

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY VIRGINIA, HELD IN THE COUNTY ADMINISTRATIVE OFFICE BUILDING, 150 SOUTH MAIN STREET LEXINGTON, VIRGINIA ON MONDAY JULY 13, 2009 AT 3:00 P.M.

PRESENT: CHAIRMAN, R.H. RIEGEL  
MEMBERS: C.R. COMSTOCK, R.S. FORD, M.R. SMITH, A.W. LEWIS, JR.  
CLERK OF BOARD: CLAIRE A. COLLINS  
COUNTY ATTORNEY: VICKIE L. HUFFMAN  
FISCAL DIRECTOR: ROBERT E. CLAYTOR  
STAFF: CHRIS SLAYDON, VICKY AGNOR, TAMMY GRANT, DAN GRIM, PENNI MCMICHAEL

### **Call to Order, Invocation and Pledge of Allegiance**

Chairman Riegel called the meeting to order. Supervisor Lewis gave the invocation and led in the Pledge of Allegiance. Chairman took a few moments to explain the new seating arrangement of the Board and what is being planned to accommodate future projection presentations.

### **Item(s) to be Added to the Agenda**

Chairman Riegel called for items but none was offered. Ms. Collins noted the Building Officials Mutual Assistance Agreement presentation by Mr. Erich Schnetzler, Building Official, would be postponed until the next meeting.

### **Citizens' Comments**

Ms. Jeanette Abouzeid, Buffalo District resident, asked the Board to take under advisement creating an ordinance to address consistent constantly barking dogs. She stated she lives on Friendly Circle, near the Wheatland Subdivision, and there are constant dogs barking throughout the night. Ms. Abouzeid added she is a dog lover and is not requesting the dogs be removed, just that the owners control the barking during the nighttime hours (she suggested between the hours of 11:00 p.m. to 7:00 a.m.). In response from a question from Chairman Riegel, Ms. Abouzeid use of shock collars or muzzles were example of humane remedies for barking control. Supervisor Smith requested the Board add discussion of this request to the agenda.

### **Recognition of Rental Assistance Office**

Ms. Collins announced the Rockbridge Area Rental Assistance Office was one of thirteen agencies recognized for their commitment to excellence regarding the Virginia Housing Development Authority's Voucher Program for fiscal year ending June 30, 2008 and also was one of the seven agencies designated by VHDA as High Performers. Recognition and thanks was given to Ms. Agnor and Ms. Grant by the Board on behalf of the County.

### **Draper Aden Associates Update on Landfill Active Gas Extraction System**

Mr. Jeff Crate and Ms. Lynn Klappich, Draper Aden Associates representatives, were in attendance. Mr. Crate gave the majority of the update. He started the update by informing the Board the Federal Department of Energy (DOE) extended the deadline for application for the Energy Efficiency and Conservation Block Grant (EECBG) to August 6, 2009. Virginia will not release details of its application process until it receives approval of its application by DOE now anticipated for early fall. Mr. Crate reiterated that competition for the funds will be fierce and highlighted factors that will enhance the application such as linking renewable energy to "Lead by Example", shovel readiness, settings with strong educational potential and added discretionary points (giving equity of distribution based on community population as an example. The second possible source of funding, Virginia Energy Program, was explained by Mr. Crate as well as the how the funds will be distributed. He mentioned the criteria are expected to be similar to EECBG requirements but with more emphasis placed on shovel ready projects. It is the recommendation of DAA that the County move forward with

the next phase of activity – engineering of Phase I (connecting the vents in the currently closed area and destroying methane in a blower flare station). Mr. Crate stated the costs associated with the engineering of Phase 1 of this project are \$39,000. Mr. Crate mentioned two pending key issues for the Board to consider and explained the potential impacts they would have relative to the landfill project: 1) Greenhouse Gas Reporting (GHG) Requirement (draft regulations pertaining to the reporting of GHG emissions) ; and 2) Waxman-Markey Climate Bill (American Clean Energy and Security Act of 2009). Both programs are in flux and unpredictable at this time but DAA will continue to update the Board as details become available. In response to a question from Supervisor Ford, Mr. Crate stated there had been no recent major change in the carbon credit market. Ms. Klappich described the timeline for both the design (probably sixty day turn around) and construction (less than six months) in response to a question raised by Mr. Claytor. She continued by noting the two part process 1) green house gas destruction and 2) energy generation. The Board spent some time discussing whether now was the best time to authorize the engineering of Phase 1 of the project. After much Board deliberation, Supervisor Smith made the motion to proceed with Phase I engineering by authorizing the County spend up to \$39,000 and Supervisor Comstock provided the second. Supervisor Ford asked for and obtained advice from Mr. Crate on other ways the County could raise future funds by partnering with private companies or cooperatives. Supervisor Comstock commented the County could solicit for renewable energy proposals to determine private sector interest. The motion passed upon the following vote:

Recorded Vote:

AYES: Comstock, Ford, Smith, Lewis, Riegel

NAYES: None

ABSENT: None

### **Regional Broadband Initiative**

Mr. Grim, Regional Broadband Committee member, stated that in order to move forward with the initiative the Committee requests public hearings be scheduled by the three localities to receive public comment on the proposed Concurrent Resolution Creating The Rockbridge Area Fiber Optic Network Authority. After clarification of the proposed Board of the Authority membership and notation that Lexington appointed Mayor Mimi Elrod as its Board of Directors Member, Supervisor Comstock made the motion to take this matter to public hearing on August 24, 2009 at 7:00 p.m. and Supervisor Lewis provided the second. The motion passed upon the following vote:

Recorded Vote:

AYES: Comstock, Ford, Smith, Lewis, Riegel

NAYES: None

ABSENT: None

Supervisor Comstock made the motion to appoint Chairman Riegel as the County's Board of Directors Member and Supervisor Smith provided the second. The motion passed upon the following vote:

Recorded Vote:

AYES: Comstock, Ford, Smith, Lewis, Riegel

NAYES: None

ABSENT: None

### **Resolution for the Dissolution of The Rockbridge Partnership**

Ms. Huffman noted the language change made to the proposed Resolution at the request of Mr. T. Jon Ellestad on behalf of the City of Lexington, which she just received earlier in the

day. Supervisor Comstock made the motion to adopt the Resolution as amended and Supervisor Ford provided the second. The motion passed and the following was adopted:

**RESOLUTION FOR THE DISSOLUTION OF THE ROCKBRIDGE  
PARTNERSHIP**

**WHEREAS, the County of Rockbridge and the City of Lexington created and constituted The Rockbridge Partnership, effective July 1, 2006, through the adoption of a Resolution by their respective governing bodies on September 15, 2006, and November 2, 2006; and,**

**WHEREAS, The Rockbridge Partnership (“the Partnership”) was charged with the official responsibility for improvement and maintenance of economic conditions in the Rockbridge area; and,**

**WHEREAS, the Board of Directors of the Partnership has considered comments and concerns from the public and from staff and governing body members of the respective localities; and,**

**WHEREAS, the Partnership Board has recommended to the Board of Supervisors of Rockbridge County and to the City Council of the City of Lexington that the Partnership be dissolved, with an expression of interest that both localities, along with the City of Buena Vista, continue to cooperate in the economic development of the entire region; and,**

**WHEREAS, the Board of Supervisors and City Council deem it in the best interest of their respective localities and their citizens to accept the Partnership recommendation and to dissolve The Rockbridge Partnership.**

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY, VIRGINIA, and THE CITY COUNCIL OF THE CITY OF LEXINGTON as follows:**

- 1. That The Rockbridge Partnership be, and hereby is, dissolved effective June 30, 2009.**
- 2. That the assets of the Partnership be divided and disbursed to the respective localities, following payments of all outstanding bills of the Partnership, based upon the percentage of contribution by each locality during the last fiscal year.**

3. That the Rockbridge County Administrator and Lexington City Manager are authorized to take such further actions and execute such other documents as are necessary to accomplish the terms of this Resolution.

4. That this resolution shall be effective upon and from the date of its adoption.

Adopted by the Board of Supervisors of Rockbridge County this 13th day of July, 2009.

Recorded Vote:

AYES: Comstock, Ford, Smith, Lewis, Riegel

NAYES: None

ABSENT: None

**ROCKBRIDGE COUNTY BOARD OF SUPERVISORS**

By: \_\_\_\_\_  
Chairman, Board of Supervisors

Attest: \_\_\_\_\_  
Claire A. Collins, Clerk

Adopted by the City Council for the City of Lexington this \_\_\_\_\_ day of July, 2009.

Recorded Vote:

AYES:

NAYES:

ABSENT:

By: \_\_\_\_\_  
Mayor, City Council

Attest: \_\_\_\_\_  
Sharon Edwards, Clerk

Mr. Claytor reported on the The Rockbridge Partnerships financials.

**Proposed Rockbridge County Awareness Resolution for Brattons Run Road Improvements**

Supervisor Lewis presented this item on behalf of RCA and added he felt the issue was worthy of Board discussion. He also called attention to the importance of the use of Brattons Run Road as an evacuation route, even from Bath County. Supervisor Lewis stated Ms. Susan Hammond, area VDOT representative, was present to offer VDOT's opinion on the proposed road improvements. Mr. Timmy Alphin, RCA President, stated that RCA investigations revealed the right-of-ways have already been obtained and that this road needs improvement for health and safety road travelers. He added that a lot of time and effort had been put into this proposal and requested the Board be aggressive in pursuing stimulus funds for this proposed project. Ms. Hammond explained

that plans for the project date back to 1937, 1948, 1952 and 1962. The original right-of-ways obtained were very narrow and the project the plans called for was constructed in 1965. Ms. Hammond explained those improvements VDOT performed. In order for further improvement of Bratton Road plan revisions would have to be made because the standards have since changed and would have to reflect current erosion and sediment measures and an environmental impact statement study would have to be performed; in essence, starting over as a new project. The issue of the obsolete bridge structures on Brattons Run Road would be addressed by VDOT's maintenance program but Ms. Hammond stated the improvements won't be completed in the next four years. In response to a question from the Board, Ms Hammond stated there may be some additional stimulus funds available but substantial work would be required to get this project to the point where it could be eligible. Supervisor Comstock questioned if it would be possible to add this project to the County's six-year plan and Ms. Hammond stated the County would need to schedule a new public hearing and would need to allocate money for engineering costs. She anticipated it would take approximately two years to everything in place to get stimulus money and determine cost of project. It was noted that if the County chose to go outside the six-year plan, VDOT cannot transfer existing funds or allocate new funds to the project. Supervisor Lewis suggested that RCA be asked to take the information obtained from Ms. Hammond under advisement and bring back any suggestions for funding for the next fiscal year because he felt, in view of VDOT information, that the Board can take no action on this proposal. Mr. Alphin withdrew the requested Resolution.

#### **Appointment of Member to TCO Review Board**

Chairman Riegel informed the Board that Ms. Anne Russek's term is expiring and that she has indicated the willingness to continue to service if the Board so desires. Supervisor Smith made the motion to reappoint Anne Russek to the TCO Review Board and Supervisor Comstock provided the second. The motion carried upon the following vote:

AYES: Comstock, Ford, Smith, Lewis, Riegel  
NAYES: None  
ABSENT: None

#### **Appointment of Member to RARO Board of Directors**

The Board held a discussion concerning whether the appointments were to be made by Magisterial District or at large based on citizen interest. Chairman Riegel nominated Ms. Tracy Shafer to represent the Natural Bridge District. Supervisor Smith nominated reappointment of Mr. Jeff Goodbar to represent the Buffalo District. Mr. Chris Cartwright was nominated for reappointment to represent the Kerrs Creek District. Hearing no further nominations, Supervisor Lewis made the motion to appoint Ms. Shafer and reappoint Mr. Goodbar and Mr. Cartwright to the RARO Board of Directors. Supervisor Smith provided the second and the motion passed upon the following vote:

AYES: Comstock, Ford, Smith, Lewis, Riegel  
NAYES: None  
ABSENT: None

#### **Appointment of Member to Planning Commission**

Supervisor Ford made the motion to reappoint Mr. Jim McCown to the Planning Commission as the representative of the Kerrs Creek District and Supervisor Smith provided the second. The motion carried upon the following vote:

AYES: Comstock, Ford, Smith, Lewis, Riegel  
NAYES: None  
ABSENT: None

Chairman Riegel requested Staff provide detailed information on the make-up of each board and commission to which the Board makes appointments

**Financial Report**

Mr. Claytor began his report by updating the Board on the status of the County auditing process. Due to circumstance beyond his control, the County was late in closing out the fiscal year. The books were closed on July 6<sup>th</sup> and Mr. Claytor will present a complete financial closeout at the next regularly scheduled meeting. Supervisor Comstock thanked Mr. Claytor for his guidance throughout the budget process and thanked staff for the conservative measures taken to put the County in such a favorable financial position. A discussion was held on financial forecasting for the next two years. Supervisor Smith made the motion to adopt the Appropriation Resolution and authorize payment of the County bills and Supervisor Ford provided the second. The motion passed by a unanimous roll call vote.

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY, VIRGINIA, HELD AT THE COUNTY ADMINISTRATIVE BUILDING, 150 SOUTH MAIN STREET, LEXINGTON, VIRGINIA, ON MONDAY, JULY 13, 2009, AT 3:00 P.M.**

On motion by Supervisor Smith, seconded by Supervisor Ford, the Board, by record vote adopted the following appropriation resolutions and payment of bills for the month as follows:

**APPROPRIATION RESOLUTION**

**BE IT RESOLVED:** By the Board of Supervisors of Rockbridge County, Virginia, that the following appropriation/s are, and the same hereby is made, for the period ending June 30, 2010, from the UNAPPROPRIATED SURPLUS of the GENERAL FUND and expended as follows:

4-11-21010-3650 Records Preservation Grant.....	\$8,126.00
4-11-31020-1008 Sheriff Overtime (DCJS Grant).....	\$529.00
4-11-31030-7501 Purchase of Cars (Sheriff).....	\$26,500.00
4-11-53010-1001 Salary DSB Staff.....	\$8,060.00
4-11-53010-3901 Public Defender Fee.....	\$210.00
Total General Fund	\$43,425.00

Current County	
<b>General Fund</b>	<b>\$465,093.64</b>
<b>SWA/Landfill</b>	<b>\$25,708.05</b>
<b>SWA/Recycling</b>	<b>\$35,719.34</b>
<b>Construction (Courthouse)</b>	<b>\$829.11</b>
<b>Employee Benefit</b>	<b>\$3,334.11</b>
<b>Central Stores</b>	<b>\$2,276.10</b>
Total County Bills	\$530,684.25

Current Fiscal Agent	
<b>Regional Jail</b>	<b>\$35,885.89</b>
<b>CSA Administration</b>	<b>\$80.00</b>
<b>Partnership</b>	<b>\$404.09</b>
Total Fiscal Agent	\$36,369.98

**TOTAL ALL BILLS** \$567,054.23

**RECORDED VOTE:**

**AYES: Smith, Ford, Lewis, Comstock, Riegel**

**NAYS: None**

**ABSENT DURING VOTE: None**

**ABSENT DURING MEETING: None**

\_\_\_\_\_  
**R. Hunt Riegel**  
**Chairman**

**Attest:** \_\_\_\_\_  
**County Administrator**

**Change in Agenda**

**Dog Noise Discussion**

Ms. Huffman gave the background on the noise ordinance and noted the numerous draft revisions she provided to the prior Board in which constantly barking dogs were addressed but the changes were never adopted. The noise ordinance, as is currently exists, is directed more to music levels for enforcement purposes. Ms. Huffman added the ordinance does contain more general language to encompass other sources of noise. The Board debated whether this issue should be addressed in the noise ordinance or whether a County nuisance ordinance should be created. The Board directed Ms. Huffman to research how other localities address this issue and the manner in which it is enforced. The Board also requested a nuisance ordinance be drafted and provided to them, if her workload permits, for discussion at the September night meeting. Ms. Huffman responded she would, at the minimum, be able to provide the polled information for the Board's consideration and possibly a draft nuisance ordinance.

**Further Discussion of Elimination of County Decal**

The Board will have to consider further the elimination of County decals after information from the Town of Glasgow is obtained. Glasgow residents buy Town decals for Glasgow provided services. If the County personal property tax is increased next fiscal year to make elimination of County decals revenue equal, there is no provision to exclude Glasgow residents. In essence, the Glasgow residents would 1) purchase Town decal and 2) pay the County personal property tax rate increase. Ms. Collins will schedule a meeting with Mr. Ryan Spitzer, Town Manager, to discuss this topic and examine possible solutions.

**Consent Agenda**

**Approval of Minutes**

Supervisor Comstock noted the May 26<sup>th</sup> draft minutes had been amended, at his request, to include the written conditions voluntarily proffered by the property owner (E.M. Carr Properties to conditionally rezone the balance of the Carr property from A-2 to A-T for a cluster development) and referred to as Exhibit B of the coinciding Ordinance. Supervisor Lewis corrected that Mr. William Kogler was a Walkers Creek District resident. Supervisor noted an incorrect last name spelling in the draft June 8<sup>th</sup> minutes.

**Endorsement of Key Legislative Issues for 2010**

Supervisor Smith explained he would vote against using VACo because he felt it was more effective for the Board to relay the issues directly to the area legislators

Supervisor Comstock made the motion to approve the consent agenda as amended and Supervisor Lewis provided the second. The motion carried upon the following vote:

AYES: Comstock, Ford, Lewis, Riegel  
NAYES: Smith  
ABSENT: None

### **Executive Session**

Supervisor Lewis made the motion that the Board of Supervisors convene in closed session to discuss, as permitted by Virginia Code Section 2.2-3711(A)(1), a personnel matter involving performance evaluation, job assignments, or salaries of specific officers, appointees or employees and Supervisor Comstock provided the second. The motion carried upon the following vote:

AYES: Comstock, Ford, Smith, Lewis, Riegel  
NAYES: None  
ABSENT: None

### **Reconvene in Public Session**

Supervisor Comstock made the motion that the Board certify that, in the closed meeting just concluded, nothing was discussed except the matter (1) specifically identified in the motion to convene in closed session and (2) lawfully permitted to be so discussed under the provisions of the Virginia Freedom of Information Act cited in the motion. Supervisor Lewis provided the second and the motion carried upon the following vote:

AYES: Comstock, Ford, Smith, Lewis, Riegel  
NAYES: None  
ABSENT: None

### **Adjourn/Continue**

Hearing no further discussion, the meeting was continued to July 27, 2009 2:00 P.M. – G. Willakers Banquet Room