

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 August 19, 2014 at 5:00 p.m. thereof.

MEMBERS PRESENT: Charles Slemp, Jr., Chairman
Carl Bailey
Jason Crabtree
Larry Mosley
Tina Rowe

MEMBERS ABSENT: None

OTHERS PRESENT: C.M. Callahan, Jr. County Attorney
Dane Poe, County Administrator
Jeny Hughes, Administrative Assistant

OTHERS ABSENT: None

INVOCATION

Fred Cagle, Pastor of Friendship Baptist Church of Jonesville, led in the Invocation.

PLEDGE TO THE FLAG

Larry Mosley the Pledge to the Flag.

MEETING CALLED TO ORDER

The meeting was called to order at 5:56 p.m.

AMEND AGENDA

The Chairman amended the agenda address the Comcast Cable Franchise Assignment.

COMCAST CABLE FRANCHISE ASSIGNMENT

Russell Byrd, Senior Director of External Affairs for Comcast Cable stated that Comcast Cable sent a filing of the FCC 394 for the Board's consideration as they move forward with Comcast Time Warner acquisition. Following the close of that merger, Southwest Virginia Comcast Systems will transition into a new publicly traded company called Mid-West Cable. Mid-West Cable will be majority owned by Comcast and Time Warner stockholders with Charter Communications owning a minority stake in the new company. It will have its own independent Board of Directors. Charter Communications will provide the operational support under a services agreement with Mid-West Cable. The new company will continue to provide top quality video, broadband, and voice services to the customers. There is a consent Resolution for the Board to consider, that would allow transferring the franchise from Comcast to the new company.

Mr. Mosley asked where the local office would be housed.

Mr. Byrd stated that it would be business as usual up until close of the deal. The employees in Norton will stay in Norton.

Ms. Rowe asked when the deal would close.

Mr. Byrd stated it would be the end of this year or early in the first quarter of 2015. As the date gets closer he would keep Mr. Poe informed on the progress, and when there is a new representative he will make that introduction as well.

Ms. Rowe stated that there are some citizens that would like to become customers of Comcast, and wondered if this would put it in limbo for six to nine months.

Mr. Byrd stated that he has no reason to believe it would extend beyond that time, but he will keep Mr. Poe informed.

Mr. Bailey asked if there were plans for expansion in the area.

Mr. Byrd stated most areas go beyond the requirement in the current franchise agreement. Most of the agreements are 25 to 30 homes passed per mile, and most line extensions that have been looked at are closer to 6 to 10 homes per mile.

Mr. Poe stated that there is a Resolution that needs to be passed to grant approval from the County.

It was moved by Mr. Mosley, seconded by Mr. Bailey, to adopt the following Resolution. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemph

**RESOLUTION
CONSENT TO ASSIGNMENT AND CHANGE OF CONTROL
14-025**

WHEREAS, Comcast of Kentucky/Tennessee/Virginia, LLC ("Franchisee") is the duly authorized holder of a franchise as amended to date (the "Franchisee"), authorizing Franchisee to serve the County of Lee, VA (the "Franchise Authority") and to operate and maintain a cable television system therein; and

WHEREAS, on April 25, 2014, Comcast and Charter Communications, Inc. ("Charter") entered into the Comcast/Charter Transactions Agreement (the "Agreement"), pursuant to which the Franchisee, through a restructuring under Comcast's ownership, will become Midwest Cable of the South, LLC ("New Franchisee") and immediately thereafter will become a wholly-owned subsidiary of Midwest Cable, Inc. ("Midwest Cable") (the "Transaction"); and

WHEREAS, Franchisee has filed an FCC Form 394 with the Franchise Authority with respect thereto; and

WHEREAS, the Franchise Authority has considered and approves of the Transaction.

NOW, THEREFORE, BE IT RESOLVED BY THE FRANCHISE AUTHORITY AS FOLLOWS:

The foregoing recitals are approved and incorporated herein by reference.

1. The Franchise Authority consents to the Transaction
2. The Franchise Authority confirms that the Franchise is valid and outstanding and in full force and effect and there are no defaults under the Franchise. Subject to compliance with the terms of this Resolution, all action necessary to approve the pro forma assignment of the Franchisee and change of control of the New Franchisee to Midwest Cable has been duly and validly taken.
3. Midwest Cable or New Franchisee may (a) assign or transfer its assets, including the Franchise, provided that such assignment or transfer is to an entity directly or indirectly controlling, controlled by or under common control with Midwest Cable; (b) restructure debt or change the ownership interests among existing equity participants in Midwest Cable; (c) pledge or grant a security interest to any lender(s) of Midwest Cable's assets, including, but not limited to, the Franchise, or of interest in Midwest Cable, for the purposes of securing any indebtedness; and (d) sell equity interests in Midwest Cable or any of Midwest Cable's affiliates.
4. Upon closing of the Transaction, New Franchisee shall remain bound by the lawful terms and conditions of the Franchise.
5. This Resolution shall be deemed effective upon adoption.
6. This Resolution shall have the force of a continuing agreement with New Franchisee, and the Franchise Authority shall not amend or otherwise alter this Resolution without the consent of New Franchisee and Midwest Cable.

DEPARTMENTAL REPORTS

SOLID WASTE

Gary Collingsworth, Transfer Station Supervisor, reported that 1,251.06 tons of garbage and 10.10 tons of tires had been collected for the month of July. He stated that there had been dumpster fires at several different sites and he hopes to get started on dumpster repairs earlier this year. He reported that DEQ had received complaints about the garbage at the Hurricane Bridge site going into the river. The Transfer Station employees have made several attempts to contain the trash and none have been successful; he is unsure in what the next step needs to be. He stated that there has been a lot of work going on at the airport to get ready for the upcoming RAM event. The agenda for upcoming projects will be work at Ewing school, winterizing the Thomas Walker Pool, and remodeling of the Seminary Voting House.

LITTER CONTROL AND RECYCLING

Josh Fleenor, Litter Control Coordinator, reported that he signed on 114 people on Community Service with 72 participating. He stated that he has mowed the Stone Creek Classroom, and has taken old printer cartridges for recycling. He is planning an electronic recycling drop off on August 29 and August 30 and there will be a cleanup at Wilderness Road State Park. He was been working on a complaint from Snavelly Road and he will be cleaning that site as well as one in Ocoonita when it cools down.

CONSTITUTIONAL OFFICERS

TREASURERS REPORT

The Treasurer’s Report for the month of July 2014 was submitted as follows:

Revenues	\$ 3,972,656.67
Expenditures	\$ 2,635,063.98
General Fund	\$ 8,057,965.92
Total Assets and Liabilities	\$15,143,159.90

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, five minutes for group.

Larry Gullion, Keokee Alumni Association, stated that there will be a class reunion on August 28 and August 29 and asked the Board for permission to use the school.

Mr. Mosley stated that this was done last year and he did not see a problem with the group using it again.

Mr. Poe stated that the association would probably need to rent a port-a- john because of the closing of the sewer treatment plant.

Mr. Gullion stated that he had spoken with Brian Bishop and he suggested installing septic systems for each building.

There was no further public comment.

The Chairman closed the floor for public comment.

APPROVAL OF MINUTES

It was moved by Mr. Bailey, seconded by Ms. Rowe, to approved the minutes of the July 15, 2014 Regular Meeting and July 29, 2014 Recessed Meeting. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

APPROVAL OF REFUNDS

It was moved by Ms. Rowe, seconded by Mr. Bailey, to approve the refund to Clara Brown in the amount of \$308.32. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

PAYROLL

The County Administrator reports that payroll warrants have been issued.

APPROVAL OF DISBURSEMENTS

It was moved by Mr. Bailey, seconded by Ms. Rowe, to approve the disbursements for the month of August in the amount of \$291,340.50. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

FINANCE

MONTHLY APPROPRIATIONS

It was moved by Mr. Mosley, seconded by Mr. Crabtree, to adopt the following Resolution. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

RESOLUTION MONTHLY APPROPRIATIONS 14-022

WHEREAS, the Lee County Board of Supervisors has approved the Lee County Public School Budget and Virginia Public Assistance Budget for FY2014-15; and

WHEREAS, it is now necessary to appropriate sufficient funds for the contemplated expenditures as they are contained in the Lee County Public School and Virginia Public Assistance Budgets;

NOW, THEREFORE, BE IT RESOLVED, that the following activities 2/12 of the amount shown is appropriated for a 2-month period ending September 30, 2014;

Federal/State Funds	\$ 6,205,658
Local Funds	<u>1,061,545</u>

TOTAL VIRGINIA PUBLIC ASSISTANCE \$ 7,267,203

LEE COUNTY PUBLIC SCHOOLS

Categorical Appropriation:

Instruction	\$ 24,784,965
Administration, Attendance and Health	2,045,217
Pupil Transportation	2,013,034
Operation and Maintenance	3,344,950
School Food Services	1,573,100
Facilities	449,000
Technology	805,390
Partially Self-Funded Insurance Fund	<u>4,200,000</u>

TOTAL \$39,215,656

Source of Revenue:

Federal Funds	\$ 4,249,948
State Funds	25,474,642
Other Funds	75,600
Self Insured Health Fund	3,750,000
Local Funds	5,040,466
Textbook Carryover Funds	<u>625,000</u>

TOTAL PUBLIC SCHOOLS \$ 39,215,656

1. The Lee County Treasurer is hereby authorized and directed to transfer sums as needed to meet expenses already incurred. The transfer will be from the General Fund to the Public School and Virginia Public Assistance funds and will not exceed the foregoing one and three months appropriations.

The Lee County Treasurer is also directed to revert all unexpended balances of the Public School and Virginia Public Assistance Funds to the General Fund as of the beginning and ending of Fiscal Year 2014-2015.

SUPPLEMENTAL APPROPRIATIONS

JAIL OPERATIONS

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$25,390.02 to Fund 001, True-up for Previous Fiscal Year, Line Item 4-001-33100-3160. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

SOLID WASTE MANAGEMENT

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental re-appropriation in the amount of \$12,960.00 to Fund 050, New Equipment, Line Item 4-050-42300-8109. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

PRIOR YEAR SUPPLEMENTAL APPROPRIATIONS

MISCELLANEOUS EXPENSES

It was moved by Ms. Rowe, seconded by Mr. Mosley, to approve a supplemental appropriation to the prior fiscal year in the amount of \$1,265.99 to Fund 001, Disbursements General Expenses, Line Item 4-001-91500-5840. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

COAL ROAD EXPENDITURES

It was moved by Ms. Rowe, seconded by Mr. Mosley, to approve a supplemental appropriation to the prior fiscal year in the amount of \$0.10 to Fund 027, Gas Severance Tax Disbursements, Line Item 4-027-95100-5860. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

SCHOOL BOARD BUDGET TRANSFER FOR PRIOR YEAR

It was moved by Mr. Bailey, seconded by Mr. Slemp, to adopt the following Resolution. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

RESOLUTION

14-023

**LEE COUNTY SCHOOL BOARD
CATEGORICAL BUDGET TRANSFER**

WHEREAS, the Lee County School Board 2013-2014 Fiscal Year budget was appropriated categorically; and

WHEREAS, the Lee County School Board 2013-2014 Fiscal Year expenditures exceed the categorical appropriation amounts in one category; and

WHEREAS, the Lee County School Board is now requesting a categorical budget transfer from the Instruction category to the Insurance category in the amount of \$217,665.72

NOW, THEREFORE, BE IT RESOLVED, the Lee County Board of Supervisors hereby approves a categorical budget transfer in the amount of \$217,665.72 from the Instruction category to the Insurance category for the 2013-2014 fiscal year School Budget.

NEW BUSINESS

BOARD APPOINTMENTS

AIRPORT AUTHORITY

It was moved by Mr. Bailey, seconded by Mr. Crabtree, to table this appointment. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

SOUTHWEST VIRGINIA COMMUNITY CORRECTIONS BOARD

It was moved by Mr. Mosley, seconded by Ms. Rowe , to re-appoint Josh Fleenor to a two-year term on the Southwest Virginia Community Corrections Board. Mr. Fleenor's term will expire August 31, 2016. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

VICTIM WITNESS PROGRAM GRANT

Mr. Poe reported that he has received notification of award of the Victim Witness Advocate grant for another year. The total grant amount is \$50,929.00 with no local matching funds required. The only thing provided by the County is office space. The grant period runs from July 1, 2014 through June 30, 2015.

It was moved by Ms. Rowe, seconded by Mr. Mosley, to approve the Victim Witness Program Grant in the amount of \$50,929.00. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

COMCAST CABLE FRANCHISE ASSIGNMENT

This item was taken up earlier in the meeting.

PD-1 BEHAVIORAL HEALTH PERFORMANCE AGREEMENT

Mr. Poe reported that the State code requires local approval of the biennial Performance Contract of the local Community Services Board of which the locality is a participating member. Planning District 1 Behavioral Health Services has submitted the Performance Contract for FY 2015 and FY2016 for review and approval.

It was moved by Mr. Bailey, seconded by Mr. Crabtree, to adopt the following Resolution. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

RESOLUTION

**COMMUNITY SERVICES BOARD PERFORMANCE CONTRACT
14-024**

WHEREAS, title 37.2 of the Code of Virginia, 1950, as amended, creates the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, hereinafter referred to as the Department, to ensure the delivery of publicly-funded services to citizens of the Commonwealth with mental illnesses, mental retardation and alcohol or other drug abuse or dependence; and

WHEREAS, Sections 37.2-501 of the Code of Virginia, 1950, as amended, require every city and county to establish or join a community services board that plans and provides, directly and contractually, publicly-funded local mental health, mental retardation, and substance abuse services; and

WHEREAS, Section 37.2-508 of the Code of Virginia, 1950, as amended, establishes the performance contract as the primary accountability and funding mechanism between the Department and each Community Services Board; and

WHEREAS, Section 37.2-508 of the Code of Virginia, 1950, as amended, further requires every operating Community Services Board to submit its annual performance contract to each political subdivision that established it as an agency for the political subdivision's approval prior to submission of the Contract to the Department; and

WHEREAS, the Counties of Lee, Scott, Wise and the City of Norton have joined together to establish the Planning District One Community Services Board; and

WHEREAS, the Planning District One Community Services Board has submitted its FY2015 and FY2016 biennial Community Services Board Performance Contract to the Lee County Board of Supervisors for approval;

NOW, THEREFORE, BE IT RESOLVED, that the Lee County Board of Supervisors hereby approves the Planning District One Community Services Board FY2015 and FY2016 Performance Contract.

TRANSFER STATION BIDS

Mr. Poe reported that the bids for construction of the new Solid Waste Transfer Station have been received. The Base bid includes the construction of the transfer station building and all site work. The Alternate #1 bid is for framing and finishing the office area. Bids are as follows:

<u>Contractor</u>	<u>Base Bid Total</u>	<u>Alternate #1</u>
Green Construction Middlesboro, KY	\$ 935,000.00	\$ 64,000.00
Quesenberry's Inc. Big Stone Gap, VA	\$1,031,200.00	\$ 65,000.00
Elk Knob, Inc. Pennington Gap, VA	\$1,181,980.18	\$ 58,542.34
Estes Brothers Construction Jonesville, VA	\$1,291,600.00	\$ 40,000.00

Mr. Bailey asked Mr. Poe to give an update as to why this is necessary.

Mr. Poe stated that in 1993 or 1994 the County closed the Landfill and opted to construct a temporary Transfer Station. It was operated for a few months off the ground with a temporary ramp. It is an open-air facility that consists of a concrete base, a timber wall frame that is back filled with an asphalt cap on top of that. It is not covered and all the rainfall drains down and gathers in the leachate collection system and that has to be treated at a solid waste treatment facility. Portions of the foundation are beginning to show stress cracks. The facility was constructed to be temporary, it has been 20 years, and it is still in use.

It was moved by Mr. Mosley, seconded by Mr. Bailey, to accept the bid from Green Construction in the amount of \$935,000.00 for the construction of the new Transfer Station. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

REPORTS AND RECOMMENDATIONS OF THE COUNTY ADMINISTRATOR

DMV GRANT

Mr. Poe reported that the County has received notification of award of a DMV Grant for the Sheriff's Department to be used for overtime money for DUI checkpoints. The Grant amount is \$13,750.00 in Federal funds and there is no local cash match just, in kind services.

It was moved by Ms. Rowe, seconded by Mr. Mosley, to accept the DMV Grant in the amount of \$13,750.00. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

AIRPORT AUTHORITY GRANT

Mr. Poe reported that the Airport Authority applied for a grant through the Virginia Department of Aviation for a Community / Maintenance Hangar. This hanger would help to provide additional hangar space, and allow for the opportunity for someone to do maintenance work. The project is broken down into different phases with the first being design. The grant, which is 80% state funding and 20% local funding, has been approved for \$39,550.00 for design work. He added that the Airport Authority is willing to provide the local funds for this phase of the project. Mr. Poe is asking for acceptance of the grant and approval of Delta Airport Consultants Task Order for the work of the engineering.

It was moved by Mr. Mosley, seconded by Mr. Slemp, to accept the Airport Grant for a Community / Maintenance Hangar in the amount of \$39,550.00 and approve Delta Airport Consultants Task Order for engineering work in the same amount. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

CLOSED SESSION

It was moved by Ms. Rowe, seconded by Mr. Bailey, to enter Closed Session pursuant to Section 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. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

It was moved by Ms. Rowe, seconded by Mr. Mosley, to come out of Closed Session. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

CERTIFICATE OF CLOSED SESSION

It was unanimously agreed as follows.

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.

RURAL ADDITION

Mr. Bailey asked the Board to consider some Rural Addition projects that would completely pave some sections of roadways.

FARM USE TAGS

Mr. Mosley stated that there might be a way to impose the personal property tax on vehicles that display Farm Use tags by doing title searches to find owners.

CHIARI MALFORMATION AWARENESS MONTH

Ms. Rowe stated that this was previously discussed a few months back when Curtis Gailey brought his son Sam, who suffers from Chiari Malformation, to the Board Meeting. She added that there would be a benefit walk on September 20, 2014 at Leeman Field to help benefit Sam and his family.

It was moved by Ms. Rowe, seconded by Mr. Mosley, to adopt a Proclamation for Chiari Malformation Awareness Month. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

**PROCLAMATION
CHIARI MALFORMATION AWARENESS MONTH**

WHEREAS, Chiari Malformation (CM) is a serious neurological disorder affecting more than 300,000 people in the United States; first identified by Austrian pathologist Professor Hans Chiari in the 1890's and categorized in four types in order of severity; and

WHEREAS, Chiari Malformations are defects in the cerebellum, the part of the brain that controls balance; this creates pressure on the cerebellum and brain stem and may block the normal flow cerebral spinal fluid to the from the brain; and

WHEREAS, although the cause Chiari I Malformation is unknown, scientists believe it is either a congenital condition caused by exposure to harmful substances during fetal development or that it can be a genetic condition, as it may appear in more than one family member; and

WHEREAS, symptoms can develop at any age but commonly become noticeable either in childhood or in a person's early 30's, and can include severe head and neck pain, vertigo, muscle weakness and pain in the arms and legs, balance problems, blurred vision or double vision, difficulty swallowing and speaking, and sleep apnea; and

WHEREAS, the National Institute of Neurological Disorders and Stroke of the National Institutes of Health is conducting research to find alternative surgical options and identify the cause of the Chiari Malformations to create improved treatment and prevention plans; and

WHEREAS, September is nationally recognized as Awareness Month for Chiari Malformation to educate the public and support families affected by this devastating disease;

NOW, THEREFORE, BE IT RESOLVED, the Lee County Board of Supervisors do hereby recognize September 2014 as Chiari Malformation Awareness Month in Lee County and call this observance to the attention of all our citizens.

It was moved by Mr. Slemp, seconded by Mr. Crabtree, to adjourn. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp