and pay them at their per diem rate to substitute in the schools. One of the items in the policy lists that this program will only be done if there are available resources. We do not have the \$177,000 that it takes to fund this program this year. There was more money in this program that we had to take out to put in substitute line items because instead of paying someone \$590 a day to come back, we'll be paying them \$75. The elementary teacher, we had a teacher leave from Willis Elementary School and calculating the numbers that we have there, we can actually run that school with one fewer teacher. We've been operating the school system with 3.5 nurses, our proposal is to eliminate the part-time nurse and have three full-time nurses to cover the five schools. In the budgets that you have received in the past, TBA positions were included, to be announced positions. In the budgets previously, they were always in there because we can't predict what is going to happen down the way, especially in special education. The special education numbers grew this year, so teachers had to increase to receive Federal funding. We have eliminated three teaching assistant positions and one teaching position from the budget, they are no longer there. We reduced our materials and supplies by \$143,000, materials and supplies from custodian, maintenance and classroom supplies. We've reduced that by 25%. Virginia last year, allowed us to move ITRT (instructional teaching resource teachers) positions back to the classroom. We have teachers in the schools that teach teachers how to use technology. We're going to move an ITRT person back into the classroom. One vocational teacher at the high school was on a 12-month contract, only one, we reduced that 12 back to 11, like the other vocational/technical

teachers to be fair. We eliminated one block of PE at the high school, simply because the numbers allowed us to do that. The position will be split between Check Elementary and the High School. We were renting an adult education center, a little building here in Town to do adult education. We feel we can move that to a building we currently own and save \$10,000/year. Maintenance overtime, we're going to be eliminating \$22,000 from the budget, because they are given compensatory time, not overtime. So, as of December 13, 2011, we had trimmed \$598,022 from the budget. We thought we were in good shape. If you've been monitoring what's been happening in the news, you've heard that in the last 45 minutes of the General Assembly, they passed a VRS bill which passes on the VRS to the employee over a five year period. It was put together very hastily; we're still getting information about it. I accept full responsibility for a misunderstanding that I had, along with other Division Superintendents across Virginia. We understood that we could phase it in over five years. What my understanding of that was we would pass the 1% cost of VRS to the employee and we would match that with a 1% raise. We could then do that in each of the next five years until the employee share was at 5% and we'd give a 5% raise. We thought we were good to go until we sat in on a VRS webinar last week and we found out we were wrong. What the phase-in meant was, you could pass the 1% onto the employee, but then you have to cover the 4% for a total of 5% that would go to VRS. VRS is going to get their 5% either way, 1% from the employee, 4% from the employer, 2% from the employee, 3% from the employer for example. They don't care how you give it to them as long as they get 5%. We were going on the 1-1 assumption so now we have to give the employee, it makes sense, we'd save money, we're going to pass the 5% savings along to the employee and match that with a 5% increase in salary. The employee still loses. We were paying the employee portion of 5% but now we have a rate increase from 11.66% to 16.66%. We were paying 5% and then here comes another 5% on top of that. This is once again, being passed off to the localities. Nothing you created, nothing I created, but we have to deal with it. What we found out when we looked at it, we already had 1% in the budget, so now we have to come up with an additional 4%. Now we're looking at a negative \$415,012. So we have to do some more cutting. One of the things that I had proposed was a new scale for teachers, paying them for their degree, paying them for their longevity. All those things have to be taken out for a savings of \$308,747 which puts us to a deficit of \$106,265. We have a way to fix this but it is in a way that I don't believe has ever been done here before. Because of some factors that were totally out of my control, some factors that paid out well for the school system, we're going to have a projected savings in this year's budget, a budget that I didn't create, of about \$300,000. What I would ask you, as a Board, is to allow us to carry over that \$300,000 to help us balance our budget and use the leftover money for the increase in fuel that we've projected and any money that is left over at the end of next year, like I proposed before, use that to put toward purchase of used buses if and when they become available. I've given you a draft copy of the budget, it was presented to the School Board last night, and we're still working on it. I said to our School Board, if you can find a place to cut additional things in this budget without affecting people, let me know. We can't find them. I think that you've asked for a realistic budget with what it costs to run the school system. What we've come up with is a budget that shows what it costs to run the school system, there are no built-in excesses, no money hidden anywhere that I can find. If you want to help me with it, maybe you can find things that I can't. There is no additional money without affecting our people. One of the promises that I've tried to keep since I started here is not to lay people off. Prior to me coming, and since I've been here, we've not laid anybody off. People depend on our school system, we're the largest employer in

the County, and we haven't laid anyone off. Part of this \$300,000 is the result of a mild winter. When did we last have a winter like we just had? Part of that \$300,000 in heating savings is there, part is that we didn't have anything major go wrong in terms of maintenance, like a boiler replacement or an air conditioning unit. We've had a good year so we have some savings. My request of this Board is to allow us to look at carrying over available savings from this year to next year to keep this thing afloat one more year. At that point, we're going to have to look at something different. We've already cut 10% of our operating budget over the last three years. This is significant in a County with a \$20 million budget. I hope you see the effort that has gone into this. Once again, I apologize for the mistake but I think I was in the camp with a lot of people. When they told us we could phase it in and they say it in a way that you think is going to be helpful, actually phasing it in would cost the locality more in the long run. I think we just have to bite the bullet and pass everything along. In July of this year, all teachers will have to pay their own 5%. What they've done by this piece of legislation is lower our beginning teacher salaries by \$1700. Our starting salary is now \$33,300.

Chairman Clinger – the gross amount is still the same, it affects the net.

Dr. Harris – that's right, it would not change the gross. This is something that was forced on us, not something that we chose. This has been a really difficult process. I wish I had documented how many hours we've spent on this, we have a lot of people looking at it, trying to find ways to preserve what is important. Without carrying over this projected overage, we have to go back to the drawing board, and the drawing board involves people. I'm not saying that for any other reason. I would rather not do that. If you could find any extra money in this budget we need to talk about it. Costs are what costs are. We didn't anticipate fuel going up like it did and we can't get kids here without fuel. If it goes up again like it did this year, add more to it. Our buildings, since I've been here I've inspected all of them, they are in pretty good shape. Our roofs have been inspected and are in good shape. We're fixing them so they don't get worse. I am actively pursuing the maintenance of buildings because we have to keep them for a long time. It is costing more to do everything. If you look at the budget that we've been operating in, we are doing more with less. To the credit of our teachers, we're doing an equally good job. We have not seen performance decrease. We are not a County that cannot afford a huge tax hike, just like we can't afford losses of jobs. Some of the people that work for us in some of the positions like teachers aides, cafeteria workers or custodians, they work very hard for wages that are much too low for the work that they do. Their families depend on their salaries and insurance, the money they take home to put food on the table and make things work. Some of the positions that the cuts would affect would hurt a lot of people and that troubles me. I wake up at night worrying about this. The budget was presented to the School Board last night for their review. If this Board approves the carry-over, the School Board is scheduled to meet again on May 14 and they can approve it at that time, for my presentation to you on May 22.

On a motion of Supervisor Yoder, seconded by Supervisor Gerald, and unanimously carried, it was resolved to approve the carry-over of \$300,000 from the FY12 to the FY13 School Board budget.

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

Supervisor Allen – aye  
Supervisor Clinger – aye

Mr. Dan Huff and Mr. David Clark, Virginia Department of Transportation, next appeared before the Board.

Mr. Huff reported that the signs have all been installed on Macks Mountain Road. Patching is being done in Town ahead of the overlay schedule.

Supervisor Allen – appreciate brush cutting on Franklin Pike, made a big difference. Also, great job on Thompson Road.

Supervisor Gerald - Homestead Road needs paving and improvement. Quesenberry Road – a citizen called VDOT five weeks ago for dust control and nothing has been done. Mowing is needed on secondary roads.

Mr. Clark commented that the primary roads have been done, hope to start secondary roads soon.

Supervisor Allen – nothing to report.

Supervisor Turman – nothing to report.

Supervisor Yoder – nothing to report but greatly appreciate mowing. Would like VDOT to research the intersection on Route 221 at the Country Store to see what could be done for improvement.

Supervisor Gerald – pavement on Route 787 is breaking up.

Supervisor Clinger – nothing to report.

Mr. James E. Cornwell, County Attorney, next appeared before the Board.

Agenda Item 6gi) Update on new laws passed by the General Assembly. Mr. Cornwell presented a summary from the Virginia Municipal League for new laws that will go into effect on July 1, 2012 as adopted by the General Assembly. He commented that many are not applicable to Floyd County because they are land use/zoning related. On page 2, there is one related to cleanup of meth labs. An ordinance can be adopted that allows for anyone convicted of manufacturing meth liable for the cost of cleanup. The other one is speed limits on dirt and gravel roads. The way that I've seen that handled in cities is, you've probably seen the signs when you enter a city or town, the maximum safe speed is 25 mph unless otherwise posted. If you are interested in that, we can look at it. But the problem is, I don't think the State is going to enforce it and it would be a local enforcement with local costs. I'm not sure that you have to post every dirt road if you put those signs up at the borders entering the County. Attached to that is also a legislative summary which has all changes in more detail. The big news is that you now have to enforce storm water regulations. They turned over to you a few years ago the erosion and sediment control and now they've turned over storm water regulations. The Department of Conservation and Resources has a draft ordinance which is 40 pages long to be adopted by the counties, cities and towns. Our firm volunteered to assist in that program, an attorney in our

Richmond office has it down to 17 pages. The effect in Floyd will not be as great as in other counties because it does not apply to single family dwellings of one acre or less, but it does apply to subdivisions. You will have to take a look at the regulations, adopt an ordinance. You can charge permit fees, which the General Assembly says is supposed to support the program. Previous to this time, the storm water regulations were mandatory in the Chesapeake Bay area, now they are State-wide, and now you have to enforce them. This has to be in effect by July 2014.

Consensus of the Board was for the County Attorney to draft an ordinance on meth lab cleanup costs for the Board's review.

Mr. Cornwell also commented that the Agreement for Law Enforcement Services and the Tourism Authority Agreement have been reviewed and both are good as far as form.

On a motion of Supervisor Yoder, seconded by Supervisor Turman, and carried, it was resolved to go into closed session under Section 2.2-3711, Paragraph A.7, consultation with legal counsel retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

Supervisor Yoder – aye  
Supervisor Turman – aye  
Supervisor Gerald – aye  
Supervisor Allen – absent for vote  
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 Gerald, seconded by Supervisor Allen, and unanimously carried, it was resolved to adopt the following certification resolution:

**CERTIFICATION RESOLUTION  
CLOSED SESSION**

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 legal matters in accordance with Section 2.2-3711, Paragraph A.7, 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; (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.

On a motion of Supervisor Allen, seconded by Supervisor Turman, and unanimously carried, it was resolved to approve the Agreement for Law Enforcement Services Between Corporation, Town of Floyd, Virginia and Shannon Zeman, Sheriff of Floyd County, Virginia and Floyd County, Virginia as presented (Document File Number       ).

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

Consensus of the Board was to defer action on the Tourism Authority Agreement until review by the Chamber of Commerce and clarification of the payment schedule is received.

Agenda Item 7j – Work session on proposed FY13 budget. Mr. Campbell reviewed the funding approvals received from the Compensation Board and Department of Taxation. The Board deferred further work until the May 22, 2012 meeting after receipt of the School Board’s approved budget.

On a motion of Supervisor Yoder, seconded by Supervisor Allen, and unanimously carried, it was resolved to adjourn.

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

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Daniel J. Campbell, County Administrator

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Case C. Clinger, Chairman, Board of Supervisors

