

Minutes
Board of Supervisors
Regular Meeting
January 15, 2019

Members Present: Morgan Phenix, Chairman At-Large
David Wiatrowski, District 2
Mark Stroupe, District 3
Larry Foltz, District 4
Jeff Vaughan, District 5

Members Absent: D. Keith Guzy, Jr. District 1

Staff Present: Amity Moler, County Administrator
Regina Miller, Assistant County Administrator
Michael Helm, Esquire, Miller, Earle & Shanks PLLC
Janeena Zalipski, Office Aide

Call to Order:

Chairman Morgan Phenix called to order the regular meeting of the Page County Board of Supervisors on January 15, 2019, at 7:00 p.m., in the Board of Supervisors Room located in the Page County Government Center, 103 South Court Street, Luray. The Call to Order was followed by a moment of silence and the *Pledge of Allegiance*.

Adoption of the Agenda:

Motion: Supervisor Vaughan moved to adopt the agenda. Supervisor Wiatrowski seconded and the motion carried by a vote of 5-0. Aye: Phenix, Wiatrowski, Stroupe, Foltz, Vaughan. Nay: None. Absent: Guzy.

Organizational Meeting:

Nomination of Vice Chair for 2019:

Motion: Supervisor Foltz moved to nominate Supervisor Vaughan to serve as Vice Chair of the Board of Supervisors for 2019. Supervisor Stroupe seconded and the motion carried by a vote of 5-0. Aye: Wiatrowski, Stroupe, Foltz, Vaughan, Phenix. Nay: None. Absent: Guzy.

Approval of 2019 Meeting Schedule:

Motion: Supervisor Stroupe moved to approve the 2019 Board meeting schedule. Supervisor Foltz seconded and the motion carried by a vote of 5-0. Aye: Stroupe, Foltz, Vaughan, Phenix, Wiatrowski. Nay: None. Absent: Guzy.

<u>Date</u>	<u>Location</u>	<u>Time</u>	<u>Type of Meeting</u>
January 2, 2019	Board Room	7:00 p.m.	Work Session
January 15, 2019	Board Room	7:00 p.m.	Regular Meeting

Board of Supervisors
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February 5, 2019	Board Room	7:00 p.m.	Work Session
February 19, 2019	Board Room	7:00 p.m.	Regular Meeting
March 5, 2019	Board Room	7:00 p.m.	Work Session
March 19, 2019	Board Room	7:00 p.m.	Regular Meeting
April 2, 2019	Board Room	7:00 p.m.	Work Session
April 16, 2019	Board Room	7:00 p.m.	Regular Meeting
May 7, 2019	Board Room	7:00 p.m.	Work Session
May 21, 2019	Board Room	7:00 p.m.	Regular Meeting
June 4, 2019	Board Room	7:00 p.m.	Work Session
June 18, 2019	Board Room	7:00 p.m.	Regular Meeting
July 2, 2019	Board Room	7:00 p.m.	Work Session
July 16, 2019	Board Room	7:00 p.m.	Regular Meeting
August 6, 2019	Board Room	7:00 p.m.	Work Session
August 20, 2019	Board Room	7:00 p.m.	Regular Meeting
September 3, 2019	Board Room	7:00 p.m.	Work Session
September 17, 2019	Board Room	7:00 p.m.	Regular Meeting
October 1, 2019	Board Room	7:00 p.m.	Work Session
October 15, 2019	Board Room	7:00 p.m.	Regular Meeting
November 6, 2019	Board Room	7:00 p.m.	Work Session
November 19, 2019	Board Room	7:00 p.m.	Regular Meeting
December 3, 2019	Board Room	7:00 p.m.	Work Session
December 17, 2019	Board Room	7:00 p.m.	Regular Meeting

Re-adoption of Rules of Procedure:

Chairman Phenix said he feels it should be written into the Rules of Procedure that staff be informed of who will be giving Invocation at Board meetings. The Supervisor responsible for getting the individual to lead the Invocation should contact the Assistant County Administrator, by the Wednesday prior to the Tuesday Board meeting, so the individual's name can be listed on the agenda. If no person is available to give the Invocation, then a moment of silence will be recognized.

Supervisor Foltz disagreed and said he feels anyone should be able to give the Invocation without having to provide notice.

Motion: Supervisor Vaughan moved to add to the Rules of Procedure that Supervisors will contact the Assistant County Administrator, with the name of the person who will be giving the Invocation, by the Wednesday before the Friday agenda packets go out.

There was no second and the motion was rescinded. The Rules of Procedure will remain the same.

Public Hearings:

Budget Amendment (including current budget changes):

Chairman Phenix opened the public hearing on the Budget Amendments (including current budget changes) at 7:07 p.m. The public hearing was advertised as follows:

**NOTICE OF PUBLIC HEARING
 BUDGET AMENDMENT
 PAGE COUNTY BOARD OF SUPERVISORS**

On January 15th, 2019 at 7:00 p.m., the Page County Board of Supervisors will conduct a public hearing at the Page County Administration building, 103 South Court St., Luray, VA 22835, for the purpose of considering an amendment to the fiscal year 2019 budget. The aggregate amount of the amendments exceeds one percent of the fiscal year 2019 budget and the public hearing is required by Section 15.2-2507 of the Code of Virginia.

REVENUE:

Local Funds	\$ 345,312
State Funds	261,520
Federal Funds	161,736

EXPENDITURE:

Page County Sheriff's Department	130,691
Page County Economic Development	170,000
Page County Capital Improvement Projects	70,000
Page County Public Schools	332,487
Page County Battle Creek Landfill	12,289
Page County Finance Department	10,000
Page County Clerk of Court	13,534
Page County Water Quality Advisory Comm.	580
Page County Commissioner of Revenue	4,744
Page County Animal Shelter	11,029
Page County Fire & Rescue	4,214
Page County EMS	9,000

Dennis Click, Director of Finance, reviewed the budget changes and recommended approval.

Supplemental Appropriations Requests:

Department	Description	Revenue Source	Expenditure	Amount
Sheriff	Asset Forfeiture (State)	101-0000-341.04-07 Carryover Funds	101-3121-431.58-09 Asset Forfeiture (State)	\$5,987.84
Sheriff	Lawfit Donations	101-0000-341.04-07 Carryover Funds	101-3120-431.59-78 Lawfit Program	\$137.77
Page County Public Schools	21 st Century Grant	501-0000-333.02-80 21 st Century Learning Grant	501-6101.461-30-00 Instructional	\$161,735.74
Battlecreek Landfill	Litter Prevention Grant	101-0000-324.04-07 Litter Prevention Grant	101-4241-442.58-96 Litter Prevention Grant	\$7,068.00
Battlecreek Landfill	Litter Prevention Grant	101-0000-324.04-07 Litter Prevention Grant	101-4241-442.50-65 Contributions/Others	\$5,221.00
Total				\$180,150.35

With no speakers during the public hearing, Chairman Phenix closed the hearing at 7:07 p.m.

Motion: Supervisor Foltz moved to approve the appropriation of state, federal, and carryover funding in the amount of \$180,150.35. Supervisor Vaughan seconded and the motion carried by a vote of 5-0. Aye: Vaughan, Phenix, Wiatrowski, Stroupe, Foltz. Nay: None. Absent: Guzy.

Presentations, Proclamations and Awards:

Review of Proposed Special Use Permit Conditions and Payment Agreements for Cape Solar & Dogwood Solar:

Mrs. Moler suggested that Roger Bowers, Legal Counsel for Urban Grid, review the proposed special use permit conditions for Cape Solar and Dogwood Solar. She said this has not been done previously and would be good to do so publicly. Chairman Phenix reminded the Board and public that a vote would not be taken that night.

Mr. Bowers began by reviewing the proposed conditions for Dogwood Solar first. Proposed condition 1 read: "This special use permit is transferrable. It will meet the requirements in and have privileges provided for in the Page County Zoning Ordinance and any ordinance amendments as of the date of approval or amendment and continuing for the period set forth within the parameters in this special use permit. The special use permit shall remain with the property for a period of seventy-five (75) years." After discussion, several Board members felt that 75 years is too long. Mr. Bowers said they could reduce it to 60 years, given the economic reality and investment that the private sector is putting into this project. The property for this project that is owned by the landowner that is leasing the property is 340 acres. The fence around the facility, as shown on the plan, is 115 acres and the actual panels within that fence are 76 acres of space for this facility. After they have land use approval from the County, they will apply for a permit by rule to be reviewed by all the state agencies for compliance. If they are successful in receiving a permit by rule from DEQ, they would then come back to the County and go through the detail design and submit a site plan to the County for review and approval. Chairman Phenix indicated that he was struggling with the 25-foot setback as proposed within the 76-acre parcel of panels within 340 acres. Mr. Bowers indicated that the setbacks do not refer to the actual location of the panels. The setbacks give the developable area within a parcel. He said they cannot put anything within the 25-foot setback, if agreed upon, from the property lines. He pointed out that by arbitrarily increasing setbacks, the footprint of the developable area is reduced. In doing so, you are reducing the amount of electricity that can be generated and the amount of revenue produced. Supervisor Wiatrowski commented that he wants full grown trees to be planted as a buffer. Mr. Bowers said that landscaping trees grow faster when they are planted as a small tree. Rather than focus on trees and the height of trees, he suggested that they be able to supplement bushes that would be faster growing so there is a thicker vegetation at the view of the panels that would not grow up and block the views of the mountains. Regarding the hours of construction for the project, it was proposed in the

conditions that it would be limited to Monday through Saturday, sunrise to sundown. Mr. Wiatrowski indicated that sunrise is too early and suggested that it not begin before 8:00 a.m. Mr. Bowers suggested that they could change it from 7:00 a.m. to 7:00 p.m. Supervisor Foltz stated that he would like to see soil sample testing included in the conditions after decommissioning to ensure the land would be suitable for agricultural land again. Mr. Bowers indicated that it can be included. Regarding the decommissioning, he indicated that their plan provides for third party financial surety of the decommissioning obligation.

Mr. Bowers then reviewed the proposed special use permit conditions for Cape Solar. He only reviewed the conditions that were different from the proposed conditions for the Dogwood Solar project. Condition #5 read: "The installation of solar panels is permitted to provide a solar electricity generating facility capable of generating up to 100 megawatts AC of power generation on the 559-acre site." He said the fence line for the project encompasses 462 acres and the panels for the project covers approximately 356 acres. The panels themselves do not cover all the area within the fence. He said the taxation is not based upon the regulatory capacity; it is based upon the investment of the panels. Condition #8 read: "Within the setback areas along US Route 340 between Jeb Lane and tax parcel 32-4-2, and along property boundary of Old Farms neighborhood adjacent to the project site except within the transmission right of way, existing and new vegetation shall be used to screen the security fence pursuant to the buffer screening standards attached hereto." He indicated that since the County Code does not include provisions for buffer screening, they are included as an attachment, as part of the conditions for buffer landscaping. He said there would be bushes planted along with trees so there would be vegetation that mitigates the visual effect without blocking the mountain views. The vegetative buffer shall be maintained for the life of the facility. He then read condition #17: "A minimum setback of one hundred (100) feet shall be maintained from the centerline of Route 340." Chairman Phenix stated that he wants there to be a larger setback such as 250 or 500 feet. Condition #18 read: "A minimum setback of one hundred (100) feet shall be maintained between above ground equipment at the facility and any occupied residence that exists at the time of approval of this permit. This requirement may be reduced or waived if agreed to in writing by the owner of the property occupied by such residence by delivery of a copy of the signed waiver to the County Administrator or her designee." He expressed that there is only one property around the Cape facility that is within 100 feet.

Mr. Bowers then reviewed the two Payment Agreements for each project. He said they accomplish the same thing, but are slightly different. The Agreement for Dogwood Solar has two sources of potential revenue. There is the increased tax payment on the land. The current tax payment is approximately \$1,500. With a solar use, they estimate that it would be approximately \$12,000 annually for the 76 acres in solar use. The second source is the personal property tax on the equipment. With 100% exemption it would equate to \$0 revenue, but with 80% exemption, as proposed, it would be \$19,000. This is based on the SCC calculation method. The payment agreement says they will not claim 100% exemption for the amount of solar equipment invested in the Dogwood project. He pointed out the payments the County would receive under this agreement for

50 years, totaling \$366,242. He said this is the amount they are committed to pay the County if the project lasts that long. This is the minimum amount they have agreed to pay year 1 through year 50 to the County for having the opportunity to operate this facility.

Next, Mr. Bowers reviewed the Payment Agreement for the Cape Solar project. This project is based on an investment of \$73 million. They have estimated the revenue for the land value will be \$48,000 annually. The equipment value will equate to \$93,000 in taxes, based on a \$73 million investment on equipment. This does not include the additional \$6.9 million estimated investment in substation equipment. This will be taxed at 100% and it will generate an estimated \$45,499 in tax revenue at year 1. This agreement is a guarantee that they will provide \$113,000 for year 1.

Mr. Bowers indicated that these projects are a source of funding, that if approved, are scheduled to come on line in 2021 and provide a way to help bridge the County's revenue gap.

Public Comments on Agenda Items:

Ken Jemielly said he feels the details (final site plan, construction and lighting plan) should be worked out after the approval of the SUP's. Mr. Jemielly said he was not aware of Page County having a solar ordinance that Mr. Bowers keeps speaking of. He said he is assuming that he is speaking of the ordinance that is coming from the Planning Commission. He believes the fine print on the SUP's say that the owner of the facility only pays the County if the facility is selling power. The Federal Tax Credits begin when the deal is struck and continue even if the facility never produces one usable watt of power. Clyde Humphrey said he is appalled that the applicant is writing the conditions for the special use permits. He feels the County should be writing them and discussing them with the applicant. He is also concerned that the conditions the applicant presented seem to be grossly incomplete. He reminded the Board that he provided them with a list of conditions back in November, that he thought the Board should consider. He is also concerned with the setbacks and feels they are more lenient than what was in the original SUP. He ended by saying that a legal contract is when both parties give of something. He wants the Board to be very careful not to let the contract overpower the special use permits.

Cathy Grech said she feels like this is a done deal and the Board is just working out the formalities. Mrs. Grech said she has attended many of the meetings on solar and the County does not have an ordinance. She said if the Board would grant the special use permits, then Urban Grid will be driving the process. She asked the Board to take charge, and not let them pick the terms. The County does not have the money to take this to court to enforce if need be. She asked the Board to deny these SUP's until a solar ordinance is in place.

Paul Quigg said he feels most of what Mr. Bowers went over needs the advice of a lawyer. The decommissioning will go on forever. It will cost the County thousands upon thousands of dollars in legal fees to protect the County's interest.

Beth Snider said she's hearing all these different numbers on how long the lease will be. She invited everyone to come look out her front door to see the entire span of the project. She asked if any provisions will be included for ground water testing. Mrs. Snider feels the Board needs to get some guarantees before making any decision.

Rod Graves said the dialog tonight has been productive and surprisingly good. He said the viewsheds need to be addressed in the Page County Comprehensive Plan. There is a possibility of unknown health hazards associated with the solar farms. The loss of natural habitat bothers him, and the panels are ugly. We lose agriculture land and it's a bad business deal for Luray. The scale of the project is the biggest problem. He asked the County to deny this project and preserve the valley.

Nancy Boyer said the Page County Open forum has been approached by Dr. Todd Shenk, and Dr. Ronald Meyers of Virginia Tech with a proposal that she feels will help the County as a whole with the proposed solar farms. They have access to experts in the field, and they have asked for Urban Grid to pay for their services to come and help us with our fact finding. Mrs. Boyer feels this would be a great help to Page County and asked the Board to consider it.

(Clerks Note: Supervisor Wiatrowski left the meeting at 9:34 p.m.)

Action Matters:

Abatement of Taxes/Disabled Veteran Relief:

Becky Smith, Commissioner of the Revenue, explained that Taxpayer A submitted a letter that he received from the Veterans Affairs Office which qualifies him for the Veteran Relief Program. According to Virginia State Code Section 58.1-3219.5, a 100% disabled veteran may qualify for relief from their real estate tax. This program was enacted by the State, effective January 1, 2011. The County is required to give exemption once the veteran is deemed disabled. Pursuant to State Code, we are required to abate taxes and refund the current year, plus three years. Taxpayer A did not receive his exemption until 2015 and purchased his home in 2016, therefore we are only abating taxes for second half of 2016, 2017 & 2018. Due to this abatement, we are requesting a refund in the amount of \$4,105.01 to be issued to Taxpayer A.

Motion: Supervisor Vaughan moved to approve the abatement for Taxpayer A in the amount of \$4,105.01. Supervisor Stroupe seconded and the motion carried by a vote of 4.0. Aye: Phenix, Stroupe, Foltz, Vaughan. Nay: None. Absent: Guzy, Wiatrowski

Board and Commission Appointments:

Regina Miller, Assistant County Administrator, reviewed the Board and Commission appointments as follows:

Economic Development Authority:

A vacancy exists on the Economic Development Authority for District 5. An appointment is needed to fill an unexpired term through January 31, 2021.

No action was taken on the Economic Development Authority vacancy for District 5.

Planning Commission:

The terms of Donnie Middleton (District 2), Duane Painter (District 4), and Craig Lancto (District 5) of the Planning Commission expired on January 11, 2019. The new term for each seat would run four years from January 12, 2019 through January 11, 2023.

No action was taken on the District 2, District 4 and District 5 vacancies for the Planning Commission.

Northwestern Community Services Board of Directors:

A vacancy exists on the Northwestern Community Services Board of Directors. Linda Gray's term expired on December 31, 2018 and she does not wish to be reappointed. Kayla Riley, Fire/EMS Program Support, has expressed an interest in serving on the board and she was recommended for the appointment. The individual appointed would serve a three-year term from January 1, 2019 through December 31, 2021.

Motion: Supervisor Foltz moved to appoint Kayla Riley to the Northwestern Community Services Board of Directors. Supervisor Stroupe seconded and the motion carried by a vote of 4-0. Aye: Stroupe, Foltz, Vaughan, Phenix. Nay: None. Absent: Guzy, Wiatrowski.

Consent Agenda:

Motion: Supervisor Stroupe moved to approve the Consent Agenda as follows:

- Financial reports for the period of December 1-31, 2018;
- Accounts payable checks, payroll checks, payroll direct deposits, and payroll tax related electronic fund transfers totaling \$1,348,296.93 for the month of December 2018;
- Minutes of December 4, 2018 and December 18, 2018.

Supervisor Foltz seconded and the motion carried by a vote of 4.0. Aye: Stroupe, Foltz, Vaughan, Phenix. Nay: None. Absent: Guzy, Wiatrowski.

Old Business:

Supervisor Stroupe said he still would like to have a joint meeting with the Economic Development Authority. Chairman Phenix would like to meet with the Broadband Authority. Mrs. Moler replied that she is working on setting these up.

New Business:

There was no New Business to discuss.

Open Public Comments:

Clyde Humphrey let the Board know the next Page County Public Forum would be held January 29, 2019 at the VFW at 6:30 p.m. and the topic will be the Quality of the Water in the County.

Cathy Grech said that the view from Route 340 of the Cape Solar project area can be seen before you get perpendicular to the area; people will see the solar panels no matter what is planted as a buffer. If the Board would like to have experts come and present

facts, you can go directly to them, and cut out the middle man. Some of us meet with the committees and staff, we are not just here to complain; we are here to help.

Paul Quigg said he read the Page County Comprehensive Plan. He said the heart of the document is pages 4-8. In these pages Agriculture, Agricultural, and Ag was mentioned 117 times, farms and farming 44 times, rural 37 times, and tourism twice. There was no mention of solar or anything close to solar in the entire plan. The goal number 514 states, limit the expansion of public and semi-public utilities and uses that interfere with the viability of farming in the agriculture protection and environmental preservation tiers. In the State Code, it discourages the development of solar on prime farm land or farm land of statewide importance.

Administrator's Report:

Mrs. Moler reminded the Board that the County Offices would be closed on January 18 and January 21 for holidays. The Animal Shelter had a record month in December for animal adoptions and she thanked the Board for waiving the adoption fee for December. She explained the payroll deduction form in their paychecks was for a \$2 deduction every pay period to go toward an employee paid summer and Christmas dinner, which will include the employee plus one guest, if they would like to participate. Lastly, depending on the way the weather system moves we could get rain, which can cause flooding issues or up to 15 inches of snow, if it should be cold enough this weekend.

Supervisors Time:

Supervisor Vaughan feels there is a misunderstanding on the solar process. He said the Board is doing all they can to find out the facts before voting.

Supervisor Stroupe said it was a real pleasure to be at the meeting tonight. He will continue to work for the people of the County he loves.

Chairman Phenix thanked everyone for coming out and speaking up. He said he was all for solar energy but does not want to make a mistake. The Board is doing their due diligence.

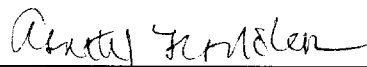
Supervisor Foltz thanked everyone for coming to the meeting.

Adjourn: 10:11 p.m.

With no further business, Chairman Phenix adjourned the meeting.



Morgan Phenix, Chairman



Amity Moler, County Administrator