

BOARD OF GARRETT COUNTY COMMISSIONERS
PUBLIC MEETING
February 18, 2014

IN ATTENDANCE

Chairman Robert G. Gatto
Commissioner Gregan T. Crawford
Commissioner James M. Raley

County Administrator R. Lamont Pagenhardt

ADMINISTRATIVE SESSION

1. Mr. Pagenhardt reviewed a number of administrative, personnel, and managerial matters under his authority and jurisdiction with the Board of County Commissioners. No official action was taken by the Board at this time.
2. The Board of County Commissioners reviewed letters of interest received for consideration as Member of the Garrett County Ethics Commission. A decision will be made final by the Board during the public meeting on this date.
3. The Board of County Commissioners, on a motion by Commissioner Crawford, which was seconded by Commissioner Raley, and made unanimous by Chairman Gatto, appointed Karl Schwalm and William Vansickle to serve as a member of the Garrett County Health Planning Council. An official letter of appointment will be sent to Dr. Schwalm and Mr. Vansickle under the signature of Chairman Gatto outlining each term of this appointment.
4. The Board of County Commissioners, on a motion by Commissioner Raley, which was seconded by Commissioner Crawford, and made unanimous by Chairman Gatto, approved a real property tax credit for the Avilton Community Association for tax year 2014 – 2015.
5. Mr. Pagenhardt presented a request from Garrett College President Richard MacLennan requesting that the Board of County Commissioners formally oppose HB 490 – Community Colleges Collective Bargaining. Commissioner Crawford and Chairman Gatto stated their agreement to oppose such legislation and will send a letter supporting the position of Garrett College and other community colleges.
6. The Board of County Commissioners previewed legislative issues to be presented during the public meeting on this date.
7. The Board of County Commissioners and Mr. Pagenhardt discussed a lack of response to requests for information to County Government staff from the Superintendent and senior staff with the Garrett County Public School System. Many of these requests are requirements that need to be presented to the Board for final approval, matters that relate to budget planning, and other justified topics. The Board will take no action on this matter.

8. Chairman Gatto asked that County Attorney Gorman Getty review the United Community Services Crellin Project. Chairman Gatto will follow up with more information when available.
9. The Board of County Commissioners met with Mr. Getty; Executive Director of the Department of Community Planning and Development Michael Koch; Deborah Carpenter, Assistant Director, Department of Community Planning and Development – Planning and Land Management Office; and William DeVore, Zoning Administrator, Department of Community Planning and Development – Planning and Land Management Office to preview the official and legal format for action to be taken during the public meeting on this date relevant to a request to amend certain subsections of Section 157 of the Deep Creek Watershed Zoning Ordinance.
10. The Board of County Commissioners executed the Jobs Agreement between the Board of County Commissioners and Beitzel Resources/Pillar Innovations, LLC. Mr. Koch presented this final document to the Board which had been reviewed for legal sufficiency by Mr. Getty.

PUBLIC SESSION

CALL TO ORDER OF PUBLIC SESSION

PRAYER & PLEDGE OF ALLEGIANCE

1. Additions/deletions to public meeting agenda. Mr. Pagenhardt indicated there was one addition and no deletions to the Public Meeting Agenda for February 18, 2014. The agenda will be edited to read that the Board will review pending proposals to amend Section 157 of the Deep Creek Watershed Zoning Ordinance. The Board, on a motion by Commissioner Raley, which was seconded by Chairman Gatto, and made unanimous by Commissioner Crawford, approved the Public Meeting Agenda for February 18, 2014.
2. The Board of County Commissioners, on a motion by Commissioner Crawford, which was seconded by Commissioner Raley, and made unanimous by Chairman Gatto, approved the Public Meeting Minutes for February 4, 2014, Administrative Session for February 11, 2014, and Executive Session for February 11, 2014.
3. The Board of County Commissioners provided an update of the boards, committees, and commission meetings they have attended and participated in since the last public meeting.
4. The Board of County Commissioners, on a motion by Commissioner Crawford, which was seconded by Commissioner Raley, and made unanimous by Chairman Gatto, appointed Jack Riley to serve as a member of the Garrett County Ethics Commission. An official letter of appointment will be sent to Mr. Riley under the signature of Chairman Gatto outlining the term of this appointment.
5. The Purchasing Department presented the following recommendations of bid award and contract extension to the Board of County Commissioners.

Bid Award:

- a) Deep Creek 2014 Equipment Rental (bid #14-0116). The Board, on a motion by Commissioner Crawford, which was seconded by Chairman Gatto, and made unanimous by Commissioner Raley, approved an award to a number of vendors for a variety of

equipment. This approved list with a total cost of \$149,273.80 is on file with the Purchasing Department.

- b) Custodial Cleaning Services (bid #14-0130). The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Raley, and made unanimous by Chairman Gatto, approved an award to Appalachian Crossroads for annual contract of \$23,582.00. Specific County Department of Public Works – Roads Division location/garage is on file with the Purchasing Department.
- c) Plumbing Services (bid #14-0206P). The Board, on a motion by Commissioner Raley, which was seconded by Commissioner Crawford, and made unanimous by Chairman Gatto, approved an award to BYCO Enterprises, Inc. for basic labor rates for master plumber at \$48.00 per hour and a percentage make up for materials at 15%.
- d) Tandem Vibratory Roller (#bid #14-0206). The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Raley, and made unanimous by Chairman Gatto, approved an award to Best Line Equipment for a total purchase price of \$32,498.33.

Contract Extension:

- e) Culvert Pipe (contract #13-0530C). The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Raley, and made unanimous by Chairman Gatto, approved an award to Chemung Supply Corporation. List of specific size, gage, cost per foot, bands, and flared end, diameter, couplings, type, and applicable cost is on file with the Purchasing Department.
 - f) Filters (contract #13-0509F). The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Raley, and made unanimous by Chairman Gatto, approved an award to Taz Automotive, Inc. d.b.a. NAPA Auto parts. Specific filter numbers and applicable price is on file with the Purchasing Department.
 - g) Fuel (contract #12-0607FO). The Board, on a motion by Commissioner Raley, which was seconded and carried by Commissioner Crawford, approved an award to Oakland Oil Company. Chairman Gatto recused himself and abstained from the vote of approval for the reason that his wife, Nina Gatto, is an employee of Oakland Oil Company. Product and price is on file with the Purchasing Department.
6. The Department of Community Planning and Development – Permits & Inspections presented a Recommended Permit Fee Schedule (Grading Permit Fees, effective June 1, 1993; Entrance Permit Fees, effective January 1, 1989; and Subdivision Permit Fees effective July 1, 1997) to the Board of County Commissioners. Copy of Recommended Permit Fee Schedule is included with these public meeting minutes as **Exhibit 1** and is also posted on the County website. The Board determined to allow a 2 week public commentary period with a decision on the revised Schedule to be approved as part of the March 11, 2014 Public Meeting.
7. The Board of County Commissioners, on a motion by Commissioner Crawford, which was seconded by Commissioner Raley, and made unanimous by Chairman Gatto, approved an Amendment to the Garrett County Subdivision Ordinance under Section 159.016(36) PLANNING DIRECTOR to read that “the Assistant Director of the Department of Community Planning and Development – Office of Planning and Land Management or the equivalent position in any successor agency responsible for administration of the Ordinance”.
8. The Board of County Commissioners reviewed and took official action on the following Sections of

the Deep Creek Watershed Zoning Ordinance. Mr. Getty presented these petitions to the Board in the following order.

Planning Commission Recommendation

The Planning Commission voted to recommend the following text amendments to the Board of County Commissioners:

- Amend the Table of Dimensional Requirements for Principal Uses under section 157.041E.2 to add the C-Commercial district under the column heading "Zoning District" and within the same row and block as the TC-Town Center District.
- Amend Section 157.041E.3 of the Table of Dimensional Requirements for Principal Uses to alter the types of uses that would qualify for reduced land areas within a shopping center; to properly align the column headings and minimum land area standards; and to strike certain provisions for other zoning districts and land areas to read as follows:

157.041E.3. Retail uses, service businesses and commercial recreational uses that are situated in shopping centers having a minimum land area of 1 acre. Only those retail, service and commercial recreational uses specified under this Article as requiring a minimum land area of 10,000 sq. ft. in the TC and C zoning districts, are subject to the reduced minimum land area per use afforded by this Section.

- For the TC and C zoning districts, a minimum of 6,000 sq. ft. would be placed under the column heading "Minimum Total Lot or Land Area Per Use" and a blank space would be placed under the column heading "Minimum Average Lot Area Per Dwelling Unit." Additionally, the provisions for "Any other District" would be stricken from section 157.041E.3.

Chairman Gatto asked for a motion for approval of the Planning Commission Recommended Amendments. Commissioner Crawford entered such vote which was seconded by Commissioner Raley. Prior to the vote public commentary was received. The vote was moved to approval by Commissioner Crawford and Chairman Gatto that approved all Planning Commission Recommended Amendments as presented. Commissioner Raley voted in opposition to the motion.

Petitions submitted by William Meagher

During their July 2013 meeting the Planning Commission voted to recommend approval of the Petition submitted by William Meagher with certain modifications that included restricting the new use to the Town Center zone and stipulating that the use should be permitted only on lakefront properties having a minimum 200 feet of lakefront measured at the Penelec line, irrespective of whether the lot is grandfathered under Section 157.042 of the Ordinance.

- Amend the Table of Use Regulations to add a new category of use under section 157.024(c) 23 for "Boat Rental including boat rides and/or boat tours as a separate service business and not offering any other services associated with a Marina" The use would be P-Permitted in the TC and C zoning districts; permitted by SE-Special Exception in the TR, CR-1 and CR-2 zoning districts; and, N-Not permitted in any other district.
- Amend the Table of Dimensional Requirements for Principal Uses, section 157.04(c)10 to read "Sale or rental of recreational vehicles, including boat rental as a separate

service business." The use would require a minimum land area of 10,000 sq. ft. in any districts where it is permitted except as provided in section 157.041(c) 3 which requires 6,000 sq. ft. per use and shopping centers.

Based on prior public review on these amendments it was determined that Chairman Gatto must recuse himself from participating in the vote. Commissioner Crawford entered a motion to approve the amendments as presented on this date. The motion did not receive a second. Therefore there is no pending proposal for any change to any ordinance. Commissioner Crawford and Commissioner Raley provided commentary in support of their respective positions on this vote.

During the course of considering final review of these text amendments, the Board discussed recreational uses at Deep Creek Lake and the nature of zoning within the watershed. In the course of that discussion, staff raised the concept of "special exceptions". Based on that discussion and review, Commissioner Crawford entered a motion to send the matter back to the Planning Commission for consideration and review of context for potential use as of a special exception as it applies to this Section of the Ordinance. Chairman Gatto seconded the motion. Commissioner Raley voted in opposition of the motion. Commissioner Raley and Commissioner Crawford provided commentary in support of their respective positions relative this vote.

Commissioner Crawford and Chairman Gatto Position Statement:

Deep Creek Lake is a recreational area and given its nature it is subject to competing demands. The public has expressed concern that there has not been sufficient public discussion and consideration of issues relating to recreational uses and the Board is simply responding to that concern and are asking the Planning Commission for their input, nothing more. Executive action by the Board signified by the vote by Commissioner Crawford and Chairman Gatto documented that the Board of County Commissioners are not planning professionals and they have simply asked for the Planning Commission to examine the concept. The Board has not asked for, taken nor has it proposed any change to the Deep Creek Watershed Zoning Ordinance nor does this specifically apply to or is related to the Petitions submitted by William Meagher. The motion by Commissioner Crawford to approve Mr. Meagher's proposal subsequently failed to receive a second ended the pursuit and consideration of this request. The special exception action approved by the Board (Commissioner Crawford and Chairman Gatto) is now solely at the jurisdiction of the Planning Commission as to whether or not this Commission would include such a use and whether or not they would even take the subject under advisement. The referral back to the Planning Commission does not automatically include or allow Mr. Meagher's proposal to advance as the spilt vote ended any additional consideration of it.

9. Paul Harvey, Division Chief, Department of Public Works – Roads Division briefed the Board of County Commissioners on year-to-date winter operations and proposed project schedule for the balance of Fiscal Year 2014.
10. The Board of County Commissioners presented commentary on 2014 Legislation issues. A Session to Date Legislative Summary is included in these public meeting as **Exhibit 2**.
11. Public Commentary.
12. Carol Riley-Alexander, Executive Assistant to the Board of County Commissioners and County Administrator, reviewed the Board's meeting and committee schedule for the forthcoming weeks.

13. In compliance with the Maryland Open Meetings Act under section 10-509, a record of the Executive Session for February 11, 2014 is hereby documented on this date, the next open/public meeting of the Board of County Commissioners.

The Board of County Commissioners, on a motion by Commissioner Crawford, which was seconded by Commissioner Raley, and made unanimous by Chairman Gatto, moved into Executive Session under section 10-508 of the Maryland Open Meetings Law on this date to discuss personnel matters. The same motion ended the Executive Session. Mr. Pagenhardt; Wendy Yoder, Director, Department of Financial Services; and Scott Weeks, Assistant Director, Department of Financial Services presented a recommendation of appointment and transfer of Jeffrey Broadwater, Division Chief, Department of Public Works – Utilities Division to the Department of Financial Services as assistant director. The Department has experienced a vacancy due to the retirement of Ms. Yoder as director and the reclassification of Mr. Weeks to a department head level assignment. The recommendation will place and reassign Mr. Broadwater to the position of Assistant Director.

A transitional plan of departmental assignments and responsibilities will be put in place. The transfer of Mr. Broadwater will require a reorganizational line of progression plan for the Department of Public Works – Utilities Division which Mr. Pagenhardt and responsible department heads have begun to develop. Mr. Pagenhardt requested that the Board approve this recommendation and allow him and other senior management to work through the transition plan. The Board unanimously agreed with process.

ADJOURNMENT OF PUBLIC SESSION

Attest:

By Order of the Board,

R. Lamont Pagenhardt,
County Administrator

Robert G. Gatto, Chairman
Board of County Commissioners

Date

EXHIBIT 1

RECOMMENDED PERMIT FEES			
GRADING PERMIT FEES			
		Current Fee	Recommended Fee
		Current Fees Effective June 1, 1993	
Minor Project	(5,000 to 30,000 sq. ft. or >100 cubic yards) (SFR)	\$30.00	\$50.00, plus \$30.00 if Stormwater required
Minor Commercial Project	(5,000 to 30,000 sq. ft. or >100 cubic yards)	\$50.00	\$100.00, plus .5% of Stormwater bond
Major Commercial Project	(>30,000 sq. ft.)	\$100.00 + \$5.00 per 1/4 acre over 1 acre	Same Fee, plus .5% of Stormwater bond
Forest Harvest Project		\$15.00 + \$.05 per acre harvested	\$25.00, plus \$.25 per acre
Mining Project (subject to renewal - every 5 years)		\$50.00 + \$1.00 acre disturbed	Same Fee - NO Change
Amendment to Current Approved Commercial Plan		\$20.00	\$100.00, plus \$5.00 per 1/4 acre of amendment, plus .5% of additional SWM bond
Modification to Commercial Permit		\$0.00	\$20.00
Amendment to Approved Timber Harvest Permit		\$0.00	\$25.00, plus \$.25 per acre of additional acreage
Transfer of Approved Plan to New Owner		\$5.00	\$25.00
Permit Renewal (beyond two-years - if no changes to plan)		\$50.00	Same Fee - NO Change
		Currently NO Stormwater Fees Are Charged	
ENTRANCE PERMIT FEES			
		Current Fees Effective January 1, 1989	
Field or Farm		\$2.00	\$10.00
Residential (up to 2 lots)		\$2.00	\$20.00
Temporary (Logging and others)		\$10.00	\$20.00
Subdivision - Residential		\$10.00	\$50.00
Commercial		\$10.00	\$50.00
Industrial		\$10.00	\$50.00
SUBDIVISION PERMIT FEES			
		Current Fees Effective July 1, 1997	
Waiver Request		\$0.00	\$25.00
Minor Subdivision/Lot Line Adjustment		\$5.00 per lot	\$25.00
Major Subdivision		\$7.00 per lot	\$50.00, plus \$10.00 per lot over 5 lots
Permits & Inspection Services Office			
February 10, 2014			

EXHIBIT 2

TITLE	BILL #	HEARING DATE	COMMITTEE	CHAIR	SPONSOR	TESTIFY	POSITION	Favorable	Unfavorable
Bond Bill – Garrett Cooperative Ministry (Christian Crossing)						Written			
GC – Industrial Wind Energy Conversion Systems-Setback Requirement	SB 2	1/16	Finance	Middleton	Edwards	Written	FOR		
Vehicle Laws – Maximum Speed Limit – Interstate 68	HB 252		Environmental Matters	McIntosh		Written	FOR		✓
	SB 158	1/23	Judicial	Frosh					
Public Safety – Statewide Interoperability Radio Control Board – Established	HB 308		Health & Gov't	Hammen		Written	FOR	✓	
	SB 338	2/18	Finance	Middleton			FOR	✓	
Economic Development - Green Business Incentive Zones	HB 473	2/19	Ways & Means	Hixson					
	SB 787	3/11	Budget & Taxation Finance	Kasemeyer Middleton					
Garrett County - Enterprise Zone Property Tax Credit - Extension	HB 541	Hearing Cancelled	Ways & Means	Hixson					
	SB 474	Hearing Cancelled	Budget & Taxation	Kasemeyer			FOR		
Renewable Energy Portfolio Standard – Qualifying Biomass	HB 747	2/20	Ec. Matters	Davis		Written	AGAINST		
	SB 734	3/4	Finance	Middleton		Written	AGAINST		
Transportation – Motor Fuel Tax & Highway User Revenue – Increased Local Share	HB 1067	3/4	Appropriations	Conway		Written	FOR		
	SB 664	2/19	B&T	Kasemeyer		Written	FOR		
Maryland – Minded Coal Tax Credit – Repeal	HB 1085	2/27	Ways & Means	Hixson		Written	AGAINST		
MARCELLUS SHALE								Favorable	Unfavorable
Natural Gas – Hydraulic Fracturing – Prohibition	HB 292	2/28	Environmental Matters	McIntosh	Robinson	Written Joint w/A	AGAINST		
	SB 360	1/22	Ed Health & Environmental	Conway		Written Joint w/A	AGAINST		✓

Environment – Hydraulic Fracturing Wastewater – Prohibited Acts	HB 409	2/28	Environmental Matters	McIntosh	Robinson	Written	AGAINST		
Natural Gas Severance Tax and Impact Account	SB 535	2/19	Budget & Taxation	Hixson		Written	FOR		
Generating Stations – Certificate of Public Convenience and Necessity – Consideration of Water Usage	HB 731	Hearing Cancelled	Economic Matters	Davis	Robinson				
Natural Gas – Hydraulic Fracturing – Rural Residential Drinking Water Protection Act	HB 865	2/28	Environmental Matters	McIntosh	Mizeur		AGAINST		
Shale Gas Drilling Safety Review Act of 2014	HB 1122	2/28	Environmental Matters	McIntosh	Mizeur				
	SB 745	2/25	Ed Health & Environmental	Conway	Young				
EDUCATION								Favorable	Unfavorable
Allegany and Garrett Counties – Board of Education – Removal of Ex Officio Member	HB 343	2/19	Ways & Means	Hixson		Written	FOR		
	SB 383	2/12	Ed, Health & Environ	Conway		Written	FOR	√	
Education - Bridge to Excellence - State Hold-Harmless Requirement	SB 431	2/21	Ed, Health & Environ	Conway		Written Testified	FOR		
Education – Community Colleges Collective Bargaining	HB 490	2/11	Appropriations	Conway		Written Bob/Gregan	FOR		
	SB 749	3/6	Finance	Middleton		Written Bob/Gregan	FOR		
Education - State Grant to Counties With Small and Declining Student Enrollment	HB 814	3/5	Ways & Means Appropriations	Hixson Conway			FOR		
	SB 534	2/12	Budget & Taxation	Kasemeyer	Edwards	Written Testified	FOR		
Libraries – Regional Resource Centers and County Public Libraries	HB 1063	3/5	Ways & Means	Hixson		Written	FOR		
	SB 430	2/19	B & T	Kasemeyer		Written	FOR	√	