

A special joint meeting of the Botetourt County Board of Supervisors and the Botetourt County Economic Development Authority was held on Monday, February 22, 2016, in Room 229 of the Greenfield Education and Training Center, in Fincastle, Virginia, beginning at 11:00 A. M.

PRESENT: Board Members: Mr. L. W. Leffel, Chairman  
Mr. Todd L. Dodson, Vice-Chairman  
Mr. John B. Williamson, III

ABSENT: Board Members: Mr. Billy W. Martin, Sr.  
Dr. Donald M. Scothorn

PRESENT: Authority Members: Ms. Joyce Kessinger, Chairman  
Mr. G. Lyn Hayth, III, Vice-Chairman  
Mr. John Alderson  
Mr. Mike Flint  
Mr. John Kilby  
Mr. John Griffin

ABSENT: Authority Members: Mr. Jeff Emry

Others present at the meeting:

Mr. F. B. Webster Day, EDA Attorney  
Mr. Michael W. S. Lockaby, County Attorney  
(arrived at 11:28 A. M.)  
Mr. David Moorman, Deputy County Administrator  
Mr. Gary Larowe, County Administrator

Mrs. Joyce Kessinger, Chairman of the Authority, then called their meeting to order at 11:10 A. M.

Mr. Jack Leffel, Chairman of the Board of Supervisors, then called the Board meeting to order at 11:11 A. M.

Mr. Day was then present to give a presentation on the role of the EDA in economic development. Mr. Day noted that this presentation is to provide both the EDA and the Board of Supervisors with information on the roles of the Authority and what the EDA is authorized to do under State and federal law. He noted that the EDA is a political subdivision created by the Supervisors under State statute and is considered an independent political subdivision by the State.

Mr. Day stated that the Authority can approve financing for private industrial facilities, charitable non-profit organizations, and public facilities. He noted that this financing is usually provided through the issuance of bonds for industrial development prospects. Mr. Day further stated that tax exempt 501(c)3 entities can finance their facilities through this process as well.

He noted that the EDA has previously approved bonds for projects at Lord Botetourt High School, Altec Industries, the Botetourt-Craig Regional Jail, the Greenfield Education and Training Center, and The Glebe retirement home.

Mr. Day stated that the EDA can also be a conduit for economic development incentives to prospects. He noted that the State Constitution has several provisions that affect economic incentives including the credit clause that states that neither the credit of the State or any county/city/town directly/indirectly, under any device or pretense whatsoever, be granted to or in aid of any person, association or corporation; and the stock or obligation clause which states that the State/governmental unit shall not subscribe or become interested

in the stock or obligations of any company/association/corporation for the purpose of aiding in the construction or maintenance of its work.

Mr. Day stated that local governments can authorize the use of the EDA for economic development activities through Sections 15.2-953 (“A locality may make like gifts, donations and appropriations of money to industrial development authorities for the purposes of promoting economic development.”) and 15.2-4905 (“The governing body of any County may give, lend, or advance in any manner that it deems proper funds or other County property, not otherwise specifically allocated or obligated, to any authority created by such governing body pursuant to law.”) of the State Code. He noted that there have been several Supreme Court cases that “have blessed this type of incentive.”

Mr. Day stated that this is a moral obligation pledge as there are constitutional provisions on how a locality can borrow money. He noted that these moral obligations are “subject to annual appropriation by the governing body” and the locality reserves the right to not make the payment. Mr. Day noted that, if the locality does not make this payment, the lender has the right to terminate the occupancy.

Mr. Larrowe stated that the EDA in most localities is an underutilized tool. He noted that authorities can purchase buildings at the market rate, approve donation credits for the business that the building was purchased from, take assets of various property and sell them, e.g., timber which can be sold and the funds put into the EDA’s account.

Mr. Larrowe further noted that the EDA can accept various properties from the locality and the EDA can hold them by lease/transfer so that activities could take place on the property. He noted that, as an example, the EDA could lease space inside an authority-owned building in an industrial park to a child care center so that the parents who work at companies in the industrial park would have child care services close to their place of work.

Mr. Day stated that, in this scenario, under the State statute, the EDA could own the building but it could not operate the business.

Mr. Larrowe stated that, in school or other related projects, the EDA can use direct-purchase to solicit contractors for the construction project and, as the EDA is tax-exempt, they can also purchase some of the materials for the facility which would save money. He noted that the EDA can also construct utilities such as a natural gas line.

Mr. Lockaby then arrived at this time (11:28 A. M.)

Mr. Larrowe stated that these are some positive avenues that the EDA can do together with the Board of Supervisors to fulfil the Board’s strategic priorities in an advanced time scale.

Mr. Day noted that the bonds/debts issued by the EDA are not obligations of the County. He noted that the EDA has no taxing authority and the Authority’s expenses are paid from the bond issuance.

Mr. Larrowe stated that he is aware that a lot of detailed information was provided to the Board and Authority members at this meeting and this will be a learning process for both groups. He noted that additional educational opportunities will be provided so that both bodies can understand the Authority’s capabilities and he hopes to see some positive activities in the future.

After questioning by Mr. Flint regarding recently retired bonds that were previously issued by the EDA for the Goodwill of the Valleys facility in Roanoke County, Mr. Day stated that, for example, the Botetourt EDA does not have to consider/approve the issuance of bonds for projects only within Botetourt County. He noted that, in the case of the Goodwill bond

issuance, approval from the Roanoke County Board of Supervisors had to be obtained prior to the Botetourt EDA considering this bond issuance request. He noted that there are no restrictions on the EDA in one county funding bond issuances in another locality.

After further questioning by Mr. Flint, Mr. Day stated that there are no restrictions in the Authority's charter/bylaws that prevents the EDA from helping the Board in outreach to local businesses. He further noted that the EDA cannot levy taxes so it must rely on the Board of Supervisors for most of its funding.

Mr. Larrowe then referenced an entrepreneurial development program that included an industrial visitation program, which was enacted by three localities, including his previous employer (Carroll County) and the locality's EDA.

In reference to an EDA operating outside their locality, Mr. Larrowe stated that Carroll County's EDA also issued bonds on a project inside a city as the city did not have the capacity to handle the project. He noted that the bonds were approved by all parties involved.

After questioning by Mr. Alderson regarding the EDA's policies, Mr. Day stated that the Authority is governed by its bylaws and the Board of Supervisors has guidelines for approval of economic development incentives. After further questioning by Mr. Alderson, Mr. Day stated that the EDA does not promulgate policy but is charged with promoting commerce and enhancing the safety and welfare of the County's citizens.

After questioning by Mr. Williamson regarding tax-exempt financing procedures, Mr. Day stated that in the late 1980's the bond financing regulations were changed. He noted that the bondholder does not have to pay income taxes on the bonds which saves money on interest charges. Mr. Day stated that federal guidelines limit the total bond allocation amounts on a state-by-state basis. He noted that localities have a \$10 million bond issuance limit each year and in the previous instance mentioned by Mr. Flint (Goodwill), Roanoke County had exceeded this limit in that year and asked Botetourt's EDA to consider approval of these bonds.

Mr. Day stated that the EDA and Board of Supervisors are required to conduct a public hearing on any bond issuance request prior to the request being sent to the Small Business Financing Authority in Richmond or other financing group. He noted that the bond applicant is also required to complete a fiscal impact statement which includes estimated tax revenues, number of employees, average salaries, etc.

Mr. Larrowe stated that the purpose of today's meeting was to have both the EDA and the Board of Supervisors "on the same page" so that they can work together and move forward with economic development opportunities in a logical and professional manner.

Mr. Lockaby stated that he would also like an opportunity to present the County's angle on land use and tax policy. He noted that the Supervisors have many tools that the EDA can use. Mr. Lockaby stated that the County makes broad policies and laws and these include tools for taxation that can make the Authority's job easier.

Mr. Lockaby stated that, as his PowerPoint presentation on the Public-Private Educational Facilities and Infrastructure Act (PPEA) does not seem to be working, he would like to delay this presentation at this time.

There being no further discussion, on motion by Mr. Leffel, seconded by Mr. Dodson, and carried by the following recorded vote, the Board of Supervisors went into closed session at 11:45 A. M. to discuss the disposition of publicly held real property where discussion in an open meeting would adversely affect the County's bargaining position or negotiating strategy;

discussion of a prospective business or industry not previously announced; and consultation with legal counsel pertaining to actual or probable litigation as per Section 2.2-3711(A) (3), (5), and (7) of the Code of Virginia of 1950 as amended. (Resolution Number 16-02-01)

AYES: Mr. Williamson, Mr. Dodson, Mr. Leffel

NAYS: None

ABSENT: Mr. Martin, Dr. Scothorn

ABSTAINING: None

On motion by Mrs. Kessinger, seconded by Mr. Alderson, and carried by the following recorded vote, the Authority went into closed session at 11:46 A. M. to discuss the disposition of publicly held real property where discussion in an open meeting would adversely affect the County's bargaining position or negotiating strategy; discussion of a prospective business or industry not previously announced; and consultation with legal counsel pertaining to actual or probable litigation as per Section 2.2-3711(A) (3), (5), and (7) of the Code of Virginia of 1950 as amended.

AYES: Mrs. Kessinger, Mr. Flint, Mr. Hayth, Mr. Kilby, Mr. Griffin, Mr. Alderson

NAYS: None

ABSENT: Mr. Emry

ABSTAINING: None

Mrs. Kessinger and Mr. Leffel called the meeting back to order at 12:54 P. M.

On motion by Mrs. Kessinger, seconded by Mr. Griffin, and carried by the following recorded vote, the Authority returned to regular session from closed session and adopted the following post-closed session resolution:

BE IT RESOLVED, that to the best of the Authority members' knowledge only public business matters lawfully exempt from open meeting requirements and only such matters as were identified in the motion to go into Closed Session were heard, discussed or considered during the Closed Session.

AYES: Mr. Kilby, Mr. Hayth, Ms. Kessinger, Mr. Griffin, Mr. Flint, Mr. Alderson

NAYS: None

ABSENT: Mr. Emry

ABSTAINING: None

On motion by Mr. Leffel, seconded by Mr. Dodson, and carried by the following recorded vote, the Board returned to regular session from closed session and adopted the following post-closed session resolution: (Resolution Number 16-02-02)

BE IT RESOLVED, that to the best of the Board members' knowledge only public business matters lawfully exempt from open meeting requirements and only such matters as were identified in the motion to go into Closed Session were heard, discussed or considered during the Closed Session.

AYES: Mr. Williamson, Mr. Dodson, Mr. Leffel

NAYS: None

ABSENT: Mr. Martin, Dr. Scothorn

ABSTAINING: None

On motion by Mr. Hayth, seconded by Mr. Griffin, and carried by the following recorded vote, the Authority authorized the Chairman to execute a lease of real property from Botetourt County to the Authority for the purpose of promoting economic development, on terms and conditions as the County and the Chairman determine are in furtherance of the Authority's purposes.

AYES: Mr. Kilby, Mr. Hayth, Ms. Kessinger, Mr. Griffin, Mr. Flint, Mr. Alderson

NAYS: None

ABSENT: Mr. Emry

ABSTAINING: None

There being no further discussion, on motion by Mrs. Kessinger, seconded by Mr. Griffin and carried by the following recorded vote, the Authority meeting was adjourned at 1:00 P. M.

AYES: Mr. Kilby, Mr. Hayth, Ms. Kessinger, Mr. Griffin, Mr. Flint, Mr. Alderson

NAYS: None

ABSENT: Mr. Emry

ABSTAINING: None

On motion by Mr. Dodson, seconded by Mr. Leffel, and carried by the following recorded vote, the Board of Supervisors meeting was adjourned at 1:01 P. M. (Resolution Number 16-02-03)

AYES: Mr. Williamson, Mr. Dodson, Mr. Leffel

NAYS: None

ABSENT: Mr. Martin, Dr. Scothorn

ABSTAINING: None