

BOARD OF SUPERVISORS MINUTES**JULY 11, 2023**

At a Regular Meeting of the Orange County Board of Supervisors held on Tuesday, July 11, 2023, beginning at 5:00 p.m., in the Meeting Room of the Public Safety Building, 11282 Government Center Drive, Orange, Virginia. Present: R. Mark Johnson, Chairman; Lee H. Frame, Vice Chairman; James K. White; and Keith F. Marshall. Absent: District 4 Vacancy. Also present: Theodore L. Voorhees, County Administrator; Thomas E. Lacheney, County Attorney; and Alyson A. Simpson, Chief Deputy Clerk.

RE: ADOPTION OF AGENDA

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

RE: SPECIAL PRESENTATIONS AND APPEARANCES**RE: BUSINESS SPOTLIGHT**

Steve Riner, Co-Owner of 6R's Entertainment Yard, appeared before the Board to spotlight his business.

The Board thanked Mr. Riner for his 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.

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

RE: FY23 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
45351001-43270	Res. Congregate Care	\$ 300,000.00	\$ (47,068.00)	\$ 252,932.00
45351001-43275	Foster Care	600,000.00	307,904.00	907,904.00
45351001-43276	Congregate Care Ed. Serv.	350,000.00	25,020.00	375,020.00
45351001-43277	SpEd (IEP) Priv. Day Place.	1,200,000.00	485,523.00	1,685,523.00
45351001-43280	Comm. Based Services	807,506.00	(140,740.00)	666,766.00
30045055-36125	Cat. Aid - State - CSA	(1,992,229.00)	(331,768.36)	(2,323,997.36)
49140001-45900	Contingency	324,000.00	(298,870.64)	25,129.36
30030002-33625	Donations - Triad	(13,855.00)	(782.78)	(14,637.78)
43177001-46800	Triad Expenses	3,750.00	782.78	4,532.78
TOTALS		\$ 1,579,172.00	\$ 0.00	\$ 1,579,172.00

RE: FY23 BUDGET AMENDMENTS FOR ORANGE COUNTY PUBLIC SCHOOLS

As part of the Consent Agenda, the Board approved a supplemental appropriation and budget amendment for FY23 for Orange County Public Schools in the amount of \$1,075,050 in the

Food Service Fund, which represented additional Federal and State revenue and local user fees, as presented.

RE: ADOPTION OF A CONSTITUTIONAL OFFICER AGREEMENT WITH THE INTERIM CLERK OF THE CIRCUIT COURT

As part of the Consent Agenda, the Board authorized the Chairman to execute the Constitutional Officer Agreement with the Interim Clerk of the Circuit Court, as presented.

RE: ADOPTION OF THE JUNE 27, 2023 WORKSESSION MINUTES

As part of the Consent Agenda, the Board adopted the June 27, 2023 Worksession minutes, as presented.

RE: ADOPTION OF THE JUNE 27, 2023 REGULAR MEETING MINUTES

As part of the Consent Agenda, the Board adopted the June 27, 2023 Regular Meeting minutes, as presented.

RE: NEW BUSINESS

RE: REASSIGNMENT OF COMMITTEE AND COMMISSION APPOINTMENTS

Theodore L. Voorhees, County Administrator, explained that, with the recent resignation of Supervisor Jim Crozier, it would be appropriate for the Board to consider the reassignment of his four (4) committee and commission appointments.

By consensus, the Board appointed Theodore L. Voorhees, County Administrator, to the Central Virginia Regional Jail Board and the Rapidan Service Authority, to fill the unexpired terms of Jim Crozier, leaving the Rappahannock-Rapidan Regional Commission representative and Volunteer Fire Chiefs Association liaison positions vacant at this time.

RE: RESOLUTION TO RESCIND ZONING TEXT AMENDMENT (ZTA 23-03)

Thomas Lacheney, County Attorney, indicated that Zoning Text Amendment 23-03 was previously adopted by the Board after prescribing a 30-day review window for the Planning Commission's recommendation. He explained that when the time frame for review was less than the 100 days allowed by State Code, a public hearing was required. Since no public hearing was conducted to shorten the review time frame, the adopted ZTA 23-03 was in violation of the law.

Discussion ensued among the Board regarding: further evaluating the text amendment before re-initiating Planning Commission consideration.

On the motion of Mr. White, seconded by Mr. Marshall, which carried by a roll call vote of 4-0, the Board adopted the following resolution, as presented:

RESOLUTION TO RESCIND ZONING TEXT AMENDMENT (ZTA 23-03)

WHEREAS, on March 14, 2023, the Board of Supervisors adopted Res. No. 230314-8A initiating Planning Commission action on amendments to Sections 70-567C and 70-567F of the Orange County Zoning Ordinance, referred to as ZTA 23-03; and

WHEREAS, pursuant to Section 15.2-2285 (B) of the Code of Virginia, the Board of Supervisors may prescribe the time period during which the Planning Commission may review said proposed amendments; and

WHEREAS, the Board of Supervisors prescribed that the Planning Commission consider and act upon said proposed amendments within 30 days; and

WHEREAS, the Board of Supervisors did not conduct a public hearing on the reduction of the prescribed time to 30 days for the Planning Commission's review, as required by Section 15.2-2285 (B) of the Code of Virginia; and

WHEREAS, the Board views the recommendation and approval of ZTA 23-03 to have been made contrary to the requirements of Virginia law and said adoption is therefore void;

NOW, THEREFORE, BE IT RESOLVED, on this 11th day of July, 2023, that the Orange County Board of Supervisors, pursuant to public necessity, convenience, general welfare, and/or good planning and zoning practice, declares ZTA 23-03, adopted on April 25, 2023, void and hereby rescinded.

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

RE: CORRECTION OF A SCRIVENER'S ERROR ON THE TAX LEVIES ORDINANCE FOR TAX YEAR 2023

Glenda Bradley, Deputy County Administrator, stated that when the Tax Levies Ordinance for Tax Year 2023 was prepared earlier this year, one of the personal property categories was inadvertently listed with an incorrect title and Code of Virginia reference. She clarified that the error was in the verbiage of the ordinance, not the rates. As such, after consulting with the County Attorney, it was determined that, because there was no change proposed to any of the tax rates, a public hearing was not required to adopt an updated ordinance to correct the scrivener's error.

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 TO AMEND TAX LEVIES FOR THE TAX YEAR BEGINNING JANUARY 1, 2023

WHEREAS, notice was advertised of proposed tax levies pursuant to §§15.2-1427, 58.1-3007, and 58.1-3604 of the Code of Virginia; and

WHEREAS, the Board of Supervisors conducted a duly-advertised Public Hearing on Tuesday, April 18, 2023, to receive public comment; and

WHEREAS, tax levies were adopted by the Board of Supervisors on April 25, 2023; and

WHEREAS, the ordinance adopting said levies inadvertently contained a personal property category with an incorrect title and incorrect Code of Virginia reference; and

WHEREAS, because there was no change to any of the previously-adopted tax rates, a public hearing was not required to adopt the amendments as reflected in red strikethrough and green underlined text below;

NOW, THEREFORE, BE IT ORDAINED, on this 11th day of July, 2023, that the Orange County Board of Supervisors hereby amends the verbiage of the previously-adopted tax levies for the County of Orange, as follows, for the tax year beginning January 1, 2023:

REAL ESTATE, pursuant to §58.1-3000 VA Code Ann., including equalized public service corporation real estate as defined by §58.1-2605 VA Code Ann., including a manufactured home as defined by §36-85.3 VA Code Ann.: \$0.61 per \$100.00 of assessed valuation (subject to County land use tax ordinance and ordinance granting tax relief for the elderly and handicapped).

COUNTY-WIDE FIRE AND EMS DISTRICT, pursuant to §27.23.1 VA Code Ann.: \$0.14 per \$100.00 of assessed valuation.

MOBILE HOMES CLASSIFIED AS PERSONAL PROPERTY, pursuant to §36-85.3 VA Code Ann. and pursuant to §58.1-3506(A)(10) VA Code Ann.: \$0.75 per \$100.00 of assessed valuation.

TANGIBLE PERSONAL PROPERTY - AUTOMOBILES, TRUCKS, AND MOTORCYCLES, pursuant to §58.1-3000 VA Code Ann. and classified by ~~§58.1-3506.1~~ §58.1-3506.48 VA Code Ann., including automobiles, trucks, and motorcycles: \$3.85 per \$100.00 of assessed valuation.

TANGIBLE PERSONAL PROPERTY - REGULAR, pursuant to §58.1-3000 VA Code Ann. and classified by §58.1-3500 through -3506.1 VA Code Ann., including but not limited to, ~~motorcycles~~ and other motor vehicles, but excluding automobiles, trucks, and motorcycles included in other categories, watercraft and boats, aircraft, forest harvesting machinery and farm machinery, and business tangible personal property: \$3.75 per \$100.00 of assessed valuation (subject to County ordinance granting exemption for pollution control equipment).

BUSINESS TANGIBLE PERSONAL PROPERTY, pursuant to §58.1-3506(A)(26) VA Code Ann., including furniture, equipment, trade fixtures, hand-powered tools, office machines, business mobile telephones, books, signs, and other tangible personal property used in business except for automobiles or trucks, which will be taxed as tangible personal property: \$2.20 per \$100.00 of assessed valuation.

PROGRAMMABLE COMPUTER EQUIPMENT AND PERIPHERALS USED IN A TRADE OR BUSINESS, pursuant to §58.1-3506(A)(27) VA Code Ann.: \$2.20 per \$100.00 of assessed valuation.

AIRCRAFT, pursuant to §58.1-3506(A)(2), (3), (4) and (5) VA Code Ann.: \$0.00 per \$100.00 of assessed valuation.

WATERCRAFT AND BOATS, pursuant to §58.1-3506(A)(1)(a), (1)(b), (12), (28), (29), (35) and (36) VA Code Ann.: \$2.09 per \$100.00 of assessed valuation.

PRIVATELY OWNED MOTOR HOMES USED FOR RECREATIONAL PURPOSES, pursuant to §58.1-3506(A)(30) VA Code Ann.: \$2.62 per \$100.00 of assessed valuation.

ALL OTHER RECREATIONAL VEHICLES, pursuant to §58.1-3506 (A)(18), §58.1-3506(B) VA Code Ann., including but not limited to, privately owned camping and travel trailers, and certain trailers used for the transportation of horses: \$2.62 per \$100.00 of assessed valuation.

FARM MACHINERY, pursuant to §58.1-3505(8) and (10) VA Code Ann.: \$0.00 per \$100.00 of assessed valuation.

MACHINERY AND TOOLS, pursuant to §58.1-3507 VA Code Ann.: \$1.831 per \$100.00 of assessed valuation.

COMPUTER EQUIPMENT & PERIPHERALS USED IN A DATA CENTER, pursuant to §58.1-3506(A)(43) VA Code Ann.: \$1.25 per \$100.00 of assessed valuation.

HEAVY CONSTRUCTION EQUIPMENT, pursuant to §58.1-3508.2 VA Code Ann.: \$2.20 per \$100.00 of assessed valuation.

FOREST HARVESTING MACHINERY, pursuant to §58.1-3508 VA Code Ann.: \$0.00 per \$100.00 of assessed valuation.

MERCHANTS' CAPITAL, pursuant to §58.1-3000 and §58.1-3509 *et seq.* VA Code Ann.: \$0.40 per \$100.00 of assessed valuation.

MOTOR VEHICLE LICENSE TAX, pursuant to §46.2-752 VA Code Ann. and §62-36 *et seq.* Orange County Code: \$35.00 per year for cars and trucks, and \$21.00 per year for motorcycles.

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

RE: OLD BUSINESS
There were no matters for Old Business at this time.

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
The County Administrator had nothing to report on at this time.

RE: BOARD COMMENT
Supervisor Frame offered his thanks to the Department of Fire and EMS staff who recently responded to his home and provided care to him.

Supervisor White commented on the continuum of education and the responsibility and role of universities in assisting secondary schools in effectively educating, versus secondary schools trying to prepare students to meet criteria and selection requirements for universities. He noted that would be an interesting shift to have universities become more involved.

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

- CSA Monthly Report
- VDOT Monthly Report for June

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES
There were no appointments at this time.

RE: CALENDAR
The Board received copies of its calendar of meetings for the months of July 2023, August 2023, and September 2023.

RE: RESCHEDULE THE PUBLIC HEARING FOR SUP 22-06
By consensus, the Board authorized staff to advertise for and reschedule the public hearing for SUP 22-06 on Tuesday, July 25, 2023, as presented.

RE: PUBLIC HEARING #1; SUP 22-06
This Public Hearing was cancelled.

RE: PUBLIC HEARING #2; VACATION OF SUBDIVISION PLAT
This Public Hearing was cancelled.

RE: PUBLIC HEARING #3; BOARD OF BUILDING CODE APPEALS

Theodore L. Voorhees, County Administrator, noted that a Public Hearing was scheduled for the Board to consider an amendment to the Board of Building Code Appeals, which would allow for an increase in the allowable number of members, as well as align ordinance language with the Virginia Construction Code. He presented the proposed language, which had been developed and reviewed in conjunction with the County Attorney.

Discussion ensued among the Board regarding: the proposal to include alternate members, and how those members would be appointed and serve.

At 5:27 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

BOARD OF BUILDING CODE APPEALS

The Board of Supervisors will consider amendments to Chapter 10 (Buildings and Building Regulations), Article II (Building Code), of the Orange County Code of Ordinances, specifically to Section 10-36 (Board of Appeals). The purpose of said amendments is to increase the allowable number of members on the Board of Building Code Appeals, as well as to align ordinance language with Section 119 of the Virginia Construction Code.

There being no speakers, Chairman Johnson closed the Public Hearing at 5:27 p.m.

Further discussion ensued among the Board regarding: removal of the language allowing for alternate members to be appointed.

On the motion of Mr. White, seconded by Mr. Marshall, which carried by a roll call vote of 4-0, the Board adopted the following ordinance, as modified:

ORDINANCE ADOPTING AMENDMENTS TO ARTICLE II (BUILDING CODE), SECTION 10
(BUILDINGS AND BUILDING REGULATIONS), OF THE ORANGE COUNTY CODE OF ORDINANCES
CONCERNING THE BOARD OF BUILDING CODE APPEALS

WHEREAS, action was previously initiated to consider amendments to Article II (Building Code), Section 10 (Buildings and Building Regulations), of the Orange County Code of Ordinances concerning the Board of Building Code Appeals; and

WHEREAS, the recommended language for the amendments was reviewed by the County Attorney and presented to the Board of Supervisors for consideration; and

WHEREAS, the Board of Supervisors advertised and conducted a Public Hearing on the proposed amendments on July 11, 2023; and

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

NOW, THEREFORE, BE IT ORDAINED, on this 11th day of July, 2023, that the Orange County Board of Supervisors hereby approves the proposed amendments to Article II (Building Code), Section 10 (Buildings and Building Regulations), of the Orange County Code of Ordinances concerning the Board of Building Code Appeals, as modified and shown below.

Amendments to the Orange County Code of Ordinances

As adopted in Ord. No. 230711 – PH3
by the Orange County Board of Supervisors
on July 11, 2023

Chapter 10 - Buildings and Building Regulations

Article II - Building Code

Sec. 10-36 - Board of Building Code Appeals

- (a) The owner of a building or structure, or any other person, may appeal from a decision of the Building Official refusing to grant a modification of the provisions of the basic code covering the manner of construction or materials to be used in the erection, alteration, or repair of a building or structure to the Board of Building Code Appeals. Application for appeal may be made when it is claimed that the true intent of the basic code or the rules legally adopted under the code have been incorrectly interpreted, the provisions of the basic code do not fully apply, or an equally good or better form of construction can be used.
- (b) The Board of Building Code Appeals shall consist of at least five members appointed by the Board of Supervisors, each member to be appointed for staggered terms of five years, ~~or until his successor has been appointed.~~
- (c) The Board of Building Code Appeals shall be appointed and function in conformance with Section ~~121 119~~ of the ~~BOCA Basic Building Code and the administrative amendments~~ effective edition of the Virginia Construction Code, part of the Virginia Uniform Statewide Building Code.
- (d) Compensation of the members of the Board of Building Code Appeals shall be as determined by the Board of Supervisors.

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

RE: NEW BUSINESS (Continued)

RE: APPOINTMENTS TO THE BOARD OF BUILDING CODE APPEALS

Alyson Simpson, Chief Deputy Clerk, explained that the Board of Building Code Appeals currently had five (5) members serving, but action taken during the previous Public Hearing allowed for an increase in members, as there was interest in a former member being re-appointed.

Ms. Simpson stated that the current members had differences in their initial term appointments in order to create a stagger in the expiration dates, which was required by the Virginia Construction Code. However, said Code required that less than half of the term dates expire in any one-year period in order to provide for continuity. Ms. Simpson indicated that, should a sixth member be appointed, the term expiration dates should be adjusted so that two dates expired in 2024, two dates expired in 2025, and two dates expired in 2026.

On the motion of Mr. Marshall, seconded by Mr. White, which carried by a vote of 4-0, the Board adjusted the term expiration date for Gregory Hebler on the Board of Building Code Appeals to December 31, 2026, as presented.

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

On the motion of Mr. Marshall, seconded by Mr. White, which carried by a vote of 4-0, the Board appointed Marshall Gillum as an At-Large Member on the Board of Building Code Appeals, filling a new five-year term, with said term commencing immediately and expiring on December 31, 2026.

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

RE: CLOSED MEETING

At 5:34 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:

- 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 Wilderness Crossing, Route 33 Auto Repair, and Route 522 development. - §2.2-3711(A)(7) of the Code of Virginia
- Consultation with legal counsel employed or retained by the public body regarding specific legal matters requiring the provision of legal advice by such counsel concerning non-conforming uses, Willistown Road, and agricultural divisions. - §2.2-3711(A)(8) of the Code of Virginia

WHEREAS, pursuant to §§2.2-3711 (A)(7) and (A)(8) 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. Frame, seconded by Mr. White, which carried by a vote of 4-0, the Board adopted the resolution authorizing Closed Meeting, as presented. Ayes: Johnson, White, Marshall, Frame. Nays: None.

RE: CERTIFICATION OF CLOSED MEETING

At 7:07 p.m., Ms. Simpson 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, Marshall, Frame. Nays: None.

RE: ADJOURN

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, the Board adjourned the meeting at 7:07 p.m. Ayes: Johnson, White, Marshall, Frame. Nays: None.

R. Mark Johnson, Chairman

Theodore L. Voorhees, County Administrator