



AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS HELD IN THE VILLAGE BUILDING AUDITORIUM, AT 3910 OLD BUCKINGHAM ROAD IN POWHATAN COUNTY, VIRGINIA, AND REMOTELY BY ELECTRONIC MEANS ON APRIL 24th 2023, AT 6:30 PM.

Board of Supervisors Present: David T. Williams, District 1,
Steve W. McClung, District 2, Vice-Chair
Mike W. Byerly, District 3, Chair
Bill L. Cox, District 4,
Karin M. Carmack, District 5

Board of Supervisors Absent: None

County Staff Present: Bret Schardein, County Administrator
Tom Lacheney, County Attorney
Will Hagy, Deputy County Administrator
Charla Schubert, Finance Director
Phil Warner, Fire and Rescue Chief
John Wood, Director of IT/GIS
David Dunivan, Building Official
Jeff Searfoss, Chief Deputy
Doug Flinn Chief Deputy Assessor
Sara Rozmus, Planner II Technician

Constitutional Officers Present: Jamie Timberlake, Commissioner of the Revenue

Guests Present: None

1. Call to Order

Chairman Byerly called the meeting to order at approximately 6:30 PM.

2. Pledge of Allegiance

Ms. Carmack led the pledge of allegiance.

3. Invocation

Mr. Cox led the invocation.



4. Requests to Postpone Agenda Items and Additions, Deletions, or Changes in the Order of Presentation

Chairman Byerly motioned to **move** the closed session to item 12b.

Ms. Carmack seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

VOTE 5-0

MOTION PASSED

Ms. Carmack motioned to **move** item M. from the consent agenda to 12a.

Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

VOTE 5-0

MOTION PASSED

5. Formal Approval of Agenda

Mr. Cox motioned to **approve** the agenda as amended.

Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

VOTE 5-0

MOTION PASSED

6. County Administrator Updates

None.

7. Proclamations



a. P-2023-03 Proclamation Recognizing May 2023 as Building Safety Month

Mr. Schardein gave a brief overview of the Proclamation, which acknowledges May 2023 as Building Safety Month.

Mr. Dunivan accepted the Proclamation and thanked the Board for its support.

b. P-2023-04 Proclamation recognizing May 2023 as Older Americans Month

Mr. Schardein gave a brief overview of the Proclamation, which acknowledges May 2023 as Older Americans Month.

c. P-2023-05 Proclamation Honoring Laura McFarland for Service to the Community as the Editor of Powhatan Today

Mr. Schardein gave a brief overview of the Proclamation, which honors Ms. McFarland for her service to the community as the editor of Powhatan Today,

Ms. McFarland accepted the Proclamation and thanked the Board.

8. Presentations

a. 2023 Real Estate Assessments status update

Mr. Timberlake and Mr. Flinn gave an update on the 2023 real estate assessments, which included first-quarter residential sales, comparisons to the previous year, median sales prices, commercial market rates, active commercial listings, the federal reserve funds rate, and emerging trends.

Mr. Cox asked if the number of BOE appeals were consistent with last year, and Mr. Timberlake said they were substantially lower. Chairman Byerly asked about the implications of sustained sales prices, and Mr. Flinn said he predicts that houses will



stay on the market longer while property values will slowly increase. Chairman Byerly asked if average sale prices would continue to rise, and Mr. Flinn said they would.

9. Public Comment (time limit 3 minutes per individual/5 minutes per group, 30 minutes total time limit that can be extended by the Board)

Chairman Byerly opened the public comment period.

[Carl Schwendeman, 1727 Theresa Lane](#) asked the County to consider preserving the remains of the Tidewater and Western Narrow-Gauge Railroad.

Seeing no one else wishing to speak, Chairman Byerly closed the public comment period.

10. Consent Agenda

- a. **R-2023-07 Amending the Fiscal Year 2023 Powhatan County Operating Budget by Budgeting and Appropriating \$224,819.38 in Grants Fund**
- b. **R-2023-16 Amending the Fiscal Year 2023 Powhatan County Operating Budget by Budgeting and Appropriating \$154,906.86 in General Fund for Insurance Recoveries and Sheriff Reimbursables**
- c. **R-2023-17 Amending the Fiscal Year 2023 Powhatan County Operating Budget by Budgeting and Appropriating \$29,891.07 in Tourism Fund, Grants Fund, and Fire and Rescue Fund**
- d. **R-2023-18 Amending the Fiscal Year 2023 Powhatan County Operating Budget by Budgeting and Appropriating \$11,857.50 in State Asset Forfeiture Fund**
- e. **Minutes February 23rd, 2023, Budget Workshop (Deferred from March 27th, 2023 for revisions)**



- f. Minutes March 8th, 2023, Joint Meeting of the Board of Supervisors and School Board**
- g. Minutes March 16th, 2023, Budget Workshop**
- h. Minutes, March 20th, 2023, Budget Workshop**
- i. Minutes, March 27th, 2023, Regular Meeting**
- j. Minutes, March 28th, 2023, Budget Workshop**
- k. R-2023-15 Resolution amending the bylaws for the Parks and Recreation Advisory Commission “PRAC” (Requested by PRAC)**
- l. R-2023-19 Resolution authorization for the County Administrator to enter into an agreement with VDOT for road improvements to Oakbridge Westbound turning lane**

Ms. Carmack motioned to **approve** the consent agenda as amended.

Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

VOTE 5-0

MOTION PASSED

11. Appointments to Boards, Commissions, Committees, etc.

- a. Parks and Recreation Advisory Commission Board of Supervisors Representative**

Mr. Schardein noted that this position would run through December 31st, 2023.

Chairman Byerly motioned to **appoint** Mr. McClung as the Board of Supervisors representative for the Parks and Recreation Advisory Commission.



Ms. Carmack seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted
AYE.

VOTE 5-0

MOTION PASSED

12. New Business

- a. R-2023-20 Resolution authorizing the County Administrator to execute an agreement with Schaefer's Grading, Landscaping, & Excavating LLC for the clean-up of a dump heap on 2881 Anderson Highway**

Mr. Schardein gave a brief overview. He explained that the cost to clean the debris would be about \$86,000.00.

Ms. Carmack noted that the owner is 87 years old. She suggested that the Board continue to work with him instead of spending such a large amount of money. Mr. McClung pointed out that the property is in his district, and he has never received a complaint. He stated that he would not be pursuing County action at this time. Mr. Williams said the County could not enforce other zoning violations while allowing this property to remain in poor condition. Mr. Cox noted that the County had recently created a dump ordinance and expressed concern about the reluctance to enforce it when the situation arises. He said that he would be in favor of the Resolution moving forward. Ms. Carmack asked if there were other avenues the County could take to continue working with the owner. She suggested that the zoning department could



check in periodically to make sure the owner is cleaning the property. Mr. Schardein said that the zoning department could continue to inspect the property and remain in contact with the owner. He asked if the County could draft an agreement with measurable milestones. Mr. Lacheney confirmed that the Board could create an agreement, but they would have to go back to court to enforce it if the owner did not follow through. He noted that the County could attach a bond to the agreement if appropriate. Mr. Cox suggested that the Board defer the Resolution for a month to look into other options before acting. Chairman Byerly asked if the owner's house is included in any way, and Mr. Lacheney said that only debris outside of the house is subject to the court order. Mr. Williams asked what would happen if the owner passed away. Mr. Lacheney said that whoever inherits the property would have to clean it before selling it.

Ms. Carmack motioned to **defer** Case R-2023-20 for thirty days until the next Board meeting.

Mr. Williams seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. Cox, and Mr. Williams voted AYE. Mr.

McClung voted NAY.

VOTE 4-1

MOTION PASSED

b. Ms. Carmack's Legal Fees

*POWHATAN COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
APRIL 24th, 2023*



Ms. Carmack motioned for the County to **pay** \$8,100.00 of legal fees in defense of the recent allegations regarding her residency.

Mr. McClung seconded the motion.

Mr. Cox gave an overview of the situation that led to her motion. Mr. Cox pointed out the actions conducted by Chairman Byerly and Mr. Carmack that resulted in the situation at hand. He said that he saw no reason why taxpayer money should be involved in the civil case. Mr. McClung stated that Ms. Carmack was entitled to reimbursement for what she had to endure. Mr. Williams asked Mr. Lacheney to explain whether he believed the case was civil or criminal. Mr. Lacheney stated that because Ms. Carmack hired her attorney after the case was changed to a civil matter, the decision to reimburse her legal fees was up to the Board's discretion. Ms. Carmack mentioned that Mr. Cox and Mr. Williams had been involved in the legal investigation since it began. She said that she believed Mr. Cox and Mr. Williams had a conflict of interest. Mr. Cox noted that the email Ms. Carmack referenced involved all the Board members, not just him and Mr. Williams. Mr. McClung stated that because Mr. Williams and Mr. Cox chose to open an investigation rather than ask Ms. Carmack about the situation, their actions have cost the taxpayers money. Mr. Williams explained that he refused to go into closed session because any decision made by the Board would have been framed as political. He added that the actions taken regarding the matter resulted from community concern. Chairman Byerly agreed with Mr. William's opinion that the issue does not belong in front of the Board. He pointed out that the votes of him and Ms. Carmack alone do not have the power to make any



decisions in the County because they require at least three people to agree. Mr. Williams asked Mr. Lacheney about the advice he gave Ms. Carmack regarding a lawyer. Mr. Lacheney said that he advised Ms. Carmack to hire a lawyer as she saw fit and explained that it was up to the Board to reimburse those fees if they deemed reasonable.

Ms. Carmack motioned for the County to **pay** \$8,100.00 of legal fees in defense of the recent allegations regarding her residency.

Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, and Mr. McClung voted AYE. Mr. Williams and Mr. Cox voted NAY.

VOTE 3-2

MOTION PASSED

13. Public Hearing

a. O-2023-05 23-01-REZ: Trent (District #5: Smiths

Crossroads/Pineville/Tobaccoville) requests a rezoning of the parcel located at TM #26-27 from Agricultural 10 (A-10) to Commerce Center (CC) and amendment of the zoning district map of approximately 9.69 acres located on the westbound side of Anderson Highway approximately 0.14 miles west of Maidens Road. If approved, the applicant intends to use the parcel for a funeral home and crematorium. The 2021 Comprehensive Plan designates the subject properties as Gateway Business on the Countywide Land Use Map.

Mr. Schardein and Ms. Rozmus gave a brief overview.



Chairman Byerly opened the public comment period.

[Carl Schwendeman, 1727 Theresa Lane](#), wondered if the Board could ask the applicant to build a 5ft-wide sidewalk in front of the development set back fifteen feet from Rte. 60.

Seeing no one else wishing to speak, Chairman Byerly closed the public comment period.

Mr. Cox said he had no issues with the use or location. He did express concerns about the parcel being located in the wastewater district. He pointed out that normally the applicant would be required to use a wastewater system, but the chemicals from the embalming process could seep into the wastewater system. He asked about the implications of putting those chemicals into the ground through a septic system. Ms. Rozmus explained that the Health Department would require the applicant to fill out permits for the well. She added that the applicant would also have to contact DEQ for approval. Mr. Cox noted that the commerce center designation requires parking on the property's side or back. Mr. Rozmus confirmed that the parking area would be amended. Mr. Cox asked about a proper conceptual plan, and Ms. Rozmus said one is not available yet. She added that there is a proffer condition for the rear portion open natural landscape. Mr. Cox stated that the Board traditionally requires a proffered conceptual plan to consider a rezoning. Mr. Schardein clarified that this is not an official requirement, although most rezoning cases have provided a proffered conceptual plan.



Mr. Williams asked if the Board typically requires the usage to be identified in this type of case. Mr. Lacheney explained that the Board usually has the applicant state the use, but they typically do not proffer a parcel for one specific use. Ms. Carmack suggested that Ms. Rozmus work with the applicant to tighten up the conceptual plan and proffer out any egregious uses. Chairman Byerly agreed that he would like to see a conceptual plan. Mr. Cox mentioned that a conceptual plan helps the Board visualize the limitations of what can be put on a parcel.

Mr. Cox motioned to **defer** Case O-2023-05 23-01-REZ until the next regular Board meeting.

Ms. Carmack seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams agreed.

VOTE 5-0

MOTION PASSED

b. Public Hearing on the Fiscal Year 2024 Operating Budget

Mr. Schardein gave a brief overview. He noted that the adoption of the budget is proposed to be set on May 1st, 2023.

Chairman Byerly opened the public comment period.

[Carl Schwendeman, 1727 Theresa Lane](#), asked if the Mann Road extension was included in the budget. He asked the County to extend the sidewalk along Mann Road if the extension does occur. He suggested that the Board use the funds from Mann



Road to pursue a larger transportation grant for the project. He also asked if the County had the money to fix the trails in Fighting Creek Park.

Seeing no one else wishing to speak, Chairman Byerly closed the public comment period.

Mr. Cox pointed out that there is no information on a budget with a 69-cent tax rate on the County's website. He noted that the 10-year projection showed a surplus of \$68 million with a tax rate of 77 cents and a surplus of \$35 million with a tax rate of 69 cents. He added that the County had dropped \$33 million in revenue over ten years but has only taken \$500,000.00 out of projects for the capital improvement plan. He stated that the Board cannot move forward with a budget until they adjust the CIP. He expressed concerns about the debt potential for FY25. Chairman Byerly agreed with Mr. Cox's comments.

c. O-2023-25 Amending the Powhatan County Code of Ordinances, Appendix A Fee Schedule, to increase Planning and Zoning Fees, Building Inspection Fees, and Other Administrative Changes

Mr. Schardein gave a brief overview.

Chairman Byerly opened the public comment period.

[Judy Cain-Oliver, 4372 Three Bridge Road](#), spoke in support of the proposal to fund the feasibility study for the community center. She expressed concerns about comments saying that no one in the district supports 55+ programs and designated space.



Seeing no one else wishing to speak, Chairman Byerly closed the public comment period.

Ms. Carmack motioned to **approve** the proposed fee schedule with the amendment to reduce the AFD application fee from \$300.00 to \$100.00.

Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted
AYE.

VOTE 5-0

MOTION PASSED

14. Public Comment (time limit 3 minutes per individual/5 minutes per group, 30 minutes total time limit that can be extended by the Board)

Chairman Byerly opened the public comment period.

[Carl Schwendeman, 1727 Theresa Lane](#), suggested that the Board create a park at the eastern end of The Village to preserve the Tidewater and Western Railroad.

[Stephen Barham, 3492 Richard's Run](#), urged the Board to eliminate County waste.

Seeing no one wishing to speak, Chairman Byerly closed the public comment period.

Seeing no one else wishing to speak, Chairman Byerly closed the public comment period.

15. County Attorney Comments

None.

16. County Administrator Comments

None.

POWHATAN COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
APRIL 24th, 2023



17. Board Comments

None.

18. Adjournment

Chairman Byerly adjourned the meeting.

**Bret Schardein, County Administrator
Powhatan County Board of Supervisors**

**Mike W. Byerly, Chairman
Powhatan County Board of Supervisors**

Recorded Vote:

<i>David T. Williams</i>	No
<i>Steve W. McClung</i>	Aye
<i>Michael W. Byerly</i>	Aye
<i>Bill L. Cox</i>	No
<i>Karin M. Carmack</i>	Aye

**Bret Schardein, County Administrator
Powhatan County Board of Supervisors**