

AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 15TH DAY OF JUNE, 2015 AT 7:30 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	William H. Brown	-Chair
	Mary W. Biggs	-Vice Chair
	Gary D. Creed	-Supervisors
	Matthew R. Gabriele	
	M. Todd King	
	Annette S. Perkins (arrived at 7:50 p.m.)	
	Christopher A. Tuck	
	F. Craig Meadows	-County Administrator
	L. Carol Edmonds	-Deputy County Administrator
	Martin M. McMahon	-County Attorney
	Ruth Richey	-Public Information Officer
	Vickie L. Swinney	-Secretary, Board of Supervisors

CALL TO ORDER

The Chair called the meeting to order.

INVOCATION

A moment of silence was led by the Chair.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

INTO WORK SESSION

On a motion by Matthew R. Gabriele, seconded by Christopher A. Tuck and carried unanimously,

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

1. Mountain Valley Pipeline

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT DURING VOTE</u>
Gary D. Creed	None	Annette S. Perkins
M. Todd King		
Mary W. Biggs		
Christopher A. Tuck		
Matthew R. Gabriele		
William H. Brown		

Mountain Valley Pipeline

The County Attorney made a presentation on the legal analysis regarding the proposed Mountain Valley Pipeline as follows:

Federal Authority: What is Preemption?

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- Preemption is when federal law supersedes or overrides state or local laws or rules governing the same subject
 - ✦ Based on Supremacy Clause
 - ✦ Field preemption-scenario where federal statute provides Comprehensive Scheme of Regulation preempting State and local law
 - ✦ Natural Gas Act - Preempts local and state governments from regulating interstate gas pipelines.

What the Federal & State Governments Control

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- Federal Preemption means that the Federal government has complete control over:
 - ✦ Siting (local zoning, building permits preempted, etc.)
 - ✦ Construction Standards and Inspection (State and local construction and Inspection preempted)
 - ✦ Safety Standards - Department of Transportation (State or local Regulation preempted)
 - ✦ Abandonment of the facilities
- States –not local governments- regulate
 - ✦ Waterways-Clean Water Act
 - ✦ Air- Clean Air Act

What Local Governments Control

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- Virginia is a Dillon Rule state which means that local governments can regulate only the areas where the General Assembly has granted specific legislative authority.
- Local governments have been granted specific authority over:
 - ✦ Erosion and Sediment Control
 - ✦ Stormwater
 - ✦ Noise

FERC JURISDICTION

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- Section 7(c) Natural Gas Act
- Requires Certificate of Public Necessity and Convenience For Construction/Operation Interstate Natural Gas Pipeline

FACTORS CONSIDERED WHEN ISSUING CERTIFICATE

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- Project in Public Interest
- Benefits of Project Outweighing Adverse Impacts
- NEPA – Must consider project alternatives and wide range of potential environment impact
- Paper Hearings – Executive Not Legislative
- FERC required to support its decision with Substantial Evidence
- Split of Opinion between Experts – substantial evidence standard met so long as FERC adequately explains decision

FERC PROCESS

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THREE PHASES:

- Pre-Filing Phase
- Application Phase
- Post-Certificate Phase

PRE-FILING PHASE

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- Applicant
 - ✦ Requests Pre-Filing
 - ✦ Study Potential Project Sites
 - ✦ Identifies Stakeholders
 - ✦ Holds Open House For Stakeholders
 - ✦ Conducts pipeline route studies and Field Surveys to develop final application to Submit to FERC

PRE-FILING PHASE CONT.

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- FERC
 - ✦ Grants Pre-Filing Process – Pre-filing Docket No.
 - ✦ FERC Staff Participate in Open House
 - ✦ Publish Notice of Intent for Preparation of EA or EIS
 - ✦ Open Scoping Period to seek Public Comment on potential environmental issues, alternatives and measures to avoid or lessen environmental impacts - June 16, 2015 Deadline
 - ✦ FERC Holds Scoping Meeting and consults with cooperating agencies on environmental issues

APPLICATION PHASE

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- Application For Certificate Of Public Convenience and Necessity
 - ✦ Description of the Proposed Pipeline Route
 - ✦ Construction Plans – Schedules
 - ✦ Environmental Reports
 - ✦ Analyze Route Alternatives – potential environmental impact
 - ✦ FERC issues Notice of Application to Construct and Operate New Pipeline in Federal Register

APPLICATION PHASE CONT.

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- ✦ FERC provides draft EIS – seeks public comments
- ✦ FERC holds public meetings
- ✦ FERC responds to comments on draft EIS – may revise – issues final EIS

APPLICATION PHASE

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- Intervenor
 - ✦ Request Intervenor status within 21 days of FERC Notice of Filing of Application
 - ✦ Formal Party to Process
 - ✦ Receive Applicant filings, filings from other Intervenor and other Commission Documents
 - ✦ Have Standing to request Rehearing
 - ✦ Have standing to file Appeal of Commission Final Ruling in Federal Court

APPLICATION PHASE

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- Environmental Review
 - ✦ Environmental Review comprises bulk of FERC review
 - ✦ Examine Environmental impact in compliance with NEPA
 - ✦ NEPA requires FERC to examine environmental impact of granting Certificate – inform public of the impact
 - ✦ Scoping Process – FERC gathers input from public and interested agencies
 - ✦ Seek comments on potential environmental effects, reasonable alternatives and measures to avoid or lessen environmental impacts
 - ✦ Comments help FERC determine environmental issues to be evaluate in EIS

APPLICATION PHASE

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- EIS
 - ✦ Geology and Soils
 - ✦ Water Resource and Wetlands
 - ✦ Vegetation and Wildlife
 - ✦ Cultural Resources
 - ✦ Land Use, Recreation and Visual Resources
 - ✦ Socio Economics
 - ✦ Air Quality and Noise Cumulative
 - ✦ Impacts Public Safety
 - ✦ Alternatives

APPLICATION PHASE

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- **FERC ROLE EIS**
- ✦ **FERC Seeks Comments from Cooperating Agencies:**
 - U.S. Dept. of Agriculture
 - Forest Service
 - Army Corp of Engineers
 - U.S. Department of Transportation
 - EPA
 - State Historic Preservation Offices
- ✦ **FERC will publish and distribute a draft EIS for Public Comment**

APPLICATION PHASE

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- ✦ **Will consider comments and revise document before issuing Final EIS**
- ✦ **FERC will consider or recommend measures to avoid, minimize or mitigate impacts on specific resources**
- ✦ **Will Evaluate possible alternatives to the planned project or portion of the project**

APPLICATION PHASE

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- Current Identified Environmental Issues
 - ✦ FERC Identified the following issues that deserve attention in the EIS:
 - karst terrain, sinkholes and caves
 - domestic water sources, wells, springs and water bodies
 - forested areas
 - Federally listed threatened and endangered species
 - National Register of Historic Places
 - Appalachian Trail, Blue Ridge parkway and other scenic byways
 - residential development and property values

APPLICATION PHASE

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- ✦ FERC Identified the following issues that deserve attention in the EIS:
 - local infrastructure and emergency response systems
 - tourism and recreation
 - public safety
 - alternatives and their potential impact on a range of resources

POST CERTIFICATE PHASE

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- FERC issues Order – **NEVER DENIED**
states terms and conditions of approval, route authorization, construction and environmental mitigation measures
- **PARTIES CAN REQUEST FERC TO REHEAR DECISION WITHIN 30 DAYS**
- Parties can file **APPEAL** with Federal Court

POST CERTIFICATE PHASE

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- Pipeline Project may proceed even if challenge filed in Federal Court
- Applicant submits outstanding info to satisfy conditions of Order
- FERC issues Notice to Proceed with Construction

POST CERTIFICATION PHASE

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CONSTRUCTION:

- Finalize Project Design
- File plans, survey and info required prior to construction by FERC Order
- Complete R/W acquisition/Eminent Domain Authority granted when Certificate issued
- Pipeline construction

POST CERTIFICATE PHASE

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- Must file weekly status reports with FERC documenting project inspection and certificate compliance
- R/W restoration
- Project in service
- Department of Transportation Office of Pipeline Safety

POST CERTIFICATE PHASE

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PIPELINE SAFETY:

- FERC role is subordinate to the Department of Transportation
- FERC typically consults with DOT regarding compliance with standards
- Applicant required to certify to FERC “design, install, inspect, test, construct, operate, replace and maintain” in compliance with Pipeline Safety Act
- DOT inspects pipeline construction to assure compliance with Federal Regulations

POST CERTIFICATE PHASE

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- DOT reviews Operator’s prepared construction procedures to verify compliance
- DOT inspectors observe construction activities in field to verify compliance
- Once Pipeline operational – safety is regulated, maintained and enforced by DOT with safety violations reported to DOT Office of Pipeline Safety

The Chair thanked the County Attorney for his presentation and opened the floor for Board discussion.

Supervisor Tuck made a statement regarding his request to add the resolution listed under New Business to the agenda which recommends Alternative Route 100 or Alternative Route 93 as a better option than the original route for a pipeline in Montgomery County.

He commented that he has never stated he was in favor of the proposed pipeline. He is in opposition and does not believe the pipeline has any economic benefits for Montgomery County. He has misgivings toward Mountain Valley Pipeline as they have been evasive with their answers and information from the beginning. He wants the citizens to know that it was his best intentions by recommending a resolution to the Board of Supervisors to endorse an alternate route that would cause the least impact to the landowners and environment. He looked at each alternate being proposed and the number of residents that will be affected, and based on this information, believed the use of an alternative route would be a better option.

Fellow Board members stated they could not support Supervisor Tuck's resolution. They appreciate Supervisor Tuck's recommendation and his dedication in serving the citizens of Montgomery County; however, they felt that it was not in the best interest of Montgomery County to support one route over another.

The Chair stated that since there was not enough support for the resolution listed under New Business, it would be removed from the agenda.

Supervisor Tuck asked if the Board would be willing to support a resolution that eliminates the recommendation of an alternative route number and states that if FERC approves MVP's application, then the Montgomery County Board of Supervisors requests FERC look at a route that impacts the least amount of residents.

Board members agreed that the resolution adopted on November 12, 2014 opposing the pipeline still stands. They agreed to request staff to prepare an environmental impact statement and forward to FERC.

OUT OF WORK SESSION

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously,

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

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
M. Todd King	None
Mary W. Biggs	
Annette S. Perkins	
Christopher A. Tuck	
Matthew R. Gabriele	
Gary D. Creed	
William H. Brown	

PUBLIC ADDRESS

The following citizens provided remarks in opposition to the Mountain Valley Pipeline and to the proposed resolution listed on the Board's agenda recommending Alternative Route 100 or Alternative Route 93 as a better option than the original route in Montgomery County:

Martha Murphy
Angela Stanton
Wil Stanton
Tom Hoffman
Nan Gray
Pat Tracy
Bill Henley
Cindy Turner
Lynda Majors
Phil Pickett
Bill Murray
Elizabeth McComman
Bill Turner
Brad Klein
Mary Keffer
Bill Wolf
Roberta Bondurant
Phillis Albritton
Sandra Schlandecker
Ken Stiles
Jennifer French
Rita Klein
Laura Berry
Guy from Extension
Ray Roberts

There being no further speakers, the public address session was closed.

NEW BUSINESS

The following resolution was removed from the agenda:

- Resolution Reiterates the Board’s opposition to the proposed routes of the Mountain Valley Pipeline and recognizes if FERC approves the pipeline, Alternative Route 100 is a better option and if Alternative Route 100 is not selected the Alternative Route 93 would at least avoid pipeline construction near a number of residences in the Preston Forest neighborhood.

The Board agreed that a letter should be sent to FERC stating the Board’s opposition to the proposed pipeline and environmental impact statement.

**R-FY-15-137
COMMENTS TO FERC
OPPOSING THE MOUNTAIN VALLEY PIPELINE**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby requests that staff prepare environmental comments on behalf of the County of Montgomery, Virginia and submit these comments to the Federal Energy Regulatory Commission (FERC) for inclusion in the Mountain Valley Pipeline project preparation of a draft EIS scoping comment period.

The vote on the forgoing resolution was as follows:

<u>AYE</u> Mary W. Biggs Christopher A. Tuck Matthew R. Gabriele Gary D. Creed M. Todd King Annette S. Perkins William H. Brown	<u>NAY</u> None
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ADJOURNMENT

The Chair declared the meeting adjourned to Monday, June 22, 2015 at 6:00 p.m. The meeting adjourned at 9:55 p.m.

APPROVED _____ ATTEST: _____
 William H. Brown F. Craig Meadows
 Chair County Administrator