

March 25, 2008

At a reconvened meeting of the Board of Supervisors of Prince Edward County, held at the Court House, thereof, on Tuesday the 25th day of March, 2008; at 5:00 p.m., there were present:

William G. Fore, Jr.

Sally W. Gilfillan

Robert M. Jones

Charles W. McKay

James C. Moore

Howard F. Simpson

Lacy B. Ward

Mattie P. Wiley

Also present: Wade Bartlett, County Administrator; and Sarah Puckett, Assistant County Administrator.

Chairman Fore called the meeting to order, stating that its purpose was to hear budget presentations from the EMS and Fire Departments for the 2008-09 fiscal year.

In Re: Fire and Rescue Donation Requests

The Prince Edward County Rescue Squad President Bill Hogan reviewed a call summary, usage and frequency of calls, adding that Saturdays were the busiest day of the week. He added they responded to 2,274 calls in 2007. Mr. Hogan said during the past year, the squad contacted Longwood University and Hampden-Sydney College to discuss safety and obtained donations for the purchase of a Mass Casualty Trailer due to the shootings at Virginia Tech and other schools. He said the trailer will serve up to 100 patients, and costs approximately \$14,000 without equipment; the equipment would cost between \$10,000 and \$12,000. He expected the trailer to be in service within the month. He said the squad is also looking to purchase a 6-wheeler and cot unit for patient transport on the Rails to Trails hiking trail. He said they are applying for grants to help cover the \$15,500 cost.

Nancy Haga stated the squad would be celebrating its 40th anniversary in service in January 2009, and are planning a few events. She said the Prince Edward County Rescue Squad is also in need of new stretchers with a larger weight capacity as many of the residents are overweight. She said they are looking at stretchers with a lift, each with a cost of \$10,000, and the squad would require six stretchers. She added they are applying for grants to help with the cost of the stretchers.

Mr. Simpson asked if the Prince Edward County Rescue Squad is currently licensed with the Office of Emergency Medical Services, and if they would provide a copy of the license to the County Administrator's office. Mr. Hogan said they were, and would submit a copy of the license.

The Prince Edward Area Firefighters Association Chief Ralph Crawley stated the Association is requesting a 10% increase in funding due to increased costs of fuel, equipment, and trucks. He said the Association located a 1986 Chevrolet van fully equipped as an air truck, with a generator and air compressor, for \$69,900. He asked the Board to consider funding \$59,900 and the Association would provide \$10,000 towards the purchase. He added a new air truck would cost approximately \$240,000. Mr. Crawley stated if purchased, the air truck would be rotated to the various departments and centralized near Hampden-Sydney.

Howard Campbell, of the **Prospect Volunteer Fire Department**, requested a 10% increase for operations and 100% increase for equipment. He said on February 12, 2008, there had been ten different calls, four of which were simultaneous. He added all of the department's equipment was out and in service at the same time. Mr. Simpson asked if the department had any First Response Units; Mr. Campbell said not at this time, but the Department did have four members attending EMT classes.

The Hampden-Sydney Volunteer Fire Department Chief Ralph Crawley requested an increase of 10% for operations and 100% increase for equipment. In response to Mr. Simpson's inquiry, he said the Department has a First Responder unit and it is licensed, and they would provide a copy to the County Administrator's office.

The Darlington Heights Volunteer Fire Department Chief Dallas Tinsley requested an increase of 10% for operations and 100% increase for equipment. He said the costs of trucks, equipment and fuel has gone up substantially; he reported the cost of fuel to respond to the 12 calls received on February 12, 2008, was \$334.76. He said that same call-usage at the current fuel prices would cost \$371.44. He added

that the pumper trucks owned by the department are well beyond the NFPA 1500, the standard for first-out pumper replacement or complete refurbish every 20 years; pumper trucks now cost over \$300,000. Chief Tinsley said the new building should be completely paid for in two years, and they have expanded the Emergency Shelter to include cooking facilities and showers. He added the Department has no First Responder Units, but does have five EMTs. He said they are in the process of obtaining licenses.

The Meherrin Volunteer Fire Department Chief Frank Adkins requested an increase of 10% for operations and 100% increase for equipment. He asked the Board for their support in the purchase of the air van. In response to Mr. Simpson's inquiry, he said the Department is licensed and will provide a copy to the Administrator's office to keep on file.

The Pamplin Volunteer Fire Department Chief Dalton Elder requested Board support for the purchase of the air van. He said the Department works closely with the First Responder Transport, and since the new ambulance went into service, there have been eight calls. In response to Mr. Simpson's inquiry, he said they are licensed to do transport and will provide a copy to the County Administrator's office. He added the Department requested an increase of 10% for operations and 100% for equipment.

Dalton Elder said that as the **Pamplin Volunteer EMS** is just starting up, they are unsure of costs, and are requesting \$10,000 for FY 2008-2009.

The Rice First Responder Unit requested \$7,500 for FY 2008-2009. The unit is not licensed and is currently looking to find a physician for the unit.

Mr. Moore expressed his appreciation to the men and women involved in the volunteer fire departments and EMS units. He said that if the County had to pay for these services, the County would have a large debt.

The Holiday Lake 4-H Education Center President and CEO Preston Wilson said the Center was built in the 1930s initially to land Navy planes. He said during construction, they found a cemetery which halted construction; the land was turned over to the state. He said the Center applied for 501-C3 non-profit status, and in 1976 took on their current name. He said the 157.8 acres is leased from the Virginia Department of Forestry; the 99 year lease will expire in 2080. Mr. Wilson said the educational programs offered are for youth and adults, in an attempt to balance the technology of today with nature. He said that 21 cabin roofs had been re-shingled last year. Mr. Wilson said 17 counties and cities are being

asked to contribute \$10,000 to an endowment fund to enable the Center to use the earnings for upkeep and repair of the Center. He added this is a one-time request.

Brian Branch, Center Director, said over 1,200 youth from Prince Edward County attended the district camps over the past ten years. He said that over the last two years, grants have enabled 980 Prince Edward County 3rd to 8th grade students the opportunity to attend natural resource education programs. He added the programs catered to the lead teachers' needs.

Mr. Moore left the meeting at this time.

In Re: Appropriation – Air Van for Prince Edward County Firefighters Association

After a brief discussion, Mr. McKay made a motion and seconded by Mr. Simpson to appropriate funds in the amount of \$59,900.00 from Account #3-100-41050-0100, General Fund Balance, to Account #4-100-32200-8010, Prince Edward County Firefighters Association, for the purchase of a 1986 Chevrolet Air Van, fully equipped with a generator and air compressor. The remaining \$10,000.00 for the purchase of the van would be paid by the Firefighters Association.

The motion carried:

Aye:	William G. Fore, Jr. Sally W. Gilfillan Robert M. Jones Charles W. McKay Howard F. Simpson Lacy B. Ward Mattie P. Wiley	Nay: None
------	---	-----------

Absent: James C. Moore

In Re: Longwood University Real Estate Foundation

Mr. James Ennis, County Attorney, said his opinion regarding the Longwood University Real Estate Foundation stood as presented at the regular monthly meeting held on March 8, 2008. He said he contacted Mr. H. Keith Mawyer, Property Tax Manager with the Department of Taxation of the Commonwealth of Virginia, and requested any and all correspondence wherein any factual situation was related upon which he relied in issuing his letter regarding the tax exempt status of the Longwood

University Real Estate Foundation. Mr. Ennis said that Mr. Wyatt L. Overton, then Commissioner of the Revenue, had specified Mr. Mawyer's opinion regarding only Virginia Code Section 58.1-3651, and that the reply was based solely on that particular section. It was not based on all the facts and in turn was not accurate. Mr. Ennis said another Code Section was not addressed, which was Virginia Code Section 58.1-3606 which states,

“A. Pursuant to the authority granted in Article X, Section 6 (a) (6) of the Constitution of Virginia to exempt property from taxation by classification, the following classes of real and personal property shall be exempt from taxation:

1. Property owned directly or indirectly by the Commonwealth, or any political subdivision thereof.

Mr. Ennis said he provided to the Board an opinion from the Attorney General of Virginia, along with a copy of a case from the Supreme Court of Virginia, which is *Citizens Foundation of the Richmond Professional Institute, Inc. vs. the City of Richmond*. He gave a brief case history. Mr. Ennis said the final ruling stated, “Though bare legal title to property may rest in someone else, if the beneficial interest therein is vested in a public corporation created, managed and controlled by the State, then that property must be said to be owned indirectly by the Commonwealth.” He said the case has not been distinguished by the Court since it was rendered in 1966; it has not been overturned, it is the law of the land, and on the basis of the Attorney General's opinion and the basis of the Supreme Court of Virginia that his opinion that the Longwood University Real Estate Foundation, which is controlled by Longwood University, is an entity created for the benefit of the University to manage property; it is indirectly owned by the Commonwealth of Virginia and not subject to local taxation. He said it is what is known as a self-executing exemption because it is specified in the Constitution of Virginia; there is no enabling legislation required to put it into effect as there would be under the Code Section recited in the letter from the Department of Taxation, which would require not only this body to pass an ordinance, but would also require a public hearing before the ordinance was passed.

Mr. Ennis said that more than one type of exemption was available, and that this Code Section is most frequently used by private entities that have a charitable or educational purpose to seek tax exemption, not entities that are extensions of the Commonwealth. He said that it is his opinion that the County cannot collect taxes with the exception of “by agreement with the University.” He added Longwood University is cognizant of the impact of the loss of revenue on the County. He said the Longwood University Real Estate Foundation has agreed to evaluate each property annually and agrees to be taxed on each property not central to the mission of the University. Mr. Ennis said the Foundation has agreed in principle, and has voluntarily paid taxes on properties not central to the mission of the University in the past.

Beverly M. Booth, Commissioner of the Revenue, said the Longwood College Foundation had never been taxed, and is a different name from the Longwood University Foundation. Mr. Ennis said the Longwood University Real Estate Foundation is another entity and has a narrow function; it allows property acquisition when the opportunity arises without having to change the University’s Master Plan.

Mr. Ward said he was concerned as to why the issue was not brought before the Board. He said he expected the Longwood University Real Estate Foundation to approach the Board, and instead learned that negotiations were going on with the staff.

Mr. Ennis said there was no ability to contest the issue, and no negotiations were going on. He said the Foundation’s attorney first contacted the County in November 2007, because the proposed taxes on the \$20 million assessment were significantly greater than expected. Mr. Ennis said there may be other options available to lessen the impact; there are instances where universities voluntarily pay sums of money to the governing body for services in lieu of taxes, and which properties could be argued that shouldn’t be exempt due to not being central to the mission of the college, and gave examples from the Randolph-Macon College case.

Mr. Ennis said that all three properties in question are used for housing for the students attending the University. He said it was more economical to purchase those than to build a dormitory; the current high-rise dormitory units need renovation at a cost of approximately \$50 million. He added he expects the Longwood University Real Estate Foundation will purchase more property as the University anticipates an increase of approximately 1,500 students over the next ten years.

Chairman Fore said that he felt the Board should accept Mr. Ennis' opinion on this matter, and through the Commissioner of the Revenue's office, work out what is or isn't taxable and central to the mission of the University, and then the Board could meet with the Longwood University Real Estate Foundation.

Sally W. Gilfillan recused herself from the meeting at this time.

Beverly M. Booth said that over \$216,000 would be lost due to exemption for the three properties, and a determination would be made by the Commissioner of the Revenue's office; following a review of properties not central to the mission of the University may be taxed.

Chairman Fore said once the properties are identified by the Commissioner of the Revenue's office, the Board would like the staff to pursue a written understanding, updated annually, similar to the agreement between the University of Virginia and the City of Charlottesville and Albemarle County. A brief discussion followed.

Mr. Bartlett said there may be discrepancies in the Budget Request booklet between revenues, expenses and a balance sheet with net income. He said he based the information on IRS Form 990 from the Internal Revenue website for each organization requesting donations from the Board. He has the report and all are welcome to come and review the lengthy document.

Mrs. Sarah E. Puckett, Assistant County Administrator, said she telephoned Mr. Ralph Crawley and he expressed his sincere appreciation for the Board's prompt attention to the purchase of the air van on behalf of the Prince Edward County Firefighters Association.

On motion of Mrs. Wiley and adopted by the following vote:

Aye:	William G. Fore, Jr. Robert M. Jones Charles W. McKay Howard F. Simpson Lacy B. Ward Mattie P. Wiley	Nay: None
Absent:	Sally W. Gilfillan James C. Moore	

the meeting was recessed at 6:50 p.m., and will reconvene at 5:00 p.m., Tuesday, April 8, 2008 for a budget work session.