



**CALLLED MEETING AND CLOSED SESSION
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, JUNE 27, 2018
5:30 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA**

Call to Order

Invocation

Pledge of Allegiance

Adoption of Agenda

Attachment

Consent Agenda

1. Minutes of June 13, 2018 ----- A
2. Acceptance of Abstract of Votes from June 12, 2018 Primary Election ----- B

Citizen Comments – Agenda Items that are not the subject of a Public Hearing

Board of Supervisors Comments

County Officials

1. **Resolution Declaring a Local Emergency in Frederick County, Virginia** ----- C

The Local Declaration of Emergency is associated with the recent heavy rains and flooding. The Governor declared the Emergency to extend until July 6, and the July 1 date in the resolution should cover any on-going expenditures. The declaration covers the County for any funds spent because of the heavy rainfall/flooding that occurred during the specified timeframe as well as prepares the County should a Presidential Declaration follow.

2. **Set Public Hearing: Appropriation of Funds for New Aylor Middle School** ----- D

The Frederick County School Board has adopted a resolution requesting a supplemental appropriation to the FY2019 School Construction Fund in the amount of \$45,500,000.00 for the acquisition of land, design and the construction of a new Robert E. Aylor Middle School. Recommended action: Set a public hearing for July 25, 2018.

3. **Closed Session**

The Board of Supervisors will convene in closed session pursuant to Virginia Code § 2.2-3711(A)(3) for discussion of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Board Liaison Reports

Citizen Comments

Board of Supervisors Comments

Adjourn

A

MINUTES
CLOSED SESSION AND REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, JUNE 13, 2018
5:30 P.M. AND 7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

ATTENDEES

Board of Supervisors: Charles S. DeHaven, Jr., Chairman; Gary A. Lofton, Vice Chairman; Blaine P. Dunn; J. Douglas McCarthy; Judith McCann-Slaughter; Shannon G. Trout and Robert W. Wells were present.

Staff present: Kris C. Tierney, County Administrator; Jay E. Tibbs, Deputy County Administrator; Roderick B. Williams, County Attorney; Michael T. Ruddy, Director of Planning and Development; Candice Perkins, Assistant Director of Planning; John Bishop, Assistant Director of Planning- Transportation; Tyler Klein, Planner; Mark Cheran, Zoning & Subdivision Administrator; Karen Vacchio, Public Information Officer; Joe Wilder, Director of Public Works; Scott Varner, Director of Information Technology; and Ann W. Phillips, Deputy Clerk to the Board of Supervisors.

Other: Ed Carter, VDOT representative

CALL TO ORDER

Chairman DeHaven called the meeting to order at 5:30 p.m.

CLOSED SESSION

Vice Chairman Lofton moved that the Board of Supervisors of Frederick County enter a closed session pursuant to Virginia Code § 2.2-3711(A)(1) for the annual evaluation of the county attorney and the county administrator and pursuant to Virginia Code § 2.2-3711(A)(3) for discussion of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. Supervisor Wells seconded the motion which carried on a voice vote.

Supervisor McCarthy entered the closed session at 5:35 p.m. and Supervisor Dunn entered the closed session at 5:40 p.m.

At 6:44 p.m., the Board members being assembled within the designated meeting place in the presence of members of the public and the media desiring to attend, the meeting was reconvened on motion of Vice Chairman Lofton, seconded by Supervisor Wells. Vice Chairman Lofton moved that the Board of Supervisors of Frederick County certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the Board. Supervisor Dunn seconded the motion which carried as follows on a roll call vote:

Blaine P. Dunn	Aye	Shannon G. Trout	Aye
Gary A. Lofton	Aye	Robert W. Wells	Aye

J. Douglas McCarthy Aye
Judith McCann-Slaughter Aye

Charles S. DeHaven, Jr. Aye

At 6:46 p.m., Chairman DeHaven recessed the meeting until 7:00 p.m.

CALL TO ORDER

Chairman DeHaven called the meeting to order at 7:00 p.m.

INVOCATION

Supervisor Wells delivered the invocation.

PLEDGE OF ALLEGIANCE

Vice Chairman Lofton led the Pledge of Allegiance.

ADOPTION OF AGENDA - APPROVED

Upon motion of Vice Chairman Lofton, seconded by Supervisor Wells, the amended agenda was adopted on a voice vote with the postponement of the continued public hearing on Rezoning #05-17 for O-N Minerals (Chemstone) until the July 25, 2018 meeting.

ADOPTION OF CONSENT AGENDA – APPROVED

Upon motion of Supervisor Slaughter, seconded by Vice Chairman Lofton, the consent agenda was adopted on a voice vote.

-Minutes: Budget Work Session of May 22, 2018 -CONSENT AGENDA APPROVAL

-Minutes: Regular Meeting of May 23, 2018 -CONSENT AGENDA APPROVAL

-Minutes: Work Session & Called Closed Session of June 5, 2018 -CONSENT AGENDA APPROVAL

-Landfill Oversight Committee Report (Appendix 1) - CONSENT AGENDA APPROVAL

-Public Works Committee Report (Appendix 2) - CONSENT AGENDA APPROVAL

-Transportation Committee Report (Appendix 3) - CONSENT AGENDA APPROVAL

-Resolution Honoring Employee of the Month Lisa M. Lambert - CONSENT AGENDA APPROVAL

Employee of the Month Resolution Awarded to: Lisa M. Lambert

WHEREAS, the Frederick County Board of Supervisors recognizes that the County's employees are a most important resource; and,

WHEREAS, on September 9, 1992, the Board of Supervisors approved a resolution which established the Employee of the Month award and candidates for the award may be nominated by any County employee; and,

WHEREAS, the Board of Supervisors upon recommendation by the Human Resources Committee selects one employee from those nominated; and,

WHEREAS, Lisa M. Lambert who serves as an HR Specialist was nominated for Employee of the Month; and,

WHEREAS, HR Specialist, Lisa Lambert has done a phenomenal job finalizing the implementation of the ATS portion of NEOGOV. After Lisa was tasked with learning and implementing the NEOGOV Applicant Tracking System, she went to work learning the system and all the variables associated with it. Not only did she learn how to use the software, she learned it in a way that she could train others on how to effectively use the system. Lisa reached out directly to the hiring managers to gain their buy-in for posting their positions in the NEOGOV platform and within about nine months, Lisa took HR from the configuration stage to being fully implemented. This was a HUGE step forward. Moving the County to the NEOGOV platform has opened up the applicant pool for hiring managers and provided overwhelming success for each position posted. It has also reduced the manual transactions associated with a paper system; making the hiring process more efficient. Lisa was also personally recognized by the NEOGOV Implementation Consultant for her hard work in implementing NEOGOV; and,

NOW, THEREFORE BE IT RESOLVED, by the Frederick County Board of Supervisors this 13th day of June 2018, that Lisa M. Lambert is hereby recognized as the Frederick County Employee of the Month for June 2018; and,

BE IT FURTHER RESOLVED that the Board of Supervisors extends gratitude to Lisa M. Lambert for her outstanding performance and dedicated service and wishes her continued success in future endeavors; and,

BE IT FURTHER RESOLVED, that Lisa M. Lambert is hereby entitled to all of the rights and privileges associated with her award.

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-Resolutions of Appreciation for retirees - CONSENT AGENDA APPROVAL

FREDERICK COUNTY RESOLUTION OF APPRECIATION - KIM DEHAVEN

WHEREAS, Kim DeHaven served Frederick County, Virginia, for more than 36 years as an employee in the Parks and Recreation Department; and

WHEREAS, Kim DeHaven began her career as a full time Clerk Typist I in 1978 and throughout her tenure received promotions to Clerk Typist II, Clerk typist III, and Administrative Assistant; and

WHEREAS, Kim DeHaven was known for her positive attitude, cooperative spirit, job knowledge, and commitment to the department and the County, learning all aspects of the Parks and Recreation systems and providing training to other staff members; and

WHEREAS, in April of 1994, Kim was selected as Employee of the Month in recognition of her role in developing and implementing the computerized maintenance management system (PMPRO) which greatly increased productivity in the department

NOW, THEREFORE BE IT RESOLVED, that the Frederick County Board of Supervisors extends its sincerest thanks to Kim DeHaven for her dedication and professionalism and wishes her all of the best in her future endeavors.

BE IT FURTHER RESOLVED, that this resolution be spread across the minutes of the Frederick County Board of Supervisors for all citizens to reflect upon the accomplishments of this public servant.

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FREDERICK COUNTY RESOLUTION OF APPRECIATION - MATTHEW HOTT

WHEREAS, Matthew Hott served Frederick County, Virginia, for more than 32 years as an employee in the Parks and Recreation Department; and

WHEREAS, Matthew Hott began his career as a full time Assistant Superintendent for Parks and Recreation and during his tenure received promotion to Superintendent of Parks and Recreation; and

WHEREAS, during his tenure, Matthew was instrumental in overseeing the evolution of our park system and ensuring the parks were maintained in an above average manner with diligence in park maintenance enabling our park system to manage unprecedented growth in attendance and usage, in particular at our two district parks, Sherando and Clearbrook; and

WHEREAS, Matthew Hott oversaw all projects in the parks including but not limited to the construction of shelters and maintenance facilities, the addition of various sports fields, and paths and trails such as the walking/bike trail at Sherando Park; and

WHEREAS, Matthew Hott served as a catalyst for sound park management methods, worked well with the public and his staff alike, promoted staff development and served as a mentor to many staff members,

NOW, THEREFORE BE IT RESOLVED, that the Frederick County Board of Supervisors extends its sincerest thanks to Matthew Hott for his dedication and professionalism and wishes him all of the best in his future endeavors.

BE IT FURTHER RESOLVED, that this resolution be spread across the minutes of the Frederick County Board of Supervisors for all citizens to reflect upon the accomplishments of this public servant.

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-Resolution adding Frogale Court to Secondary Road System - CONSENT AGENDA APPROVAL

RESOLUTION BY THE FREDERICK COUNTY BOARD OF SUPERVISORS

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk’s Office of the Circuit Court of Frederick County; and

WHEREAS, the Resident Engineer of the Virginia Department of Transportation has advised this Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on June 9, 1993, for comprehensive stormwater detention which applies to this request for addition; and

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the streets described in the attached Form AM-4.3 to the secondary system of state highways, pursuant to 33.2-705, Code of Virginia, and the Department’s Subdivision Street Requirements; and

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described,

and any necessary easements for cuts, fills and drainage; and **BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

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CITIZEN COMMENTS

Robin Young, Back Creek District, said she was in favor of any discussion about preventing Carmeuse selling water to Nestle who may plan to sell it to Texas. She said she did not want the Board to forget the points achieved for the neighbors in recent discussions regarding the Carmeuse Middletown Quarry rezoning and provided a handout for the Board and staff outlining the points.

BOARD OF SUPERVISORS COMMENTS - None

COUNTY OFFICIALS:

PRESENTATION OF RESOLUTION HONORING MILLBROOK HIGH SCHOOL GIRLS' BASKETBALL TEAM

Chairman DeHaven and Vice Chairman Lofton read the Resolution Honoring the Millbrook High School Girls' Basketball Team, adopted on April 25, 2018, and presented a framed copy of the Resolution to the team.

PRESENTATION OF EMPLOYEE OF THE MONTH AWARD TO LISA M. LAMBERT

Chairman DeHaven and Vice Chairman Lofton presented the Employee of the Month Award to Lisa M. Lambert.

COMMITTEE APPOINTMENTS

PRIYA PATEL AND KRISTEN LAISE RE-APPOINTED TO WINCHESTER-FREDERICK COUNTY TOURISM BOARD - APPROVED

Supervisor Dunn moved to reappoint Priya Patel and Kristen Laise to the Winchester-Frederick County Tourism Board for three-year terms ending June 30, 2021. Supervisor Slaughter seconded the motion which carried unanimously on a voice vote.

REQUESTS FROM THE COMMISSIONER OF THE REVENUE FOR REFUNDS - APPROVED

Mr. Tierney explained there were two requests for refunds that have been reviewed by the County Attorney. Supervisor Slaughter moved for approval of and the corresponding supplemental appropriations for the refund requests by Ally Financial/Vault for \$7,038.39; and G E Capital Auto Lease for \$12,124.71. Vice Chairman Lofton seconded the motion which carried on a roll call vote as follows:

Blaine P. Dunn **Aye** **Shannon G. Trout** **Aye**

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|--------------------------------|------------|--------------------------------|------------|
| Gary A. Lofton | Aye | Robert W. Wells | Aye |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

**RESOLUTION AUTHORIZING EXTENSION OF PERFORMANCE AGREEMENT
DEADLINE FOR KINGSPAN INSULATION LLC - APPROVED**

Mr. Tierney explained the request for the extension of the Performance Agreement deadline. Vice Chairman Lofton moved for approval of the resolution authorizing extension of the performance agreement deadline for Kingspan LLC. Supervisor Wells seconded the motion. Vice Chairman Lofton said Kingspan Insulation LLC has met most of the requirements of the agreement and because a line they are installing has taken longer than anticipated, they are requesting the extension. The motion carried on a roll call vote as follows:

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|--------------------------------|------------|--------------------------------|------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Aye |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | No | | |

**EXTENDING PERFORMANCE DATE FOR KINGSPAN INSULATION LLC
ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT**

WHEREAS, KINGSPAN INSULATION LLC has made known its intent to expand its operation in Frederick County, Virginia by making new taxable machinery and equipment and real property improvements and retain and create jobs; and

WHEREAS, the Board of Supervisors for the County of Frederick, Virginia and KINGSPAN INSULATION LLC executed a Performance Agreement on June 22, 2016 to assist in expanding the operation for KINGSPAN INSULATION LLC in Frederick County, Virginia; and

WHEREAS, that the Board of Supervisors for the County of Frederick, Virginia, possesses the sole and absolute authority to extend the Performance Date in the executed Performance Agreement with KINGSPAN INSULATION LLC;

BE IT RESOLVED, that the Board of Supervisors for the County of Frederick, Virginia does authorize extension of the Performance Date of the executed Performance Agreement with KINGSPAN INSULATION LLC to December 31, 2018.

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COMMITTEE BUSINESS – None

PUBLIC HEARINGS (Non-Planning Issues) - None

1. OUTDOOR FESTIVAL PERMIT REQUEST OF ROBERT BAUSERMAN – FAB JAM FESTIVAL - APPROVED

Pursuant to the Frederick County Code, Chapter 86, Festivals; Section 86-3, Permit Required; Application; Issuance or Denial; Fee, for an Outdoor Festival Permit. Festival to be Held Saturday, June 23, 2018, from 7:00 A.M. to 11:00 P.M., (Rain Date to be Held on Sunday, June 24, 2018, from 7:00 A.M. to 12:00 P.M.), on the Grounds of the Frederick County Fairgrounds, 250 Fair Ground Road, (Route 11 North), Clearbrook, Virginia, Stonewall Magisterial District. Property Owned by Frederick County Fair.

Chairman DeHaven opened the public hearing. There were no speakers. Chairman DeHaven closed the public hearing.

Supervisor Slaughter moved for approval of the Outdoor Festival Permit request of Robert Bauserman for the Fab Jam Festival to be held June 23, 2018. Supervisor McCarthy

seconded the motion which carried on a roll call vote as follows:

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|--------------------------------|------------|--------------------------------|------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Aye |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

2. REQUEST BY MOUNTAIN FALLS PARK RESIDENTS FOR CREATION OF SANITARY DISTRICT – REFERRED TO THE PUBLIC WORKS COMMITTEE AND PUBLIC HEARING CONTINUED

The Board of Supervisors, having Received a Petition Requesting the Creation of a Sanitary District Encompassing the Subdivision Known as Mountain Falls Park, also Known as Wilde Acres, will Conduct a Public Hearing on the Question of the Proposed Sanitary District, which Hearing shall Embrace a Finding of Fact of Whether Creation of the Proposed District or Enlargement of the Existing District is Necessary, Practical, Fiscally Responsible, and Supported by at Least 50 Percent of Persons who Own Real Property in the Proposed District.

Mr. Tierney explained the request and the change in State Code that has resulted in the matter coming before the Board. He noted that guidance in the code states the Board should determine whether the creation of the sanitary district is necessary, practical, fiscally responsible and whether it is supported by over 50% of the residents of the district.

Supervisor McCarthy questioned the number of communications that had been received saying he had received about 50. The Deputy Clerk concurred with that number having been received. Chairman DeHaven said that if the Board decides to move forward with the request, a more formal process will need to be developed for determining whether 50% of residents support the district.

Chairman DeHaven opened the public hearing.

The speakers were as follows:

Troy Welby, Back Creek District, said he has lived in Mountain Falls for 10 years and there are many problems. He said the volunteer governing board is hard to staff because of the magnitude of the problems. He said the subdivision needs help from the County.

Ethel Nichols, Back Creek District, thanked the Board for considering the request. She said there are 26 miles of road and 500 homes in the development, and there is no capital to fix anything. She noted a lack of storm water management and pending legal issues, and said the current governing board fails to operate and maintain the development. She said the residents of Mountain Falls deserve the same consideration given other County residents and asked the Board to support the creation of the sanitary district.

Beth Shalap, Back Creek District, said the Mountain Falls development property owners' association has been mismanaged and is no longer viable. She said the sanitary district is needed and asked the Board to have the Public Works department study the matter while the public hearing is continued, adding that the development's residents are also tax paying citizens.

Leonard Roman, Back Creek District, said he is a former member of the Mountain Falls board of governors. He said that the disclosure packet he received when purchasing his property was wrong, adding that there is no accounting and that the board is dysfunctional. He said the body does not follow the rules of the Property Owners Association Act, and cited licensing, bill paying and communication errors.

David Williamson, owner of property in Back Creek District, said he is a former member of the development's board of governors. He said the community is too large for a volunteer board. He said there is an inability to effectively collect dues, and property values will not increase without better management. He suggested that a cost analysis be performed before the Board decides on creating the district.

Jess Cutshaw, Back Creek District, referenced a PowerPoint presentation and a Facebook link containing photos and video of recent conditions in Mountain Falls Parks. She spoke about recurring flooding and the expense to prepare for and recover from flooding events. Ms. Cutshaw said she pays \$435.00 per year to the homeowners' association and receives nothing. She said she is begging the County for help.

Beth Shalap, Back Creek District, continued her earlier remarks saying the association has been mismanaged and has three years of records missing. She said only 38% of the residents are paying their dues and it is unfair to the other residents. She concluded saying the association will be bankrupt and the residents need help.

Jess Cutshaw, Back Creek District, concluded her earlier remarks saying that the biggest problem is storm water management.

Chairman DeHaven closed the public hearing.

Vice Chairman Lofton moved to refer the matter to the Public Works Committee for study and development of a process. Supervisor Dunn seconded the motion.

Supervisor McCarthy noted there is a statute saying the public hearing is fact-finding and a determination must be made at the close of the hearing.

Mr. Tierney said a process is necessary, but a cost determination must happen also, in order to estimate the costs to the residents. Vice Chairman Lofton agreed.

Supervisor McCarthy moved to amend the motion adding to continue the public hearing. Supervisor Dunn seconded the motion. The motion to amend Vice Chairman Lofton's motion carried on a voice vote.

Supervisor Dunn inquired about requesting that the Public Works Committee find options for those who have lost money due to the problems in the Mountain Falls community. Chairman DeHaven said that the Board did not have any basis to address such matters.

The amended motion, continuing the public hearing and referring the request for creation of a sanitary district to the Public Works Committee for study and development of a process, carried on a voice vote.

PLANNING COMMISSION BUSINESS

Public Hearings

1. REZONING #05-17 FOR O-N MINERALS (CHEMSTONE) d/b/a Carmeuse Lime & Stone, CONTINUED UNTIL JULY 25, 2018

Submitted by Lawson and Silek, PLC., to Amend the Proffers for this Property; Rezoning 394.2 Acres from the EM (Extractive Manufacturing) District with Proffers to the EM (Extractive Manufacturing) District with Revised Proffers. The Properties are Situated Generally West of the Town of Middletown. Specifically, the Middle Marsh Property is Located East of Belle View Lane (Route 758), and West and Adjacent to Hites Road (Route 625) and is Further Traversed by Chapel Road (Route 627). The Northern

Reserve is Bounded to the South by Cedar Creek and is West and Adjacent to Meadow Mills Road (Route 624). The Properties are Identified with Property Identification Numbers 83-A-109 and 90-A-23 in the Back Creek Magisterial District.

Upon motion of Vice Chairman Lofton, seconded by Supervisor Wells, the public hearing for Rezoning #05-17 for O-N Minerals (Chemstone) was continued until the July 25, 2018 meeting.

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2. DRAFT UPDATE OF THE 2018-2019 FREDERICK COUNTY PRIMARY, INTERSTATE, AND SECONDARY ROAD IMPROVEMENT PLANS - APPROVED

The Primary and Interstate Road Improvement Plans Establish Priorities for Improvements to the Primary and Interstate Road Networks within Frederick County. Comments from the Transportation Committee will be Forwarded to the Planning Commission and Board of Supervisors. Ultimately, the Priorities Adopted by the Board of Supervisors will be Forwarded to the Commonwealth Transportation Board for consideration.

The Board of Supervisors and VDOT will receive Public Comment on the Proposed Six Year Plan for Secondary Roads for Fiscal Years 2019 Through 2024 in Frederick County and on the Secondary System Construction Budget for Fiscal Year 2019.

John Bishop, Assistant Planning Director – Transportation, reviewed the updated Interstate, Primary, and Secondary Road Improvement Plans. He noted the Plans are updated annually and that Ed Carter of VDOT was in attendance for the joint public hearing.

Supervisor Dunn inquired about the Sulphur Springs and Greenwood Roads intersection saying the area has many accidents. Mr. Bishop said the site distance at this intersection will be addressed.

Mr. Carter of VDOT said that Frederick County has one the best methodologies for rating projects in order to get the best value for the dollars spent on improvement projects.

Chairman DeHaven opened the public hearing. There were no speakers. Chairman DeHaven closed the public hearing.

Vice Chairman Lofton moved that the Board approve the updates to the 2018-2019 Interstate and Primary Road Improvement Plans. Supervisor Slaughter seconded the motion.

Vice Chairman Lofton noted that VDOT has identified the Exit 313 bridge as failing, and yet has come to the County to suggest the County ask for Smartscale grant funding to complete the project. The motion to approve the updates to the 2018-2019 Interstate and Primary Road Improvement Plans carried on a roll call vote as follows:

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|--------------------------------|------------|--------------------------------|------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Aye |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

Vice Chairman Lofton moved to adopt the 2018-2019 Secondary Road Improvement Plan as presented. Supervisor Dunn seconded the motion which carried on a roll call vote as follows:

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|--------------------------------|------------|--------------------------------|------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Aye |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

3. **ORDINANCE AMENDMENT TO FREDERICK COUNTY CODE CHAPTER 165 ZONING, ARTICLE II SUPPLEMENTARY USE REGULATIONS; PARKING; BUFFERS; AND REGULATIONS FOR SPECIFIC USES, PART 203 – BUFFERS AND LANDSCAPING; SECTION 165-203.02(C) BUFFER AND SCREENING REQUIREMENTS - DENIED**

Revision to the Frederick County Zoning Ordinance to Modify Requirements for Residential Separation Buffers in the RP (Residential Performance) Zoning District.

Tyler Klein, Planner, provided background information on the proposed amendment to modify the requirement of residential separation buffers in the RP (Residential Performance) Zoning District for certain housing types. He said the Board had approved an amendment to the Zoning Ordinance on December 13, 2017, to modify the required buffers between townhome units and single-family detached units and townhome units and single-family small lot units changing the required buffer category from a Category B to a Category A type buffer. Mr. Klein continued saying that at the May 9, 2018, meeting, the Board had expressed concern with the unintended consequences of reducing the buffers, specifically regarding the ability to increase the intensity of development and potential capital impacts to County services. He said staff was directed to initiate a public hearing process to reverse the prior amendment approved in December 2017.

Supervisor Slaughter asked Mr. Klein to speak about the Master Development Plan that brought the issue to the attention of the Board. Mr. Klein explained that the buffer change did not allow a higher density but allowed the builder to use more of the density already allowed on the parcel. Supervisor Wells noted that the density is more a factor of the housing type than of the buffer requirement.

Supervisor Dunn inquired about a past change in permitted density from four to 10 units. Planning Director Mike Ruddy explained that for quite some time, the permitted density has been 10 units per acre for parcels less than 10 acres in the RP district. He said there is a sliding scale, and as lot sizes increase, the density goes down.

Chairman DeHaven opened the public hearing.

The speakers were as follows:

Patrick Sowers, Opequon District, spoke about the Regents Crest project that brought the issue before the Board. He said the project has a density of 9.9 units per acre which is an unusually high density for such development. He said development focused in the Urban Development Area, as directed by the Comprehensive Plan, takes development pressure off the rural areas. He noted that the previous requirement called for the same 50' buffer between townhome and single-family developments as is required between commercial and residential development and questioned if buffers for these uses should truly be equal.

William Aikens, Gainesboro District, said he represented the Top of Virginia Builders Association. He said the County is not letting business prosper and cited stringent building laws and a seeming directive not to look at the proffer law. Mr. Aikens said that when business does well, the County does well. He said the flexibility in the buffer requirement achieves what previous county planners had sought and that changing the buffer back will also have consequences such as eliminating workforce housing. He asked the Board to reconsider

rescinding the text amendment passed last December.

Robert Frogale, Back Creek District, said the quick reversal of the ordinance amendment passed in December 2017 after nine months of study makes no sense. He said residential growth should occur in the Urban Development Area (UDA) and referred to a report from the Virginia Coalition on Housing and Economic Development titled Addressing the Impact of Housing for Virginia's Economy. He said there is a crisis in affordable housing and a reversal of the ordinance is a contradiction of the current need. Mr. Frogale concluded by saying that reversing the ordinance will lead to a waste of land and drive up housing costs. He suggested studying the issue further rather than making a quick reversal.

Stephen Pettler, Stonewall District, said he was speaking on behalf of the Top of Virginia Builder's Association and other landowners. He said the ordinance amendment issue is exactly what faced the Board in December 2017, except that in December there had been nine months of study and moving the topic through the process. He continued saying that because a misunderstanding at the May 9 meeting has caused concern, the buffer issue is back on the Board's agenda, Mr. Pettler said there had been no unintended consequences adding that what had occurred was a builder being able to use his property to its by-right density. He noted that repeal will cost those who are currently in the process of building and asked the Board to keep the buffer requirements as they are now.

David Williamson, Gainesboro District, said as a real estate investor he sees a lack of rental property. He said he is in favor of keeping the buffer requirement as is.

Jason Aikens, Gainesboro District, said reversing the buffer amendment will make some lots undevelopable. He said that the adjustment made in December allows developers the flexibility to build bigger units or more affordable units which in turn will make a project feasible thereby meeting the goals of the Comprehensive Plan.

Don Ganse, Back Creek District, said that no speakers at the Planning Commission public hearing or tonight's hearing have spoken in favor of repealing the amendment on buffers and asked the Board to consider that before voting on the matter.

Chairman DeHaven closed the public hearing.

Supervisor Slaughter said the buffer requirements prior to the December 2017 amendment were adequate to provide protection to existing property owners. She said existing property owners do not have notice of a change in buffer requirements. She moved to repeal the amendment made in December 2017. Supervisor Dunn seconded the motion.

Vice Chairman Lofton said the change in 2017 was not done without public comment. He said the current buffer requirement does not increase density. He said the Board made a conscious decision to change the buffer and some parties have spent thousands since that time to begin development plans. Vice Chairman Lofton noted that growth is encouraged in the Urban Development Area (UDA) which protects farmland and that the residents in the UDA have an expectation of close proximity to neighbors. He said he does not support changing the buffer requirement.

Supervisor Dunn said the issue is a difference of 25 feet of buffer which is a judgment call. He moved to amend the motion to table the issue until the next meeting to allow for developing a plan for grandfathering those projects currently underway that would be affected by

the change. There was no second to the motion to amend Supervisor Slaughter’s motion.

Supervisor McCarthy said the decision on the 25 feet was a judgment call made in December. He said most residents do not have an expectation of a particular buffer, and noted the Comprehensive Plan directs growth to the UDA. He said that money has been spent on projects since the December 2017 amendment, and added the Board should create certainty for those in the industry.

Supervisor Wells said he wants the Board to send the right message. He said the study of an issue for nine months followed by a vote sends a message. He said the development community tries to follow the rules by building in the UDA, and said the Board needs to be more reliable than to reverse a decision so hastily.

Supervisor Slaughter said that the Board received information from one of the persons originally raising the issue with the Development Review & Regulations Committee (DRRC) that indicates the December amendment may not increase density. She said she continues to believe buffers are for the protection of the land owner and that owners do not have enough notice of changes in buffer requirements.

Supervisor Trout asked for clarification of the motion.

The motion to repeal the December 2017 text amendment to Zoning Ordinance 165-203.02(C) Buffer and Screening Requirements failed on a roll call vote as follows:

| | | | |
|--------------------------------|------------|--------------------------------|-----------|
| Blaine P. Dunn | Aye | Shannon G. Trout | No |
| Gary A. Lofton | No | Robert W. Wells | No |
| J. Douglas McCarthy | No | Charles S. DeHaven, Jr. | No |
| Judith McCann-Slaughter | Aye | | |

+ + + + + + + + + + + +

Other Planning Business - None

BOARD LIAISON REPORTS

Vice Chairman Lofton noted the Medicaid expansion will take effect January 1. He said the Department of Social Services is planning to hire eight employees and the expected cost to the County is \$240,000.

Supervisor Wells noted his attendance recently in Stephens City at the WWI-WWII commemoration event sponsored by Mr. Fravel and urged others to attend next year.

CITIZEN COMMENTS

Beth Shalap, Back Creek District, thanked the Board for voting to send the sanitary district request to the Public Works Committee. She said she wanted the Board to know the residents had inquired about hiring a management company and determined it was not economically feasible. She said an investigation of the governing board’s finances is pending. She encouraged the Board to discuss the topic of bond funding for the sanitary district at a future Board meeting.

David Williamson, Gainesboro District, inquired about the process for appealing a decision of the Board of Zoning Appeals and proposing an ordinance amendment. Chairman

DeHaven recommended that Mr. Williamson contact staff.

BOARD OF SUPERVISORS COMMENTS

In reference to the previous speaker, Supervisor McCarthy suggested contacting County Staff, including the Planning & Development Department, for the proper steps to go through to propose an ordinance change.

ADJOURN

On motion of Vice Chairman Lofton, seconded by Supervisor Trout, the meeting was adjourned at 9:09 p.m.

B



COUNTY of FREDERICK

Jay E. Tibbs

Deputy County Administrator

540/665-5666

Fax 540/667-0370

E-mail:

jtibbs@fcva.us

MEMORANDUM

| | |
|----------|---|
| TO: | Board of Supervisors |
| FROM: | Jay E. Tibbs, Deputy County Administrator <i>Jay E. Tibbs</i> |
| SUBJECT: | Certified Copies of the Abstract of Votes from June 12, 2018 Primary Election |
| DATE: | June 22, 2018 |

In compliance with Virginia Code Section 24.2-675, the Frederick County Electoral Board provided the attached certified copies of the Abstract for Votes from the June 12, 2018 Primary Election to be recorded in the minutes.

It is requested the Board of Supervisors take action to acknowledge receipt of the certified copies at their meeting on June 27, 2018.

Attachment

ABSTRACT of VOTES

Cast in FREDERICK COUNTY, VIRGINIA
at the 2018 June Democratic Primary Election held on June 12, 2018 for,

Member House of Representatives

District: 10

NAMES OF CANDIDATES ON THE BALLOT

TOTAL VOTES RECEIVED
(IN FIGURES)

| | |
|--|------|
| Lindsey Davis Stover - Democratic | 1444 |
| Jennifer T. Wexton - Democratic | 949 |
| Alison K. Friedman - Democratic | 504 |
| Dan I. Helmer - Democratic | 354 |
| Paul E. Pelletier - Democratic | 97 |
| Julia E. Biggins - Democratic | 94 |
| Total Write-In votes [From Write-Ins Certifications]
[Valid Write-Ins + Invalid Write_ins = Total Write In Votes] | 0 |
| Total Number of Overvotes for Office | 0 |

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on June 12, 2018, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the Member House of Representatives.

Lindsey Davis Stover - Democratic

Given under our hands this 15th day of JUNE, 2018

[Signature], Chairman
Maree D. Grant, Vice Chairman
Tom Reed, Secretary
Tom Reed, Secretary, Electoral Board



ABSTRACT of VOTES

Cast in FREDERICK COUNTY, VIRGINIA
at the 2018 June Republican Primary Election held on June 12, 2018 for,

United States Senate

NAMES OF CANDIDATES ON THE BALLOT

TOTAL VOTES RECEIVED
(IN FIGURES)

| | |
|--|------|
| Corey A. Stewart - Republican | 3779 |
| Nick J. Freitas - Republican | 1422 |
| E. W. Jackson - Republican | 982 |
| Total Write-In votes [From Write-Ins Certifications]
[Valid Write-Ins + Invalid Write_ins = Total Write In Votes] | 0 |
| Total Number of Overvotes for Office | 0 |

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on June 12, 2018, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the United States Senate.

Corey A. Stewart - Republican

Given under our hands this 15th day of JUNE, 2018

[Signature], Chairman
Mary D. Schaub, Vice Chairman
Tom Reed, Secretary
Tom Reed, Secretary, Electoral Board



ABSTRACT of VOTES

Cast in FREDERICK COUNTY, VIRGINIA
at the 2018 June Republican Primary Election held on June 12, 2018 for,

Member House of Representatives

District: 10

NAMES OF CANDIDATES ON THE BALLOT

TOTAL VOTES RECEIVED
(IN FIGURES)

| | |
|--|------|
| Shak E. Hill - Republican | 3364 |
| Barbara J. Comstock - Republican | 3056 |
| Total Write-In votes [From Write-Ins Certifications]
[Valid Write-Ins + Invalid Write_ins = Total Write In Votes] | 0 |
| Total Number of Overvotes for Office | 0 |

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on June 12, 2018, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the Member House of Representatives.

Shak E. Hill - Republican

Given under our hands this 15th day of JUNE, 2018

Shak E. Hill, Chairman
Marie D. Spraul, Vice Chairman
Tom Reed, Secretary
Tom Reed, Secretary, Electoral Board



C



COUNTY of FREDERICK


Kris C. Tierney
County Administrator

540/665-6382

Fax: 540/667-0370

E-mail: ktierney@fcva.us

MEMORANDUM

| | |
|----------|--|
| TO: | Board of Supervisors |
| FROM: | Kris C. Tierney, County Administrator  |
| SUBJECT: | DECLARING A LOCAL EMERGENCY IN FREDERICK COUNTY,
VIRGINIA |
| DATE: | June 14, 2018 |

Due to severe weather that was forecasted for Frederick County and directly related to heavy and prolonged rainfall that impacted Frederick County from May 14, 2018 through June 6, 2018 and after consultation with the Coordinator and Deputy Coordinator(s) of Emergency Management, I have declared a local emergency in Frederick County to remain in effect until July 1, 2018. This action follows an earlier declaration of a State of Emergency by Governor Ralph Northam.

The declaration will allow the county to seek reimbursement for any money spent due to the heavy rainfall/flooding that occurred during that timeframe. It also puts us in a ready position should a presidential declaration follow.

Staff will be seeking Board action at a future meeting, but no later than the July 25, 2018 meeting, on the attached resolution, which ratifies the declaration.

If you have any questions, please do not hesitate to contact me.

KCT/jet

Attachments

DECLARATION OF A LOCAL EMERGENCY

RESOLUTION DECLARING A LOCAL EMERGENCY IN FREDERICK COUNTY, VIRGINIA

WHEREAS, the Board of Supervisors of the County of Frederick does hereby find that:

1. Due to severe weather that was forecasted for Frederick County and directly related to heavy and prolonged rainfall that impacted Frederick County from May 14, 2018 through June 6, 2018;
2. Due to the flooding associated with the severe weather and the result of impaired travel and access;
3. Due to severe prolonged rainfall and flooding, systems failure occurred in the county creating hazardous and perhaps life-threatening conditions;
4. Associated flooding and near record rainfall has impacted local agriculture;

NOW, THEREFORE, IT IS HEREBY PROCLAIMED by the Board of Supervisors of the county of Frederick, Virginia that an emergency exists throughout the county, and

IT IS FURTHER PROCLAIMED AND ORDERED that due to the above stated circumstances, and after consultation with the Coordinator and Deputy Coordinator(s) of Emergency Management, the Director of Emergency Management declared a local emergency pursuant to Section 44.146.21 of the Code of Virginia on June 14, 2018. This local emergency declaration shall remain in effect until July 1, 2018 during which time the powers, functions, and duties of the Director of Emergency Management and the Emergency Services Organizations of the County of Frederick shall be those prescribed by state law and the ordinances, resolutions, and approved plan of the County of Frederick to mitigate the effects of said emergency.

ADOPTED this 27th day of July 2018.

Upon motion made by Supervisor _____, seconded by Supervisor _____, the above Resolution was approved by the following recorded vote:

| | | | |
|-------------------------|-------|-------------------------|-------|
| Charles S. DeHaven, Jr. | _____ | J. Douglas McCarthy | _____ |
| Blaine P. Dunn | _____ | Judith McCann-Slaughter | _____ |
| Gary A. Lofton | _____ | Shannon Trout | _____ |
| Robert W. Wells | _____ | | |

A COPY TESTE:

Kris C. Tierney
Clerk, Board of Supervisors
County of Frederick, Virginia

RESOLUTION NO.: _____

CC: Cheryl B. Shiffler, Finance Director
C. William Orndoff, Jr., Treasurer

D



COUNTY of FREDERICK

Jay E. Tibbs
Deputy County Administrator

540/665-5666
Fax 540/667-0370

E-mail:
jtibbs@fcva.us

MEMORANDUM

| | |
|----------|---|
| TO: | Board of Supervisors |
| FROM: | Jay E. Tibbs, Deputy County Administrator <i>Jay E. Tibbs</i> |
| SUBJECT: | Request from School Board re: Appropriation for Replacement Robert E. Aylor Middle School in the Amount of \$45,500,000 |
| DATE: | June 22, 2018 |

Attached please find a resolution adopted by the Frederick County School Board, at its June 19, 2018 meeting, seeking an appropriation in the amount of \$45,500,000 for the replacement of the Robert E. Aylor Middle School.

As you might recall, the Board of Supervisors at its May 23, 2018 meeting previously adopted a resolution regarding funding for a replacement Robert E. Aylor Middle Schools. In that resolution, the Board of Supervisors expressed its willingness to consider the request for an appropriation of up to \$45,500,000 for the acquisition of land for and the construction of a new Robert E. Aylor Middle School, provided that:

1. The facility does not exceed 140,000 square feet in floor area;
2. The facility will have capacity for 900 students;
3. The facility will be expandable;
4. The facility will not be subject to any unresolved VDOT comments or issues, including that vehicular ingress and egress to the facility shall be safe and appropriate; and
5. The School Board will designate the existing Aylor Middle School property as surplus for conveyance back to the County, promptly upon the opening of the new Aylor Middle School.

This request is being presented to the Board of Supervisors for consideration. The action being sought from the Board would be to schedule a public hearing for your July 25, 2018 meeting to amend the Fiscal Year 2018 -2019 budget to reflect: School Construction Fund supplemental appropriation in the amount of \$45,500,000 for the construction of the replacement Robert E. Aylor Middle School.

If you have any questions, please do not hesitate to contact me.

Attachment

**RESOLUTION
OF THE COUNTY SCHOOL BOARD OF
FREDERICK COUNTY, VIRGINIA
SEEKING APPROPRIATION FOR
REPLACEMENT ROBERT E. AYLOR MIDDLE SCHOOL
IN THE AMOUNT OF \$45,500,000.00**

RECITALS

WHEREAS, the supervision of Frederick County Public Schools (the "Division") is vested in the County School Board of Frederick County, Virginia (the "Board"), a Virginia public body corporate, which holds the authority to manage and control the property of the school division and provide for the erecting, furnishing and equipping of necessary school buildings; and

WHEREAS, the Frederick County Board of Supervisors, Virginia (the "Supervisors"), approved the Robert E. Aylor Middle School addition and renovation through annual adoptions of the Capital Improvements Plan since 2004; and

WHEREAS, the Board conducted an extensive condition study and evaluation of Robert E. Aylor Middle School's major building systems, building finishes, and site amenities in December of 2013, amended July 2017, in preparation for preliminary design detail; and

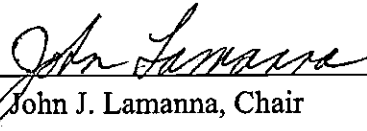
WHEREAS, the Supervisors have, by adopting a resolution on May 23, 2018, denied the Board's request for \$52,000,000.00 and shared "a willingness to consider" an appropriation of up to \$45,500,000.00 for the acquisition of land for and the construction of a new Robert E. Aylor Middle School provided that the facility does not exceed 140,000 square feet in floor area; will have capacity for 900 students; will be expandable; will not be subject to any unresolved Virginia Department of Transportation comments or issues, including that vehicular ingress and egress to the facility shall be safe and appropriate; and that the School Board will designate the existing Aylor Middle School property as surplus, for conveyance back to the county, promptly upon opening the new Aylor Middle School.

NOW, THEREFORE, BE IT RESPECTFULLY RESOLVED BY THE COUNTY SCHOOL BOARD OF FREDERICK COUNTY, VIRGINIA:

1. The Board requests a supplemental appropriation to the FY2019 School Construction Fund in the amount of \$45,500,000.00 for the acquisition of land, design and the construction of a new Robert E. Aylor Middle School.
2. The Board states its willingness to consider the Supervisors' request that the facility does not exceed 140,000 square feet in floor area; will have capacity for 900 students; will be expandable; will not be subject to any unresolved Virginia Department of Transportation comments or issues, including that vehicular ingress and egress to the facility shall be safe and appropriate; and that the School Board will designate the existing Aylor Middle School property as surplus, for conveyance back to the county, promptly upon opening the new Aylor Middle School.

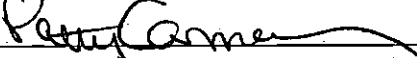
3. Based upon market conditions and the funds appropriated for the project, the Board shall construct the school to accommodate the greatest number of students and possible future expansion without affecting the ability to implement current instructional pedagogy and the integration of technology.
4. The Board shall construct the new school in compliance with the regulations of the Board of Education and the Uniform Statewide Building Code (§22.1-140).
5. The Division Superintendent shall approve the design of the school in accordance with the Code of Virginia (§22.1-140).
6. The school plans shall be reviewed and approved according to Frederick County Ordinance by the Chief Building Official and appropriate state or federal agencies with jurisdiction such as the Virginia Department of Transportation. It is understood and memorialized in this resolution that the Chief Building Official is an agent of the Supervisors and has full and absolute authority to only approve school construction permits for projects where all agency comments have been addressed to the Chief Building Official's satisfaction.

BE IT FURTHER RESOLVED, that this Resolution supersedes the Board's resolution adopted on February 6, 2018, which requested a supplemental appropriation of \$52,000,000.00 for a replacement Robert E. Aylor Middle School and shall take effect immediately upon its passage.


 Dr. John J. Lamanna, Chair


 Clerk, Frederick County School Board

Attested To:

 (Name)
 Executive Director of Finance and Deputy Clerk

6/19/18 (Date)

Recorded Vote

Moved By: MR. WRIGHT

Seconded By: MR. THATCHER

Yeas: 5

Nays: 1