

**FLUVANNA COUNTY BOARD OF SUPERVISORS
REGULAR MEETING MINUTES
Circuit Court Room
January 20, 2016
Regular Meeting 7:00pm**

BOARD OF SUPERVISORS**MEMBERS PRESENT:**

Mozell Booker, Fork Union District, Vice Chair
Patricia Eager, Palmyra District
Tony O'Brien, Rivanna District
Donald W. Weaver, Cunningham District

BOARD OF SUPERVISORS**MEMBERS ABSENT:**

Mike Sheridan, Columbia District, Chair

PLANNING COMMISSION**MEMBERS PRESENT:**

Barry Bibb, Cunningham District, Chair
Ed Zimmer, Columbia District, Vice Chair
Donald Gaines, Rivanna District (*Arrived at 7:32pm*)
Lewis Johnson, Fork Union District
Howard Lagomarsino, Palmyra District

ALSO PRESENT:

Steven M. Nichols, County Administrator
Fred W. Payne, County Attorney
Kelly Belanger Harris, Clerk to the Board of Supervisors
Jason Stewart, Planning and Zoning Director
Steve Tugwell, Senior Planner
Joann Rawls, Senior Program Assistant, Planning

CALL TO ORDER

At 7:00 pm, Board of Supervisors (BOS) Vice Chair Booker called the Regular Meeting of January 20, 2016 to order. After the recitation of the Pledge of Allegiance, a moment of silence was observed.

ADOPTION OF AGENDA**MOTION**

Supervisor Weaver moved to accept the Agenda for the January 20, 2016 Regular Meeting of the Board of Supervisors, as presented. Supervisor O'Brien seconded and the Agenda was adopted by a vote of 4-0.

AYES: Booker, Eager, O'Brien, and Weaver. NAYS: None. ABSENT: Sheridan.

COUNTY ADMINISTRATOR'S REPORT

Mr. Nichols reported on the following:

- Better Living
 - Now doing all area deliveries from its Troy location
- Fluvanna Radio Project Team traveled to Schaumburg, Ill.
 - Ran tests for our new public safety radio system
 - As the tower sites are available, this equipment will be installed in the County
 - The anticipated completion date is late 2016/early 2017. Along with the Fluvanna team in the picture are the Motorola project management team and the Motorola engineers who built our system.
- DEQ is developing a TMDL Project for Cunningham Creek and its tributaries in Fluvanna County.
 - Preliminary meeting: Fluvanna County Library on Jan 25 at 3:00pm, Roger Black will attend as the Fluvanna County Representative
 - Topics: Introduction of the TMDL process and timeline, details of the impairments in the stream DEQ wishes to gather feedback from representatives of Local and Regional government that have a stake in the process, and to also gather input as to the best way to introduce the project to the general public in the area
- Ms. Candace Stanford, New IT Systems Engineer started Monday, Jan 11th
- BOS Leadership Planning Retreat: Saturday, January 23, 8:30 am – 5:00 pm, Fluvanna Community Center, Fork Union; Weather date, January 30, 2016.
- Upcoming Meetings
 - Wednesday, February 3, 4:00 pm – Regular Meeting, 7:00 pm - Budget Work Session - Revenue/Exp. & Agency Briefs
 - Wednesday, February 10, 7:00 pm - Budget Work Session - Non-Profit Presentations
 - Wednesday, February 17, 4:00 pm – Budget Work Session - Constitutional Officers, 7:00 pm – Regular Meeting
 - Wednesday, February 24, 7:00 pm - Budget Work Session - Adopted School Budget Brief

BOARD OF SUPERVISORS' UPDATES

Booker—Interagency Council, New Supervisors Forum, Louisa Reentry Council, JABA, Kents Store FVD Annual Awards, Fluvanna-Louisa Housing Foundation.

Weaver—January School Board Meeting.

Sheridan— Absent.

O'Brien—None.

Eager—Region Ten, CAARS Banquet, Kent Store VFD Annual Award, New Supervisors Forum.

PUBLIC COMMENTS #1

At 7:11 pm BOS Vice Chair Booker opened the first round of Public Comments.

- Brenda Beasley, Dogwood Drive, spoke regarding the amount of trash on County roadways.

With no one else wishing to speak, BOS Vice Chair Booker closed the first round of Public Comments.

PUBLIC HEARINGS

At 7:17pm Planning Commission (PC) Chair Bibb called the Planning Commission Special Meeting of January 20, 2016 to order.

BOS Vice Chair Booker announced the topics to be heard.

SUP 15:11 James River Water Authority—Jason Stewart, Planning and Zoning Administrator

SUP 15:12 Louisa County Water Authority—Jason Stewart, Planning and Zoning Administrator

SUP 15:11 James River Water Authority—Jason Stewart, Planning and Zoning Administrator, apprised the Board and Planning Commission of a request for a Special Use Permit to allow for Major Utilities, to construct a raw water supply system which includes a raw water intake and pump station. Mr. Stewart noted the history of these requests, having been previously deferred (BOS 2015-11-17), and denied (BOS 2015-12-02.)

Mr. Payne, County Attorney noted a typo in the Staff Report, in Condition 5, it erroneously reads "...and a mediation.." and should read, "...and remediation.."

Staff recommends the following ten (10) conditions:

1. Construction, operation, and maintenance of the raw waterline major utility shall comply with all local, State, and Federal requirements.
2. The project shall comply with all Virginia erosion and sediment control regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook as amended.
3. For construction of the raw waterline major utility occurring adjacent to existing development, adequate dust and siltation control measures shall be taken to prevent adverse effects on the adjacent property. It is intended that the present and future results of the proposed raw waterline major utility not create adverse effects on the public health, safety, comfort, or convenience, or value of the surrounding property and uses thereon.
4. Vehicular access to all residences along the affected right-of-ways shall be maintained at all times.
5. Except in cases of emergencies including prevention of danger to public health, safety, and welfare and remediation of soil erosion and as requested by VDOT in the case of work done on public highways, all construction activity for the raw waterline major utility shall occur between 7:00 a.m. and 5:00 p.m. Monday through Saturday. Applicant shall comply with VDOT standards for performing open-cut sections on affected roadways.
6. The applicant shall avoid removing trees and bushes along the raw waterline major utility corridor, except as necessary in order to facilitate the utility. Trees and bushes damaged during construction shall be replaced with a tree or bush of equal type as approved by the Planning Director.
7. Any areas or land associated with this project that may become disturbed as a result of construction of the raw waterline major utility shall be restored to its original condition or better prior to the pipe crew's departure of the respective areas and/or land. This includes restoration of any/all areas of erosion.
8. Withdrawal and pumping facilities shall be so designed and built as to minimize sound propagation beyond the limits of buildings and other structures, to the maximum extent reasonably feasible.
9. The use that is permitted with this special use permit is limited to the raw water intake structure, raw water pumping facility and ancillary raw water pipelines, fittings and appurtenances, including reasonable temporary access routes for construction and permanent access roads for ongoing operations and maintenance.
10. In no event shall any of the foregoing conditions be construed to be duplicative of, contradictory to or inconsistent with any statute, rule, regulation or condition imposed under the authority of State or federal law; but all such conditions shall, on the contrary, be construed as arising out of the police power of the County pursuant to Title 15.2 of the Virginia Code (1950), as amended.

SUP 15:12 Louisa County Water Authority—Jason Stewart, Planning and Zoning Administrator, brought forward a request for a special use permits to allow for major utilities to construct a raw water pipeline to support a raw water supply system. Mr. Stewart reviewed the history of the request, noting that a similar SUP was deferred on Nov 17, 2016 by the Board, and during a Special Meeting on Dec 2, 2016, was denied. Mr. Stewart also reviewed amendments to the Comprehensive Plan, adopted in 2012 by the Board of Supervisors, that specifically address these types of structures.

Mr. Nichols noted one typo in the presentation; the LCWA pipeline is located in the Columbia District only.

Staff recommends the following nine (9) conditions:

1. Construction, operation, and maintenance of the raw waterline major utility shall comply with all local, State, and Federal requirements.

2. The project shall comply with all Virginia erosion and sediment control regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook as amended.
3. For construction of the raw waterline major utility occurring adjacent to existing development, adequate dust and siltation control measures shall be taken to prevent adverse effects on the adjacent property. It is intended that the present and future results of the proposed raw waterline major utility not create adverse effects on the public health, safety, comfort, or convenience, or value of the surrounding property and uses thereon.
4. Vehicular access to all residences along the affected right-of-ways shall be maintained at all times.
5. Except in cases of emergencies including prevention of danger to public health, safety, and welfare and remediation of soil erosion and as requested by VDOT in the case of work done on public highways, all construction activity for the raw waterline major utility shall occur between 7:00 a.m. and 5:00 p.m. Monday through Saturday. Applicant shall comply with VDOT standards for performing open-cut sections on affected roadways.
6. The applicant shall avoid removing trees and bushes along the raw waterline major utility corridor, except as necessary in order to facilitate the utility. Trees and bushes damaged during construction shall be replaced with a tree or bush of equal type as approved by the Planning Director.
7. Any area or land associated with this project that may become disturbed as a result of construction of the raw waterline major utility shall be restored to original condition or better prior to the pipe crew's departure from the affected area and/or land or as soon thereafter as conditions permit. This includes restoration of any/all areas of erosion.
8. The use that is permitted with this special use permit is limited to the raw water pipelines, fittings and appurtenances as currently proposed by the applicant, including reasonable roads and other access for construction and ongoing maintenance.
9. In no event shall any of the foregoing conditions be construed to be duplicative of, contradictory to or inconsistent with any statute, rule, regulation or condition imposed under the authority of State or federal law; but all such conditions shall, on the contrary, be construed as arising out of the police power of the County pursuant to Title 15.2 of the Virginia Code (1950), as amended.

BOS Vice Chair Booker called for questions from the Planning Commission and the Board of Supervisors.

Mr. Nichols provided a detailed history of the project, and outlined the historical time-line of discussion and planning for the water project, noting that in the last 18 months there have been fourteen (14) community information meetings of the James River Water Project. Mr. Nichols highlighted the proposed and researched locations for the intake structure, engineering considerations, and noted that the pipeline is routed in existing easements for the majority of the project route.

Bringing attention to long-term water concerns for the County, Mr. Nichols provided an overview of differences and overlap between the James River Water Project and the Zion Crossroads Water and Sewer Project, and spoke briefly about limitations and prospects for the Fork Union Sanitation District.

PC Chair Bibb inquired about a Board action on September 18, 2013 that directed the Planning Commission to amend the Comprehensive Plan to allow for the construction of major utilities related to this project. Mr. Nichols affirmed that this action was a requirement of the Interjurisdictional Agreement.

Further discussion touched on known and potential costs, expected outcomes, and existing and potential revenue streams.

BOS Vice Chair Booker Opened joint public hearing, first reading the *Public Hearing Rules of Procedure*.

- Barbara Seay, Point of Fork Farm, spoke against the JRWP.
- Elizabeth Franklin, Columbia District, Spoke against the proposed lawsuit by Louisa County and against the JRWP.
- George Bialkowski, 1215 Point of Fork Rd, noting that he hopes the SUP is denied, would like to note that the residents of Point of Fork recommend Site B, R3 joining R1 (as displayed in the presentation for the SUP.) Mr. Bialkowski further asked that the Board consider a different location for the intake.
- Dennis Holder, Kents Store, spoke against the JRWP.
- Dave Thomas, 610 Bell Farms Lane, spoke against the JRWP.
- Wayne Griffin, 3474 Coverdell Rd, spoke against the JRWP.
- Louis Cable, 651 West River Rd, spoke against the JRWP and expressed that the decision should have been put to a referendum.
- Perrie Johnson, 5039 James Madison Highway, speaking on her own behalf, and not as a School Board member, spoke in support of the JRWP.
- Roger Bowles, 5520 James Madison Highway, spoke against the JRWP.
- Helen Cauthen, CVPED, spoke in support of the JRWP.
- Frank Hardy, Columbia Rd, spoke against the JRWP and advocated a public referendum.
- Jim Summers, 1841 Columbia Rd, spoke against the JRWP.
- Fred Hardy, 7091 Columbia Rd, indicated that he is not a Fluvanna County resident, and spoke against the JRWP.
- Kathleen Swenson-Miller, 94 Fairview Lane, spoke in support of the JRWP.

- Snead Gillam, Rassawek, asked for clarification on several points, and spoke against the JRWP.
- Rhett Townsend, Goldsborough Lane, spoke against the JRWP.
- Sandra Patterson, Palmyra, VA, asked for clarification on the duration of the project and the positive impact on citizens.
- Elizabeth Tanner, 11732 James Madison Highway, is a Fluvanna native, and spoke in support of improving the County and the JRWP.
- Bob Dorsey, 6 Dover Ct, spoke against the JRWP.
- Minor Eager, 1107 Mechunk Creek Drive, spoke against the JRWP.
- Patricia Burkett, Palmyra, spoke in support of the JRWP.
- John Carrier, Overlook Circle, spoke in support of the JRWP.
- Lindsay Nolting, 1317 Stage Junction Rd, spoke against the JRWP.

At 9:53pm, BOS Vice Chair Booker closed the Public Hearing.

At 9:53pm, PC Chair Bibb opened discussion among the Planning Commission members. After opening discussion, PC Chair Bibb voiced concerns regarding the James River Water Project and the involvement and processes of the Planning Commission with regards to this SUP.

Planning Commissioners discussed the number and location of the sites, as well as the appropriateness of the proposed sites. Commissioner Zimmer asked if this SUP places the Interjurisdictional Agreement (IA) in conflict with the Comprehensive Plan. Mr. Payne noted that the Interjurisdictional Agreement does not improperly address the Comprehensive Plan, and finds no conflict. PC Chair Bibb asked if the IA has been terminated; Mr. Payne affirmed that the IA is still in effect.

MOTION

Commissioner Johnson moved that the Planning Commission recommend approval of SUP 15:11, a special use permit request to allow construction of raw water supply system major utility, including a raw water river intake, a SITE A pump station on an approximately 2 acres, and a ROUTE 1 raw water pipeline, within a portion of 330 acres of Tax Map Parcels 53-A-62, 53-A-62C, 53-A-61, 53-11-5, and 53-11-19, and 61-A-4, subject to the ten (10) conditions (*as above*) listed in the staff report. Commissioner Gaines offered a second and the motion passed 5-0. AYE: Bibb, Gaines, Johnson, Lagomarsino, Zimmer. NAY: None. ABSENT: None.

BOS Vice Chair Booker opened discussion among the Board.

Supervisor Eager brought to the attention of the public that the Board received additional advice from outside counsel. Supervisor Weaver indicated that the contract and agreement was made two years ago. Noting that he voted against it, Supervisor Weaver reiterated that the contract is nevertheless binding. Citing his concerns with the amount of debt that will be incurred if the County moves forward, Supervisor Weaver enumerated further concerns with the project.

Supervisor Weaver, reading from a prepared statement and speaking extemporaneously shared these thoughts.

“As many of you are aware, the James River Water Project has been years in development. And it has. We have had many, many public meetings. But we are tied into three people. It seems like, that you the people, never really get listened to. And that’s what’s bothers me over the year. We have done some things that have put this county in the hole, and that’s where we are today. We have started and stopped the process numerous times in the past two decades, and it has taken those years and hundreds of meetings to get to this point. A public works project such as this one is a complex undertaking. Project development and review has required a good many players to be successful, and many Board members, staff members, contractors, and citizens from Fluvanna County and Louisa have contributed. As part of our due diligence process and as we have occasionally done in the past, the Fluvanna County Board of Supervisors recently sought additional legal advice regarding this project to add to that already rendered by our County Attorney. In other words, again, we’re saying, “Trust and verify.” That’s what this Board has been doing. They have been doing their homework since the last vote in December. We engaged a specialized firm to look at the broad range of contractual and constitutional aspects of the project agreements. I can tell you that the information and opinions presented to myself and the other Board members, was strongly worded and compelling.

We do want to collaborate and to work closely with regional partners in this world that is becoming increasingly more complex and more expensive. Did you ever want to do something, or did you ever not want to do something, but you had to do it? Did you ever find yourself in a situation like that? That’s where I am, tonight. This county will be put to its knees under the circumstances we’re now presented with. My dedication isn’t to me, it’s dedicated to the people of this county. I cannot stick my head in the sand, or cut off my nose to spite to my face; I have to go beyond what I want, and what I feel. I have to do what I think is best for this county, and the vote I make tonight, that vote will be what I consider to keep this county afloat. Because we are, we have been out of control in the past, as far as I’m concerned. We’ve spent money here and there, and it never seems to cease. And we’re ready for another budget period. But that we’re standing, we’re here where we are here tonight, and we have to make a decision on that. So, when the votes are ready and people have spoken, I will make a decision, that will, in my opinion, do less damage to the county, than what it would do otherwise.”

Mr. O’Brien reiterated that the Board is charged with being accountable to all Fluvanna tax payers, and that moving forward with this project is indeed in the best interest of the County.

Supervisor Eager indicated that her personal feelings about the project run contrary to what she feels the Board must do for the betterment of the County.

Supervisor Weaver stated that offering the public a chance to be heard, through the use of referenda, is a good idea.

MOTION

Mr. O'Brien moved that the Board of Supervisors approve SUP 15:11, a special use permit request to allow construction of raw water supply system major utility, including a raw water river intake, a SITE A pump station on an approximately 2 acres, and a ROUTE 1 raw water pipeline, within a portion of 330 acres of Tax Map Parcels 53-A-62, 53-A-62C, 53-A-61, 53-11-5, and 53-11-19, and 61-A-4, subject to the ten (10) conditions listed in the staff report (*as above*.) Mr. Weaver seconded and the motion passed 4-0. AYE: Booker, Eager, O'Brien, & Weaver. NAY: None. ABSENT: Sheridan.

BOS Vice Chair Booker called for a short recess.

At 10:48pm, BOS Vice Chair called the meeting back to order.

BOS Vice Chair Booker opened the joint public hearing for SUP 15:12 Louisa County Water Authority. Noting that many citizens who had signed up to speak, were no longer in attendance, BOS Vice Chair Booker invited those still in attendance to speak.

- Louis Cable, West River Rd, appealed to the Board to be careful stewards of the newly approved JRWA project. Mr. Cable also noted that any businesses that might be attracted to the County, can be encouraged to be active partners in the stewardship of the County.
- Bob Dorsey, 6 Dover Ct, spoke regarding the actions of the Board tonight.

At 10:54, Vice Chair Booker closed the public hearing.

At 10:54pm Supervisors O'Brien moved to extend the meeting until 1:00am. Supervisor Weaver seconded and the motion passed 4-0. AYE: Booker, Eager, O'Brien, & Weaver. NAY: None. ABSENT: Sheridan.

PC Chair Bibb opened the discussion among Planning Commission members.

After brief discussion,

MOTION

Planning Commissioner Gaines moved that the Planning Commission recommend approval of SUP 15:12, a request for a special use permit to allow for major utilities with respect to the construction of a raw water pipeline from near Route 6 along the James River north to the Louisa County and Fluvanna County border with respect to the attached list of Tax Map & Parcel Numbers, subject to the nine (9) conditions (*as above*) listed in the staff report. Commissioner Zimmer offered second and the motion passed 5-0. AYE: Bibb, Zimmer, Gaines, Johnson, Lagomarsino. NAY: None. ABSENT: None.

BOS Vice Chair Booker opened the discussion among the Board.

After brief discussion, and with Supervisor O'Brien acknowledging the dedicated work by staff and collaboration with Louisa County,

MOTION:

Supervisor O'Brien moved that the Board of Supervisors approve SUP 15:12, a special use permit request to allow construction of raw water supply system major utility, including a raw water pipeline, from near Route 6 in southeastern Fluvanna County and north to the Fluvanna County and Louisa County border near Ferncliff, within a portion of the attached list of Tax Map Parcel numbers, subject to the nine (9) conditions listed in the staff report (*as above*.) Supervisor Weaver seconded and the motion passed 4-0. AYE: Booker, Eager, O'Brien, and Weaver. NAY: None. ABSENT: Sheridan.

At 11:05pm, PC Chair Bibb adjourned the Planning Commission.

ACTION MATTERS

Appointment to TJPDC Rural Transportation Advisory Council—Steven M. Nichols, County Administrator, brought forward a request to appoint Bobby Popowicz, Director of Community Development, to the Thomas Jefferson Planning District Commission (TJPDC) Rural Transportation Advisory Council.

MOTION

Supervisor O'Brien moved to appoint Bobby Popowicz, Director of Community Development, to the TJPDC Rural Transportation Advisory Council, effective immediately. Supervisor Weaver offered second and the motion passed 4-0. AYES: Booker, Eager, O'Brien, and Weaver. NAYS: None. ABSENT: Sheridan.

Appointment to the Board of Zoning Appeals, At-Large Position—Steven M. Nichols, County Administrator, presented a slate of candidates to be appointed to the position on the Board of Zoning Appeals, recently vacated by Supervisor Eager. Supervisor Eager noted that having a Planning Commissioner on the BZA is very helpful.

MOTION

Supervisor Eager moved to recommend Ed Zimmer to the Circuit Court, for appointment to the Board of Zoning Appeals, At-Large position, with a term to begin immediately and to terminate on December 31, 2019. Supervisor O'Brien offered second and the motion passed 4-0. AYES: Booker, Eager, O'Brien, and Weaver. NAYS: None. ABSENT: Sheridan.

Appointment Thomas Jefferson Area Community Criminal Justice Board (CCJB)—Steven M. Nichols, County Administrator, brought forward a request to appoint Commonwealth’s Attorney Jeff Haislip the Thomas Jefferson Area Community Criminal Justice Board (CCJB.)

MOTION

Supervisor O’Brien moved to appoint Jeff Haislip, Commonwealth’s Attorney, to the Thomas Jefferson Area Community Criminal Justice Board (CCJB), replacing Robert Ullenbruch, for a three year term beginning January 1, 2016 and ending December 31, 2018. Supervisor Weaver seconded and the motion passed 4-0. AYES: Booker, Eager, O’Brien, and Weaver. NAYS: None. ABSENT: Sheridan.

PRESENTATIONS

None.

CONSENT AGENDA

The following items were discussed before approval:

AP Report December 2016—Eric Dahl, Finance Director

The following were approved under the Consent Agenda:

Minutes of January 6, 2016 Meeting—Kelly Belanger Harris, Clerk to the Board

AP Report December 2015—Eric Dahl, Finance Director

MOTION

Supervisor O’Brien moved to approve the items on the Consent Agenda, with corrections in January 6, 2016 Minutes, for January 20, 2016, and that Accounts Payable and Payroll be ratified for December 2015 in the amount of \$2,331,694.45. Supervisor Weaver seconded and the motion passed 4-0. AYES: Booker, Eager, O’Brien, and Weaver. NAYS: None. ABSENT: Sheridan.

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

PUBLIC COMMENTS #2

At 11:15 pm, BOS Vice Chair Booker opened the second section of Public Comments.

- Bob Dorsey, 6 Dover Ct, remarked on the Agenda Packet posted on the website.

With no one else wishing to speak, Chair Booker closed the second round of public comments at 11:17pm.

ADJOURN

MOTION:

At 11:17pm, January 20, 2016, on a motion by Supervisor O’Brien the meeting of Wednesday, January 20, 2016, was adjourned.

ATTEST:

FLUVANNA COUNTY BOARD OF SUPERVISORS

Kelly Belanger Harris
Clerk to the Board

John M. Sheridan
Chair