

VIRGINIA: At a regular meeting of the Board of Supervisors of the County of Patrick, held at the Patrick County Administration Building thereof on Monday, July 11, 2005 at 3:00 p.m.

PRESENT: H. Danny Foley, Sr., Chairman; Darrell Cockerham, Crystal P. Harris, and David G. Young, Board Members; Regena H. Handy, County Administrator; Michael Burnette, Assistant County Administrator; Eric Helms Monday, County Attorney; and Mary Beth Roberson, Assistant to County Administrator.

ABSENT: Roger L. Martin, Vice Chairman

The Chairman called the meeting to order.

The Chairman gave the invocation.

The Board recited the Pledge of Allegiance to the Flag, followed by a Moment of Silence in honor of U. S. military personnel serving abroad.

On motion by Darrell Cockerham, seconded by David G. Young and carried, the agenda for the meeting was approved.

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

On motion by Darrell Cockerham, seconded by David G. Young and carried, the minutes of the June 17, 2005 meeting and work notes of the June 27, 2005 work session were approved.

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

On motion by David G. Young, seconded by Darrell Cockerham and carried, the Board convened into Executive Session to discuss resolution of annexation issues, which settlement is subject to Commission on Local Government review [Section 15.2-2907 (D), 1950 Code of Virginia, as amended].

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

Let it be hereby noted for the record that the Stuart Town Council after properly opening its meeting and convening into Executive Session, this day joined the Board in Executive Session.

The Stuart Town Council properly reconvened into regular session as outlined in its minutes of this same day.

On motion by Crystal P. Harris, seconded by Darrell Cockerham and carried, the Board reconvened into regular session, based upon the following:

WHEREAS, the Patrick County Board of Supervisors has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with provisions of the Virginia Freedom of Information Act, and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Patrick County Board of Supervisors does hereby certify that, to the best of each member's knowledge, only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board,

BE IT FURTHER RESOLVED that the Patrick County Board of Supervisors does hereby certify that, to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies.

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

The County Attorney joined the meeting in Open Session.

The County Administrator reported on the activities of her office for the preceding month, as required by Section 15.2-407 (B), 1950 Code of Virginia, as amended.

A. VACo Legislative Agenda: The Board proposed re-submitting the 2004 Legislative Agenda with the elimination of the items that have been completed, the addition of the Sex Offender Resolution, and the repeal of the code section that

requires localities to be responsible for payment of livestock claims, etc. due to damages caused by dogs. Mr. Young proposed the inclusion of school employees in the state-wide health insurance program. The Assistant County Administrator proposed the inclusion of the change in regulations for the Industrial Access Program to allow that the five year period requirement for appropriate investment begin at the end of road completion rather than at grant approval.

B. Proposed Eminent Domain Resolution: The County Administrator presented the Board with a proposed Eminent Domain Resolution, which was prepared by Mr. Martin.

On motion by David G. Young, seconded by Darrell Cockerham and carried, the Board hereby adopts the following resolution:

WHEREAS, The UNITED STATES CONSTITUTION is the fundamental defining document that lays out the basic legal and moral framework that comprises the essence of this great American nation. It is a legal document meant by the founding fathers to be narrowly interpreted and strictly construed, and

WHEREAS, unfortunately the Supreme Court and other elements of the judiciary have tended to treat it as a political document that has slowly evolved corrupting the meaning to fit the necessities of the moment. The substitution of public purpose for public use in the Fifth Amendment is an example, and

WHEREAS, The Fifth Amendment states "... nor shall private property be taken for public use without just compensation. Effective 5/23/2005 the Supreme Court gutted this vital protection for private ownership of real estate by changing PUBLIC USE to PUBLIC PURPOSE thereby allowing any political subdivision of government to use the power of eminent domain to take private property by condemnation and then give it to any private citizen or other private interest for any purpose whatever. The purpose may allegedly be to increase taxes, clean up an area of elderly or minority, low value housing, build a mall, etc. These people generally cannot or do not fight back. Property belonging to wealth and influence is rarely condemned. There is no penalty if the entity getting the property converts it to its own profitable use. This change may possibly subject the taking of real estate and property rights by greedy developers, corporations and those of wealth and influence in concert with incompetent apathetic politicians in exchange for campaign contributions or other considerations, and

WHEREAS, Condemnation must not be used to acquire private property unless that property is absolutely necessary for PUBLIC USE and the need overrides the importance of established private use, and

WHEREAS, The use of condemnation to acquire the property of the elderly, working people and those of limited means usually results in considerable loss of money, causes tremendous stress and is significantly adverse to the people and the community. The property owner is at a severe disadvantage without competent legal representation in a struggle against big government with the taxpayer's money and possibly abetted by other wealth and influence. The condemner's agents emphasize the great cost and stress of such a legal battle to the property owners and often threaten the elderly and vulnerable people with limited resources. Most give in and sign away their rights for a pittance. These people can lose a significant portion of their life savings. The abuse suffered by the elderly and those not equipped to fight often amounts, in reality, to legal extortion, and

WHEREAS, in many cases trials are held off for a period of years. The condemner takes the property, deposits an inadequate amount of money in the county clerks office and then fails to finalize the taking by court action until much later. This writer has this problem at present. As a result the property owner no longer has his land and may not have the resources to replace what was taken especially in residential or business property causing often serious problems to the people, and

WHEREAS, Condemners are sometimes able to retain incompetent and dishonest appraisers to furnish low-ball market value estimates and in the case of partial or easement takes to totally ignore the value of damage caused by the take to the remainder of the property, and

NOW THEREFORE BE THE FOLLOWING RESOLVED, Neither the Board of Supervisors nor any entity or subdivision of the County government shall be permitted to take private property through the power of eminent domain for a public purpose. The Board of Supervisors or any entity or subdivision thereof shall be permitted to take private property by the power of eminent domain only for a public use, as opposed to a public purpose. Furthermore, an increase in tax revenue or an increase in the number of jobs shall not be deemed a public use that will permit the exercise of the power of eminent domain.

Private property shall under no circumstances be condemned by the county or any entity or subdivision thereof and then conveyed, loaned, rented or otherwise given or conveyed, whether permanently or temporarily, to any private interest for any purpose.

The use of the power of eminent domain shall be exercised by the county or any entity or subdivision thereof only for private property that is absolutely necessary for strictly public use and then only as a last resort and only upon the failure of all available and appropriate attempts to negotiate a purchase with written offers of up to 150% of the market value as determined by a competent accurate appraisal which is consistent with the local real estate market.

When in the case of a partial take or an easement take or any other circumstances that reduce the value or the highest and best use of the remainder of the property, the condemner shall take the entire property unless the property owner is appropriately compensated for the damages.

As a condition of the condemnation, the property owner shall retain possession of the subject property until just compensation has been determined, ordered and paid. If payment is not made within 60 days of the termination of the trial, interest on the amount of just compensation shall accrue at the rate of 3% (three percent) per month compounded.

The condemner shall pay all the costs arising from the condemnation for both the condemner and the condemned.

The condemner shall make a relocation assistance payment to the property owner in the take of residential, industrial, or commercial property in the amount of 10% (ten percent) of the competent estimate of market value or of the just compensation whichever is higher.

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

C. Sale of Loader: On motion by Darrell Cockerham, seconded by David G. Young and carried, the Board hereby formally approves the following poll vote taken by telephone on July 5, 2005:

The County Administrator is hereby directed to sell to Performance Livestock of Lawsonville, North Carolina, one Caterpillar Loader Model IT24F, formerly used at the Patrick County Solid Waste Transfer Station, for the amount of \$33,000, said payment to be made by Cashier's Check and deposited in the General County Fund.

Polled telephone vote of the Patrick County Board of Supervisors by the County Administrator on July 5, 2005.

Voting Aye: Foley, Martin, Cockerham, Harris, and Young

Voting Nay: None

D. Emergency Watershed Protection Project Agreement: The County Administrator noted that formal approval of the EWP Project Agreement is needed to obtain Federal funding for repair and the removal of debris at sites in Ararat that were damaged by flooding in January. Mr. Young noted that the landowner will pay twenty percent of the repair costs and Natural Resources Conservation Service, United States Department of Agriculture (NRCS), will fund the remaining eighty percent. Mrs. Handy advised that the local share is estimated to be \$4,300.

On motion by Darrell Cockerham, seconded by David G. Young and carried, the Board hereby adopts the Emergency Watershed Protection Project Agreement between the Patrick County Board of Supervisors, Project Sponsor, and the Natural Resources Conservation Service, United States Department of Agriculture (NRCS), and designates Michael Burnette, Assistant County Administrator, as the liaison between the Sponsor and the NRCS.

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

E. VACo's Summer Conference: The County Administrator advised the Board that VACo's Summer Conference "Blueprint for Tomorrow" will be held on August 13th – 15th at the Charlottesville OMNI. She requested that any interested Board Members contact her in the near future.

F. VACo's Supervisor Certification Program: Mrs. Handy advised the Board of VACo's newly created Supervisor Certification Program. She presented the Board with an article from County Connections, which provided details about the program.

G. Noted for Record Receipt of Department Head Reports:

(1) Sheriff: The report of Patrick County Sheriff David Hubbard of prisoners confined during the previous month in the County Jail was this day presented, which report was examined as required by Section 53-178, 1950 Code of Virginia, as amended, and found to be correct.

(2) Building Inspector: A report of the activities of Jason Brown, County Building Inspector, for the preceding month, including a list of the number of new and used mobile homes for which permits were issued during the past month, was presented and examined. Said reports are approved and ordered filed with the papers of this meeting.

(3) DMV Agent: A report of office activities of Shirley Rorrer, Patrick County Division of Motor Vehicles (DMV) Agent, was presented for the Board's information. Said report is noted and ordered filed with the papers of this meeting.

(4) Treasurer: A trial balance of the records of Carolyn I. Tatum, Patrick County Treasurer, as of the last day of the previous month and a

statement of depositories made during the same month was submitted. Said report is noted.

(5) Animal Control Officer: A report of the activities of C. Leon Handy, County Animal Control Officer, were presented and examined for the preceding month. Said report is noted and ordered filed with the papers of this meeting.

(6) Maintenance Supervisor: A report of activities of Teddy Doss, Maintenance Supervisor was presented and examined for the preceding month. Said report is noted and filed with the papers of this meeting.

(7) Emergency Management: A report of the activities of Michael Hudson, Emergency Management Coordinator, was presented and examined for the preceding month. Said report is noted and ordered filed with the papers of this meeting.

(8) Tourism Director: A report of the activities of Jeannie Frisco, Tourism Director, was presented and examined for the preceding month. Said report is noted and ordered filed with the papers of this meeting.

h. WPPDC Mitigation Plan: Mrs. Handy noted that she has received a copy of the WPPDC Mitigation Plan, which is available for review by the Board. She advised that any comments from the County are due by July 27, 2005, which can be discussed at the Work Session on July 25th.

A number of bills and claims against the county were presented and examined. On motion by Crystal P. Harris, seconded by Darrell Cockerham and carried, the bills and claims were ordered paid and the following warrants were issued in payment of same:

On the General County Fund:	Warrants No. 24001 – 24164
On the General County Fund:	Warrants No. 79081 – 79548
On E-911 Communications Fund:	Warrants No. 956 – 965
On Asset Forfeiture Fund:	Warrants No. N/A
On Law Library Fund:	Warrants No. N/A

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

On motion by Crystal P. Harris, seconded by Darrell Cockerham and carried, the requests for appropriations are approved, as presented; therefore,

BE IT RESOLVED by the Board of Supervisors of the County of Patrick, Virginia, that the following appropriations be, and the same hereby are, made for the month of July, 2005: General County Fund - \$839,000.00; Law Library- \$0.00; Asset Forfeiture Fund - \$0.00; Social Services (VPA) Fund- \$132,300.00; Comprehensive Services Act- \$45,000.00; E-911 Communications Fund- \$4,186.03; County School Funds -\$2,000,000.00; and School Construction Funds - \$374,716.66; **TOTAL ALL APPROPRIATIONS- \$3,395,202.69.**

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

On motion by Crystal P. Harris, seconded by Darrell Cockerham and carried, it is hereby ordered that Carolyn I. Tatum, Treasurer, transfer the sum of One Million Dollars and Zero Cents (\$1,000,000.00) from the General County Fund to the County School Fund to meet costs for August 1, 2005 contingent upon the definite need for funds and availability in the General County Fund.

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

On motion by Crystal P. Harris, seconded by Darrell Cockerham and carried, the following requests for additional appropriations are hereby approved.

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

<u>Department</u>	<u>Amount</u>	<u>For</u>
DMV	\$46.48	Travel (Mileage)
Special Magistrates	\$29.31	Electrical Services
Mental Health	\$206.77	Vehicle Expense: PCS
Non-Departmental	\$1,106.00	Multi-Peril Insurance
Non-Departmental	\$4,158.00	Motor Vehicle Insurance
Non-Departmental	\$27.42	Public Service Authority

Tourism	\$47.25	Marketing
Sheriff's Department	\$1,383.00	Law Enforcement/Misc. Equip.
Sheriff's Department	\$730.00	Law Enforcement/Vehicle&Equip
Sheriff's Department	\$1,645.67	Vehicle Supplies, etc

On motion by Crystal P. Harris, seconded by Darrell Cockerham and carried, the following requests for transfer of funds are hereby approved.

Voting Aye: Foley, Cockerham, Harris, and Young

Voting Nay: None

Absent: Martin

<u>Department</u>	<u>Amount</u>	<u>From</u>	<u>To</u>
Comm of Revenue	\$5.00	Travel & Mileage	Dues
Maint. Courthouse/Jail	\$5,750.00	Repair/Maintenance	Heating Fuel
P.C. Extension Office	\$300.00	Reimb. To VPI for Ext. Agts	Supplies
Non-Departmental	\$8,315.00	Public Official's Liability	Multi-Peril Insurance

Ordered that the Board be adjourned until its Work Session commencing at 2:00p.m. on July 25, 2005.

, Chairman