

At the regular meeting of the Giles County Board of Supervisors on Wednesday, March 3, 2010, at 10:00 AM in the Giles County General District Courtroom, 120 North Main Street, Pearisburg, the following were present:

Barbara Hobbs	Chairman (Central District)
Eric Gentry	Vice Chairman (Eastern District)
Howard Spencer	Western District
Richard McCoy	At-Large Supervisor
Paul "Chappy" Baker	At-Large Supervisor
Chris McKlarney	County Administrator
Richard Chidester	County Attorney
Susan Kidd	Board Secretary

CALL TO ORDER/INVOCATION

Ms. Hobbs called the meeting to order. Mr. McKlarney offered the invocation and led the Pledge of Allegiance.

COOPERATIVE EXTENSION REPORT

Ms. Chase was unable to attend the meeting and had supplied the board members with a written report. Mr. Gentry reported that Mr. Lytton will be retiring before summer; he will be difficult to replace. He said he hoped Giles would be able to keep an agent in the county. Extension is talking about linking Giles with Montgomery now. Mr. Gentry suggested the board write a letter to encourage having a representative here in the county. The information Ms. Chase provided indicates that the General Assembly is planning to cut several other positions.

VDOT REPORT – DAVID CLARKE

Mr. Clarke reported that VDOT has been busy pushing snow and patching potholes. They have not gotten to some of the requests from the board last month. They did get some work on Route 219 on the potholes. Also, were able to get the "stop ahead" signs up as request. Mr. Clarke noted that they needed to schedule a public hearing for the six-year plan. There is less money this year than last, but VDOT is still required to hold a hearing. Mr. Clarke said there is about \$40,000 in the plan. That will cover things like speed studies, subdivision reviews, etc. There is nothing there for secondary construction projects. Mr. Clarke said they did have enough allocated to do the Clendenin Road project; parts of it may have to be done as Rural Rustic, but it can be done.

Mr. Gentry moved to schedule a public hearing on the VDOT Six-Year Plan for 7 PM on April 15, 2010. Second by Mr. Spencer. Approved unanimously (5-0). Voting YES: Mr. Spencer, Mr. McCoy, Ms. Hobbs, Mr. Gentry, Mr. Baker.

Mr. Gentry said he appreciated VDOT's work on the big potholes on the Route 460 by-pass. He asked about Mr. Gabbard's road request. Mr. Clarke said VDOT has looked at those but haven't made any definite recommendations. Mr. Gentry asked if Mr. Clarke could set down with Mr. Gabbard and discuss the application process, state road standards, etc. Mr. Gentry will set up a meeting and contact Mr. Clarke with a date. Mr. Gentry also asked VDOT to check on a low water bridge on Route 770 off Route 42. The approaches need some work. He asked if they had looked at placing a "wrong way" sign on Route 100 near Broad Hollow. Mr. Thompson said that should be done this week or next.

Mr. Spencer asked what type of materials are being used to patch roads. It seems that the patches are only lasting a few days. Mr. Clarke said that is about all they can do until the plants start back up. They used a pothole patcher some on Route 460 and it works a little bit better. Mr. Spencer asked if they had a chance to look at East River Mountain Road. Mr. Clarke said they had and are working on the drainage situation there.

Mr. McCoy asked if the governor's mandate to repair all the potholes will take money from the safety funds. Mr. Clarke said it would come out of maintenance money. At least, locally they are using maintenance funds for it. They were told to keep track of the costs though, so it may end up being charged differently. He asked them to look at Route 605 – one area drifted and has brought it down to one lane. He also asked about a motor grader sitting near Eggleston – someone asked Mr. McCoy to ask VDOT to move it. It has been there quite some time.

Ms. Hobbs asked about grading and gravel on Arch Eaton Road, and the same is needed on most of the unpaved roads in the district. She said she realized snow has prevented them from working, but hoped they would be able to get on it after the weather breaks.

Mr. Spencer asked what the roads were treated with prior to snow. It seems to be helpful in keeping it from freezing on the roadway. Mr. Clarke said they are using a brine mixture and it does help with the melting and removal process. He said it was fairly inexpensive once the set up is completed, and it is very effective.

RECOGNITION – TERRY ARBOGAST

Mr. McKlarney present Dr. Arbogast with the plaque and resolution in recognition of his selection as District VII Superintendent of the Year. This was approved by the board at the February 3rd meeting, but Dr. Arbogast was unable to attend.

SCHOOL BOARD REPORT – TERRY ARBOGAST

Dr. Arbogast reported enrollment at 2,552; this is a decrease of 24 from this time last year. He also presented copies of the March activity calendar to board members. They were able to reschedule SOL writing test to mid-March due to days missed for weather.

Dr. Arbogast announced that the Spelling Bee division winner was Amber Bradley of Eastern Elementary/Middle School. She will move forward and represent Giles County in Roanoke on March 13th. He announced that Narrows High girl's basketball will be playing in state semi-finals this weekend. Dr. Arbogast also noted that the Agriculture program at Giles High School received two mentions in a national magazine recently.

In an update on school renovations, Dr. Arbogast reported that the Tech Center and Eastern are both in the second stage of renovations. They are close to being on schedule at this time in the construction. With the recent collapse of Blacksburg High School's gym, Mr. Mills and a representative from the architectural firm inspected the plans and roofs at all county schools.

Mr. Gentry commended the schools for the work on science fairs and all the volunteers who helped out with those.

Mr. McCoy moved to send a letter from the Board to recognize Amber Bradley as the county spelling-bee winner. Second by Mr. Gentry. Approved unanimously (5-0). Voting YES: Mr. Spencer, Mr. McCoy, Ms. Hobbs, Mr. Gentry, Mr. Baker.

Dr. Arbogast reported that county schools have missed 15 days for weather plus 38 hours for early release and delay schedule. They will be adding time to the day to make up some of that. With SOLs coming up, they really need to make up some of the instructional time.

PLANNING COMMISSION RECOMMENDATION

Rezoning and Special Exception Requests – Donald Dirico

Mr. Whittaker presented the Planning Commission's recommendation that the rezoning of Mr. Dirico's property from R1 to R3 be approved. The Planning Commission also recommended approval of the special exception request for Commercial operations for Mr. Donald Dirico with the following conditions: to allow selling of cars as requested, no more than 10 vehicles for sale, no more than 5 of those displayed outside, the remaining to be displayed inside the structure, there be screening sufficient to block the adjoining neighbor's (Ms. Vance's) view

from the vehicles parked in that area, no more than 20 hours per week Monday thru Friday not to exceed 4:30 PM, the parking area for the vehicles for sale will be on the house side (southeast side) of the existing 2 door garage, with a drawing of the display area forthcoming.

Mr. Whittaker said in order to have the special exception considered, the rezoning has to be approved. The special exception is not allowed in the current zone.

Mr. Gentry moved to accept the Planning Commission's recommendation for rezoning Mr. Dirico's property from R1 to R3. Second by Mr. McCoy.

Discussion: Mr. McCoy asked if there was a time stipulation on the special exception. Mr. Whittaker said there was nothing specifically in the motion. However, the applicant has one year to put everything in place. If nothing is done within a year, the exception becomes void. It also has to be in place before he can be issued a Certificate of Zoning Compliance. Mr. McCoy asked if those would fall under an annual review. Mr. Whittaker said it would.

Ms. Hobbs said she was sympathetic with what Mr. Dirico was trying to do but she could not go along with spot zoning. When people move into an area and it is zoned one way – or when zoning went in and they did not contest it – then it is reasonable to expect it to remain zoned that way unless an emergency comes up or the majority of the residents want it changed. She did not feel it should be spot zoned at the request of one person.

Mr. Spencer apologized for not being able to go to the area personally. During the last month, personal circumstances have prevented him from doing that. He felt he was not prepared to vote either way. However, if there must be a decision made at this meeting, Mr. Spencer said he would defer to the Planning Commission's recommendation and to Mr. Gentry who is the board's representative on that. Mr. Baker said he would like to wait until Mr. Spencer has time to look at the property. Ms. Hobbs said she did not know if it could wait due to time constraints. Mr. Whittaker said they have 30 days from when it was presented (at this meeting) to make a decision.

Mr. Gentry withdrew his motion. Mr. McCoy withdrew his second.

Mr. Gentry said he withdrew this so Mr. Spencer would have a chance to look at this area. He also asked Mr. Baker to take a look at the property. Mr. Baker said he agreed with Ms. Hobbs and was against spot zoning.

Mr. Gentry said it has been brought up by a citizen that Mr. Gentry could not vote on or participate in this discussion because he owned land in that area. Mr. Gentry spoke to the county attorney and read a prepared statement into the record: "It has been suggested by a citizen to another Board member that I should not participate in voting on this rezoning and special exception request because I own property close to the Dirico property. The property which I own is approximately three quarters of a mile from the Dirico property and I do not reasonably foresee that whatever action is taken on this matter will have either a direct or indirect benefit or detriment to the property which I own. I own no interest in Mr. Dirico's property or business. The property which I own has already been subdivided into residential lots and will not be affected in any manner by the action taken by the Board on Mr. Dirico's request. Based on these facts I have been advised by the County Attorney that I do not have a conflict of interest in this matter and am able to participate and vote on this matter. "

Mr. Whittaker reiterated that the code does state that "the Board of Supervisors shall consider the proposed special exception (and applies to rezoning request as well) after a recommendation has been received from the Planning Commission and after notice and public hearing and shall take action on the proposed special exception within 30 days of the date the recommendation is received." That would be 30 days from this date (March 3rd).

FIRE DEPARTMENTS INSURANCE REQUEST

Mr. McKlarney stated that representatives from the local fire departments and a representative from Slemp Brant were at the meeting to request the board's consideration of paying their property/casualty/worker's compensation insurance. At that time, they did not have a total of what the departments currently pay. The

quote for this was \$25,000 and information received since then indicates the departments now pay about \$33,000 separately (this does not include the amount for Narrows). The proposal of \$25,000 does represent a savings for the departments.

Ms. Hobbs asked why the board needed to be involved; they should apply for this through the Giles Fireman's Association. Mr. Gentry said there seems to be enough money there if they pool funds to obtain a savings for everyone. Mr. McKlarney said the county currently gives the Fireman's Association \$5,000 annually that is used to maintain a compressor. Narrows has a compressor that they said everyone can use. The Fireman's Association currently has \$6,000 in their account. If they applied the \$5,000 appropriation to the insurance, it would provide better coverage for everyone. Mr. McKlarney felt it could be purchased through the Association. This is what he would recommend to the board.

Ms. Hobbs agreed and said that was her thought also. It should be done through the Association, not the Board. Mr. McCoy said he thought they were asking the county to pay this entire amount. There is just no way they can do this in the current budget. Mr. Gentry asked what the balance was for the Fireman's Association. Mr. McKlarney said it was about \$6,600. The board reached a consensus that they would send a letter asking the fire departments to work through the Fireman's Association and to pool their current insurance allocation to pay the group policy, as well as using the \$5,000 the county allocates to the Association.

DCR SCENIC RIVER DESIGNATION

There was a presentation at the last board meeting from DCR representatives on the State Scenic River designation for certain creeks and part of the New River in Giles County. Ms. Hobbs said when she considered the amount of land in the county already controlled by the state and federal government either through direct ownership or regulation, she wondered if they wanted more. It has been stated that the scenic designation does not, at this time, impose more regulations. However, the state and federal governments change their minds regularly and regulations could be enforced in the future. She also felt people owning land along the river have been good stewards of it.

Mr. Baker moved to have a public comment period on the proposed scenic designation of a portion of the New River in Giles County on Thursday, May 20th at 7 PM. Second by Mr. Gentry.

Discussion: Mr. Gentry asked if we would contact a DCR representative and ask them to attend that meeting. He also asked that the county attorney pull up the code and see what the stipulations are on that. Mr. Spencer asked if this was being considered for the property owned by the Army Corps of Engineers. Mr. McKlarney said it was not. That portion was considered for a national scenic designation; this is state. Mr. Spencer said he wrote a letter asking the Corps about a safe trail where ATV riders could sight-see and was told it was not compatible with their plan. He said he would like to know what is compatible with the Corps property and other waterways controlled by the National Park Service. He said he would like to know what their plan is – is horse riding okay or are they just going to isolate that area so no one can use it. Mr. McCoy said that section is federal. He felt they should have a public meeting and see what people think and see exactly what they propose. Mr. Baker felt it would be better to delay the meeting until May when weather would be better and more people able to attend.

The motion passed unanimously (5-0). Voting YES: Mr. Spencer, Mr. McCoy, Ms. Hobbs, Mr. Gentry, Mr. Baker.

PUBLIC HEARING – BONDS – RIPPLEMEAD WATER PROJECT

Ms. Hobbs opened the public hearing. Mr. Chidester stated that this hearing was on the proposed issuance of bonds or notes by the county. The general purpose for which the bonds are to be issued is to provide funds to finance the costs of improvements to the County's water system and pay costs of issuing the bonds. This is through the Virginia Department of Health and Virginia Resource Authority. There has been a lot of back and forth, but Mr. Chidester said they were close to closing on this. The biggest issue is the Rural Development

liens on most of the water/sewer projects. They have agreed this financing will be on parity with theirs. Adoption of this resolution is the next step toward closing on the project.

There were no comments and Ms. Hobbs closed the public hearing.

Mr. Baker moved to approve the resolution of issuance of bonds for the Ripplemead Water Project in the amount of \$347,742. Second by Mr. McCoy. Approved unanimously (5-0). Voting YES: Mr. Spencer, Mr. McCoy, Ms. Hobbs, Mr. Gentry, Mr. Baker.

DGIF – CONSERVATION OFFICER OPENING

Mr. Gentry stated that with the retirement of Mr. Gough from his position as Conservation Officer, there are none in the county now. There are two positions funded; by Code the county should have at least one of those. He proposed writing to the legislators and governor requesting that Giles County be given someone to fill that position. Mr. Gentry has been told there is dissention among the ranks on why Giles has not gotten anyone. The Sheriff has sent a letter explaining that Giles really needs this person. Mr. Gentry said he has been told the funds are there in the budget and they just have not filled the position. Mr. McCoy said he agreed. If the county is supposed to have someone, then they should request it. Mr. Baker said they have always had two. Now there is only one to cover four counties and a person in Montgomery who is on call. Board members agreed to send a letter to legislators requesting this position be filled.

PUBLIC COMMENTS

Patricia Muldoon: Ms. Muldoon stated that she was still very disappointed by the Planning Commission's recommendation. She felt they have violated the purpose of zoning regulations. One of those is to facilitate the creation of a convenient, attractive and harmonious community. She did not feel a used car lot beside \$140,000 homes is neither attractive nor harmonious. She also felt this violated keeping things in character with the existing neighborhood. The house on one side of this property is valued at \$147,000 and a few doors down is at \$181,000. Ms. Muldoon said she could not see that this was in the public interest. Also, in the R-1, a special exception says they find as fact that the purposed use is compatible with the surrounding houses. There is nothing compatible about a used car lot in a neighborhood of single family dwellings. Ms. Muldoon said there are 32 names on a petition objecting to this rezoning and people have been at both the public hearing and the Planning Commission meeting. She felt that although Mr. Gentry read that statement, he was not representing the citizens of Giles County – especially those in the eastern end and whose interest he should be representing. Those people have spoken and asked that this not be recommended for approval, but he was representing on single person. Ms. Muldoon said that was discouraging for the people in the eastern end and also felt it was a possible conflict of interest and he should have been transparent on owning property. Mr. Gentry asked how he would profit from this in any way. Ms. Muldoon said if it eventually becomes R-3, then there is the possibility of apartments being built there. Multi-family dwellings would generate more money. It is just a possibility. Ms. Muldoon said it would have been nice if he had been forthright. She said Mr. Gentry also commented that this property down Sinking Creek is not a Robinhood. She felt this property was as valuable to the people who own it as the property is in Robinhood Subdivision.

Barbara Dunbar: Ms. Dunbar said she opposed the special exception. Her mother, Oma Vance, lives next door to Mr. Dirico and was unable to be present. She was speaking for her and others who were unable to attend. Ms. Vance said she had nothing against Mr. Dirico; he is a good neighbor. She said no matter who lived there, she would oppose this rezoning. Spot rezoning is not a standard practice. All property in this section should be zoned one way or another. She said they were also told most of the selling of cars would be done off-site. However, according to DMV it has to be done there. This will cause extra traffic and people in and out of the property creating safety issues. She said the Planning Commission talked about how this rezoning would fit into the long-term plan for Sinking Creek. She said her mother did not know about any long-term plans because if she did, they might recommend she sell out and move. They were not allowed to comment at the Planning Commission meeting, but she would like to know what those long-term plans were. Ms. Dunbar said the board deferred the vote until they have time to view the property. She asked them to also look at her mother's property when they do that and see what it would feel like on her side of the property to

have a car lot next door. The Planning Commission indicated if this was approved there would be screening. Ms. Dunbar said screening could be made of different things. They wondered what that would be – it should be a fence at a height Ms. Vance cannot see over. She said she was not picking on Mr. Gentry but wanted to ask him a question. Mr. Gentry said he was just trying to do his job and did not take it personally. Ms. Dunbar said if this is approved, their opinion of Mr. Dirico would not change in any way. It is his right to come and ask for this; just as it is their right to come and as for it not to be approved. Ms. Dunbar said referring to the conflict of interest, she was told that Mr. Gentry's wife's great-grandfather was Mr. Dirico's great-grandmother's brother. Mr. Gentry said that may be right; they are all kin down in that area. Ms. Dunbar asked if that wasn't a conflict of interest if he was kin and voted in favor of this on the Planning Commission. Mr. Gentry asked her to state that kinship again. Ms. Dunbar repeated that. Ms. Gentry was present and said that was true but her great-grandfather died in the 1950s. Mr. Gentry said he would hold to the legal opinion that he read. It seems ridiculous to bring up a great-grandfather. For that matter, Mr. Gentry said they are also related to Ms. Gail Williams who has spoken in opposition of this. Ms. Dunbar said many residents have spoken out on this and he needs to represent all people and not just one.

Joe Ryder: Mr. Ryder stated that he worked for AEP. He was here to discuss the annual groundwater assessment at the Cumberland Park monitoring wells. This is not required by state regulations, but is done by AEP to assure the citizens that no harm being done to the groundwater surrounding the site. Mr. Ryder presented a copy of the report to the board members and also had extras for the public. He said this information will also be posted on the Giles County Partnership's web site. They want to be very transparent with this information. Mr. Ryder said the Glen Lyn plant is not running a lot lately. The economy and recession is affecting that. They hope to pick up some this summer. Ms. Hobbs asked how much they are operating. Mr. Ryder said they only ran 2-3 weeks in January and that is all this year. He explained all plants on the East Coast are tied into a grid. Each plant has its own particular dispatch costs. As demand comes through the grid system, they take the cheaper cost. Glen Lyn is not a completely unattractive rate, but is not the cheapest and has not been picked up. A lot of this is based on industrial load, and the economy is hurting the demand right now. Mr. Ryder introduced Rob Reash, the principle environmental scientist in AEP's Environmental Division in Columbus, Ohio.

Rob Reasch: Mr. Reash noted that the board members have copies of the full report with details of the sampling procedures, data analysis, etc. All of this will be on the Cumberland Park web site today. The purpose of the groundwater monitoring conducted in 2009 was to assess the quality of the groundwater with the Cumberland Park Project. The 2009 data has been compared to 2008 data. The 2009 results were practically identical to the 2008 results. Mr. Reash said there were two monitoring wells installed in 2007 between the fill site and the New River. This was done voluntarily and is not required by the Virginia Solid Waste Management regulations. The results are also made available to the public.

Mr. Reash briefly reviewed the sampling procedures. Samples were taking from the same wells and were taken quarterly. These samples are analyzed for total dissolved solids, boron, cesium, sulphate (different types of salts) and nine different trace metals. Mr. Reash said these were chosen specifically to be an indicator of potential leaching of the coal ash moving from the area. Mr. Reash said only the total dissolved solids measured at levels higher than one of the threshold figures. That is not a risk based factor, but is based on the color thresholds. Six of eight of the tests for TDS were greater than the secondary drinking water standard, but there is no health risk concern attached to this. Mr. Gentry asked what those solids were in TDS. Mr. Reash said the parameters are very close to the electrical conductivity and refers to all the dissolved solids. River samples around here are largely dominated by sulphates, chlorides, and low levels of magnesium and manganese. Mr. Gentry asked if these were naturally occurring solids in the groundwater. Mr. Reash said they were. He concluded by saying the sampling from two wells indicated that all constituents measured did not exceed various regulatory standards, criteria or other human health-based protection thresholds. The results of the 2009 sampling were similar to those obtained in 2008. There is no evidence of leaching or mobilization of constituents into the groundwater that could be attributable to the placement of coal ash at the Cumberland Park location. Mr. Reasch reported that AEP asserts that the placement of CCB material at the fill site does not constitute a human health or ecological risk. Sampling will continue in 2010 with the first quarter sample schedule within a few weeks.

Kathy Williams: Ms. Williams stated she lived on Sinking Creek Road. She was very surprised the Planning Commission approved Mr. Dirico's rezoning request. She did not understand how that happened with all the neighbors against it. It is not a benefit to the county and she did not see how that could happen. Ms. Williams said she did not know what land Mr. Gentry owned or who he was related to, and she did not know him personally. She felt he was a little defensive when people brought that up. Mr. Gentry said it was ridiculous and far-fetched. She agreed that some of it was and she did not have any reason to think anything was going on. Ms. Williams said she was just asking them not to change the R1 to R3; the residents do not want a business there. Businesses should be kept on Route 460. This is the third time they have been here and everyone is asking them not to rezone it and they also presented a petition. The only people who are in favor seem to be Mr. Dirico and his immediate family. She asked when Mr. Spencer looked at the property that he think about living there and having it spot zoned.

Donald Dirico: Mr. Dirico stated that a neighbor, Shaver, said they signed that petition and there was nothing on it about a car lot. He was informed by Gail Williams that someone was going to put a dump in and the county would put trash on it. He did not know about auto sales. Also, Mr. Dirico said another person said they did not know about the car lot. This petition should not be worth anything. If they want to speak out, they should be here. He just wanted to let the board know that about the petition.

PAYMENT OF WARRANTS

Mr. McCoy moved to appropriate funds in the amount of \$469,964,79 for payment of warrants as presented. Second by Mr. Spencer. Approved unanimously (5-0). Voting YES: Mr. Spencer, Mr. McCoy, Ms. Hobbs, Mr. Gentry, Mr. Baker.

BUDGET WORKSHOP

Mr. Baker moved to schedule budget workshop meetings for March 11th at 2 PM and March 18th at 3 PM at the County Administration Building. Second by Mr. Gentry. Approved unanimously (5-0). Voting YES: Mr. Spencer, Mr. McCoy, Ms. Hobbs, Mr. Gentry, Mr. Baker.

EMERGENCY SERVICES RFP

Mr. McKlarney noted that the board members had received a copy of the proposed RFP for emergency services. He asked them to review this and send back any comments as soon as possible. He also asked for them to think about people to sit on the review committee. The board members discussed putting John Davis (Dispatch Coordinator), Bobbie Myers from Newport (works with VT Emergency Services), and Larry Reynolds (Newport Rescue) on this review group. Mr. McKlarney will contact them to see if they would like to serve.

WORKFORCE INVESTMENT BOARD – CLEO

Mr. Spencer said he would like to have an alternate appointed to the CLEO board for Workforce Investment. Mr. Baker said he would attend a meeting and see what all was involved.

No further business was introduced. Ms. Hobbs adjourned the meeting until the budget meeting noted above. The next recess meeting is Thursday, March 18, 2010 at 6:30 PM.

APPROVED:

Chairperson

ATTEST:

Clerk

March 3 2010