

**BOARD OF SUPERVISORS
REGULAR MEETING
JULY 24, 2018**

At a regular meeting of the Board of Supervisors of Floyd County, Virginia, held on Tuesday, July 24, 2018 at 7:00 p.m. in the Board Room of the County Administration Building thereof;

PRESENT: Lauren D. Yoder, Chairman; Joe D. Turman, Vice Chairman; Jerry W. Boothe, W. Justin Coleman, Linda DeVito Kuchenbuch, , Board Members; Terri W. Morris, County Administrator; Cynthia Ryan, Assistant County Administrator.

Chairman Yoder called the meeting to order at 7:00 p.m. with the reading of the handicapping statement.

Agenda Item 2. – Opening Prayer.

The Opening Prayer was led by Supervisor Coleman.

Agenda Item 3. – Pledge of Allegiance.

Supervisor Kuchenbuch led in the Pledge of Allegiance.

Agenda Item 4. – Approval of month-end disbursements.

On a motion of Supervisor Boothe, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to approve the June 2018 and July 2018 month-end disbursements and additional bills as presented.

Supervisor Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 5. – Public Comment Period.

Chairman Yoder called for the Public Comment Period.

Sheriff Brian Craig, Burks Fork District – I would like to start off by saying thank you. The Floyd County Sheriff's Office and I greatly appreciate the support and dedication that you have shown to law enforcement and all of the emergency services here in Floyd County. There is no doubt that this Board truly appreciates safety within this community. Not only do the deputies appreciate your support, but their spouses do, too. They are the ones who worry when they go off to work. Our families constantly worry about our safety. I will tell you that these men and women of the Floyd County Sheriff's Office are dedicated to the safety of this community. Every one of them signed up to protect and serve this community and I think they do an incredible job. They are here to keep you and your family safe, day or night. They are the

ones who drive these roads keeping the community safe; all while trying their best to avoid and dodge deer and bear nowadays. They are the ones, at all hours of the day or night that shows up to help. These deputies know the dangers of the job, but I guarantee you none of them signed up to get hurt or even killed while protecting this community. But they know and understand that is a possibility. But rest well and sleep well knowing we have great deputies protecting us. You the Board have taken a huge step in the eyes of our community with the safety of our community. You have allowed me to hire 4 new deputies for new positions – 2 of these for our schools and 2 of these for the road. I could go on and on about protecting our schools. You know this is where my heart is at. This is, in my opinion, the most precious part of our community. And I hope one day that we have a SRO in every school. But for now, this is an incredible step towards the safety of our children. I would also say that the parents are grateful for this. I know as a parent and as Sheriff I am very grateful. As for the 2 additional patrol deputies, this gives our department the safety and coverage needed to have 3 deputies per shift. I could also go on and on about the added safety of this. These men and women truly appreciate knowing there is another deputy there to watch their back. And their families do too. The continued steps you have taken to support this department will be felt for years. This comes at a time when we need all the support we can get. In my 20+ years, I have never seen the press and society so against law enforcement officers. We have been demonized as a whole, but I will say here in Floyd County we are very blessed that we do not see this. I will say this demonization is one of the reasons why we have seen a drastic decrease in people applying for a job in law enforcement. The other factors that go with this include long hours, shift work, missing many events with their families, working on holidays, pay and other reasons. But I will end with this – I can truly say that all of you have done your best to lessen the negative side of law enforcement, increase morale, and enhance the safety of each and every deputy. These deputies and their families see this and know that you care and the department and I truly know that you do and we would like to thank you all. Thank you.

Mr. Eric Branscom, Locust Grove District – I hope you are doing well this evening. I don't get down very often from my office, just because of the timing of the Courts and having kids and so forth. I wanted to take the opportunity to give you a brief update on what's going on and some of the things we are doing. I want to echo a lot of what Sheriff Craig just said. I started prosecuting in 1996. For the past 22 years I've worked with a large number of different departments, spread from Tazewell County all the way up to Winchester and various places. I've done special prosecutions and such. I could tell you that the Floyd County Sheriff's Office is second to none. I'm serious about that. What you have is a team that has been developed for years, with a dedication to protecting the community and working with the community. I'm not saying they never make any mistakes; we all make mistakes. But I see people here who learn from their mistakes and they move on and are always trying to get better. Sheriff Craig has done a great job. This is something that obviously takes years to build. I'd say it is a credit to not only the current department, but for the department that has been going back for years. The leadership and the members of the Sheriff's Department over the years have built a fine organization. Again, I would say it is second to none to all that I have worked with. I am proud to be able to work with them on a day-to-day basis.

Some of the things that we are doing, I want to bring you up to speed on, probably the number one thing that the Board is involved in is the Drug Court Program. The Drug Court Program, as you may have heard, received a grant about six months or so ago. I don't know the

exact timing but we have managed to put that into place, hired a case manager to deal with the Floyd cases. We're now up to 9 participants in the Drug Court Program. We are on our way to 20. We are pausing a little bit at this point to make sure everything is working with each other and keeping control of everything. But the Drug Court Program is working very well and has some very strong candidates. We are going to have some more graduations. I hope that you can make it to our next graduation ceremony when we get to that because we are going from victory to victory with this. Not everybody makes it through the Drug Court Program, but I can tell you that we are making a real difference here. We are saving money for the County by giving these people opportunities and trying to end the cycle where they commit a crime, go to jail, spend their time, come back and go back into crime and then back into jail – this cycle that goes over and over again. When we put somebody in the Regional Jail, it is something in the neighborhood of \$800-\$900 per month. It is much, much more economically feasible, morally better to go through and solve that problem. We are in a position where we can do that. I think that the Drug Court Program is definitely making strides in that area. We are moving forward with that.

The other thing that may come up that you have seen more of is about drug enforcement. We are seeing a little bit more of an increase of heroin coming into the County, not a huge amount, but we are seeing some of that. You have probably heard that the New River Valley Regional Task Force dissolved back in March or April. But since then the Sheriff's Office has put together a very effective drug team using people from the State police as well as drawing on experience. One of the effective things that has been done over the years that has left Floyd in a position that is superior to most other jurisdictions is that we've had very good people involved in that program – Chad Harris, Scott Garman, and now Michael Wade. They were involved in that program and learned a lot and now they are in place in Floyd to be there for this. I would say we have a very effective drug enforcement program. Some of it has been making the news recently with busts and sting operations that we've had. I am very proud that is going ahead by leaps and bounds. I don't want to take up too much of your time. There are a lot of things going on. I do want to let you know that our door is always open to anybody who wants to come by if you have any questions about any particular things we are doing. We are always trying to find ways to work more efficiently, to save money for the County, to find ways to get new funding streams and using asset forfeiture when it is appropriate, to assist the Sheriff's Office in various ways to advance law enforcement, get new equipment and etc. Again, anytime you have any questions feel free to give me a call or drop on by. Thank you.

Ms. Jayne Avery, Courthouse District – I am always thankful to be here and hear these comments. I am very proud of being part of this County. I'll shift it to a different kind of safety. I came here a few years ago to talk about the vulnerability of our water here in Floyd County and thankfully we were able to keep the pipeline out of our County. But I don't know if any of you when you go down Rt. 221...just recently I was on Adney Gap and they are bringing the pipeline right under the Parkway. It is just horrifying. So we are still working on it. We haven't solved the problem. The biggest concern I have...well there is the big picture concern of the whole process of companies being able to take out people's land and take over people's land. But again, just because the pipeline is not in Floyd County doesn't mean that we are not still very vulnerable. Any leakage in that pipeline can still affect our entire water system because of that as I once described, and many of you may not know, the horizontal fracking of the ancient rocks of these mountains. Things like oil, gas, that kind of contaminant can travel incredibly far. So

we are still extremely vulnerable. The fact is that these mountains still have slight quakes now and then. When you look at that pipe and you actually see that huge pipe before they have it down in the ground, it is like no way can that much gas be guaranteed to not leak at some point in time. So as still part of Preserve Floyd, which is trying to get back together again and keep working on this, but as an individual too, I am very concerned about our right to clean water and our land. I would urge you, as a group, to come together and communicate with our Governor to stop this process. I'm going to pass this on to Veronica who has more detail about what that can do. Thank you.

Ms. Veronica Santo, Courthouse District – Good evening. As Jayne mentioned she and I have been involved in the movement to stop the pipeline for some years now, along with a group we belong to called Preserve Floyd. We are grateful for this Board's support in that endeavor over the past four years. When we drive down Rt. 221 and when we drive the Parkway and we see the giant ditch they are digging and the giant pipeline going in, it is easy to think this is a done deal. When in reality, we still have some leverage points. The Governor could still issue a stop work order. The DEQ [Department of Environmental Quality] could still issue a stop work order. The State Water Control Board could still issue a stop work order that would stop this thing in its tracks. One of the groups that have really been helping to make that case is called Mountain Valley Watch. They have a page on Facebook if you want to check them out. They are volunteers that are documenting violations by the pipeline construction and sending that information to the DEQ to say: Here is where our drinking water out of our well at Bent Mountain on Rocky Road has become contaminated with sediment because of the construction project; here is where the North Fork of the Roanoke River...here are photographs of how the construction has created so much sediment in the Roanoke River. Jayne mentioned that our local representatives...we have a chance right now to contact the Governor, contact the DEQ, contact the State Water Control Board and talk to them about our local concerns. I have a printout of a copy of a letter that State Senator John S. Edwards of Roanoke sent to the Governor. I have copies for all of you. There are a few points I want to stress that he has written here. To quote his letter, "Numerous scientists agree that erosion and sediment control practices are ineffective in [certain] slopes," it goes on to detail what percentage slopes those are. "In Virginia, MVP crosses 199 steep grades exceeding [this slope] including 12 segments that [double what these scientists are saying.] It is too much of a slope to guarantee any kind of erosion and sediment control can actually be effective. "In fact MVP crosses some of the steepest terrain in the eastern United States with unstable, porous limestone "karst" land filled with caves, sinkholes and landslides." He goes on to say, "it is not an overstatement to say that science dictates that this pipeline cannot be safely built in this area." On the second page of the letter it states, "Roanoke City already is responsible for constructing sediment and erosion protections in the amount of \$105 million over the next 20 years due to the existing Roanoke River and the City estimates it will be responsible for another \$36 million solely as a result of MVP." So we have erosion and sediment problems. We have local taxpayer problems. And then of course, we have a public safety problem. A 42" diameter, 303 mile long tube filled with high-pressure natural gas is going to leak. When it does, not if it does, but when it does; it is likely to explode. In this letter John S. Edwards says, "Just last month, an explosion occurred in West Virginia from a 36 inch pipeline causing a large forest fire. If that were to occur in this area of Virginia, a distinct possibility, the resulting destruction, even the loss of human life, would be devastating." Our citizens in Floyd County are still at risk from an accident that is likely to happen. He goes on to conclude his letter by saying, "I hope that you would advise your appointed Department of

Environmental Quality and Water Quality Control Board to halt construction of the MVP.” So that is still an option. The Governor could come through and really put his political power where his mouth is. It is about human health and caring for our land and water. I want to offer myself as a resource. My email is really easy to remember. It is where I am and who I am – floydveronica@gmail.com . So if you are considering writing a letter to the Governor or DEQ, please contact me and I will get you some really relevant points that you can use in your communications with them.

Mr. Bob Smith, Indian Valley District – I would like to echo these ladies in one regard, that we be preservationists of our quality of life, preservationists of Floyd County. I once again urge you all to vote “No” on cluster development. Thank you very much.

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

Agenda Item 6. – 7:15 p.m. – Mr. David Rose – Davenport & Company.

Mr. David Rose, Davenport & Company – Introduced his colleague Mr. Griffin Moore and then presented the Capital Planning Analysis he and Mr. Moore developed for Floyd County which looks at school funding in the area of \$30 million.

Overview: Davenport & Company is out of Richmond, VA. We worked with you a couple of years ago and hope to work with you going forward. We work with most of your neighbors. We feel like we understand the area.

Goals & Objectives: 1) Review Floyd County’s financial situation, which is very solid; 2) debt profile of Floyd County; 3) debt capacity (relative level of debt a local government can take on) / debt affordability (cash-flow impact to a locality).

Tax Supported Debt Profile: You have about \$12 million of debt outstanding, which is about \$6.5 million school debt and about \$5.5 million general County debt. 92% of Floyd County’s principal on debt will be paid off in 10 years. It is a declining slope so we will talk about layering in some of the new debt to minimize the affordability side – the cash flow impacts.

Interest Rate Trends: Despite a recent upward trend, interest rates for tax-exempt borrowing are at historically low levels. Interest rates are being pushed up by the Federal Reserve. The sense is that interest rates are going to move higher. We have assumed for our cash flows a higher interest rate than if we were to borrow money today. We will look for the most cost effective money. We will do that in a competitive mode. Interest rates are capable of rising quickly.

Preliminary Schedule: It is now early summer 2018. We are here tonight to present initial funding strategies to both the Board of Supervisors and School Board. Over the course of the balance of the summer, we can revise our analysis. In the fall 2018 through winter 2019, this could be moving toward a bidding of the projects. As early as next summer you could be ready to receive bids and make an award. Perhaps later summer or early fall of 2019 there could be the

start of construction. That may be too fast, but we used that purposefully to look at the cash flows.

Key Assumptions: We are looking at a \$30 million program. We have come up with some initial thoughts based upon the cash flows of what we understand with this County. We have also come up with some recognition that the Commonwealth has the Department of Education program of Literary Loans. It is now back up and running. It guarantees up to \$7.5 million toward eligible projects at 3%. There are some vocational school projects that we could get \$7.5 million for and the HVAC projects total \$5.7 million. Those are the maximum amounts we could get for the 3% guaranteed. The balance of about \$16.8 million we looked at through a couple of different funding mechanisms. One is a 20-year approach. The other is through Rural Development, which is very strict, and is basically 40 years for repayment. We could possibly pay it off faster with no penalties, but they set it up as 40 years.

The Literary Loan program has always operated as follows. They are very strict about things you have to do but you get on a list. You can start your project but typically it takes three years to four years to get the Literary Loan. All of your colleagues get interim funding until the Literary Loan money is available, then you pay off the interim funding. The Literary Loan program has been stopped 4 or 5 times, every time the economy has a problem. It is not inconceivable to get interim funding for 5 or 6 years to get that 3% money. All is not lost if that happens. The interim funding is typically in that interest rate range and you are allowed to start paying the principal down. The 3% guarantee is tied to your school composite. If your school composite goes below a 3.0 threshold between the time you applied and the time that you are supposed to get the money, then you would get a 2% interest rate. However, if your school composite goes from 3.9 to 4 you still get a 3% interest rate.

There are a number of cases we looked at for the \$16.8 million that is not eligible for the Literary Loan program. Cases 1 and 2 are 20 year financing at a 4.5% planning rate. Today it would be 1% lower. Cases 3 and 4 are with Rural Development. They require that you do the funding on an interim basis for all of it and then they pay you back when it is finished. We would have considerable interim funding for all of this before we lock in permanent funding. Rural Development would tell us early on what the permanent rate would be. For planning purposes we assumed 4%.

Summary of Results: If the value of one penny on the real estate tax rate is estimated to be \$175,000, the equivalent impact for each of the four cases is as follows:

| | Case 1 | Case 2 | Case 3 | Case 4 |
|---------------------------------------|-------------|-------------|-------------|-------------|
| Annual Equivalent Penny Impact | | | | |
| 2020 | 0.0¢ | 0.0¢ | 0.0¢ | 0.0¢ |
| 2021 | 1.5¢ | 5.0¢ | 1.5¢ | 3.5¢ |
| 2022 | 3.0¢ | 0.0¢ | 1.5¢ | 0.0¢ |
| 2023 | 1.0¢ | 0.0¢ | 1.0¢ | 0.0¢ |
| Total Equivalent Penny Impact | 5.5¢ | 5.0¢ | 4.0¢ | 3.5¢ |

Case 1:

Estimated Financing Timeline – All the cases are set up the same way and the thought here is just to start the discussion and allow you to ask questions. For Case 1, in FY20, which would be next summer 2019, we would prepare two distinct Literary Loan applications – one for \$7.5 million for the Vocational School and the other for \$5.7 million for HVAC. We don't need the other \$16.8 million until the following fiscal year because for cash flow you won't be spending all \$30 million in one 12-month cycle. If rates were to start moving up we might change our recommendation to you. But if rates stay within our range, you can wait.

Estimated Resulting Debt Service – We layered in the new debt with the existing debt service. You would be paying back about \$47 million in new debt over time under Case 1. In Cases 3 and 4 it would be about \$56 million in new debt. In FY19 we have \$1.9 million in debt to \$3 million in debt in FY24.

Penny Analysis – Using FY19 as the base for debt service, we calculated how much we would need in additional revenue for each subsequent fiscal year. This shows us when we would need to raise pennies on real estate for each year. Over the next decade or so we don't have much excess cash flow. Once you get through your current existing debt, your cash reserves start to build. You might rollback the pennies, or more likely you will need the pennies for other projects.

Key Debt Ratios – Debt vs. Assessed Value – These show ratios for best practices. One ratio is how much debt compared to your taxable assessed value. Right now you are at about .5%, which is very strong. At your worst, you will go to almost 2%, which is moderate. As a policy you might not want to go above 2.5%. From a debt capacity based on this ratio compared to your peers in Virginia, you look good.

Key Debt Ratios – Debt Service vs. Expenditures – This shows how many pennies on every dollar of the budget goes to debt service. Right now you are at about 6%, which is very strong by the rating agencies. We don't like to see debt above 10-12%; that is the acceptable range. At your worst, you will go to about 9%. It is still considered strong by the rating agencies. In Case 4 it goes to about 8% because payments are stretched out. We would be more inclined to Cases 1 or 2. If you were to select either Cases 3 or 4 it would be difficult to extend payments any further. There will be another economic downturn because it is cyclical. You might want the flexibility to be able to extend payments. You are coming at this from a position of strength. You have good reserves. Your debt levels right now are very strong. You are in a good position to take on this type of thing.

Chairman Yoder – This is my 7th year on the Board and I know it was happening before I got on. We have been building toward this moment of being able to get ourselves into a financial position where we could make a decision for the future of our County. We are approaching that. This is one of the very first steps in that process. The School Board has expressed an interest in several projects. Now we are doing our due diligence to look at our financial situation and see what steps we would need to take if we wanted to work with them. I appreciate the School Board and their staff. It has been a treat to work with you. There hasn't been anything that we haven't been able to work through so far. Going forward we will make it

a priority to work together. We don't want this to be controversial. We want to go into it hand-in-hand. We are also in a good position in that we are working toward economic development. So thinking about a career and technical school expansion, it is the proper time since we have already dedicated money toward economic development. If we can work on all of this together that is going to be a real win for Floyd County. Thank you for the presentation.

Supervisor Kuchenbuch – When you look at the appendix you can see the County's strengths but also how the Schools have been operated. The school division is not spending money in a way that is not prudent. We want to educate our children. When you look at the 5 years laid out in front of us, you have been good stewards of money. It makes going into this process easier knowing that you do value a dollar and want to give our students the best that they can have.

Supervisor Boothe – I agree. It makes our jobs easier too even just in the general budgeting. I think you have done a wonderful job with the school budget.

Chairman Yoder – You have money left over each year to put into the capital improvements. You have been coming in under budget each year. This is very early in the process for our consideration. We don't need to get in a rush. We need to think about this. If we need information, then we need to ask for it. This is for our information. I would encourage all of us to really consider it. If we decided to spend \$5 million, \$2 million, or nothing, or \$30 million, or whatever it is; this is a really, really important decision that will have a big impact on the County. It will have a big impact if we don't do anything; it will have a big impact if we do something. This is one of the biggest decisions that we'll ever make on this Board so it is really important that we consider this. If we have questions on the financial side, please express those over the next weeks and months. If you have questions about what the School Board's ideas are, until we show interest, they are not going to do a lot of work on plans other than what they have done on the study.

Ms. Morris – I found it interesting when we met the other night to hear about all the new requirements for the incoming 9th graders. If we did stay on this timeframe, it would be perfect for their 11th and 12th grade graduation requirements they have to do.

Vice Chairman Turman – I found it very surprising that the incoming 9th graders have to be given their curriculum for 11th and 12 grades classes now.

Chairman Yoder – Education is really changing. The requirements for graduation are changing. No matter if we build a building or anything, it is going to change.

Ms. Morris – We will still have to meet the requirements.

Chairman Yoder – In a lot of ways it is a good thing. The State is branching out and giving more options to kids as ways to graduate. It's not just one particular path. A child who is more hands on can probably do things through internships to graduate. At the 10th District VACO meeting Supervisor Boothe and I went to today, they had a really interesting speaker who discussed some of the workforce development issues. If we are serious about expanding the career and technical school at the high school, I would like to see if he would come and speak to

us. One of the things he addressed, the State looked at people in the workforce with different levels of education. They looked at people with just a high school diploma, people with a four year degree, and those people with more than a high school diploma with some type of a certificate. For both the people with a high school diploma and with a four year degree there were actually less jobs available than there were for people qualified to take the jobs. The vacancies right now are in jobs which require more than high school, but not a four year degree. He said what happens is that people with four year degrees end up taking a job that does not require a degree but might require some other type of additional education. They are focusing, through the community college system, on people who need additional certificates. It is really interesting that we might potentially get a new career and technical school where an eighteen year old graduating high school could have both a diploma and a certificate that would enable them to get a job. There are some cases where people are getting 50% more in pay because of having one additional certificate.

Agenda Item 7.a. – Adoption of resolution for signing County Administrator Petty Cash Fund warrants.

Ms. Morris – The first item for your consideration is a resolution for the County Administrator Petty Cash Fund. We would like to add our new employee, Ms. Ellis, as one of the authorized signatures on the account.

On a motion of Supervisor Boothe, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to adopt a resolution authorizing the following officers to sign County Administrator Petty Cash Fund warrants for the County of Floyd: Terri W. Morris, County Administrator; Cynthia B. Ryan, Assistant County Administrator; and A. M. Ellis, Purchasing and Finance Clerk (Document File Number 986).

Supervisor Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 8.b. – Discussion on creating separate fund for Capital Improvements generated from Meals Tax.

Ms. Morris – The next item is discussion on creating a separate fund for Meals Tax Revenue. Ms. Ryan will speak to you about that.

Ms. Ryan – I mentioned previously that there are two different ways we could handle the Meals Tax. One way is to use our existing Capital Improvement Fund and creating separate departments within the fund. The other way would be to create a new fund. I recommend creating a new fund. One reason is that we could change the name of the existing Capital Improvement Fund back into School Construction Fund, which I believe was its original name. We could use the fund for the debt and expenditures for the schools. Because of the level of activity and dollar amounts, I think it would make it more transparent to the users to have two funds. Also, there is the public scrutiny of the Meals Tax and the money collected and also what it is being used to buy.

Supervisor Kuchenbuch – I appreciate full transparency. I like it.

Supervisor Boothe – I support having two funds, but I would like to leave them both as Capital Improvements at least for the first year, instead of changing it back to School Construction Fund. I would leave the existing fund as it is currently named, Capital Improvement Fund. I thought the idea when this was first presented was that this wasn't replacing existing capital money; it was to go with the existing capital money. I don't want to designate one fund just to the schools. Leave both funds as capital, then under either scenario if we needed to buy a bus, we could buy it out of either one.

Supervisor Kuchenbuch – I like the idea of a separate fund for meals tax so people can see that meals tax was collected and spent on capital improvements. But we can leave the name of the existing fund as it is.

Supervisor Boothe – The point I am trying to make is that this was going to be additional money on top of what was already being spent. I'm not talking about this Board, but for future Boards too, I don't want them to think they can only spend this on schools. It is like we are taking the original money and putting it all in one pot.

Chairman Yoder – The reason for designating the existing fund for schools is that all the money in the fund came from the schools. There is no money in there from any other source except for what the school system saved by coming in under budget. That is the only money in the existing Capital Improvement Fund.

Supervisor Boothe – Have we had a Capital Improvement Fund which we used to purchase fire trucks, or police cars?

Ms. Morris – The Fire and Rescue Fund was used to purchase the fire truck. We use separate line items for capital purchases within each fund. We have a separate line item in the Sheriff's budget for police vehicles.

Chairman Yoder – The existing Capital Improvement Fund was set up a couple of years ago when the schools had money left over. Instead of rolling it over into the general budget, we put it into the Capital Improvement Fund so they would be able to buy one-time items they needed.

Supervisor Boothe – I had not realized the money in that fund was just from leftover school money.

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Coleman, and unanimously carried, it was resolved to create a new Meals Tax Capital Fund.

Supervisor Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 8.c. – Discussion of adding trust provision to the subdivision ordinance under family subdivisions.

Ms. Morris – The next item is adding the trust provision to the subdivision ordinance. Ms. Turman will present to you the Planning Commission’s recommendations.

Ms. Karla Turman – You have before you tonight proposed changes to the subdivision ordinance. At June’s Board meeting I presented information to you that family subdivisions from properties held in trust could not be approved without them being in our subdivision ordinance, which it was not. I worked with the County Attorney and he came up with the original language regarding putting that trust provision in there. Since then, he was asked to research other localities to find out how they handle that. On page 2 of attachment A, I have listed the conversation I had with him today. He said there are several localities that do not allow family trusts at all. There are some localities that apply the Code of Virginia as what he originally wrote. Then there is Louisa County that is less restrictive. They require only one beneficiary of the trust be an immediate family member of only one of the entities. That is more in line with what we allow with regular family subdivisions. I have provided you with two options if you choose to go forward with this. One would be that all beneficiaries had to be immediate family members of all grantees. That is the strictest interpretation. The second one is similar to Louisa County, in that only one beneficiary has to be a family member of a grantee.

Supervisor Boothe – Does this provision use the same definition of immediate family member as the rest of the subdivision ordinance? Would nieces and nephews be recognized as immediate family members under option 2?

Ms. Turman – It would be the same as the definition we currently have for immediate family. Under option 2 if you have two brothers who have a trust together and one of them wants to convey land to brother one’s daughter, it could be done under option 2 because he is the father and she is the daughter. She is the daughter of one of the beneficiaries of the trust. The way it was originally interpreted it couldn’t be done because she is not an immediate family member of brother number two because she is a niece. We do not define nieces and nephews as immediate family members.

Supervisor Boothe – Could one brother who has no children leave it to the wife of his deceased brother who has children?

Ms. Turman – Yes, if she is a beneficiary of the trust.

Supervisor Boothe – I think less restrictive is better.

Supervisor Kuchenbuch – The State Code does not allow us to do some things.

Ms. Turman – It will not allow us to lower that 15 year holding requirement. That is locked in. However during those 15 years, if the daughter of brother one wants to convey land to her cousin who is the son of brother two, she could because he would still be an immediate family member of one of the trust beneficiaries. That would be under option 2 only.

Chairman Yoder – On a family subdivision if my brother and I owned a piece of land together and I wanted to give my daughter one acre, would that be allowed under our current family subdivision?

Ms. Turman – Yes.

Chairman Yoder – Option 2 mirrors our current family subdivision provision.

Ms. Turman – Pretty much, yes. We discussed the exceptions. The Code of Virginia says that waivers could be granted. “A locality may reduce or provide exceptions to the period of years prescribed if changed circumstances so require.” I originally added that to the criteria for exceptions. After discussion with Mr. Durbin we would probably take that out of the exceptions and put it in the family subdivision provision itself, because it is a waiver; it is not an exception. You would not have to find the same things that you would have to find in order to grant an exception. We had one family subdivision within the past few months where they wanted to convey the land to the nephew and we could not allow that. They conveyed the land to the sister, her husband, and her son. After three years she can take her information off and have the son own it, but she has to hold it for three years.

Supervisor Boothe – It has been suggested to me that on 4-2-11(b) instead of saying “Each beneficiary” it should say “A beneficiary.”

Ms. Turman – On page 2 of Attachment A that I just handed out, we have made a change in red that states, “at least one trust beneficiary.” For both 4-2-11(a) and (b) each sentence starts off with “Each beneficiary” because that is exactly what State Code says. Each beneficiary does have to agree to sell the land and they have to sign the affidavit for the holding period.

Chairman Yoder – The Planning Commission recommends holding a Public Hearing on this.

Ms. Turman – Yes. The Planning Commission recommends holding a Public Hearing on all proposed amendments with the exception of the definition of an irregular lot and an exception of the ordinance that prohibits irregular lots. I have taken these two items out of the packet that I gave you tonight.

Supervisor Boothe – I recommend we move forward on the family trust and we revisit and discuss the subdivision ordinance in some other areas. We have the potential of cluster development on the table. I think there are some other areas we need to discuss.

Ms. Turman – The motion by the Planning Commission was “On a motion by Director Wagner, and seconded by Director Howell, and carried, it was resolved to recommend to the Board of Supervisors the changes as presented by the Subdivision Agent with the exception of irregular lots, substandard lots, and lot characteristics, which are to be discussed at a later date.”

Ms. Rebecca Howell – There were two different things we were looking at – the family trusts and we recommended that you go forth with Option 2. We also recommended that you

include the other housekeeping things. The two we excluded needed more discussion than we were able to give at that time.

Ms. Turman – I request that if the Board chooses to go forth with just the trust provision that the Board consider on page 5 the Recordation Statement, the Before and After table, and the Virginia Department of Transportation (VDOT) Statement.

Ms. Howell – The things the Planning Commission included are just housekeeping issues. We excluded those two items that needed more discussion.

Ms. Turman – The majority of the proposed amendments are to clarify items that are open to interpretation. Of these three items on page 5, two of them would make it easier for review. On the Recordation Statement, I had a gentleman who was pretty upset that he didn't realize that a deed had to be recorded. He thought a plat conveyed land. I've dealt with him twice. Both times I advised him a deed needed to be recorded. He said who was supposed to tell me that. If the statement is on the plat then it is duly noted. With the VDOT Statement, the Virginia Code requires a locality that receives rural funds to have a statement such as listed here to be in the ordinance and on the plats. Some of these items are just bringing the Subdivision Ordinance up to date and to let owners know there is further work to be done. Some of these items are required by State Code and we just have not made the updates. The VDOT Statement is required on any plat that shows even a driveway. If a driveway is noted on the plat, VDOT wants the statement on there. There are only two subdivisions where you don't have to have a public street and those are family and agricultural.

Supervisor Boothe – Then those would be the ones that this would apply to, but it wouldn't be a statement on a standard subdivision.

Ms. Turman – It would not be a statement on any plat where a public maintained road would be required.

Chairman Yoder – If we required a public road to be built into a subdivision, then those plats would have driveways on to the public road.

Supervisor Boothe – Those driveways are not public roads and are not under VDOT purview.

Ms. Turman – If a driveway serves more than two addresses, it is a commercial entrance through under VDOT purview and under the County code so we require that the driveways and the properties they go to be shown on the plat. The County requires that the road be named if it serves three addresses.

Supervisor Boothe – In any scenario, a standard subdivision with a VDOT approved public street wouldn't have to have this statement.

Ms. Turman – That is correct.

Supervisor Boothe – That is what I was trying to get after.

Ms. Turman – If you were to allow private streets to be built, then that statement would have to be there. I think you can do a Public Hearing on the trust provisions by itself. You can do a Public Hearing on the trust provisions plus the other general housekeeping amendments that the Planning Commission recommended. Or you can wait and hold a Public Hearing on all of it at some point down the road.

Supervisor Kuchenbuch – There are subdivisions that are waiting for the trusts.

Chairman Yoder – It could be a long process before we get everything together.

Supervisor Kuchenbuch – I feel we have asked the Planning Commission to give us their read on the family trusts. We asked them to do that. They have come back and said that we suggest the Board have a Public Hearing on the family trusts and these other housekeeping items that seem pretty benign. I think since we asked them and they did do the work and they are now saying that they would like us to have a Public Hearing, I think we should have a Public Hearing on the trusts. That's my opinion.

Vice Chairman Turman – Is there anybody in limbo?

Ms. Turman – There has been someone who has contacted me and said they had two approved earlier this year and they want to do another. I told them they cannot until it is in the ordinance.

Ms. Morris – Are you thinking about having a joint Public Hearing with the Planning Commission?

Ms. Howell – You are really giving people more options than they have now with the family trusts.

Chairman Yoder – We want to give people more options with their land, not less. Personally, and I think a lot of us feel this way, I want families especially with kids coming up to have the option to keep those kids here. We want this community to continue to have young people. We seem to want to do the Public Hearing on option 2 of the trusts and the housekeeping items and doing it with the Planning Commission.

Supervisor Boothe – I have a question on page 3 under Standard Subdivisions. You are changing the wording on the division of land from two lots to four lots.

Ms. Turman – Correct. A standard subdivision is four or more lots. That is just correcting incorrect information.

On a motion of Supervisor Turman, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to authorize the County Administrator to advertise a joint public hearing between the Planning Commission and Board of Supervisors on August 21 at 7:00 p.m. for amendments to the Family Subdivisions Section of the Floyd County Virginia Subdivision Ordinance.

Supervisor Boothe – yes

Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 8.d. – Approval of Retainer Agreement with Sanford Heister Sharp LLP and Kaufman & Canoles, PC – investigation of County claims for opioid-related cost recovery.

Ms. Morris – I have provided you with a copy of the Retainer Agreement with Sanford Heister Sharp LLP and Kaufman & Canoles, PC. This agreement would be for investigation only of County claims for opioid-related cost recovery. If the Board decides they would like to enter into a lawsuit after the investigation that would require further action by you. If you are interested in proceeding we would need approval of this agreement. I also gave you a copy of a press release.

Supervisor Boothe – Did the changes we talked about with our attorney take place?

Ms. Morris – Yes.

Chairman Yoder – We know many counties around us are pursuing lawsuits on opioids. The potential litigation recovery would be based on the costs that we incurred because of the opioid epidemic. What this Retainer Agreement would be doing would be to enter into an agreement with this law firm to consider our potential litigation but not to actually enter into litigation. It would be a fact finding mission that would give us a report in the end on what we may potentially want to pursue.

Supervisor Kuchenbuch – And we are not obligated for any costs.

Ms. Morris – Exactly.

Chairman Yoder – This is just fact-finding.

Supervisor Boothe – Under item 19 it states, if they withdraw or we discharge them... those are the guidelines.

Chairman Yoder – Our attorney has reviewed this and made some changes that they have agreed to.

Supervisor Boothe – Basically as I understand this, if they withdraw or we discharge them and move forward with another representation or on our own, then they get a percentage. That is whether we discharge them or they withdraw. Isn't that what it is saying? If they withdraw and say we don't want to represent you and we decide we are going to move forward, even though they decided to withdraw, they get a claim. If they withdraw and we decide to proceed, they get a cut of it even though they are the ones who decided to withdraw.

Ms. Morris – I think that goes back to they have done all the investigation.

Supervisor Kuchenbuch – They have done work and want to get compensated.

Supervisor Coleman – If you look under item 4 it says, “if appropriate after consultation with and authorization by Client.” I find security in this because it is a two-pronged approach. We are entering into the first part of an investigation, and then if we decide to proceed your argument would be valid.

Supervisor Boothe – If I remember their presentation correctly, they were offering to do a certain amount without any costs.

Chairman Yoder – This protects them when they have done all the research and then we discharge them or acted in a way where they did not want to represent us, then they are able to recover some of their costs.

Supervisor Boothe – There was some preliminary information that we wanted to see to help us in deciding whether to move forward. They are not going pass that preliminary work until we authorize.

Ms. Morris – Exactly. Our staff will be doing a lot of this work.

Supervisor Boothe – That is what I was thinking. But if they proceed further than what we are authorizing that is on them.

Supervisor Coleman – That is what I was looking for when I read the need for authorization.

Chairman Yoder – This is not giving them the authority to file a lawsuit. This is just us doing some fact finding and seeing what we come up with.

On a motion of Supervisor Turman, seconded by Supervisor Coleman, and unanimously carried, it was resolved to authorize the County Administration to execute the Retainer Agreement with Sanford Heister Sharp LLP and Kaufman & Canoles, PC.

Supervisor Boothe – yes
Supervisor Coleman – yes
Supervisor Kuchenbuch – yes
Supervisor Turman – yes
Supervisor Yoder – yes

Agenda Item 8. – Old/New Business.

Supervisor Boothe – Now that we are through with the budget, I thought we could look into some letters we could give to people we appoint to Commissions on what is expected of them.

Supervisor Kuchenbuch – You mean like a job description?

Supervisor Boothe – Yes, like a job description. I know we have a lot going on but I think it would be a good thing to have what is expected of them. You could provide these to people who show an interest in serving on boards and commissions.

Ms. Morris – I have some of those for different boards.

Supervisor Kuchenbuch – It would be nice to have a handout. Three of the members of the Recreation Authority met today with Ms. Melissa McDaniel [Director of Special Education at Floyd County Public Schools]. We talked about our partnership with the schools. We are trying to work on a better, cooperative communication between the schools and the Recreation Authority. We wanted to let them know we are going to proceed. We wanted to be let principals know when games are going to be played. We're trying to make the schools really be a partner. We wanted to see if we could be at the open houses to encourage participation in our sports. We are trying to make it more professional and make our communications with them a little bit better streamlined. We were welcomed. Dr. Wheeler had given us a time and he was very gracious to get us on the schedule before the deadline for the soccer and football. We were very appreciative of that. The Chair went, the Treasurer went and I represented the County at that meeting.

Chairman Yoder – VACO started a new Agriculture Committee. I serve on VACO's Agriculture and Environmental Committee. I went to Richmond on Monday to attend the Agriculture Committee they are starting. It is a committee off of the main committee. It was a very good meeting. There were mostly producers there. I was very concerned going into it that the committee might be made up of non-producers. There are a lot of people on committees who are administrators, nothing against them, but they don't have hands-on experience. But the majority there were producers. It was a really good meeting. I think that in the past, the Agriculture and Environmental Subcommittee got distracted on storm water and things like that. When we had our committee meetings it never had anything to do with agriculture. Everything was on the environmental side because it impacted every county including the urban and rural counties. I think there will probably be some legislative agenda items coming out of that subcommittee. We are going to meet again a couple more times. If there are State issues that legislation would fix or if you hear about it from constituents, let me know. I could put it on the State platform. Only 7 or 8 of us showed up. Sometimes when you get 20 or 30 people in a room it is hard when you bring an issue to the table unless you have 5 other people ready to push it with you. You state your issue and everyone looks at you and moves on to the hot button issue.

Supervisor Boothe – You might want to get in touch with Grey from Farm Bureau.

Chairman Yoder – There are several other agriculture organizations and we are going to look at their agendas. Farm Bureau was mentioned. I thought it was exciting for Floyd, because we often don't get a voice. Here we have a potential.

Agenda Item 9. – Adjournment.

On a motion of Supervisor Turman, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to adjourn to Tuesday, August 14, 2018 at 8:30 a.m.



Terri W. Morris, County Administrator



Lauren D. Yoder, Chairman, Board of Supervisors