

A continued meeting of the Botetourt County Board of Supervisors was held on Tuesday, August 7, 2018, in Room 229 of the Greenfield Education and Training Center in Daleville, Virginia, beginning at 7:00 P. M.

PRESENT: Members: Mr. L. W. Leffel, Jr., Chairman  
Dr. Donald M. Scothorn, Vice-Chairman  
Mr. Steve Clinton  
Mr. Billy W. Martin, Sr.  
Mr. I. Ray Sloan

ABSENT: Members: None

Others present at the meeting:

Mr. Michael W. S. Lockaby, County Attorney  
Mr. David Moorman, Deputy County Administrator  
Mr. Gary Larrowe, County Administrator

The Chairman called the meeting to order at 7:01 P. M. and welcomed those present.

Consideration was then held on reappropriation of \$500,000 into the FY 19 budget for an economic development incentive payment to Eldor Corporation.

Mr. Martin then made a motion, which was seconded by Dr. Scothorn, to approve the following resolution to reappropriate \$500,000 from the FY 18 County budget into the FY 19 budget for an economic development incentive payment to Eldor Corporation:

**NOW, THEREFORE, BE IT RESOLVED**, that the following appropriation for Fiscal Year 2018-2019 is made to allow carry-over of approved funding begun in Fiscal Year 2017-2018:

<u>Destination Account #</u>	<u>Account Description</u>	<u>Amount</u>
100-4091800-91800-3800-000	Transfers to EDA of Botetourt County	\$500,000.00

Mr. Larrowe stated that this payment was included in the County's Performance Agreement with Eldor Corporation. He noted that there are several milestones that Eldor is required to meet in the construction of their new facility in Greenfield and, upon completion of these milestones, an economic development incentive payment is made by the County. Mr. Larrowe stated that the certificate of occupancy was issued by the Building Official's Office last week; therefore, the County is required to pay Eldor \$500,000 under the Agreement's provisions. He noted that the next County incentive payment will be made when Eldor has hired 100 employees and the total is sustained for 90 days.

Mr. Larrowe stated that these incentive payments were budgeted in FY 18; however, there were construction delays and the funds are being requested to be reappropriated from the FY 18 budget into the FY 19 budget. He noted that these funds will be paid to the Economic Development Authority which will then issue the check to Eldor.

There being no further discussion, Mr. Martin's motion was approved by the following recorded vote: (Resolution Number 18-08-01)

AYES: Mr. Sloan, Mr. Clinton, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

After questioning by Dr. Scothorn, Mr. Larrowe stated that he does not have a current employment figure for Eldor. Mr. Larrowe stated that he and Mr. Ken McFadyen, Economic

Development Director, visited the Eldor facility last week and they have 68 employees at present.

Mr. McFadyen noted that there were many production workers on site at that time.

Consideration was then held on potential SmartScale improvements for the Route 220/640 (Brugh's Mill Road) project. Mr. Cody Sexton, Assistant to the County Administrator, stated that at the regular July Board of Supervisors meeting, he presented a resolution identifying four Botetourt County SmartScale projects (International Parkway/U. S. Route 220 Intersection Improvement, Glebe Road Alignment and Bike/Pedestrian Improvement, U. S. Route 220 Pedestrian Crossing, and U. S. Route 220 Superstreet Improvements) and had requested that the Board approve a resolution of support for funding of these projects' applications under the SmartScale program.

Mr. Sexton stated that, since that time, County staff have received some new information and updated cost estimates for these projects and, after some internal discussions, staff is recommending that the pedestrian crossing on Route 220 at Daleville Town Center be removed from the funding application. He noted that this project is estimated to cost \$86,000 and could be funded through "other avenues." Mr. Sexton stated that by removing this project from the funding request, it will allow the County to add to and realign the existing Route 220 project applications.

Mr. Sexton stated that the Board is now being requested to give their concurrence to a funding application for the International Parkway/U. S. Route 220 Intersection Improvement and the Glebe Road Alignment and Bike/Pedestrian Improvement projects as approved at the July regular meeting, along with revised applications for the Route 220 Superstreet, and the combined Route 220 Superstreet and Route 640 (Brugh's Mill Road) Improvement projects.

Mr. Martin stated that he understood that the reason the Route 640 project was previously removed from the funding application was that it would "hurt us under the SmartScale" ranking system.

Mr. Larrowe stated that VDoT pre-screened out the Route 640 portion of the Route 220 Superstreet project during their first review of the application documents; however, during a second review, it was determined that the project could be included in the funding application.

Mr. Sexton stated that VDoT's Salem District Office staff received revised guidance from VDoT's central office regarding screening of the Route 640 project, which now allows the project to be submitted for funding consideration.

After questioning by Mr. Clinton, Mr. Larrowe stated that the Route 220 Superstreet portion of both of these applications are identical.

Mr. Sexton stated that the original project for the Route 220 pedestrian crossing at Daleville Town Center is now considered as a separate project that would not be included in either of the revised Route 220 funding applications. He further stated that the proposed Route 220 Superstreet improvements are the same in both revised applications; however, the staff is now proposing that the Route 640 improvement project be included as VDoT has determined that it could count as an overall network improvement project which is allowed under the SmartScale application guidelines.

Mr. Clinton then questioned if adding the Route 640 improvements would delay the Route 220 Superstreet improvements.

Mr. Sexton stated that the funding timeline would be the same for both applications. He noted that the only change would be if the Route 220 section, which is estimated to cost \$6.3

million, was funded on its own. He noted that, if this is the case, then the County would have to reapply at a later time to request funding for the Route 640 improvements which are estimated to cost \$13 million.

Mr. Larrowe stated that the staff is not requesting a formal vote by the Board on this revised resolution of support at this meeting. He noted that the matter will be brought back before the Board at their August 28 regular meeting after the public has had time to review and comment on the proposed projects. Mr. Larrowe further noted that the deadline to submit SmartsScale resolutions of support is September 1.

Mr. Sexton noted that the Board's consensus on the draft resolution will suffice until the final resolution is formally considered for adoption at the August regular meeting.

After discussion, Mr. Sexton stated that the SmartScale program application process "is a numbers game" because, if a project's estimated cost is more than \$10 million, then it receives a reduction in its final score.

Mr. Larrowe stated that, by including the Route 220 Superstreet project in two separate funding applications, it will allow the project to be considered during this current six year funding session.

After questioning by Mr. Sloan, Mr. Sexton stated that the Board is being asked at this meeting to agree to the removal of the Route 220 pedestrian crossing project at Daleville Town Center from the County's list of SmartScale application projects.

Mr. Martin stated that projects #3 (Route 220 Superstreet) and #4 (Route 220 Superstreet and Route 640 improvements) are exactly the same except that project #4 includes the Route 640 improvements. He noted that the County would submit applications for both projects #3 and #4 independently.

Mr. Sexton stated that Mr. Martin's comments were correct. He noted that, by submitting applications for both projects #3 and #4, it will give the Commonwealth Transportation Board options in making their funding decisions.

Mr. Clinton noted that the revised resolution of support includes both Route 220 projects.

Mr. Moorman stated that the cost estimate to construct both the Route 220 Superstreet improvements and the Route 640 improvements is \$19.3 million. He noted that, if this project is not funded during the upcoming six year cycle, then it would be delayed until the next funding cycle. He noted that by including an application for only the Route 220 Superstreet improvements it would still create an opportunity for that project to be funded in the next six years as it only has an estimated cost of \$6.3 million.

Dr. Scothorn stated that, on the CTB's points-based approval process, the Route 220 Superstreet project, which has an estimated cost of less than \$10 million, would receive more points toward the project's approval.

Mr. Sexton agreed with Dr. Scothorn's statement and noted that "this option (having two separate funding applications) preserves options for the County" that one of these projects could be funded in the next six years. He noted that the County "cannot go back and break up the project on the back-end" into two sections if we do not apply for both projects from the beginning.

After discussion, on motion by Dr. Scothorn, seconded by Mr. Martin, and carried by the following recorded vote, the Board authorized staff to remove the U. S. Route 220 Pedestrian Crossing project located at Daleville Town Center from the resolution of support for the 2018 SmartScale funding application. (Resolution Number 18-08-02)

AYES: Mr. Sloan, Mr. Clinton, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Mr. Leffel then stated that he is agreeable to giving County staff guidance regarding whether the proposed Route 220/Route 640 improvement project should be included in the SmartScale application process and requested that the Supervisors be given additional information regarding this project for consideration at the August regular meeting.

He noted that the project's cost estimate is approximately \$20 million and possibly the Board should think about this application in more detail before taking formal action. Mr. Leffel stated that he does not have enough information today to make a decision on this application.

After questioning by Mr. Leffel, Mr. Sexton stated that a decision on this project can be delayed until the August 28 regular meeting as the SmartScale resolution of support deadline is September 1.

Consideration was then held on PPEA proposals for landfill/solid waste operations. Mr. Larowe stated that County staff have been working on this solid waste operations project for some time with County Waste through the Public-Private Education Act (PPEA) process. He noted that County Waste's proposal includes taking over operations of the County's landfill, Permit Number 582 and closure of the remaining cells, and a request for Board consideration of a future request to locate a trash transfer station in Cloverdale.

Mr. Larowe stated that, after the County received an unsolicited proposal from County Waste for these projects, the County was required by the PPEA guidelines to advertise for competing proposals in order to ascertain whether any other company/entity was interested in providing the same service. He noted that, after advertisement, the County received a proposal from the Roanoke Valley Resource Authority.

Mr. Larowe stated that a Solid Waste Committee, consisting of staff and two Board of Supervisors members, was formed and met to review both proposals. He noted that the Committee recommended that the Board proceed with negotiations on the proposal submitted by County Waste.

Mr. Larowe further stated that County Waste is proposing to operate the County landfill using the remaining airspace in cell area 3 and 4 for trash disposal. He noted that once the cell has reached capacity, it will be properly closed and capped as per Virginia Department of Environmental Quality (DEQ) guidelines. He further noted that the County staff who currently operate the citizens convenience center and weighing scales will remain on site to weigh the trash trucks entering the landfill and will be on-hand to oversee the site's operations.

Mr. Larowe stated that the proposal also includes provisions that would result in there being no expenditures related to the recycling program. He noted that the County currently subsidizes the recycling program by approximately \$54,000 per year plus approximately \$200,000 for recycling container rental costs. Mr. Larowe further stated that it is estimated that the County would have to pay approximately \$4 million to close and cap the landfill, which County Waste is now proposing to do at no charge.

He stated that County Waste would provide a bond in an amount to cover the landfill closure costs and would warranty the closure's construction for one year after completion. Mr. Larowe stated that the County could use the bond's amount, if necessary, to complete the closure operations if County Waste defaults on the contract.

After discussion, Mr. Larrowe stated that County Waste is also proposing to pay the County a “host community fee” of \$1.50 per ton for trash generated outside of the County that passes through the proposed transfer station. He stated that County Waste estimated that 500 tons per day will be delivered to/processed through the transfer station which the company will have to obtain a permit from DEQ to operate.

Mr. Larrowe stated that the estimated total savings/new revenues generated by the County, if a contract with County Waste can be successfully negotiated, is \$11.5 million “in real terms.” He further stated that the final contract documents have not yet been finalized.

Mr. Lockaby stated that one agreement will be drafted which covers two elements of this proposal—a management agreement, and a host agreement. He noted that the transfer station aspect of the proposal is still under discussion as there are some issues that need to be resolved regarding zoning approval of this facility.

Mr. Lockaby stated that the management agreement will include provisions regarding the required bond to cover costs associated with closure of the landfill, mutual risk-sharing requirements, etc.

After questioning by Mr. Martin, Mr. Larrowe stated that the County would save approximately \$54,000 per year in its recycling program costs if this contract is successfully negotiated with County Waste. After further questioning by Mr. Martin, Mr. Larrowe stated that the County would also save approximately \$4 million in landfill closure costs with this contract’s approval. He noted that it is estimated that the County will save and obtain new revenues from the host community fee of approximately \$11.5 million in today’s numbers.

After questioning by Mr. Clinton, Mr. Lockaby stated that the Board is being asked today to approve the award of a comprehensive agreement with County Waste for landfill and solid waste disposal operations subject to final negotiation of a contract and direct staff to submit a final agreement for consideration of approval by the Board at their August 28 regular meeting.

Mr. Clinton stated that he does not feel prepared to respond to this proposal and would like additional information on the anticipated revenues, bond closure amount, and details of this agreement. He asked that staff provide the Board with a summary statement of the proposal’s details.

Mr. Clinton stated that “this is a big deal” for the County and it is the first project that the County has been involved in under the PPEA guidelines. Mr. Clinton stated that he feels that this project is being rushed through the review/approval process.

Mr. Larrowe apologized for not having the summary information on this proposal available at this meeting but the information had been previously provided to the Board members. Mr. Larrowe stated that this information can be updated and provided to the Board before the August 28 meeting.

After questioning by Mr. Clinton, Mr. Lockaby stated that County Waste is proposing to operate the landfill for two years. Mr. Lockaby stated that County Waste estimates that with the remaining disposal space available at the landfill, it will take 18 – 24 months to reach the cell’s capacity, and the site will then need to be properly capped and closed according to DEQ guidelines.

Mr. Lockaby further stated that the Virginia General Assembly enacted legislation that landfill disposal cells of a certain age must be capped and closed by December 31, 2020.

Mr. Clinton again stated that he would like to obtain more details on this proposal.

Mr. Lockaby stated that the two parties still need to discuss the agreement’s language regarding “risk-sharing going back.” He noted that the landfill has been operating on this site for

several decades and provisions should be included in the agreement regarding handling/ resolution of issues that could come to light in the future which originated prior to County Waste's operation of the site. He noted that provisions need to be included in the event that decades of past environmental problems, which are rightly the County's responsibility, are appropriately addressed if they occur. Mr. Lockaby noted that how these provisions will need to be worded by the attorneys is not yet clear.

After discussion, Mr. Lockaby stated that County Waste's proposal also includes management of the landfill during the 18 – 24 months that trash will be deposited in the facility.

Mr. Clinton stated that the Board has a duty to ensure that a legal and binding agreement is in place and that all parties' responsibilities are duly represented.

After questioning by Mr. Clinton, Mr. Lockaby stated that County Waste will provide a bond to cover landfill closure costs until the closure has been completed, inspected, and formally approved by DEQ.

After discussion by Dr. Scothorn, Mr. Lockaby stated that, for example, provisions need to be included in the agreement in the event that leaching from the closed landfill cells occurs three years after completion. He noted that the County Waste will be required to complete the capping procedure according to DEQ standards and inspected for one year after official closure.

Mr. Clinton stated that there are environmental risks and financial risks with the PPEA structure as well as where the money is coming from to pay to resolve any unanticipated problems. Mr. Clinton stated that he would feel more comfortable with additional information being provided on this proposal.

Mr. Lockaby stated that the funding for the management and closure costs will be provided by County Waste through trash disposal fees. He noted that no County funds will be used to close the landfill, if this agreement is approved.

Mr. Clinton stated that "this is the approach but what is the guarantee?"

Mr. Moorman stated that the risk to provide funding to close and cap the landfill would be County Waste's responsibility if this agreement is approved. He noted that the company would be required to provide the County with a performance bond in the amount of the landfill's closure costs which would be used, if necessary, by the County to complete the closure process if County Waste could not do so.

After questioning by Mr. Martin regarding the County's liability in this process, Mr. Lockaby stated that there is always the potential for liability from someone suing the County or DEQ imposing sanctions for noncompliance with their regulations. He further noted that this proposed agreement would save the County approximately \$3 – \$5 million in landfill closure costs but there is always the potential for liability. Mr. Lockaby stated that he is sure that County Waste would not be offering this proposal if they were not going to make money in the endeavor.

Mr. Delbert Beasley of County Waste stated that the transfer station is the most important aspect of this agreement to the company. He noted that County Waste does not anticipate making any money from the use/operation of the County's landfill. Mr. Beasley stated that County Waste is very experienced in landfill and trash hauling operations. He noted that they will provide the required bond and will do what they say they will do.

He further noted that funding from the County will not be needed to close the landfill—this is "a complete" savings opportunity for the County and the County will have a guaranteed price for their trash disposal services for 40 years. He noted that this type of price guarantee cannot be obtained from the Roanoke Valley Resource Authority.

Mr. Beasley further noted that provisions could be included in the agreement that the contract would be considered for renewal every 10 years or a term determined by the County. He noted that the County would have these savings in place for a long period of time and again noted that County Waste would not make any money off of closing the landfill.

Mr. Clinton stated that he thinks this is a great concept but it is the details that concern him. He stated that the Board members need a concise summary of this project before a final decision is made. Mr. Clinton noted that it is great that there will be County employees on site but he does not know how that aspect of the management agreement would work.

Mr. Larrowe stated that trash trucks would come to the landfill to be weighed on the scales and a ticket/receipt issued to the driver by County staff. He noted that County citizens who prefer to dispose of their trash personally will still be able to access the convenience center as they do at the present time. He noted that in the future trucks carrying leachate from the landfill would also be weighed on site and staff would continue to monitor the County's recycling drop-off locations.

Mr. Leffel stated that it seems like the Board has been discussing landfill closure options forever. Mr. Leffel stated that his comfort level is with the County Attorney who will be responsible for drafting this agreement based on the staff's negotiations with County Waste. He noted that any motion considered by the Board at this meeting would be contingent upon "the last 't' being crossed" on the agreement.

Mr. Leffel stated that he is agreeable with moving this process forward contingent upon everyone being happy with the agreement once negotiations are completed.

Mr. Lockaby stated that, if the Board is agreeable, the lawyers will draft the appropriate language so that the final results will be acceptable to the Board and County Waste.

Dr. Scothorn stated that the attorneys should be given the opportunity to "hash out" the details of this agreement.

Mr. Clinton stated that "this is more to him than the legalese—it is the operation." Mr. Clinton stated that he does not see where any action taken at this meeting advances anything regarding this matter.

Mr. Larrowe stated that action by the Board at this meeting will advance this process "in the eyes of County Waste."

Mr. Larrowe further stated that the County is prohibited from taking action on any PPEA proposal within 30 days of the public hearing. He noted that this resulted in the scheduling of the July 31 Board of Supervisors meeting to which two members were not able to be present. Mr. Larrowe stated that the July 31 meeting was continued until today for Board consideration of this matter.

Mr. Larrowe further stated that, if the Board agrees with the concept of a solid waste disposal agreement with County Waste, it will allow the County Attorney to meet with County Waste's attorney to draft an agreement. He noted that a final version of this agreement will be brought before the Board for consideration at the August 28 regular meeting.

Mr. Beasley stated that it will require a lot of time, planning, and organization to mobilize the necessary equipment and staff for County Waste to move forward with using the County's landfill for trash disposal and they are trying to beat the winter weather as well. He noted that the Board's approval of this contract in late August will help them proceed with this work. Mr. Beasley stated that discussion on this proposal has been occurring since February.

Mr. Sloan stated that County Waste has rectified several citizen complaints over the past few months in his district. He noted that County Waste's proposal gives the County a way out of

having to fund the landfill's closure. Mr. Sloan stated that, from what he has seen so far and the cost figures that have been provided, he does not have a problem with the County proceeding with contract negotiations.

Mr. Martin stated that he has also received citizen complaints regarding County Waste's service during the transfer of ownership of the former Community Sanitation trash collection franchise. He further stated that he has also talked to Mr. Larrowe about this proposal and feels comfortable at this time with the contract negotiations proceeding; however, in order to clarify some of the confusion, he would like to see additional information containing landfill closure cost figures and the savings that will occur if the County Waste agreement is approved. Mr. Martin noted that the County needs to move forward with this matter.

Mr. Leffel then made a motion, seconded by Dr. Scothorn, to award the PPEA contract for landfill and solid waste disposal services to County Waste of Southwest Virginia, LLC, subject to negotiation of the final contract by both parties' attorneys and County staff.

Mr. Clinton stated that he is not casting aspersions on County Waste but he does have some misgivings about not having the proposal's details available for review. Mr. Clinton stated that he understands County Waste's position and is in full support of the PPEA process.

Mr. Larrowe stated that the total estimated amount of savings by the County not having to close the landfill is \$4 million. He noted that additional information on the cost figures and savings will be e-mailed to the Board in the next few days.

Mr. Larrowe then stated that, over the life of the contract, it is estimated that the County will have \$2.16 million in savings in the recycling program and receive \$5.38 million in host community fee revenues, plus realization of the savings of the \$4 million closure cost.

After questioning by Mr. Sloan, Mr. Lockaby stated that the next steps in this process will include scheduling a meeting with himself, Mr. Larrowe, Mr. Beasley, and County Waste's attorney by the end of this week to begin negotiations on the contract's language with the intention to have a final contract completed for consideration by the Board at their August 28 meeting.

There being no further discussion, Mr. Leffel's motion was approved by the following roll-call vote: (Resolution Number 18-08-03)

AYES: Mr. Sloan, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: Mr. Clinton

ABSENT: None

ABSTAINING: None

There being no further discussion, on motion by Mr. Leffel, seconded by Mr. Martin, and carried by the following recorded vote, the meeting was adjourned at 7:55 P. M. until Tuesday, August 28, 2018, at 12:00 P. M. in Rooms 226-228 at the Greenfield Education and Training Center. (Resolution Number 18-08-04)

AYES: Mr. Sloan, Mr. Clinton, Mr. Martin, Mr. Leffel, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None