

VIRGINIA: County of Lee, to-wit:

At the Regular Meeting of the Lee County Board of Supervisors in the General District Courtroom of the Lee County Courthouse on November 16, 2021 at 5:30 p.m. thereof.

MEMBERS PRESENT: D. D. Leonard, Chairman
Sidney Kolb
Larry Mosley
Charles Slemp, Jr.
Robert Smith

MEMBERS ABSENT: None

OTHERS PRESENT: Dane Poe, County Administrator
Jeny Hughes, Administrative Assistant
Stacy Munsey, County Attorney

OTHERS ABSENT: None

INVOCATION

John Grimm, Pastor of First United Methodist Church of Pennington Gap, led in the Invocation.

PLEDGE TO THE FLAG

Larry Mosley led the Pledge to the Flag.

MEETING CALLED TO ORDER

The meeting was called to order at 5:33 p.m.

PUBLIC HEARINGS

**PROPOSED AMENDMENTS TO THE LEE COUNTY
PROCUREMENT POLICIES AND PRACTICES ORDINANCE**

The Lee County Board of Supervisors held a Public Hearing on Tuesday, November 16, 2021 at 5:30 p.m. in the General District Courtroom of the Lee County Courthouse located in Jonesville, Virginia. The purpose of the Public Hearing was to take public comment on proposed amendments to the Lee County Procurement Policies and Practices ordinance currently in effect. The purpose of the proposed amendments is to increase the minimum contract value requiring public advertisement of bids and bidding generally.

The Chairman opened the floor for public comment.

There was no public comment.

The Chairman closed the floor for public comment.

It was moved by Mr. Mosley, seconded by Mr. Kolb, to adopt the proposed amendments to the Lee County Procurement Policies and Practices Ordinance. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

PUBLIC PROCUREMENT

Sec. 12-1. Purposes and policies of chapter.

The underlying purposes and policies of this chapter are as follows:

- (1) To provide for increased public confidence in the procedures followed in public procurement.
- (2) To ensure the fair and equitable treatment of all persons who deal with the procurement system of the county.
- (3) To provide increased economy in county procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds of the county.

- (4) To foster effective broad-based competition within the free enterprise system.
- (5) To provide safeguards for the maintenance of a procurement system of quality and integrity.
- (6) To promote uniformity of procurement policies and procedures among the various departments and offices of the county.

Sec. 12-2. Applicability of chapter.

This chapter shall be applicable to all officers appointed by the board of supervisors and all departments and offices of the county.

Sec. 12-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Construction means building, altering, repairing, improving or demolishing any structure, building or highway and any draining, dredging, excavation, grading or similar work or improvement upon land.

Goods means all material, equipment, supplies, printing and automated data processing hardware and software.

Informality means a minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid, request for proposal, specifications or bid form, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured and which does not compromise the integrity of the competitive process.

Insurance means a contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils.

Professional services means work performed by an independent contractor within the scope of the practice of accounting or auditing, appraising, architecture, insurance consulting services, land surveying, law, management consulting services, planning, professional engineering or similar professional services.

Services means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

Sherltered workshop means a nonprofit, work oriented rehabilitative facility with a controlled working environment and individual goals which utilizes work experience and related services for assisting the handicapped person to progress toward normal living and a productive vocational status.

Sec. 12-4. Small purchases.

Verbal quotes will be allowed for any purchase under \$2,000.00 aggregate cost, provided written specifications or descriptions for the items to be purchased are provided to each vendor and maintained in the records. A record of the verbal quote shall be retained for audit purposes. This record shall list the date, the person requesting the quote, the person contacted and the quote given, either as a lump sum or in unit prices. All purchases \$2,000.00 and over aggregate cost will require written quotes, provided that purchases of the \$15,000.00 or more will be governed by the Virginia Public Procurement Act (Code of Virginia, § 11-35 et seq.) and this chapter.

Sec. 12-5. Bidding generally.

- (a) Any contract with a nongovernmental contractor for the purchase or lease of goods or for the purchase of services or construction, the consideration for which is expected to exceed \$25,000.00, shall be awarded to the lowest responsible bidder, or highest responsible bidder, where applicable, such as where the county is leasing or selling public property or awarding concession rights, after public advertisement and competition. The county shall have the power to reject any and all bids.
- (b) Any contract with a nongovernmental contractor for the purchase or lease of goods or for the purchase of services or construction, the consideration for which is not expected to exceed \$25,000.00, may be bid and awarded to the lowest responsible bidder, or highest responsible bidder, where applicable, such as where the county is leasing or selling public property or awarding concession rights, after public advertisement and competition. The county shall have the power to reject and all such bids. Small purchase procedures shall provide for competition wherever practicable.
- (c) No person who has been engaged as an architect or engineer for a project shall be eligible to bid on such contract or to have the same awarded to him.

Sec. 12-6. Bidding on state-aid projects.

No contract for the construction of any building or for an addition to or improvement of an existing building for which state funds of \$100,000.00 or more, either by

appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive bidding. The procedure for advertising for bids and letting of the contract shall conform, *mutatis mutandi*, to the Virginia Public Procurement Act (Code of Virginia §§ 11-35 – 11-80). No person shall be eligible to bid on any such contract nor to have the same awarded to him who has been engaged as an architect or engineer for the same project.

Sec. 12-7. Exceptions to bidding requirement.

Notwithstanding the provisions of Section 12-5, public advertisement and competition shall not be required:

- (1) Where there is only one source for the needed supply, service or construction item.
- (2) Where an emergency procurement is made pursuant to county procedure.
- (3) Where insurance or professional services are being procured through the process of competitive negotiation pursuant to Code of Virginia, § 11-37.
- (4) Where a purchase is made from a sheltered workshop.
- (5) Where expert witnesses or other services associated with litigation or regulatory proceedings are being procured.

Sec. 12-8. Invitation for bids; public notice.

- (a) For each purchase or lease of goods or purchase of services or construction pursuant to Section 12-5(a), an invitation for bids shall be issued which shall include in summary fashion a purchase or lease description and a statement as to where relevant contractual terms and conditions applicable to the procurement may be viewed.
- (b) In each case in which public advertisement and competition is required, bids shall be initiated by public notice in a newspaper of general circulation in the county, which notice shall be published at least once not less than ten days prior to the date on which bids will be opened. The advertisement shall state the place where bidders may examine any plans and specifications for the work, whether the contract will be let for a lump sum or on a cost plus basis, the time and place where the bids for the work will be opened and the procedure for the withdrawal of a bid. All advertisements shall further note that the county may reject any and all bids. In lieu of public advertising, bids may be solicited directly from a least three potential contractors or vendors.

Sec. 12-9. Brand names.

Unless otherwise provided in the invitation to bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named. It conveys the general style, type, character and quality of the article desired, and any article which the county, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation and suitability for the purpose intended, shall be accepted.

Sec. 12-10. Bid bonds.

- (a) Except in cases of emergency, all bids or proposals for construction contracts in excess of \$25,000.00 shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in the state, as a guarantee that if the contract is awarded to such bidder, the bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid where a bid or proposal is \$25,000.00 or less.
- (b) No forfeiture under a bid bond shall exceed the lesser of the difference between the bid for which the bond was written and the next low bid or the face amount of the bid bond.

Sec. 12-11. Bid openings; bid acceptance and evaluation.

- (a) All bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, together with the name of each bidder, shall be recorded. The record on each bid shall be open to public inspection.
- (b) Except as hereinafter provided in this subsection, bids for any purchase or lease of goods or purchased of services or construction anticipated to be in excess of \$25,000.00 shall be received and opened at a public meeting of the board of supervisors. Thereafter, the chairman may appoint a bid committee to examine, tabulate, study and report with respect to such bids. Any bid committee appointed by the chairman shall report to the board with an appropriate recommendation for board action with respect to the bids. In lieu of opening of bids at a public meeting of the board of supervisors, the board may, by motion, provide for the public opening of bids before a committee appointed by the chairman, which shall study, tabulate and report to the board in accordance with this subsection with respect to such bids. The county administrator may also report to the board with respect to bids and make an appropriate recommendation.

- (c) In any case where a bid requires an appropriation to be made by the board of supervisors, where a bid is for the award of a concession, or where the low bid for purchase or lease of goods or purchase of services or construction is in excess of \$25,000.00, whether subject to the requirement of opening at a public meeting of the board or not, a report shall be made to the board by the county administrator with an appropriate recommendation.
- (d) All bids shall be unconditionally accepted without alteration or correction, except as authorized by state law or this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, suitability for a particular purpose and life cycle cost. The county, in its sole discretion, may elect to waive an informality in a bid or proposal.

Sec. 12-12. Withdrawal or alteration of bids; late bids.

- (a) No bid shall be permitted to be withdrawn except in accordance with Code of Virginia § 11-54.
- (b) No bidder shall be permitted to alter, modify or amend his bid after the time fixed for submission of bids.
- (c) No bid received after the time fixed for submission of bids shall be opened or considered.

Sec. 12-13. Determination of lowest responsible bidder.

To determine the lowest responsible bidder with respect to any goods, services or construction, the following factors, among such others as will protect and preserve the interests of the county and its inhabitants, may be considered:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) The quality of performance of pervious contracts or services.

- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract, purchase or service.
- (6) The equipment and facilities available to the bidder to perform the contract or provide the service.
- (7) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- (8) The quality, availability and adaptability of the supplies, materials, equipment or services to the particular use required.
- (9) The ability of the bidder to provide future maintenance, parts and service for the use of the subject of the purchase or contract.
- (10) The amount and conditions, if any, of the bid.

Sec. 12-14. Listing of subcontractors.

Any offeror submitting a bid in excess of \$100,000.00 for a construction contract shall include in his bid, in addition to the requirements set forth in the invitation to bid or request for proposal, a list of each subcontractor whose subcontract constitutes more than ten percent of the bid amount and the estimated percentage of the contract to be performed by each subcontractor.

Sec. 12-15. Award of the contract; tie bids.

The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder, or highest responsible bidder where applicable, such as where the county is leasing or selling public property, whose bid meets the requirements and criteria set forth in the invitation for bids. If the contract is to be let on a cost plus basis, the contract may be awarded to the lowest responsible bidder naming the lower percent of fee. In the case of a tie bid among responsible bidders, preference shall be given to goods, services and construction produced in this county or provided by county residents, if such choice is available; otherwise the ties shall be decided by lot.

Sec. 12-16. Performance and payment bonds.

- (a) Upon the award of any public construction contract exceeding \$25,000.00 to any prime contractor, such contractor shall furnish to the county the following bonds:

- (1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in the strict conformity with the plans, specifications and conditions of the contract.
 - (2) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any of his subcontractors, in the prosecution of the work provide for in such contract, and shall be conditioned upon the prompt payment of all such material furnished or labor supplies or performed in the prosecution of the work. Labor or materials shall include public utility services and reasonable rentals of equipment, but only for the periods when the equipment rented is actually used at the site.
- (b) Each of the bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in the state.
 - (c) Bonds required for county construction contracts shall be payable to the county and shall be filed with the county administrator.
 - (d) Nothing in this section shall preclude the county from requiring payment or performance bonds for construction contracts below \$25,000.00 or for contracts for goods or services in any amount.
 - (e) Nothing in this section shall preclude a contractor from requiring each subcontractor to furnish a payment bond with surety thereon, in the sum of the full amount of the contract with the subcontractor, conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provide for in the subcontract.

Sec. 12-17. Action on performance bond.

No action against the surety on a performance bond shall be brought unless within one year after completion of the contract, including the expiration of all warranties and guarantees, or discovery of the defect or breach of warranty, if the action be for such, in all other cases.

Sec. 12-18. Action on payment bond.

- (a) Subject to the provisions of subsection (b) of this section, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of 90 days after the day on which such claimant performed the last of such labor or

furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

- (b) Any claimant who has a direct contractual relationship with any subcontractor from whom the contractor has not required a subcontractor payment bond under Section 12-16(e), but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Any claimant who has a direct contractual relationship with a subcontractor from whom the contractor has required a subcontractor payment bond under Section 12-16(e), but who has no contractual relationship, express or implied, with the contractor, may bring an action on the subcontractor's payment bond. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainage with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this subsection.
- (c) Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

Sec. 12-19. Alternative forms of security.

- (a) In lieu of a bid, payment or performance bond, a bidder, offeror or contractor may furnish a certified check or cash escrow in the face amount required for the bond.
- (b) If approved by the county attorney, a bidder may furnish a personal bond, property bond or bank or saving and loan association's letter of credit on certain designated funds in the face amount required for the bid bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the county equivalent to a corporate surety's bond.

Sec. 12-20. Retainage on construction contracts.

- (a) In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with not

more than five percent being retained to assure faithful performance of the contract. All amounts withheld may be included in the final payment.

- (b) Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.

Sec. 12-21. Employment discrimination by contractor prohibited.

Every contract over \$10,000.00 to which the county is a party shall contain the following provisions:

- (1) During the performance of this contract, the contractor agrees as follows:
 - (a) The contractor will not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - (b) The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal employment opportunity employer.
 - (c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - (d) The contractor will include the provisions of the foregoing in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

Sec. 12-22. Debarment of prospective contractors.

Prospective contractors may be debarred from contracting for particular types of supplies, services, insurance or construction for specified periods of time. Any debarment procedure, which may provide for debarment on the basis on a contractor's unsatisfactory performance for the county or for violation of federal or state laws relating to antitrust or federal or state law or local ordinance relating to procurement, shall be established in writing by the county administrator.

Sec. 12-23. Legal actions by bidders, offerors or contractors.

- (a) A bidder or offeror, actual or prospective, who is refused permission or disqualified from participation in bidding or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an action in the circuit court challenging that decision, which shall be reversed only if the petitioner establishes that the decision was arbitrary or capricious.
- (b) A bidder denied withdrawal of a bid under Code of Virginia, § 11-54, may bring an action in the circuit court challenging that decision, which shall be reversed only if the bidder establishes that the decision of the county was clearly erroneous.
- (c) A bidder, offeror or contractor may bring an action in the circuit court challenging a proposed award or the award of a contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is not an honest exercise of discretion, but rather is arbitrary or capricious or not in accordance with the Constitution of Virginia, statutes, regulations or the terms and conditions of the invitation to bid or request for proposal.
- (d) If injunctive relief is granted, the court, upon request of the county, shall require the posting of reasonable security to protect the county.
- (e) A contractor may bring an action involving a contract dispute with the county in the circuit court.
- (f) Nothing in this section shall be construed to prevent the board of supervisors from instituting legal action against a contractor.

Sec. 12-24. Ethics in public procurement.

The provisions of Code of Virginia §§ 11-72 – 11-79, relating to ethics in public procurement shall apply to all procurement by the county. Willful violation of any provision of any such section constitutes a class 1 misdemeanor by state law. In case of conviction therefor of any county employee, in addition to any fine or penalty provided by law, such employee shall forfeit his employment.

DEPARTMENT REPORTS

Written departmental reports for Building Inspections, Litter Control, Solid Waste and the Works Program were included in the packet.

CONSTITUTIONAL OFFICERS

TREASURER'S REPORT

The Treasurer's Report for the month of November 2021 was submitted as follows:

Revenues	\$ 11,612,968.17
Expenditures	\$ 8,703,772.30
General Fund	\$ 12,771,379.04
Total Assets and Liabilities	\$ 16,222,768.77

PUBLIC EXPRESSION

The Chairman opened the floor for public comment and advised that each speaker would be limited to a three-minute time-period for individuals, and five-minute time-period for a group.

There was no public comment.

The Chairman closed the floor for public comment.

APPROVAL OF MINUTES

It was moved by Mr. Kolb, seconded by Mr. Mosley, to approve the minutes of the October 12, 2021 Recessed Meeting and October 26, 2021 Regular Meeting. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemp, Mr. Smith

APPROVAL OF REFUNDS

It was moved by Mr. Mosley, seconded by Mr. Kolb, to approve the following refund requests. Upon the question being put the vote was as follows.

Hazel Littrell	\$200.00
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Deborah Short	\$200.00
Kerry Morgan	\$167.67

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

PAYROLL

The County Administrator reports that payroll warrants have been issued.

APPROVAL OF DISBURSEMENTS

It was moved by Mr. Mosley, seconded by Mr. Slemph, to approve the disbursements for the month of November, in the amount of \$184,795.25. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

VOTING NO: Mr. Kolb

DELEGATIONS

DELTA AIRPORT CONSULTANTS ENGINEER'S PROPOSAL FOR JET TANK PROJECT RUSS ASHBURN

Russ Ashburn stated that Delta Airport Consultants would agree to provide assistance for a bid package, installation and oversight for the Jet A Fuel tank project at a cost of approximately \$50,000.00. The specifications would cover procurement, manufacturing, shipping, placement, installation of the pumps, piping, and wiring to provide a total turnkey operation. He added that based on research Delta would recommend the use of a 12,000 gallon tank and depending on fire code there may be a different style tank required. Delta wants to work with the County on this project, but needs to be involved from the very beginning to ensure a total turnkey operation.

TRANSFER STATION EMPLOYEES SALARY INCREASES BRIAN WOLIVER

Brian Woliver stated that the Transfer Station employees would like to address the Board about the additional raise given to the Transfer Station Superintendent and not the rest of employees. This has affected employee morale and has them looking for employment elsewhere. The Transfer Station has good employees that have proven themselves to be good workers and they would like to know why they didn't deserve an additional raise.

Mr. Mosley stated that this is a department head position and if anything happens at the Transfer Station it would come back on that position and added that the Board had discussed employee's salaries last month.

Mr. Woliver stated that the employees are not mad at the Superintendent, but he was already receiving Department Head pay.

Mr. Smith stated that he does not have a problem with someone asking for a raise but the superintendent's salary should not be questioned.

Mr. Leonard stated that the Board tries to do what they can do with the money the County has, but it only goes so far. He added that the Transfer Station employees were given a stipend last year for cell phones and there are different employees posting on social media throughout the day instead of working.

Mr. Kolb asked how many employees were at the Transfer Station, how many hold a CDL license and who is licensed to operate the Transfer Station.

Mr. Woliver stated there are seven men, all have a CDL license and only two are certified to operate the Transfer Station.

Mr. Kolb stated he talked with Mr. Poe last month and he is supposed to be getting a list of County employee's salaries and this is something that should be looked at comprehensively.

Tim Cole suggested that the Board consider changing the General Laborer to a Skilled Worker. The Transfer Station has employees that have different skills which allows for things to be repaired in house which saves the County a lot of money. He stated there has not really been a general laborer since the helpers on the trucks.

Roger Waddell stated that everyone has the opinion that the County would not have even gotten a raise this year without the minimum wage increasing. He went on to explain maintenance issues with the trucks.

Robert Allen stated that the employees do a lot for the County employees and do a good job and the employees feel like they deserve more money.

Les Langley stated that one of the things that bothered him was the Works program employees being hired in at higher salary than Transfer Station employees and asked that the Transfer Station be brought up to the same level.

FINANCE

SUPPLEMENTAL APPROPRIATIONS

BOARD OF SUPERVISORS

It was moved by Mr. Mosley, seconded by Mr. Smith, to approve the following Supplemental Re-Appropriation in the amount of \$306,438.19. Upon the question being put the vote was as follows.

Revenue Source:		
3-001-22010-0028	CRF Fast Track Broadband Expansion	\$306,438.19
Expense:		
4-001-11010-5885	Broadband Expansion Grant DCHD	\$306,438.19

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

CIRCUIT COURT CLERK

It was moved by Mr. Mosley, seconded by Mr. Smith, to approve the following Supplemental Appropriation in the amount of \$3,344.00. Upon the question being put the vote was as follows.

Revenue Source:		
3-001-18030-0006	Reimbursements	\$3,344.00
Expense:		
4-001-21600-1350	Part-Time Salaries	\$3,344.00

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

CIRCUIT COURT CLERK

It was moved by Mr. Mosley, seconded by Mr. Smith, to approve the following Supplemental Appropriation in the amount of \$11,000.00. Upon the question being put the vote was as follows.

Revenue Source:		
3-001-18030-0006	Reimbursements	\$11,000.00
Expense:		
4-001-21600-1150	Salaries	\$10,872.28
4-001-21600-2100	FICA (Employers Share)	\$110.00
4-001-21600-2700	Workers Compensation	\$17.72

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

CIRCUIT COURT CLERK

It was moved by Mr. Mosley, seconded by Mr. Smith, to approve the following Supplemental Appropriation in the amount of \$5,007.50. Upon the question being put the vote was as follows.

Revenue Source:		
3-001-23070-0005	Grants Circuit Court	\$5,007.50
Expense:		
4-001-21600-5866	Clerks Misc Grants	\$5,007.50

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

CIRCUIT COURT CLERK

It was moved by Mr. Mosley, seconded by Mr. Smith, to approve the following Supplemental Appropriation in the amount of \$1,797.61. Upon the question being put the vote was as follows.

Revenue Source:		
3-001-18030-0006	Reimbursements	\$1,797.61
Expense:		
4-001-21600-1150	Salaries	\$1,533.00
4-001-21600-2100	FICA (Employers Share)	\$ 117.27
4-001-21600-2210	VRS-Retirement	\$ 136.59
4-001-21600-2400	VRS- SGL	\$ 8.28
4-001-21600-2700	Workers Compensation	\$ 2.47

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

DOMESTIC VIOLENCE

It was moved by Mr. Mosley, seconded by Mr. Smith, to approve the following Supplemental Appropriation in the amount of \$74.00. Upon the question being put the vote was as follows.

Revenue Source:		
3-001-23020-0020	Donations Domestic Violence Sheriff	\$74.00
Expense:		
4-001-31210-5899	Domestic Violence Donations	\$74.00

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

OLD BUSINESS

PARKING LOT CONSTRUCTION

Mr. Kolb stated that it may not have come to vote but he felt confident that the Board decided to move forward with adoption of design/build procurement.

Mr. Poe stated that it was not voted on and was not clear to advertise for the ordinance.

It was moved by Mr. Kolb, seconded by Mr. Leonard, to advertise for an ordinance to be adopted for design build procurement. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slempp, Mr. Smith

NEW BUSINESS

BOARD APPOINTMENTS

LONESOME PINE OFFICE ON YOUTH

It was moved by Mr. Mosley, seconded by Mr. Leonard, to table these appointments. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slempp, Mr. Smith

APPALACHIA JUVENILE COMMISSION

It was moved by Mr. Smith, seconded by Mr. Kolb, to re-appoint Sonny Brooks to a two-year term on the Appalachian Juvenile Commission. Mr. Brooks' term will expire November 30, 2023. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slempp, Mr. Smith

TOURISM COMMITTEE

It was moved by Mr. Kolb, seconded by Mr. Mosley, to re-appoint Mary Beth Baker to a four-year term on the Tourism Committee. Ms. Baker's term will expire November 30, 2025. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

WOODWAY WATER AUTHORITY

It was moved by Mr. Mosley, seconded by Mr. Kolb, to re-appoint Scott Napier to a four-year term on the Woodway Water Authority. Mr. Napier's term will expire November 30, 2025. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

ADMINISTRATION OFFICE COPIER

Quotes obtained for a new copier for the administration office were as follows:

Tri-City Business Machines

Konica Minolta Bizhub 450i Copier/Printer/Scanner	\$5,055.00
Service Contract: \$21.00/quarter for 3,000 copies and \$.007 per copy over 3,000	

Johnco Inc.

Kyocera TASKalfa 4003i Copier/Printer/Scanner	\$4,945.00
Service Contract: \$.006 per copy	

Johnco Inc.

Kyocera TASKalfa 3212i Copier/Printer/Scanner	\$4,145.00
Service Contract: \$.006 per copy	

Mr. Poe recommends purchasing the Kyocera 4003i from Johnco, Inc. based on price and speed. This is a budgeted purchase.

It was moved by Mr. Kolb, seconded by Mr. Leonard, to approve the purchase of the TASKalfa 4003i copier from Johnco, Inc. in the amount of \$4,945.00 and to sell the old copier as surplus on GovDeals. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

WHITE ROCKS COMMUNITY CENTER FUNDING REQUEST

Mr. Poe stated that he received a request from the White Rocks Community Center for ARPA funding to aid with the operation of the center.

It was moved by Mr. Mosley, seconded by Mr. Kolb, to table this matter. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

BOARD OF EQUALIZATION APPOINTMENTS AND APPEALS DEADLINE

Mr. Poe stated that with the reassessment process drawing to a close, the Board needs to begin considering recommendations to the Circuit Court for appointments to the Board of Equalization. The Board may appoint three or five members to the Board and Virginia Code Section 58.1-3374 requires that at least 30% of the members of the board be commercial or residential real estate appraisers, other real estate professionals, builders, developers, or legal or financial professionals. With a three member board, one would have to meet these qualifications; with a five member board, two would have to meet them.

In addition to appointing the board members, there needs to be a deadline for property owners to request a hearing with the board. This now must be done by ordinance and Mr. Poe recommends advertising for a public hearing at the December 21, Regular Meeting to set a deadline for April 15, 2022.

It was moved by Mr. Mosley, seconded by Mr. Leonard, to advertise an ordinance to establish April 15 as the deadline to request a hearing with the Board of Equalization. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemph, Mr. Smith

LOCAL LAW ENFORCEMENT BLOCK GRANT

It was moved by Mr. Kolb, seconded by Mr. Mosley, to accept the FFY 18 Local Law Enforcement Block Grant in the amount of \$1,185.00. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Mosley, Mr. Leonard, Mr. Slemp, Mr. Smith

REPORTS AND RECOMMENDATIONS OF THE COUNTY ATTORNEY

None.

REPORTS AND RECOMMENDATIONS OF THE COUNTY ADMINISTRATOR

TRANSFER STATION TRUCKS

Mr. Poe stated that the Transfer Station Superintendent is requesting that the Board consider advertising for bids at this time due to a 16 to 20 month delay in delivery; which would put delivery into 2023 on a new trash truck.

It was moved by Mr. Mosley, seconded by Mr. Smith, to advertise for bids on a new trash truck and a new boom truck. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Mosley, Mr. Leonard, Mr. Slemp, Mr. Smith

TRANSFER STATION HOLIDAY SCHEDULE

Mr. Poe stated that the City of Bristol would be closed more days over the Thanksgiving and Christmas holidays than typical. Due to the fact that the contractor would not be able to haul on these days and waste is not supposed to be left on the pad over night, the Superintendent has drafted a potential plan is to close on Thanksgiving Day and reopen the following day and to close at noon on Christmas Eve and reopen the day after Christmas.

Mr. Leonard stated that it is not logical to close the sites for that many days.

Mr. Kolb asked if Wise County has been contacted about taking the waste.

Mr. Poe stated that the contract with the City of Bristol is exclusive.

Mr. Kolb stated that he would be willing to pay the City of Bristol for the tonnage that would have been taken and to haul to Wise County.

Mr. Poe stated that he would explore other options.

VOTING MACHINE CAGES

Mr. Poe stated that the Electoral Board had cages that were used to haul the old voting machines to each precinct, when the new voting machines were purchased they were no longer needed. The Animal Control Department took those cages to use at the Pound to potentially use as pup cages. One of the local rescue organizations has asked that the County to donate a few of cages to use for cat cages.

It was the consensus of the Board to donate a few cages to the local rescue.

PUBLIC HEARING

Mr. Poe stated that there would be a public hearing at next month's meeting for a supplemental appropriation for the CARES funds.

FEDERAL VACCINE MANDATE

Mr. Poe stated that even though the Federal Vaccine Mandate is on hold in the Court system, there are issues that the County will have to deal with if it goes into effect in January. There needs to be a plan in place that would establish the information gathered from employees on vaccine status and on the testing that would be required for those that are not vaccinated and who would be responsible for paying the cost of the weekly testing.

Mr. Kolb stated that he would not vote to fire anyone for not taking the vaccine.

Mr. Poe stated that they would have the option to have the vaccine or to be tested weekly and wear a mask in the workplace.

Mr. Leonard stated that he did not want to be responsible for making someone take the shot if they did not want it.

Mr. Poe stated that the mandate is being administered by the Occupational Safety and Health Administration, and the potential fine for non-compliance is in excess of \$13,000.00 fine per occurrence.

ELECTRONIC MEETING POLICY

Mr. Poe stated that the Board members discussed the possibility of electronic meetings several months ago. At Mr. Kolb's request he is submitting a proposed Electronic Meeting Policy for the Board's consideration.

Mr. Mosley stated that VCEDA has been doing this and it would have to be recorded in the minutes which members were participating electronically.

Mr. Poe stated that it has to be recorded in the minutes who is participating remotely and the location they are participating from. That was left out of this draft policy and would need to be added.

It was moved by Mr. Mosley, seconded by Mr. Leonard, to adopt the Electronic Meeting Policy with changes discussed regarding the minutes. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Mosley, Mr. Leonard, Mr. Slemp, Mr. Smith

POLICY FOR MEETING PARTICIPATION BY ELECTRONIC COMMUNICATION MEANS

A. Pursuant to Virginia Code Section 2.2-3708.2, the Lee County Board of Supervisors hereby establishes the following policy for allowing a member of the Board to participate in a meeting by electronic communication means only if the following conditions are met;

1. Subject to the requirements of subsection B, all public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body at least one hour prior to the scheduled start time of the meeting that:

a. Such member(s) is unable to attend the meeting due to (i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance or (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance; or

b. Such member(s) is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subdivision b is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

B. Participation by a member of a public body in a meeting through electronic communication means pursuant to subdivision A 1.a. and 1.b. shall be authorized only if the following conditions are met:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

2. A quorum of the public body is physically assembled at one primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

C. Approval for a member to participate in a scheduled meeting from a remote location by electronic communication means shall be granted by the chair if the member meets all the provisions of subdivision A.1., 1.a. and 1.b.

D. If participation by a member through electronic communication means is approved pursuant to subdivision A.1., the public body holding the meeting shall record in its

minutes the remote location from which the member participated; however, the remote location need not be open to the public. If participation is approved pursuant to subdivision A.1.a., the public body shall also include in its minutes the fact that the member participated through electronic communication means due to (i) a temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) a family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision A.1.b., the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to subdivision A.1.b. is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.

REPORTS AND RECOMMENDATIONS OF THE BOARD

COMMONWEALTH ATTORNEY EMERGENCY BUZZER

Mr. Kolb stated that the Commonwealth Attorney's Office mentioned that they do not have an emergency buzzer. There was an incident where a guy jumped through the window at the front desk and they do not have a back door in case something happens.

It was moved by Mr. Kolb, seconded by Mr. Mosley, to have an emergency buzzer installed at the front desk of the Commonwealth Attorney's Office. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Mosley, Mr. Leonard, Mr. Slemp, Mr. Smith

SHERIFF'S OFFICE EQUIPMENT

Mr. Kolb stated that he was approached by an officer about flashlights and tasers and spike strips. The Sheriff's Office only has three sets of spike strips now and those have to be passed back and forth between officers on different shifts.

It was moved by Mr. Kolb, seconded by Mr. Mosley, to purchase three sets of spike strips and flashlights for the Sheriff's Department. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Mosley, Mr. Leonard, Mr. Slemp, Mr. Smith

Mr. Mosley stated he would like to go into closed session for personnel.

SHERIFF'S OFFICE

Mr. Leonard stated that tragedy struck a Big Stone Gap officer over the weekend and it should have never happened. It enlightens you on what an officer goes through on a daily basis. The Sheriff's Office asked for a bonus and right now they are all feeling sad and in danger all of time, and he would like to move forward with that request.

CLOSED SESSION

It was moved by Mr. Kolb, seconded by Mr. Mosley, to enter Closed Session pursuant to 2.2-3711 A.1. Discussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body, 2.2-3711 A. 4. The protection of the privacy of individuals in personal matters not related to public business, 2.2-3711 A.6. The investing of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected, , and 2.23711 A.8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemp, Mr. Smith

It was moved by Mr. Mosley, seconded by Mr. Kolb, to exit Closed Session. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemp, Mr. Smith

CERTIFICATE OF CLOSED SESSION

WHEREAS, the Lee County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a Certification by this Lee County Board of Supervisors that such Closed Meeting was conducted within Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Lee County Board of Supervisors hereby certified that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from Closed Meeting in 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 Lee County Board of Supervisors.

Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemp, Mr. Smith

SOCIAL SERVICES BOARD

It was moved by Mr. Mosley, seconded by Mr. Leonard, to expand the Social Services Board to six members and to appoint Sidney Kolb. Mr. Kolb's term will expire December 31, 2023. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemp, Mr. Smith

SHERIFF'S OFFICE REQUEST

It was moved by Mr. Smith, seconded by Mr. Mosley, to approve a \$3,000.00 hazardous duty payment to all the Sheriff's Department sworn officers from the ARPA funds. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemp, Mr. Smith

It was moved by Mr. Mosley, seconded by Mr. Smith, to recess to November 29, 2021 at 5:30 p.m. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Kolb, Mr. Leonard, Mr. Mosley, Mr. Slemp, Mr. Smith

CHAIRMAN OF THE BOARD

CLERK OF THE BOARD