

**BOARD OF SUPERVISORS MINUTES****FEBRUARY 9, 2021**

At a Regular Meeting of the Orange County Board of Supervisors held on Tuesday, February 9, 2021, beginning at 5:00 p.m., in the Meeting Room of the Gordon Building, 112 West Main Street, Orange, Virginia. Present: James P. Crozier, Chairman; R. Mark Johnson, Vice Chairman; James K. White; and Lee H. Frame. Absent: District 3 Vacancy. Also present: Theodore L. Voorhees, County Administrator; Thomas E. Lachenev, County Attorney; and Alyson A. Simpson, Chief Deputy Clerk.

RE: ADOPTION OF AGENDA

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, the Board adopted the agenda, as modified. Ayes: Johnson, White, Crozier, Frame. Nays: None.

RE: SPECIAL PRESENTATIONS AND APPEARANCES

RE: PRESENTATION FROM THE PIEDMONT REGIONAL DENTAL CLINIC

Andre Hintermann, President of the Piedmont Regional Dental Clinic, announced that the Clinic was partnering with the Culpeper Wellness Foundation to continue operations of the Clinic in Orange County, which would soon be expanded to include a pediatric component. Ed Scott, Treasurer of the Culpeper Wellness Foundation, shared comments regarding the partnership.

The Board thanked Mr. Hintermann and Mr. Scott for their presentation.

RE: CONSENT AGENDA

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, the Board adopted the Consent Agenda, as presented.

RE: FY21 BUDGET AMENDMENTS (SUPPLEMENTALS AND TRANSFERS)

As part of the Consent Agenda, the Board approved the following budget amendments, as presented:

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUS BUDGET	BUDGET CHANGE	AMENDED BUDGET
30044002-35650	Comp Board - Tech. Trust	\$ 0.00	\$ (25,485.00)	\$ (25,485.00)
42160002-48110	EDP Equipment	0.00	25,485.00	25,485.00
41221001-43155	Appraisal Services	0.00	2,500.00	2,500.00
41221001-43200	Contract Serv. - Other	0.00	100.00	100.00
41221001-43250	Title Searches	0.00	2,500.00	2,500.00
41221001-43600	Advertising/Notices	0.00	400.00	400.00
30034002-34000	Court Costs - Del. Tax Suit	0.00	(5,500.00)	(5,500.00)
30030006-33500	Donations - Animal Shelter	(8,661.00)	(535.00)	(9,196.00)
43520003-43115	Prof. Serv. - Emergency Vet	141,239.00	535.00	141,774.00
<b>TOTALS</b>		<b>\$ 132,578.00</b>	<b>\$ 0.00</b>	<b>\$ 132,578.00</b>

RE: MINUTES

As part of the Consent Agenda, the Board approved the following minutes:

- January 26, 2021 Regular Meeting

RE: NEW BUSINESS

RE: RATIFICATION OF CONTRACT ACC-01-21AC WITH ABBY CONSTRUCTION COMPANY, INC. FOR RENOVATIONS IN THE BASEMENT OF THE COMMUNITY DEVELOPMENT BUILDING

Amanda Amos, Procurement Coordinator, explained that staff was seeking the Board's ratification of Contract ACC-01-21AC with Abby Construction Company, Inc. The contract, a cooperative contract with the University of Mary Washington, had been executed for the renovation of vacant office space located in the basement of the Community Development Building.

Ms. Amos indicated the scope of the contract was to create five (5) modern offices, an ADA-compliant restroom, a conference room, and a kitchenette, for FiberLync (Broadband Authority) staff. She added that, in order to expedite the start of construction, the County Administrator had executed the contract with a base contract price of \$98,194. However, the vendor presented additional options outside of the base price totaling \$16,346, which focused around changing the entrance, eliminating the existing ramp, and dealing with related drainage. Ms. Amos stated that, because the total value of the contract exceeded the delegated authority, staff was requesting that the Board ratify the entire contract in the total amount of \$114,540.

Discussion ensued among the Board regarding: a permanent fix to address the drainage.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, the Board ratified the County Administrator's execution of Contract ACC-01-21AC with Abby Construction Company, Inc. for renovations in the Basement of the Community Development Building, in the base amount of \$98,194 and with contract options in the amount of \$16,346, for a total amount of \$114,540, as presented.

Ayes: Johnson, White, Crozier, Frame. Nays: None.

RE: ACCEPTANCE OF THE CONTRACT WITH FEDERAL ENGINEERING FROM THE BROADBAND AUTHORITY (FIBERLYNC) TO THE BOARD OF SUPERVISORS

Amanda Amos, Procurement Coordinator, explained that the Broadband Authority (FiberLync) had previously been assigned management of contracts, both current and future, with Federal Engineering pertaining to Radio Engineering and Consulting Services. The assignment was from the Board of Supervisors. She indicated that, because the contract consisted of task orders for the Land Mobile Radio System, staff was requesting the Board of Supervisors accept assignment of the contract back from the Broadband Authority so the contract could continue being managed by County staff.

On the motion of Mr. White, seconded by Mr. Johnson, which carried by a vote of 4-0, the Board authorized the County Attorney and the County Administrator to accept and assign management of Contract FE-00-17NT with Federal Engineering from the Broadband Authority for Radio Engineering and Consulting Services, contingent upon action by the Broadband Authority to reassign the contract, as presented.

Ayes: Johnson, White, Crozier, Frame. Nays: None.

RE: OLD BUSINESS

RE: STA 20-01 (SUBDIVISION TEXT AMENDMENT; CARRIED OVER FROM THE JANUARY 26, 2021 PUBLIC HEARING)

Sandra Thornton, Planning Services Manager, briefly reviewed the proposed amendment to the Subdivision Ordinance, which had been opened for Public Hearing on January 26, 2021.

She reviewed the history of the amendment and the Planning Commission's recommendation of approval.

Chairman Crozier closed the public hearing.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING AMENDMENTS TO ARTICLE II (ADMINISTRATION), SECTION 54 (SUBDIVISIONS), OF THE ORANGE COUNTY CODE OF ORDINANCES CONCERNING MODIFICATIONS, WAIVER REQUESTS, AND APPEALS THERETO

WHEREAS, the Planning Commission previously initiated action on amendments to Article II (Administration), Section 54 (Subdivisions), of the Orange County Code of Ordinances concerning modifications, waiver requests, and appeals thereto, specifically related to provision of notice when a waiver is granted; and

WHEREAS, the Assistant County Attorney prepared recommended language for the text amendments, which was presented to the Planning Commission for consideration; and

WHEREAS, the Planning Commission advertised and held a remote Public Hearing on the proposed text amendments on November 5, 2020, and continued the matter and made its recommendation to the Board of Supervisors on December 3, 2020; and

WHEREAS, after discussing the proposed text amendments, the Planning Commission recommended approval of the proposed text amendments to the Board of Supervisors, as presented during its meeting; and

WHEREAS, the Board of Supervisors advertised and opened a Public Hearing on the proposed text amendments on January 26, 2021, and closed said Public Hearing on February 9, 2021; and

WHEREAS, following discussion at the Public Hearing, the Board of Supervisors hereby supports the proposed text amendments, as modified during its meeting; and

WHEREAS, public necessity, convenience, general welfare, and/or good zoning practice also support approval of the proposed text amendments;

NOW, THEREFORE, BE IT ORDAINED, on this 9<sup>th</sup> day of February, 2021, that the Orange County Board of Supervisors hereby approves the proposed amendments to Article II (Administration), Section 54 (Subdivisions), of the Orange County Code of Ordinances concerning modifications, waiver requests, and appeals thereto, specifically related to provision of notice when a waiver is granted, as modified and shown below.

Ayes: Johnson, White, Crozier, Frame. Nays: None.

Amendments to the Orange County Code of Ordinances

As adopted in Ord. No. 210209 – 6A  
by the Orange County Board of Supervisors  
on February 9, 2021

Chapter 54 - Subdivisions

Article II - Administration

Sec. 54-20 – Modifications, Waiver Requests, and Appeals Thereto.

- a. Where specifically authorized herein, one or more of the provisions of this Ordinance may be modified or waived by the Subdivision Agent upon demonstration by the subdivider that there exists an unusual situation or where strict adherence to said provisions would result in substantial injustice or hardship. However, when granting such a waiver or modification, the Subdivision Agent shall notify the Planning Commission contemporaneously with the applicant; and such notice shall be recorded in the agenda of the next meeting of the Planning Commission following the grant of the waiver or modification. Waivers shall not be issued or used to circumvent any requirement of this Ordinance or other regulation.
- b. The subdivider shall provide written notice of the waiver request to all adjoining property owners. Said notice shall be issued by the Subdivision Agent and the cost of providing the notice shall be paid by the subdivider.
- bc. A waiver or modification request shall be submitted in writing to the Subdivision Agent with or prior to an application for plat/plan review. Such a request shall include a specific statement of relief requested, the nature of the injustice or hardship incurred, and the reasoning why the request should be granted. The Subdivision Agent may reasonably require additional materials related to the request in order to render a decision. Such a decision shall be rendered within thirty (30) days of receipt of the request. Failure to render a decision shall automatically cause for referral to the Board of Supervisors for a decision.
- ed. Any person aggrieved by a waiver or modification decision made by the Subdivision Agent may appeal that decision to the Board of Supervisors. Such appeal shall be in writing and must be filed with the clerk of the Board within thirty (30) days of ~~the date of the aggrieved party's notice of~~ the Subdivision Agent's decision. The Board shall consider the appeal during a regular meeting within forty-five (45) days of the date of the appeal. The decision of the Board shall be final and unappealable.
- e. In the case of an appeal to the Board of Supervisors of the Subdivision Agent's waiver or modification decision, notice (as provided in subsection (b) above) shall be deemed to have taken place when:
  - i. The applicant was notified (in the case of appeal by an applicant);
  - ii. The Planning Commissioner was notified (in the case of appeal by an aggrieved Commissioner);
  - iii. When the notice was recorded in the agenda of a meeting of the Planning Commission (in the case of an appeal by any other aggrieved person); or
  - iv. When the aggrieved party received actual notice (including the full text of such decision), but only if the aggrieved person receives such actual notice prior to any of the deadlines described in paragraphs (i) through (iii).

RE: ZTA 20-01 (ZONING TEXT AMENDMENT; CARRIED OVER FROM THE JANUARY 26, 2021 PUBLIC HEARING)

Sandra Thornton, Planning Services Manager, briefly reviewed the proposed amendment to the Zoning Ordinance, which had been opened for Public Hearing on January 26, 2021. She reviewed the history of the amendment and the Planning Commission's recommendation of approval.

Chairman Crozier closed the public hearing.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING AMENDMENTS TO ARTICLE IV (DISTRICT REGULATIONS),  
SECTION 70 (ZONING), OF THE ORANGE COUNTY CODE OF ORDINANCES CONCERNING  
THE ELIMINATION OF CONTRADICTIONS REGARDING THE GRANTING OF SPECIAL  
EXCEPTIONS BY THE BOARD OF ZONING APPEALS

WHEREAS, Planning Commission action was previously initiated on amendments to Article IV (District Regulations), Section 70 (Zoning), of the Orange County Code of Ordinances concerning the elimination of contradictions regarding the granting of special exceptions by the Board of Zoning Appeals; and

WHEREAS, the Assistant County Attorney prepared recommended language for the text amendments, which was presented to the Planning Commission for consideration; and

WHEREAS, the Planning Commission advertised and held a remote Public Hearing on the proposed text amendments on November 5, 2020, and continued the matter and made its recommendation to the Board of Supervisors on December 3, 2020; and

WHEREAS, after discussing the proposed text amendments, the Planning Commission recommended approval of the proposed text amendments to the Board of Supervisors, as presented during its meeting; and

WHEREAS, the Board of Supervisors advertised and opened a Public Hearing on the proposed text amendments on January 26, 2021, and closed said Public Hearing on February 9, 2021; and

WHEREAS, following discussion at the Public Hearing, the Board of Supervisors hereby supports the proposed text amendments, as presented during its meeting; and

WHEREAS, public necessity, convenience, general welfare, and/or good zoning practice also support approval of the proposed text amendments;

NOW, THEREFORE, BE IT ORDAINED, on this 9<sup>th</sup> day of February, 2021, that the Orange County Board of Supervisors hereby approves the proposed amendments to Article IV (District Regulations), Section 70 (Zoning), of the Orange County Code of Ordinances concerning the elimination of contradictions regarding the granting of special exceptions by the Board of Zoning Appeals, as presented and shown below.

Ayes: Johnson, White, Crozier, Frame. Nays: None.

Amendments to the Orange County Code of Ordinances

As adopted in Ord. No. 210209 – 6B  
by the Orange County Board of Supervisors  
on February 9, 2021

Chapter 70 - Zoning

Article IV - District Regulations

Sec. 70-306 – Setback and Yards.

[...]

- (h) The zoning administrator may authorize construction of an unenclosed porch no more than ten feet deep to be attached to a single-family dwelling, irrespective of setbacks or required yards, upon finding in writing that such porch will not be detrimental to adjoining property

or the intent of this chapter. ~~If the zoning administrator does not make such finding, the board of zoning appeals may grant a special exception for such porch.~~

[...]

Sec. 70-336 – Setback and Yards.

[...]

- (g) The zoning administrator may authorize construction of an unenclosed porch no more than ten feet deep to be attached to a single-family dwelling, irrespective of setbacks or required yards, upon finding in writing that such porch will not be detrimental to adjoining property or the intent of this chapter. ~~If the zoning administrator does not make such finding, the board of zoning appeals may grant a special exception for such porch.~~

[...]

Sec. 70-366 – Setback and Yards.

[...]

- (6) The zoning administrator may authorize construction of an unenclosed porch no more than ten feet deep to be attached to a single-family dwelling, irrespective of setbacks or required yards, upon finding in writing that such porch will not be detrimental to adjoining property or the intent of this chapter. ~~If the zoning administrator does not make such finding, the board of zoning appeals may grant a special exception for such porch.~~

[...]

RE: DEPARTMENT DIRECTOR / CONSTITUTIONAL OFFICER REPORTS  
There were no Department Director or Constitutional Officer Reports at this time.

RE: COUNTY ATTORNEY'S REPORT  
The County Attorney had nothing to report on at this time.

RE: COUNTY ADMINISTRATOR'S REPORT

RE: BOARD OF SUPERVISORS' TWO-YEAR STRATEGIC PRIORITIES; FY21 SECOND QUARTER UPDATE

Theodore L. Voorhees, County Administrator, provided a quarterly update on the Board's Two-Year Strategic Priorities, reviewing the progress that had been made on each priority to-date and highlighting achievements related to each priority.

The Board took the information regarding its Two-Year Strategic Priorities under advisement, and there was no action taken at this time.

RE: BOARD COMMENT  
There was no Board Comment at this time.

RE: INFORMATIONAL ITEMS  
The Board received the following correspondence for its information:

- Tourism Quarterly Report

- Emergency Communications Center Semi-Annual Report
- Health Center Commission Minutes; November 6, 2020
- VDOT Monthly Report for February

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

By consensus, the Board re-appointed Sam Kessler as an At-Large Member of the Health Center Commission for a four-year term, with said term commencing April 1, 2021 and expiring on March 31, 2025.

RE: CALENDAR

The Board received copies of its calendar of meetings for the months of February 2021, March 2021, and April 2021.

RE: SCHEDULE A PUBLIC HEARING FOR REZ 21-01 (PATCH BREWING)

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, the Board authorized staff to advertise for and schedule a Public Hearing for REZ 21-01 (Patch Brewing) on Tuesday, March 9, 2021, as presented.

Ayes: Johnson, White, Crozier, Frame. Nays: None.

RE: CLOSED MEETING

At 5:39 p.m., Mr. Lacheney read the following motion authorizing Closed Meeting:

WHEREAS, the Orange County Board of Supervisors desired to discuss in Closed Meeting the following matters:

- Discussion, consideration, or interview of prospective candidates for appointment as Interim District Three Supervisor. - §2.2-3711(A)(1) of the Code of Virginia
- Consultation with legal counsel pertaining to actual or probable litigation, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the public body concerning Rapidan Service Authority and solar power. - §2.2-3711(A)(7) of the Code of Virginia

WHEREAS, pursuant to §§2.2-3711 (A)(1) and (A)(7) of the Code of Virginia, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby authorized discussion of the aforesated matters in Closed Meeting.

On the motion of Mr. Johnson, seconded by Mr. Frame, which carried by a vote of 4-0, the Board adopted the resolution authorizing Closed Meeting, as presented. Ayes: Johnson, White, Crozier, Frame. Nays: None.

RE: RECESS CLOSED MEETING

The Board recessed its Closed Meeting at 6:06 p.m.

RE: PUBLIC HEARING #1; ZTA 20-02

Sandra Thornton, Planning Services Manager, presented the staff report regarding proposed amendments to the Orange County Zoning Ordinance to reduce the setback of an identified portion of Route 20 in Barbourville. She reviewed the proposed language, indicating that the Planning Commission's vote resulted in a recommendation of approval.

At 6:08 p.m., Chairman Crozier called the Public Hearing to order to receive comments on the following:

ZTA 20-02

The Board of Supervisors will consider an amendment to Section 70-646 (5) of the Zoning Ordinance. The purpose of the amendment is to reduce the required setback from the right-of-way of Constitution Highway (State Route 20) between Hardwick Mountain Drive and Maudes Lane in the vicinity of Barboursville from 300 feet to 150 feet.

Chairman Crozier read the following statement:

Because this meeting is being conducted remotely, there is no opportunity for physical public access to the meeting and no opportunity for public comment. However, all interested persons are invited to submit written comments for the Board's consideration. Written comments may be submitted by mail or by email and must be received by 5:00 p.m. on Monday, February 22, 2021. The Board intends to close the Public Hearing and consider this matter at its Regular Meeting on Tuesday, February 23, 2021, after reviewing any written comments received.

RE: PUBLIC HEARING #2; PROPOSED SUPPLEMENTAL APPROPRIATION AND BUDGET AMENDMENT

Glenda Bradley, Assistant County Administrator for Management Services, explained this public hearing was required by the Code of Virginia §15.2-2507, as the amount of the budget amendment exceeded 1% of the total annual budget. She indicated the supplemental appropriation and budget amendment represented the appropriation of General Fund savings from FY20 as a result of using CARES Act funds for presumptive public safety salaries under the US Treasury's guidance for the Coronavirus Relief Fund. Ms. Bradley added that the transfer of General Fund savings would allow the remaining projects approved in the CARES Act spending plans to be completed without being subject to the time constraints of the CARES Act.

At 6:12 p.m., Chairman Crozier called the Public Hearing to order to receive comments on the following:

PROPOSED SUPPLEMENTAL APPROPRIATION AND BUDGET AMENDMENT

Pursuant to §15.2-2507 VA Code Ann., the Board of Supervisors will consider a supplemental appropriation and budget amendment. The County experienced General Fund savings in FY20 as a result of using CARES Act funds for presumptive public safety salaries under the US Treasury's guidance for the Coronavirus Relief Fund. The transfer of General Fund savings will allow the remaining projects approved in the original CARES Act spending plans to be completed without being subject to the time constraints of the CARES Act. Said amendment will consist of appropriation of the General Fund savings in the amount of \$2,321,279.

Chairman Crozier read the following statement:

Because this meeting is being conducted remotely, there is no opportunity for physical public access to the meeting and no opportunity for public comment. However, all interested persons are invited to submit written comments for the Board's consideration. Written comments may be submitted by mail or by email and must be received by 5:00 p.m. on Monday, February 22, 2021. The Board intends to close the Public Hearing and consider this matter at its Regular Meeting on Tuesday, February 23, 2021, after reviewing any written comments received.

RE: RECONVENE CLOSED MEETING

The Board reconvened its Closed Meeting at 6:13 p.m.

RE: CERTIFICATION OF CLOSED MEETING

At 7:29 p.m., Mr. Voorhees read the following resolution certifying Closed Meeting:

WHEREAS, the Orange County Board of Supervisors has, this day, adjourned into Closed Meeting in accordance with a formal vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Freedom of Information Act requires certification that such Closed Meeting was conducted in conformity with the law;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby certified that, to the best of each member's knowledge, i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the Closed Meeting to which this certification applied, and ii) only such public business matters as were identified in the motion by which the said Closed Meeting was convened were heard, discussed or considered by it.

Ayes: Johnson, White, Crozier, Frame. Nays: None.

RE: APPOINTMENT OF THE INTERIM DISTRICT THREE SUPERVISOR

By consensus, the Board appointed Keith F. Marshall as the interim District Three Supervisor on the Orange County Board of Supervisors, effective immediately.

RE: ADJOURN

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, the Board adjourned the meeting at 7:30 p.m. Ayes: Johnson, White, Crozier, Frame. Nays: None.

\_\_\_\_\_  
James P. Crozier, Chairman

\_\_\_\_\_  
Theodore L. Voorhees, County Administrator