

VIRGINIA:

A meeting of the Lancaster County Board of Supervisors was held in the Administrative Building Board/Commission Meeting Room of said county on Thursday, September 25, 2014.

Members Present: B. Wally Beauchamp, Chair

Jason D. Bellows, Vice Chair

F. W. Jenkins, Jr., Board Member

William R. Lee, Board Member

Member Absent: Ernest W. Palin, Jr., Board Member

Staff Present: Frank A. Pleva, County Administrator

Don G. Gill, Planning and Land Use Director

Crystal Whay, Building/Land Use Secretary

Mr. Beauchamp called the meeting to order at 7:00 p.m.

Mr. Beauchamp stated that Mr. Palin was not feeling well and that was why he was not in attendance.

PUBLIC INPUT

Mr. George Bott, a District 1 citizen, handed out invitations to the Hospice Turkey Shoot Regatta. He stated that it is a charity event and this is the 19th year that it has been held. He stated that the regatta is being held on the first weekend in October.

Mr. Eddy Whichard stated that he represented the Greenvale Creek Maintenance Association. He presented photographs of the area and stated that they are finished with the dredging and the extension of the jetty. He thanked the Board of Supervisors for their support.

PRESENTATIONS

None.

VIRGINIA DEPARTMENT OF TRANSPORTATION

Mr. Robert Harper stated that VDOT is currently mowing on the secondary system and once that has been completed, they will begin again on the primary roads and that will be the last mowing for the year.

Mr. Harper stated that all paving has been completed for the year.

Mr. Harper referred to Taylors Creek Road and stated that they had received some funding and will begin work there around October 6th.

Mr. Harper stated that they are trying to get a contract for the overhaul of the ferries. He stated that they are also working on finalizing the snow removal vendors' contracts.

Mr. Jenkins referred to Millenbeck Road and stated that there is a row of trees that need to be trimmed back because they are encroaching into the road.

Mr. Harper stated that he would take care of the issue.

Mr. Bellows asked about finishing the painting on the Rappahannock River Bridge.

Mr. Harper stated that the Saluda office monitors the bridge work and he has heard nothing about it. He stated that he would have his supervisor give Mr. Bellows a call concerning the issue.

PUBLIC HEARING

1. Revisions to the Zoning Ordinance Article 23 – Floodplain Overlay District

Mr. Gill stated that the issue was to revise the Zoning Ordinance Article 23 – Floodplain Overlay District as mandated by FEMA's recent modifications to the Flood Insurance Rate Maps and Flood Insurance Study for Lancaster County.

Mr. Gill stated that on September 27, 2013, the Federal Emergency Management Agency (FEMA) completed its proposed modifications to the Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS) for Lancaster County. He stated that FEMA then conducted a 90-day statutory appeal period that ended on January 10, 2014 and issued its Letter of Final Determination on April 2, 2014. He stated that the new FIRMs and FIS will become effective on October 2, 2014 and prior to that date, Lancaster County is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt a revised ordinance that complies with the new FIRMs and FIS.

Mr. Gill stated that the Virginia NFIP Office has reviewed our ordinance and suggested revisions to comply with current floodplain management regulations and all suggested revisions are based on the minimum requirements of the NFIP regulations

unless our current requirements exceeded the minimum. He stated that any modification by the Board of Supervisors cannot be less stringent than the minimum requirements. He stated that the Board could suggest more stringent modifications, but practicality and economic feasibility must be considered.

Mr. Gill stated that generally speaking, most Base Flood Elevations (BFE) have decreased with the new FIRMs and many areas that were previously in a flood zone, will now be in a lesser flood zone or out of a flood zone altogether. He stated that FEMA conducted a community meeting at the Lancaster Middle School Media Center on September 11th to review the new maps and seven citizens were in attendance.

Mr. Gill stated that the Lancaster County Building Official, Steve Daum, was present at last month's Board meeting and addressed possible changes to this revised ordinance that he endorses and that he also attended the Planning Commission public hearing on September 18th and discussed the changes he proposes. He stated that the discussion centered on pages 11, 17 and 21 of the ordinance. He stated that on page 21, the Planning Commission and Mr. Daum agreed that the definition of freeboard should be changed. He stated that on page 11, while agreeing on most of the revised language, except for the addition of the words "or ductwork", the Planning Commission eliminated the one and one-half feet of freeboard to Mr. Daum's dismay. He stated that the Planning Commission felt that by measuring from the lowest horizontal structural member instead of the top of the finished floor, you would gain the width of the floor joists and beam and therefore it was not necessary to require the additional 18 inches of freeboard in the AE flood zones. He stated that the main point of difference was on page 17, where the Planning Commission decided to treat the new Coastal A zone as other AE flood zones whereas Mr. Daum believes the Coastal A should be treated as a VE flood zone since it is adjacent to the VE zones.

Mr. Gill stated that the ordinance revision has been advertised as required by law and that to date, other than the discussion at prior Planning Commission and Board of Supervisors' meetings, there has been no input from the public.

Mr. Gill stated that the Board members have three copies of the revised ordinance and they include the state's revisions in gray, the Planning Commission's changes in yellow and the changes made by Mr. Daum in green.

Mr. Gill stated that he would try to make it easier to understand and referred to a depiction of the various zones on the presentation screen. He stated that the depiction shows the flood zones that will be in effect as of October 2, 2014. He stated that there are four zones. He stated that the VE zone is the most dangerous flood zone and closest to the water and is the area with greater than three foot waves. He stated that adjacent to the VE zone, there is the Coastal A zone, with one and one half to three foot waves, which is a new zone with this revision. He stated that adjacent to the Coastal A zone is the AE zone with one and one half feet to no wave action, and is the least dangerous of the flood zones. He stated beyond that is zone X, where there is no danger of flooding.

Mr. Gill stated that the current ordinance requires freeboard. He stated that freeboard is additional height above the base flood elevation that a locality can require structures be elevated to. He stated that currently the County has an 18-inch requirement in both the VE and AE zones. He stated that freeboard is measured differently in those two zones. He stated that currently, in the AE zone, freeboard is measured from the top of the first finished floor and in the VE zone, freeboard is measured from the bottom of the lowest horizontal structural member. He stated that one of the things that Mr. Daum had requested is that it be made more consistent and measure everything from the same place in all zones. He stated that the suggestion was to measure everything from the bottom of the lowest horizontal structural member. He stated that the Planning Commission felt that if the way freeboard is measured is changed in the AE zone, then you will be gaining almost 2 feet and therefore, the extra 18-inch requirement in the AE zones was not needed.

Mr. Gill stated that another change that the Planning Commission recommended dealt with the new Coastal A zone. He stated that the Coastal A zone begins at the line called the limit of moderate wave action, which is the line where one and a half foot waves begin up to three feet waves. He stated that the Coastal A zone could be treated as other AE zones or it could be treated as a VE zone. He stated that Mr. Daum's recommendation, and he agreed, was to treat it as the adjacent VE zone with VE standards. He stated that the Planning Commission recommended not to treat it as a VE zone.

Mr. Gill stated that the Board's decision is going to come down to two questions and they are does the Board still want freeboard and how much and how is the Coastal A zone to be treated. He stated that if the Board decides to go with the Planning Commission's recommendations, the County will have three different standards for three zones in which the AE zone will have no freeboard, the Coastal A zone will have one foot of freeboard because the building code requires it, and the VE zone will have a foot and a half. He stated by going that route, it would require structures to be progressively higher the closer they are to the water.

Mr. Gill stated that if the Board decides to treat the Coastal A zone as a VE zone, there would be two standards for the zones with no freeboard in the AE zone and a foot and a half of freeboard in both the Coastal A and VE zones. He stated that the 2015 version of the building code will require that the Coastal A zone be treated as a VE zone anyway.

Mr. Jenkins stated that there are two reasons for freeboard and one is the damage that can be done to the substructure of a building for long exposures to water and the second is the ability of the substructure of a building to withstand wave action. He stated that he is not certain that the County needs as restrictive protection as is being mandated.

Mr. Gill stated that the minimum FEMA standard is at or above the base flood elevation and the building code requires more in the Coastal A and the VE zones.

Mr. Jenkins stated that going to those higher elevation requirements will cost property owners more money and for him to support that, he would like to know what benefit there is for those citizens.

Mr. Gill replied that the benefit is reduced flood insurance premiums. He stated that the NFIP representative said that two feet of freeboard gives the most “bang for your buck” with insurance premiums. He stated that because the County is at one and a half feet and they round up, you get credit for two feet.

Mr. Gill stated that the Planning Commission felt that the citizens should have to meet the minimum requirements and if they wanted to do anything above that, it should be their choice to do so.

Mr. Jenkins asked if the current costs for flood insurance premiums would be expected, under the proposal of the Planning Commission, to be reduced or stay the same.

Mr. Gill stated that the flood insurance premiums are based on the flood zones.

Mr. Jenkins stated that he understood that, but wanted to know if the County’s designation of what is freeboard in the various zones translates into a savings in flood insurance costs for the citizens.

Mr. Gill replied that by reducing the amount of freeboard in the AE zone, there may actually be a premium increase.

Mr. Jenkins asked if the flood levels have reduced and the current freeboard requirement is rounded up to two feet, which is where the price break is, why could they not expect the flood insurance premiums to stay the same or be lower.

Mr. Gill replied because the point of measurement is changing. He added that currently the freeboard requirement is 18 inches in the AE zone and the Planning Commission is recommending that that 18 inches be eliminated.

Mr. Jenkins stated that he had no problem with the Board going with the least restrictive measurements, but he wants property owners to be able to make informed decisions and have as much information as possible.

Mr. Daum stated that moving the freeboard measurement down to the lowest horizontal structural member is in effect lowering what people have to build up to, but gains higher floor space.

Mr. Daum stated that there is only a one-inch difference in wave heights between the Coastal A and VE zones and stated that there are a few properties in both zones and

he is concerned about the safety of those structures. He stated that because the Coastal A zone is adjacent to the VE zone, he thought it should have the same standards.

Mr. Jenkins stated that it was not his dime that would be building the structure and he did not think the Board should approve something that might not be necessary. He stated that the citizens should be able to make the decision on their own.

Mr. Lee stated that it should be a consumer's option, similar to car insurance and the decision to go over the minimum requirements should be left up to the consumer. He stated that he thought they should look past the insurance aspect of the issue.

Mr. Beauchamp opened the public hearing.

There was no public comment.

Mr. Beauchamp closed the public hearing.

Mr. Gill stated that Mr. Daum and he have a staff recommendation that incorporates what the Planning Commission recommended. He referred to page 11 and stated that staff's recommendation would be no freeboard requirement in the AE zone and change the place of measurement to the lowest horizontal structural member or ductwork. He referred to page 13 and stated that the state NFIP office struck the word "conventional" and added the word "manufactured." He referred to page 15 and stated that it discusses the approximated floodplain district and to keep the language consistent, it should read, in part, "the lowest horizontal structural member or ductwork of the lowest floor, including basement, shall be elevated at or above the base flood level." He referred to page 16 and stated that the state office struck the word "same" and replaced it with "elevation." He stated that on the same page is the Coastal A zone description and it is the staff recommendation that the Coastal A zone have the same standards as the VE zone. He stated that the Coastal A zone is a very small area compared to the other zones. He stated that this is where the Planning Commission recommendation and the staff recommendation differ. He referred to page 20 and stated that the recommendation was to change the definition of freeboard by removing the words "measured from the top of the first finished floor." He referred to pages 22 and 23 and stated that the state NFIP office had added a couple of words to clarify the ordinance language.

Mr. Lee made a motion to adopt the staff recommendations to the revised Zoning Ordinance Article 23 – Floodplain Overlay District.

VOTE:	B. Wally Beauchamp	Aye
	Jason D. Bellows	Aye
	F. W. Jenkins, Jr.	Aye

CONSENSUS DOCKET

Motion was made by Mr. Jenkins to approve the Consensus Docket and recommendations as follows:

1. Minutes for August 28, 2014 Regular Meeting

Recommendation: Approve minutes as submitted

2. Resolution Accepting USDA Grant Loan for Purchase of Replacement Emergency Services Vehicle

Recommendation: Approve resolution as submitted

**Resolution Accepting USDA Grant/Loan for Purchase of Replacement
Emergency Services Vehicle**

The governing body of the County of Lancaster, consisting of five members, in a duly called meeting held on the 25th day of September 2014 at which a quorum was present RESOLVED as follows:

BE IT HEREBY RESOLVED that, in order to facilitate obtaining financial assistance from the United States of America, United States Department of Agriculture, Rural Development, (the Government) in the purchase of an EMS vehicle and equipment to serve the community, the governing body does hereby adopt and abide by the covenants contained in the agreements, documents, and forms required by the Government to be executed.

BE IT FURTHER RESOLVED that the County Administrator of Lancaster County be authorized to execute on behalf of the Board of Supervisors the above-referenced agreements and to execute such other documents including, but not limited to, debt instruments and security instruments as may be required in obtaining the said financial assistance.

This Resolution, along with a copy of the above-referenced documents, is hereby entered into the permanent minutes of the meetings of this Board

A Resolution of the Board of Supervisors of the County of Lancaster authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving, and/or extending its emergency medical services vehicle and equipment facility to serve an area lawfully within its jurisdiction to serve.

WHEREAS, it is necessary for the County of Lancaster (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of \$21,100 pursuant to the provisions of the Code of Virginia, 15.2. WHEREAS, the Association intends to obtain assistance from the Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, or their successor Agencies with the United States Department of Agriculture, (herein call the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333 © of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983 ©).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause", which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default

under any such instrument may be construed by the Government to constitute default hereunder.

6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contract or agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by the Government. No free service or use of the facility will be permitted.
11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established and maintained, disbursements from that account may be used when necessary for payments due on the bond if sufficient funds are not otherwise available. With the prior written approval of the Government, funds may be withdrawn for:
 - (a) Paying the cost of repairing or replacing any damage to the facility caused by catastrophe.
 - (b) Repairing or replacing short-lived assets.
 - (c) Making extensions or improvements to the facility.

Any time funds are disbursed from the reserve account, additional deposits will be required until the reserve account has reached the required funded level.

15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain the Government's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$23,900 under the terms offered by the Government; that the County Administrator and Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s). The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance, to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

VOTE:	B. Wally Beauchamp	Aye
	Jason D. Bellows	Aye
	F. W. Jenkins, Jr.	Aye
	William R. Lee	Aye

CONSIDERATION DOCKET

The Board considered the following item on its Consideration Docket:

1. Approval of September 2014 Salaries and Invoice Listings

The motion was made by Mr. Lee to approve the salaries for September 2014 in the amount of \$244,145.84 and invoice listings for September 2014 in the amount of \$529,180.47*.

- *Greentown/Gaskins Project - \$52,061.45
- *Greenvale Creek Dredging - \$14,000.00

VOTE:	B. Wally Beauchamp	Aye
	Jason D. Bellows	Aye
	F. W. Jenkins, Jr.	Aye
	William R. Lee	Aye

BOARD REPORTS

Mr. Jenkins made a motion to appoint William H. Towles to the Wetlands Board as an alternate member.

VOTE:	B. Wally Beauchamp	Aye
	Jason D. Bellows	Aye
	F. W. Jenkins, Jr.	Aye
	William R. Lee	Aye

COUNTY ADMINISTRATOR

Mr. Beauchamp asked Mr. Pleva about the Greentown-Gaskins Wastewater Treatment Project.

Mr. Pleva replied that only one bid was received, which was three and a half times the engineer’s estimate so they are looking at a redesign. He stated that was why it was removed from the original agenda.

CLOSED MEETING

Motion was made by Mr. Beauchamp to enter into a closed meeting to discuss matters exempt from the open meeting requirements of the Virginia Freedom of Information Act. The subject matter to be discussed in the closed meeting are Real Property, § 2.2-3711.A.3 of the Code of Virginia, *1950, as amended*. The purpose of the closed meeting is to discuss real property. The subject and purpose falls within the following exemption(s) under § 2.2-3711.A.3 (acquisition of real property for public purpose OR the disposition of government owned property where public discussion would jeopardize the County’s or Town’s bargaining or negotiating position.)

VOTE:	B. Wally Beauchamp	Aye
	Jason D. Bellows	Aye
	F. W. Jenkins, Jr.	Aye
	William R. Lee	Aye

RECONVENE

Motion was made by Mr. Beauchamp to reconvene the open meeting.

VOTE:	B. Wally Beauchamp	Aye
	Jason D. Bellows	Aye
	F. W. Jenkins, Jr.	Aye
	William R. Lee	Aye

CERTIFICATION

WHEREAS, the Lancaster County Board of Supervisors convened in a closed meeting on September 25, 2014 pursuant to an affirmative recorded vote on the motion to close the meeting to discuss Real Property, § 2.2-3711.A.3 of the Virginia Freedom of Information Act;

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

NOW, THEREFORE BE IT RESOLVED that the Lancaster County Board of Supervisors 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.

Motion was made by Mr. Bellows to certify the closed meeting.

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 and number 2 above? If so, identify yourself and state the substance of the matter and why in your judgment it was a departure. There was no comment.

Hearing no further comment, Mr. Beauchamp called the question. A roll call vote was taken:

ROLL CALL

VOTE:	B. Wally Beauchamp	Aye
	Jason D. Bellows	Aye
	F. W. Jenkins, Jr.	Aye
	William R. Lee	Aye

This certification resolution is adopted.

Mr. Jenkins made a motion to direct Mr. Pleva to hire an architect to draft building plans for a proposed Emergency Medical Services building on the recently purchased Norris property.

VOTE:	B. Wally Beauchamp	Aye
	Jason D. Bellows	Aye
	F. W. Jenkins, Jr.	Aye
	William R. Lee	Aye

ADJOURNMENT

Motion was made by Mr. Bellows to adjourn.

VOTE:	B. Wally Beauchamp	Aye
	Jason D. Bellows	Aye
	F. W. Jenkins, Jr.	Aye
	William R. Lee	Aye