

TO: The Honorable Board of Supervisors

FROM: F. Craig Meadows, County Administrator
L. Carol Edmonds, Deputy County Administrator

DATE: November 21, 2016

SUBJECT: AGENDA REPORT

I. CALL TO ORDER

II. INTO CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711 (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body

1. Former Blacksburg High School Property
2. Falling Branch Corporate Park

(1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body

1. Montgomery Regional Economic Development Commission
2. Montgomery Tourism Development Council

III. OUT OF CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

IV. CERTIFICATION OF CLOSED MEETING

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

NAYS

ABSENT DURING VOTE

ABSENT DURING MEETING

V. INVOCATION

VI. PLEDGE OF ALLEGIANCE

VII. PRESENTATIONS, RECOGNITIONS AND AWARDS

A. **Tourism – Virginia Association of Counties (VACo) Governor’s Mansion Holiday Ornament**

Lisa Bleakley, Executive Director Montgomery County Regional Tourism, will provide a brief update on tourism data for 2015 and will also present Montgomery County’s holiday ornament that will represent the County on the Governor’s Mansion Christmas Tree. (TAB A)

B. **Virginia Department of Transportation**

David Clarke, Resident Engineer, will update the Board of Supervisors on road issues/projects in Montgomery County.

VIII. PUBLIC ADDRESS

IX. ADDENDUM

X. INTO WORK SESSION

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Friends of the Meadow (TAB **B**)
2. All Points Broadband – Grant Opportunities
3. Fair Labor Standards Act – 2016 Revisions
4. Mountain Valley Pipeline update

XI. OUT OF WORK SESSION

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

1. Action from Work Session

XII. CONSENT AGENDA

XIII. NEW BUSINESS

A. SUBJECT: MOUNTAIN VALLEY PIPELINE

R-FY-17-

RESOLUTION SUPPORTING THE VIRGINIA DEPARTMENT OF CONSERVATION AND RECREATION (VDCA) PROPOSED MODIFICATION TO THE MVP PIPELINE CORRIDOR TO REDUCE IMPACTS TO SLUSSERS CHAPEL CONSERVATION SITE AND REQUEST OF THE UNITED STATES FOREST SERVICE TO LIMIT ANY RIGHT OF WAY GRANT THROUGH THE NATIONAL FOREST TO FIFTY FEET

WHEREAS, Mountain Valley Pipeline, LLC, (“Mountain Valley Pipeline”) proposes to construct and operate a three hundred one (301) mile long, forty-two (42) inch diameter natural gas pipeline and associated facilities between Wetzel, West Virginia and Pittsylvania County, Virginia, traversing approximately nineteen (19) miles through Montgomery County; and

WHEREAS, The Virginia Department of Conservation and Recreation (VDCR) has proposed a modification to both the proposed corridor (MVP-REV4) and the Mount Tabor Alternative in a submittal dated September 9, 2016. “As proposed, both the proposed corridor and the Mount Tabor Alternative cross the center of the Slussers Chapel Conservation Site, including several tributaries to the sinking stream that enters Slussers Chapel Cave and/or Mill Creek, which sinks into the system as well. These tributaries are first and second order streams that are extremely flood prone, lying along the lower, southeastern slopes of Brush Mountain. Such slope areas will be difficult to revegetate and will be subject to high erosion both during and subsequent to construction.”¹

WHEREAS, The VDCR determined that the area previously thought to be a Wilderness Area, was confined to the north slope of the National Forest and not the south slope, they “recommend avoidance of the Slussers Chapel Conservation Site. Routing the pipeline north along or near these topographic divides could avoid or minimize the disturbance of channels, and by removing the pipeline from areas of concentrated water flow significantly reduce the potential for erosion and sedimentation to affect the underground streams and caves of the Slussers Chapel Conservation Site. This, or a similar modification could greatly reduce the potential impact to the Slussers Chapel Conservation Site, cave and karst hydrology and associated lands in conservation management.”²

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that should the United States Forest Service provide written concurrence to the BLM in accordance with Title 43 Code of Federal Regulations (CR) Part 2882.3(i), and a ROW Grant is issued, **then:**

- i. the 500-foot ROW in the “new Rx 5C land allocation,” **should be limited to 50 feet**, and the USFS Land Resource Management Plan (LRMP) **prescription should also be limited to 50 feet**, which would discourage future collocation opportunities for utility corridors, and
- ii. the modification as discussed by the VDCR in their letter to FERC, dated September 9, 2016, to minimize negative impacts to the Slussers Chapel Conservation Site should be adopted.

BE IT FURTHER RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby directs staff to transmit this Resolution to FERC for inclusion in Docket Number CP 16-10-000.

¹ Submittal # 20160909-5315 (31679600); VDCR p. 1

² Ibid.

ISSUE/PURPOSE: Resolution supporting the Virginia Department of Conservation and Recreation (VDCR) Proposed Modification to the MVP Pipeline Corridor to Reduce Impacts to Slussers Chapel Conservation Site and Request of the United States Forest Service to Limit any Right of Way Grant through the National Forest to Fifty Feet.

B. SUBJECT: MOUNTAIN VALLEY PIPELINE

**R-FY-17-
RESOLUTION OPPOSING THE PROPOSED AMENDMENTS
TO THE UNITED STATES FOREST SERVICE LAND RESOURCE MANAGEMENT
PLAN TO PROVIDE MVP A RIGHT OF WAY GRANT TO CONSTRUCT PIPELINE
ON FEDERAL LANDS MANAGED BY THE U.S. FOREST SERVICE**

WHEREAS, Mountain Valley Pipeline, LLC, (“Mountain Valley Pipeline”) proposes to construct and operate a three hundred one (301) mile long, forty-two (42) inch diameter natural gas pipeline and associated facilities between Wetzell, West Virginia and Pittsylvania County, Virginia, traversing approximately nineteen (19) miles through Montgomery County; and

WHEREAS, The Bureau of Land Management (BLM) in the US Department of the Interior, has requested comments on the issuance of a Right-of Way (ROW) Grant that would permit the pipeline to be constructed on Federal lands managed by the United States Forest Service (USFS) and the United States Army Corps of Engineers (USACE), specifically crossing the Jefferson National Forest on **Brush Mountain in Montgomery County**, Virginia, the headwaters to Mill Creek and Slussers Chapel Cave, and bisecting the state designated Slussers Chapel Conservation Site; and

WHEREAS, The BLM’s purpose and need for the proposed amendments are a ROW application grant submitted by Mountain Valley Pipeline on April 5, 2016, to cross federal lands under the jurisdiction of the USFS and the USACE. Before issuing the ROW Grant, the BLM must receive written concurrence from both agencies, or any specific stipulations applicable to “their lands, facilities, waterbodies, and easements for inclusion in the ROW Grant;”³ and

WHEREAS, The purpose and need for the amendments to the USFS Land Resource Management Plan (LRMP) would be a “plan-level amendment that would change future management direction for the lands reallocated to a new

³ CFR; Notice on September 27, 2016: 81 FR66268, pp. 66268-66271; document # 2016-23237

management prescription (Rx) and is required by LRMP Standard FW-248;”⁴ those amendments are:

Proposed Amendment 1 –The LRMP would be amended to reallocate 186 acres to the Management Prescription 5C—Designated Utility Corridors from these Rx’s: 4J—Urban/Suburban Interface (56 acres); 6C—Old Growth Forest Communities-Disturbance Associated (19 ac); and 8A1—Mix of Successional Habitats in Forested Landscapes (111 acres).

Rx 5C—Designated Utility Corridors contain special uses which serve a public benefit by providing a reliable supply of electricity, natural gas, or water essential to local, regional, and national economies. The new Rx 5C land allocation would be 500 feet wide (250 feet wide on each side of the pipeline), with two exceptions: (1) The area where the pipeline crosses Rx 4A—Appalachian National Scenic Trail Corridor would remain in Rx 4A; and (2) the new 5C area would not cross into Peters Mountain Wilderness so the Rx 5C area would be less than 500 feet wide along the boundary of the Wilderness.

The second type of amendment would be a “project-specific amendment” that would apply only to the construction and operation of this pipeline. The following amendments would grant a temporary ‘waiver’ to allow the project to proceed. These amendments would not change LRMP requirements for other projects or authorize any other actions.

Proposed Amendment 2 – The LRMP would be amended to allow construction of the MVP pipeline to exceed restrictions on soil conditions and riparian corridor conditions as described in LRMP standards FW-5, FW-9, FW-13, FW-14 and 11-017, provided that mitigation measures or project requirements agreed upon by the Forest Service are implemented as needed.

Proposed Amendment 3 - The LRMP would be amended to allow the removal of old growth trees within the construction corridor of the MVP pipeline. (reference LRMP Standard FW-77)

Proposed Amendment 4 – The LRMP would be amended to allow the MVP pipeline to cross the Appalachian National Scenic Trail (ANST) on Peters Mountain. The Scenic Integrity Objective (SIO) for the Rx 4A area and the ANST will be changed from High to Moderate. This amendment also requires the SIO of Moderate to be achieved within five to ten years following completion of the project to allow for vegetation growth. (reference LRMP Standards 4A-021 and 4A-028).⁵

⁴ Ibid.

⁵ CFR; Notice on September 27, 2016: 81 FR66268, pp. 66268-66271; document # 2016-23237

WHEREAS, Proposed Amendment 1 would allow a 500 foot utility corridor through the forest, allowing multiple disruptions of steep slopes repeatedly for each new pipeline, and make a huge visual scar through the forest, as well as causing severe erosion and sedimentation impacts on the mountain slopes and on private property as it exits; and

WHEREAS, Proposed Amendment 2 would allow construction to exceed restrictions on soil conditions and riparian corridors. Presently the Forest Service requires Standards for construction. Standard FW-5 requires that “on all soils dedicated to growing vegetation, the organic layers, topsoil, and root mat be left in place over at least 85% of the activity area and revegetation accomplished in 5 years.” Standard FW-9 requires that “Heavy equipment is operated so that soil indentations, ruts, or furrows are aligned on the contour and the slope of such indentations is 5% or less.” Standard 11-017 allows for tree removal from the riparian corridor only to enhance the recovery of diversity of vegetation native to the site, or to rehabilitate natural and human caused disturbances, or to provide habitat improvements for aquatic or riparian species. Relaxing these standards would allow National Forest destruction for the benefit of a private for-profit corporation to the detriment of the public and future generations; and

WHEREAS, Proposed Amendment 3 would allow the removal of old growth forest. MVP has unilaterally decided, “For purposes of MVP planning, the following forest types are considered well represented in the current inventory of existing old growth for the Jefferson National Forest...and may be cut through resource management activities”. This proposal by MVP indicates that a private for-profit company assumes that their knowledge and interests supersede the plans and recommendations of the professional planners of the Forest Service; and

WHEREAS, Proposed Amendment 4 would amend the Forest Plan to allow the MVP to cross the Appalachian National Scenic Trail (ANST) on Peter’s Mountain. Presently the forest plan requires all management activities to meet or exceed a Scenic Index Observation (SIO) of High and to locate new public utilities and rights-of-way in areas where impacts already exist. MVP would amend the Forest Plan to change the SIO for this area from High to Moderate with an additional requirement that would allow the SIO to finally achieve Moderate status in 5-10 years. This would be an unacceptable concession for the ANST, one of our national treasures especially since the Forest Service Plan already requires that new public utilities and Rights-of-way be located where major impacts already exist. MVP Hybrid Alternative 1A does cross the Appalachian Trail at an existing electric line Right-of-Way.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby **strongly opposes** the proposed amendments to the USFS’s LRMP to provide a ROW Grant permitting the crossing of Federal lands, owned by all Americans, for the purposes of the construction of the Mountain Valley Pipeline.

BE IT FURTHER RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby opposes the proposed Mountain Valley Pipeline Project filed under Docket Number CP16-10-000 with FERC because of the **numerous adverse impacts to the land, be it private, State or Federally held.**

BE IT FURTHER RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby directs staff to transmit this Resolution to FERC for inclusion in Docket Number CP 16-10-000.

**C. SUBJECT: ECONOMIC DEVELOPMENT AUTHORITY
BOND REFINANCING**

**RESOLUTION
OF THE BOARD OF SUPERVISORS OF
MONTGOMERY COUNTY, VIRGINIA**

WHEREAS, The Economic Development Authority of Montgomery County, Virginia (the "Authority") has approved the application of Virginia Tech Foundation, Inc. (the "Borrower"), a nonstock, not-for-profit Virginia corporation, requesting that the Authority issue up to \$142,100,000 of its revenue bonds in one or more series at one time or from time to time (the "Bonds") to provide funds to the Borrower to finance the plan of finance (the "Plan of Finance") described below:

(1) To refund all or a portion of (a) the Authority's Variable Rate Revenue Bonds (Virginia Tech Foundation), Series 2005 (Non-AMT) (the "Series 2005 Bonds"), in the original principal amount of \$49,830,000, (b) the Authority's Revenue Bonds (Virginia Tech Foundation), Series 2009A (the "Series 2009A Bonds") in the initial principal amount of \$71,480,000, (c) the Authority's Revenue Refunding Bonds (Virginia Tech Foundation), Series 2010A (the "Series 2010A Bonds") in the original principal amount of \$53,155,000 and (d) the Authority's Revenue and Refunding Bonds (Virginia Tech Foundation), Series 2011A (the "Series 2011A Bonds" and collectively with the Series 2005 Bonds, the Series 2009A Bonds, and Series 2010A Bonds, the "Prior Bonds"), in the original principal amount of \$53,275,000, each of which financed or refinanced costs associated with certain facilities owned (unless otherwise indicated) by the Foundation or the Virginia Polytechnic and State University (the "University"), including facilities or projects commonly referred to as:

- (i) Research Building XIV, located at 1770 Forecast Drive, Blacksburg, Virginia;
- (ii) Research Building XV, located at 1880 Pratt Drive, Blacksburg, Virginia;

- (iii) Research Building XXVI, located at 2284 Kraft Drive, Blacksburg, Virginia;
- (iv) Advanced Materials Characterization Facility, located at 1991 Kraft Drive, Blacksburg, Virginia;
- (v) Integrated Life Sciences Building, located at 1981 Kraft Drive, Blacksburg, Virginia;
- (vi) CRC Pump Station, located in the 2200 block of Kraft Drive, Blacksburg, Virginia;
- (v) VTTI Pump Station and a vehicle and equipment storage station, both located at 3500 Transportation Research Drive, Blacksburg, Virginia;
- (vi) Cheatham Hall, located on the University's campus and is adjacent to West Campus Drive and Washington Street in Blacksburg, Virginia;
- (vii) Collegiate Square Phase I, located adjacent to the University's campus on the 400 block of Turner Street in Blacksburg, Virginia;
- (viii) Turner Street, located adjacent to the University's campus on the 200-300 block of Turner Street in Blacksburg, Virginia;
- (ix) Student Services building, located west of Ambler-Johnson Hall on Washington Street in Blacksburg, Virginia;
- (x) Expansion of Southgate Center, located off Southgate Drive adjacent to the University's football stadium in Blacksburg, Virginia;
- (xi) Acquisition of 323 acres of land located in Blacksburg, Virginia, north of Merrimac Road, east of Stroubles Mill subdivision and southwest of Route 460;
- (xii) Andrews Building, located at 1700 Pratt Drive, Blacksburg, Virginia;
- (xiii) Research Building II, located at 1861 Pratt Drive, Blacksburg, Virginia;
- (xiv) Research Building XXVII, located at 1971 Kraft Drive, Blacksburg, Virginia;
- (xv) Founders Building, located at 1800 Kraft Drive, Blacksburg Virginia (owned by Virginia Tech Corporate Research Center, Inc., a wholly-owned subsidiary of the Foundation);
- (xvi) University Gateway Center, located at 902 Prices Fork Road, Blacksburg, Virginia;

- (xvii) the National Capital Region Facility (also known as Virginia Tech Research Center – Arlington), located at 900 North Glebe Road, Arlington, Virginia (owned by Virginia Tech Research Institute, LLC, a wholly-owned subsidiary of Virginia Tech Real Estate Foundation, Inc., which is a wholly-owned subsidiary of the Foundation);
- (xiii) the River Course, located at 8400 River Course Drive, Radford, Virginia (owned by The River Course, LLC, a wholly-owned subsidiary of the Foundation); and
- (xiv) 121 Duke of Gloucester Street, Roanoke, Virginia (used by the WVTF radio station).

(2) To refinance the costs associated with the acquisition, construction and improvement of the Collegiate Square Shopping Center, located at Prices Fork Road and Turner Street in Blacksburg, Virginia; and

(3) To finance, if and as needed, capitalized interest on the Bonds, a debt service reserve fund for the Bonds and costs of issuance related to the issuance of the Bonds, including costs associated with terminating any interest rate hedge agreement related to any Prior Bonds.

WHEREAS, The Authority held a public hearing on November 15, 2016; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds and Section 15.2-4906 of the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended ("Act") sets forth the procedure for such approval; and

WHEREAS, The Authority issues its bonds on behalf of Montgomery County, Virginia (the "County"), the facilities to be financed and refinanced with the proceeds of the Bonds are located in the County and the Board of Supervisors of Montgomery County, Virginia (the "Board"), constitutes the highest elected governmental unit of the County; and

WHEREAS, The Authority has recommended that the County approve the Plan of Finance and the issuance of the Bonds; and

WHEREAS, A copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA:

1. The Board approves the issuance of the Bonds, in an aggregate principal amount up to \$142,100,000, by the Authority for the benefit of the Borrower, solely to the extent required by Section 147(f) of the Code and Section 15.2-4906 of the Act, to permit the Authority to assist in accomplishing the Plan of Finance.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Plan of Finance or the Borrower. In accordance with Section 15.2-4909 of the Act, the Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit or taxing power of the Commonwealth or any political subdivision thereof, including the Authority and the County.

3. This resolution shall take effect immediately upon its adoption.

ISSUE/PURPOSE: Approve Economic Development Authority's Bond Refinancing for Virginia Tech Foundation.

D. SUBJECT: RESOLUTION AUTHORIZING A COUNTY-WIDE BAN ON OPEN FIRES

**R-FY-17-
RESOLUTION AUTHORIZING A
COUNTY-WIDE BAN ON OPEN FIRES**

WHEREAS, Due to the severe dry conditions currently throughout Montgomery County, local Fire Departments, the State Forestry Department, and Montgomery County Emergency Services announces a county-wide "Burn Ban" until substantial rain has fallen throughout the County; and

WHEREAS, All citizens were given notice of the ban through numerous media resources such as radio, television, newspaper, the County web site, and through two-way radio frequencies to all fire and rescue personnel.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia approves a county-wide ban on open air burning effective November 15, 2016 and supports continuation of the ban until lifted by the County Emergency Services Coordinator.

BE IT FURTHER RESOLVED, The County Administrator is authorized to enact future bans as needed or requested by the County's Emergency Services Coordinator.

ISSUE/PURPOSE: Authorize a County-Wide Ban on Open Fires.

JUSTIFICATION: Montgomery County's Emergency Services Coordinator along with local Fire Departments and the State Forestry Department agreed due to the severe dry conditions in Montgomery County that a county-wide burn ban on open air burning needs to be in place until substantial rain has fallen. This resolution approves a county-wide burn ban.

XIV. COUNTY ATTORNEY'S REPORT

XV. COUNTY ADMINISTRATOR'S REPORT

XVI. BOARD MEMBERS' REPORT

1. Supervisor Perkins
2. Supervisor Creed
3. Supervisor Biggs
4. Supervisor DeMotts
5. Supervisor Sheppard
6. Supervisor King
7. Supervisor Tuck

XVII. OTHER BUSINESS

XVIII. ADJOURNMENT

FUTURE MEETINGS

Special Meeting
Legislative Dinner Meeting
Monday, December 12, 2016
6:00 p.m.

Regular Meeting
Monday, December 19, 2016
6:00 p.m. – Closed Meeting Items
7:15 Regular Agenda