

**LUNENBURG COUNTY BOARD OF SUPERVISORS  
GENERAL DISTRICT COURTROOM  
LUNENBURG COURTS BUILDING  
LUNENBURG, VIRGINIA**

**Minutes of February 11, 2016 Meeting**

The regularly scheduled meeting of the Lunenburg County Board of Supervisors was held on Thursday, February 11, 2016 at 6:00 pm in the General District Courtroom, Lunenburg Courts Building, Lunenburg, Virginia. The following members were present: Supervisors T. Wayne Hoover, Frank Bacon, Edward Pennington, Charles R. Slayton, Alvester Edmonds, Robert Zava, County Administrator Tracy M. Gee, Assistant to the Administrator Nicole Clark, and County Attorney Frank Rennie. Supervisor David Wingold was absent.

Vice-Chairman Slayton called the meeting to order.

Supervisor Hoover gave the invocation and led the pledge of allegiance.

Vice-Chairman Slayton requested additions to the agenda from the Board and the public.

An update on the Voter's Re-enactment Walk was added as 10D on request by Supervisor Pennington.

An appropriation request was added as 10C on request by Administrator Gee.

Supervisor Bacon made motion, seconded by Supervisor Edmonds and unanimously approved, to accept the Consent Agenda to include the Minutes of the January 7, 2016 meeting, the Treasurer's December 2015 reports and the following Warrants for Approval:

January 2016:	Payroll: Direct Deposit	\$ 115,720.51
	Payroll Taxes Federal:	\$ 39,169.27
	Payroll Taxes State:	\$ 6,549.40
	Payroll VRS payment:	\$ 31,341.34
	Payroll ICMA-RC payment:	\$ 216.54
	Accounts Payable: #52077-52212	<u>\$ 1,113,837.90</u>
	Total:	\$ 1,306,834.96

Supervisor Pennington made motion, seconded by Supervisor Edmonds and unanimously approved, to enter public hearing regarding the proposed changes to the Lunenburg County Noise Ordinance, a Conditional Use Permit for Timothy Dow/New Generation Youth Services to operate a youth residential group home, and a Conditional Use Permit for Sarah and Collin Brown to operate a bed and breakfast.

## LUNEBURG NOISE ORDINANCE

### ARTICLE III - NOISE CONTROL

#### Sec. 58-76 - Declaration of Policy

At certain levels, noise can be detrimental to the health, welfare, safety and quality of life of inhabitants of the County, and in the public interest noise should be restricted. It is therefore the policy of the County to reduce, and eliminate where possible, excessive noise and related adverse conditions in the community and to prohibit unnecessary, excessive, harmful and annoying noises from all sources subject to its police power.

#### Sec. 58-77 - Definitions

The following words, when used in this chapter, shall have the following respective meanings, unless the context clearly indicates a different meaning:

**EXCESSIVE NOISE** -- Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans. Specific examples of prohibited excessive noise are set forth in Section 58-78 of this chapter.

**MOTOR VEHICLE** -- A vehicle defined as a motor vehicle by § 46.2-100, Code of Virginia, as amended.

**MOTORCYCLE** -- A motorcycle as defined by § 46.2-100, Code of Virginia, as amended.

**NOISE** -- Any sound that may cause, or tend to cause, an adverse psychological or physiological effect on human beings.

**OWNER** -- The person owning, controlling, or possessing land, premises, or personality.

**PERSON** -- Any individual, partnership, corporation, association, firm, trust, estate, private institution, society, club, group of people acting in concert, organization, agency, or any legal successor, representative agent, or agency thereof. This term shall not include the federal, state, county, town, city, or local government, or any agency or institution thereof.

**PLAINLY AUDIBLE** -- Any sound that can be heard clearly by a person using his or her unaided hearing faculties.

**POWERED MODEL VEHICLES** -- Any mechanically or pyrotechnically powered vehicle, whether airborne or landborne, which is not designed to carry persons or property, including but not limited to model airplanes, boats, cars, and rockets.

5. **Tenants in control of property within tenancy.** For purposes of this section, tenants shall be deemed to be in control of the property contained within their tenancy.

6. **Violation and penalties.** Violations of this section shall constitute a Class 3 misdemeanor.

#### Sec. 58-79 - Maximum permissible sound levels

A. In addition to the violations established by the preceding sections of this chapter, no person shall, between the hours of 11:00 p.m. and 6:00 a.m., conduct, permit, or allow any activity or sound source to produce a sound discernible beyond 100 feet from said activity or sound source that exceeds 80 dB(A) when measured as provided in § 58-80.

B. Any sound that exceeds the dB(A) level set forth in this section under the conditions and measurement criteria set forth in this chapter is a violation of this chapter. Evidence that an activity or sound source produces a sound that exceeds the dB(A) level specified in this section shall be prima-facie evidence of a sound nuisance that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this chapter.

#### Sec. 58-80 - Method of sound measurement

Whenever portions of this chapter prohibit sound over a certain decibel limit, measurement shall be made with a Type I or Type 2 calibrated sound-level meter utilizing the A-weighting scale and the slow meter response as specified by the American Standards Association. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used. Traffic, aircraft, and other transportation noise shall not be considered in taking measurements except where such background noise interferes with the noise being measured and cannot reasonably be distinguished from the primary noise.

#### Sec. 58-81 - Exemptions

The following acts are declared to be exempt from the noise level regulations of Sec. 58-78 and 58-79:

1. **Public Park Exemption.** Sounds created by devices permitted to be used at public parks or public recreation fields, or created by public sporting events or school sponsored activities on school property, or duly authorized public parades, public functions or commemorative events.
2. **Schools.** School sponsored activities on school property.

**PUBLIC PROPERTY** -- Any real property owned or controlled by the County or any other governmental entity or institution.

**REAL PROPERTY BOUNDARY** -- The property line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

**RESIDENTIAL** -- Refers to single-unit, two-unit, and multi-unit dwellings and residential areas of planned dwellings.

#### Sec. 58-78 - Enumeration of Prohibited Noises

It shall be unlawful for any person to create, cause to be created, or allow on property under the person's control or ownership any of the following:

1. **Noise from property.** Sound produced or reproduced by any radio, phonograph, television, record, compact disc, tape player, musical instrument, loudspeaker, sound amplifier, or any other machine or device or human voice in such a manner or with such volume or duration between the hours of 10:00 p.m. and 7:00 a.m. that it is plainly audible (a) beyond the property lines of any residential or commercial property, (b) inside the confines of a dwelling unit, house, or apartment of another person or inside a business or place of worship, or (c) at a distance of 150 or more feet from the sound source.

2. **Vehicles.** To play or permit the playing of any radio, stereo, loud speaker, or any other electronic device or mechanical equipment used for the amplification of sound, which is plainly audible within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of 50 feet or more from the vehicle. This provision shall not apply to sirens, loud speakers and emergency communications radios in public safety vehicles, nor shall it apply to any motor vehicle alarms or other security devices.

3. **Use of vehicle.** The use of any automobile, motorcycle, moped, All Terrain Vehicle (ATV), motor bike or other motorized vehicle which is out of repair, so loaded, equipped, or used or repaired in such manner as to create noise which is plainly audible at a distance of 100 feet or more from said vehicle.

4. **Commercial loudspeakers.** To operate, install, have or permit on the outside of any store, shop, business establishment, warehouse or commercial building, any loudspeaker or other sound producing or reproducing device capable of emitting music, noise, sounds, tapes or voice in such a manner that it is plainly audible on any public sidewalk or street unless it is used only intermittently for announcing or paging an individual or unless it signals the ringing of a telephone, danger from smoke, a fire or a burglary or the beginning or stopping of work or school, or unless it is operated in accordance with conditions of zoning.

#### Sec. 58-83 - Severability

If any portion of this Noise Ordinance (Sec. 58-76, et seq.) shall be stricken or deemed to be invalid or unconstitutional, the remaining portions of the Noise Ordinance shall be self-sustaining and capable of separate enforcement without regard to the stricken portion.

#### Sec. 58-84 - Election of Towns

This Noise Ordinance (Sec. 58-76, et seq.) shall not apply within the corporate boundaries of the Towns of Cambridge and Victoria unless specifically adopted by ordinance of those towns.

Mr. Don Westerlund of Falls Road approached the Board. He stated that he was pleased that the Board was planning to implement a noise ordinance. He requested that barking dogs be included especially those in kennels. Mr. Westerlund explained that he is unable to enjoy his yard due to the neighboring hunt club with barking dogs. He believes the value of his property is reduced because of the noise. He requested that kennels placed near a private home should be addressed in the proposed ordinance. There was no further public comment on the proposed noise ordinance.

Mr. Timothy Dow applied for a Conditional Use Permit to operate a youth residential group home on property owned by Ulysses Jones that is located at 143 Unity Road, Kenbridge, VA 23944. This property identified by tax parcel number 058 ((A)) 51 has previously had an active Conditional Use Permit to operate an adult residential facility.

Mr. Clyde Morgan was present to represent Mr. Dow. He requested permission to open a group home for young men between the ages of 13 and 17. They are hoping to house 8 residents; however that number is determined by the Department of Social Services.

Supervisor Pennington questioned if the number of residents would ever exceed 8.

Mr. Morgan replied that the dimensions of the bedrooms would determine the maximum number of residents.

Sarah and Collin Brown applied for a Conditional Use Permit to operate a Bed and Breakfast on the property located at 11586 Courthouse Road, Lunenburg, VA 23952 that is currently owned by James and Kittrell Elsaesser. The property consists of approximately 9 acres and is identified as a portion of tax parcel number 044 ((01)) 1. The Browns hope to host weddings at the property as well.

Mrs. Sarah Brown added that they will be living at the property. They would like to use the property as a wedding and weekend event venue as well as operate a Bed and Breakfast.

There was no public comment on either C.U.P. application.

Supervisor Hoover made motion, seconded by Supervisor Edmonds and unanimously approved, to exit public hearing regarding the proposed changes to the Lunenburg County Noise Ordinance, a Conditional Use Permit for Timothy Dow/New Generation Youth Services to operate a youth residential group home and a Conditional Use Permit for Sarah and Collin Brown to operate a bed and breakfast.

Supervisor Hoover commented that County Attorney Rennie has developed the best general ordinance for the county. He added that the ordinance has been approved and accepted as enforceable by the Commonwealth Attorney, the Sheriff and the Judge.

Supervisor Hoover made motion, seconded by Supervisor Edmonds and unanimously approved, to adopt the Lunenburg Noise Ordinance as presented by County Attorney Rennie.

Mr. Westerlund inquired if the ordinance would apply to his situation.

County Attorney Rennie noted that section 58-79 Maximum Permissible Sound Levels should apply. He added that the sound would need to be measured and could not exceed 80 decibels between the hours of 11:00 p.m. and 6:00 a.m. County Attorney Rennie commented that the towns are in the process of reviewing their noise ordinances.

Supervisor Zava asked Mrs. Beverley Hawthorne if there were any concerns regarding the two applications for Conditional Use Permits.

Mrs. Hawthorne replied that only one neighbor questioned how the staff of the youth group home would be monitored and kept on the property at the Planning Commission meeting. She stated that the concern was resolved with the Planning Commission. She noted that the Department of Social Services will determine the number of residents.

Supervisor Hoover made motion, seconded by Supervisor Bacon and unanimously approved, to approve a Conditional Use Permit for Timothy Dow/New Generation Youth Services to operate a youth residential group home and a Conditional Use Permit for Sarah and Collin Brown to operate a bed and breakfast.

The monthly VDOT report was provided.

Supervisor Slayton commented that VDOT performed an excellent job of clearing snow in his district during the recent winter storm.

Supervisor Hoover added that there was a noticeable difference between using state and local forces. He stated that local forces did a much better job in the county versus the state forces in the Richmond area.

Mr. Paul Lee of Robinson Farmer Cox Associates was present to discuss the FY2014-15 annual audit. He noted that no problems were discovered during the audit. He added that his firm did not find any weaknesses and were not suggesting any modifications. Mr. Lee explained that this was the first year that GASB 68, which addresses accounting and financial reporting for pensions, was implemented governing Virginia Retirement System (VRS) contributions. He stated that the county was in line with other localities on VRS contributions and reporting. Mr. Lee commented that the county tax collection rate was 98% which is consistent with previous years. His firm will not be issuing a Management Letter this year.

Supervisor Bacon questioned how the county's tax rate compares with other localities.

Mr. Lee responded that Lunenburg's tax rate is very low.

Supervisor Hoover asked if the county was still benefiting by hiring Shelia Minor with Minor and Associates.

Mr. Lee replied yes, adding that Minor and Associates also gives the county staff more confidence and support.

Supervisor Hoover noted that this is the third year with no Management Letter. He thanked the staff at the County Administration Office and the Treasurer's office for their hard work throughout the year.

Mr. Charles Berkley, School Superintendent, presented his monthly report. He stated that schools were closed two half days and five full days in January due to water issues in the Town of Victoria and inclement weather. He advised that 112 days of school have been completed thus far. Mr. Berkley shared that Central High School's Robotics Competition Team is preparing for its 1<sup>st</sup> competition in March. He said that each school has been celebrating and observing Black History Month. Mr. Berkley advised that a teacher from each of the four schools has been nominated for the VFW National Citizenship Education Teacher Award. He noted that the playground equipment and scoreboard have been ordered with the funds donated by Container First Services during the previous month's board meeting. Mr. Berkley requested that the joint School Board and Board of Supervisors be moved from March 31<sup>st</sup> to March 24<sup>th</sup>, as the week of March 31<sup>st</sup> is spring break.

Animal Control Officer Ray Elliott approached the Board to provide a report of his activities during the previous year. He stated that they have driven 50,000 miles on the new truck since it was purchased approximately one and a half years ago. He noted that he has picked up all kinds of animals, dealt with all kinds of people and public relation issues. Officer Elliott explained that ACO school trained him to be prepared for all types of situations on the job. He was trained to be able to identify situations in which he may need to involve another county office such as the Sheriff's Department or Department of Social Services.

Officer Elliott shared a copy of the annual report he is required to send to the State detailing the number of animals in and out of the facility during the year. He is required to hold the animal in the facility for 7 to 10 days. He added that a lot of food is needed to feed the animals. Officer Elliott advised that the SPCA supplied him with 4 tons of food over the past year. He noted that with the SPCA assistance he is able to house the animals a little longer in hopes of transferring them to another facility.

Officer Elliott explained that he and his deputy, Mr. Noyse King have been visiting homes in a door to door campaign. The purpose has been to perform welfare checks on animals and inform citizens of the rules

and procedures within the county. Officer Elliott and Deputy King have performed 650 welfare checks. Officer Elliott thanked the Board for their financial support.

Supervisor Zava asked if Officer Elliott was planning a rabies clinic in the near future.

Officer Elliott replied yes; he is hoping to have one in March in conjunction with Lunenburg Animal Hospital.

Supervisor Zava suggested that he ask the Treasurer's Office to sell and issue dog tags at the clinic.

Officer Elliott commented that Nottoway County recently held both at the same time. He will contact the Treasurer's Office.

Mr. Dan Goerlich, Regional Director for the local Virginia Cooperative Extension Office, was present to provide a highlight of the local activities that have occurred during the past year. He reported that the Lunenburg Extension Agents reported making 12,214 direct contacts and 6,887 indirect contacts over during 2015. They delivered 588 presentations and prepared 91 publications. Mr. Goerlich explained that the office had recently seen a few staff changes. Mrs. Donna Daniels, Family and Consumer Sciences Agent transferred to a different office and Mrs. Joan Crenshaw joined the office as the Administrative Assistant. Mr. Goerlich noted that he and Administrator Gee have discussed poverty issues within the county and how the Extension office may be able to help. He thanked the Board for their continued support and requested to speak with them in closed session to discuss personnel.

Administrator Gee advised that two appropriation requests needed approval for the Sheriff's Office. She stated that when new deputies are hired, they are required to stay with the department for 5 years or they must reimburse the county for a portion of their training. They had one deputy who recently left the department with less than two years of service. The Sheriff has requested that reimbursement to the county in the amount of \$1,675.89, be placed in the training and uniforms line items.

Administrator Gee stated that the Sheriff's Office has received a DMV Selective Enforcement grant in the amount of \$1,600. The Sheriff has requested that the funds be used to purchase intoximeters to be used during check points.

Supervisor Hoover commented that he believes the reimbursement for training should be returned to the general fund.

Supervisor Hoover made a motion, seconded by Supervisor Zava and unanimously approved, to appropriate the reimbursement of \$1,675.89 to the general fund and increase the budget by \$1,600 for the DMV Selective Enforcement equipment line item.

Supervisor Pennington provided an update on the upcoming Voter's Re-enactment walk to be held on August 13<sup>th</sup>. He stated that the committee held a meeting in January. State Trooper Sid Leslie and Sheriff Arthur Townsend attended to discuss safety and traffic the day of the event. Both have offered their assistance during the event. They plan to have other guests at future meetings to assist with design and organization of the walk and program. Supervisor Pennington advised that for those which have difficulty walking, transportation will be available from the First Baptist Church to the Courthouse. He requested that information about the event be placed on the county website.

Vice-Chairman Slayton nominated Mrs. Linda Chumney of 520 Chumneys Drive, Drakes Branch, VA 23937, to serve on the Social Services Advisory Board for the Rehoboth District.

Supervisor Slayton made a motion, seconded by Supervisor Hoover and unanimously approved, to accept the nomination of Mrs. Linda Chumney to serve on the Social Services Advisory Board for the Rehoboth District.

Mrs. Beverley Hawthorne, Community Development Director, provided her monthly report. She stated that she is looking into a possible Cool and Connected Grant for the county. She has reached out to the two towns to see if there is a "last mile" internet service project that make be pursued through this grant. Mrs. Hawthorne will need to send an interest letter by February 24<sup>th</sup>. She plans to gather as much information as possible before committing to an application.

Mrs. Hawthorne, as Landfill Liaison, provided the monthly report. She advised that a Citizens Advisory Committee meeting would be held on March 1<sup>st</sup>. She stated that if Supervisors had any questions for the committee, please contact her before March 1<sup>st</sup>. County Attorney Rennie advised that a closed session was needed for some on the items on Mrs. Hawthorne's report.

The monthly Piedmont Regional Jail report was provided. Administrator Gee commented that additional funds were added to the financial report to reflect grant funds from the Commissary provider. She added that the funds were moved to the money market account to earn a higher interest rate. Administrator Gee advised that the inmates would begin working at the Courthouse Complex in the spring as the cold temperatures are preventing them from working at the present time.

Administrator Gee noted that she is working with VACorp to obtain liability coverage for the inmates when they are working on the Courthouse Complex. The most recent quote she received was \$2,500 for the additional rider.

County Attorney Rennie asked if the additional coverage would apply to volunteers as well.

Administrator Gee replied that she is waiting to receive confirmation that volunteers would be included.

County Attorney Rennie advised that the county obtain coverage on volunteers before any of them come to work at the Courthouse Complex.

Supervisor Hoover suggested the matter be tabled until the next meeting when Administrator Gee received confirmation from VACorp.

Administrator Gee noted that the county would be responsible for reimbursement of the guard accompanying the inmates, mileage, and lunches.

Administrator Gee provided her monthly report. She stated that Supervisor Zava would be returning to the Finance Committee and Supervisor Bacon agreed to continue to serve as well. Administrator Gee accepted bids from the K-V Dispatch and the Southside Messenger. Although the K-V Dispatch had slightly higher fees, they agreed to six months of free agendas. Administrator Gee will adjust the advertising budget in the upcoming fiscal year to accommodate advertisement in both papers. Administrator Gee also met with Commissioner of the Revenue Liz Hamlett regarding Reassessment RFP's. She will have the draft RFP for the Board's approval at the next meeting.

Administrator Gee asked the Board to consider starting the March 10<sup>th</sup> meeting at 5:00 p.m. to hear budget requests from community partners. The regular meeting would be held at 6:00 p.m.

Supervisor Bacon made a motion, seconded by Supervisor Pennington and unanimously approved, to start the March 10<sup>th</sup> meeting at 5:00 p.m. to hear budget requests from community partners.

County Attorney Rennie stated that the sale of the old Lunenburg Middle School is final. The issue with the title is resolved and an agreement was made with the Tobacco Commission regarding the judgment on the property. The county received a check in the amount of \$80,000 from the Industrial Development Authority and they are now the owner of the property. Mrs. Hawthorne is working on plans for the future of the location.

County Attorney Rennie stated that he has two condemnation certificates for the airport easements that will require signatures.

Supervisor Edmonds made a motion, seconded by Supervisor Pennington and unanimously approved, to enter Closed Session citing Virginia Code Section §2.2-3711A1 Personnel, §2.2-3711A4 Protection of the Privacy of Individuals, §2.2-3711A5 Prospective Business, and §2.2-3711A7 Legal Consult.

#### CERTIFICATION OF CLOSED SESSION MEETING

WHEREAS, the Board of Supervisors of Lunenburg County, Virginia ("Board") convened a Closed Session Meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section §2.2-3712 of the Code of Virginia, 1950, as amended, requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from Open Meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board.

#### VOTING YES

Supervisor Bacon  
Supervisor Hoover  
Supervisor Edmonds  
Supervisor Pennington  
Supervisor Slayton  
Supervisor Zava

#### VOTING NO

#### ABSENT

Supervisor Wingold

Supervisor Bacon made a motion, seconded by Supervisor Zava and unanimously approved, to return to Open Session.

Supervisor Bacon made a motion, seconded by Supervisor Edmonds and unanimously approved, to adjourn.

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Tracy M. Gee, Clerk  
County Administrator

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Charles R. Slayton, Vice-Chairman  
Board of Supervisors