

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY VIRGINIA, HELD IN THE BOARD ROOM OF THE COUNTY ADMINISTRATIVE OFFICE BUILDING, 150 SOUTH MAIN STREET LEXINGTON, VIRGINIA ON MONDAY, SEPTEMBER 28, 2009 AT 6:00 P.M.

PRESENT: CHAIRMAN R.H. RIEGEL
MEMBERS: R.S. FORD, M.R. SMITH, A.W. LEWIS, JR.
ABSENT: C.R. COMSTOCK
CLERK OF BOARD: CLAIRE A. COLLINS
FISCAL DIRECTOR: ROBERT E. CLAYTOR
COUNTY ATTORNEY: VICKIE L. HUFFMAN
STAFF: SAM CRICKENBERGER, CHRIS SLAYDON, BRANDY FLINT

Call to Order, Invocation and Pledge of Allegiance

Chairman Riegel called the meeting to order, Supervisor Lewis delivered the invocation and led in the Pledge of Allegiance.

Item(s) to be Added to the Agenda

Ms. Huffman announced she would need to brief the Board on a request the County received to sell or gift a parcel of land it owns on South River Road.

Citizens' Comments

Chairman Riegel called for public input but none was offered. Mr. Crickenberger took a moment to introduce his department's new Administrative Assistant, Ms. Brandy Flint.

Economic Development

VEDA Report

Ms. Collins gave a summary of the Virginia Economic Developers Association conference she attended on behalf of the County. She stated the conference focused on what can be anticipated as economic development of the future versus what has been done in the past. In their packets the Board also received a copy of the 2009 VEDA Gubernatorial Questionnaires and candidate responses.

Proclamation Request from Our Health

The Promise to Schedule Your Mammogram Day

Mr. Stephen C. McClintic, Jr., President of Our Health Magazine, requested by letter that the Board consider to proclaim Monday, October 5th be declared as "The Promise to Schedule Your Mammogram Day In Observance of Breast Cancer Awareness Month". Supervisor Smith moved to adopt the proclamation and Supervisor Lewis provided the second. The following was recorded and read aloud by Chairman Riegel:

ROCKBRIDGE COUNTY BOARD OF SUPERVISORS PROCLAMATION
The Promise To Schedule Your Mammogram Day
Monday, October 5, 2009

WHEREAS, October is annually recognized as National Breast Cancer Awareness Month; and

WHEREAS, statistically, one out of every eight women in America will face breast cancer in her lifetime; and

WHEREAS, 85% of women who get breast cancer do not have a family history of the disease; and

WHEREAS, low-income women throughout Southwest Virginia, especially in rural counties, need breast cancer outreach, education, screening and treatment; and

WHEREAS, in the service area of the Greater Roanoke chapter of Susan G. Komen for the Cure, the breast cancer incidence rates among women in all but one of our service area counties is estimated higher than the national and state rates; and

WHEREAS, based on our area's higher incident rate, it is estimated that 566 women will develop breast cancer each year; and

WHEREAS, women unscreened each year in our Komen service area are estimated as 80,788 of eligible women age 40 and over; and

WHEREAS, as a result of higher incidence rates for breast cancer in our area, an estimated 114 breast cancers go undiagnosed each year; and

WHEREAS, of women diagnosed with breast cancer, some will die from the disease. The Komen Service area death rate is higher than the state average and results in an estimated 113 women dying from breast cancer each year; and

WHEREAS, mammography, an x-ray of the breast, is the Gold Standard for detecting breast changes that may be cancer long before physical symptoms can be seen or felt.

NOW, THEREFORE, BE IT PROCLAIMED, by the Rockbridge County Board of Supervisors, that Monday, October 5, 2009 be declared as:

THE PROMISE TO SCHEDULE YOUR MAMMOGRAM DAY IN OBSERVANCE OF BREAST CANCER AWARENESS MONTH

In the County of Rockbridge, and urge all citizens to encourage the women in your life to get mammograms on a regular basis.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 28th day of September, 2009

Chairman

Clerk

Recorded Vote:

AYES: Smith, Ford, Lewis, Riegel

NAYS: None
ABSENT: Comstock

Recommendation on Selection of Firm for General Reassessment

Ms. Collins named the committee members that reviewed the proposals the County received for the general reassessment project. Only three firms responded and the Committee narrowed the selection down to two firms with Blue Ridge Appraisal receiving the highest ranking. After reassurance the firm would be providing public education on the reassessment process and would update the County GIS system, Supervisor Ford moved to authorize staff to proceed with negotiations with Blue Ridge Appraisal and Supervisor Smith provided the second. The motion carried by the following vote:

Recorded Vote:
AYES: Smith, Ford, Lewis, Riegel
NAYS: None
ABSENT: Comstock

Authorization to Terminate County Lease at College Square Recycling Center

Ms. Huffman reminded the Board of the lease termination requirements and asked for consideration of sending the notice of intent to terminate because the new recycling center on Greenhouse Road is nearing completion. In response to a question from Chairman Riegel, Mr. Claytor noted there would be a sign at College Square directing the public to the new site. Supervisor Lewis moved to send the notice of termination and Supervisor Ford provided the second. The motion carried by the following vote:

Recorded Vote:
AYES: Smith, Ford, Lewis, Riegel
NAYS: None
ABSENT: Comstock

Discussion of Proposed Radio Tower (WVTF) in R-1 District

Mr. Crickenberger explained WVTF Radio representatives have spoken with the Planning Commission about placing a 130' radio tower on the PSA property at the end of Huffman Lane in Fairfield. He further noted radio towers are not a permitted use in R-1, but since this public radio station is a quasi State facility, it is exempt from zoning restrictions. The Planning Commission is to determine consistency with the comprehensive plan and make its recommendation to the Board. The Commission would like direction from the Board as to scheduling a public hearing. Staff recommendation is to direct the Planning Commission to hold a public hearing because of the number of residents living in the area where the tower will be placed. After a brief discussion, Supervisor Lewis moved to direct the Planning Commission to schedule a public hearing on this matter and Supervisor Ford provided the second. The motion carried by the following vote:

Recorded Vote:
AYES: Smith, Ford, Lewis, Riegel
NAYS: None
ABSENT: Comstock

Mr. Crickenberger stated the Planning Commission public hearing would be scheduled for November.

Committee / Board Activity Reports

Central Shenandoah Planning District Commission

There was no report.

Mayors and Chairs Meeting Overview

Ms. Collins reviewed the items discussed at the most recent meeting held on September 16th. A comment from Supervisor Smith prompted a Board discussion of the closure of the Natural Bridge Juvenile Correctional Center. Alternative uses of the facility were mentioned. Supervisor Ford stressed the priority should be to keep the center open and urged everyone to keep the pressure on area delegates to do so.

Public Hearing(s)

Special Exception Review / Effects on Sunnyside Ag/Forestal District

Maury Service Authority – Water Transmission Line in A-2, A-T and B-1 Districts

Supervisor Ford read a Conflict of Interest Act Disclosure Statement thus abstaining himself from all discussion of this agenda item. The full disclosure statement can be found on file in the Clerk's Office of the Board of Supervisors.

Mr. Slaydon reported on the joint public hearing held by the Planning Commission and the Farm and Preservation Committee on September 9th. The Planning Commission offered a recommendation with conditions. Mr. Joe Milo, MSA Executive Director, stated the conditions the Commission referenced are consistent with MSA's plans. Ms. Huffman recommended to include language, as legally permissible, to clarify that the Board of Supervisors would have future approval of distribution lines. The Board concluded additional information was needed. Supervisor Smith moved to postpone discussion until the next meeting on October 13th and Supervisor Lewis provided the second. The motion carried by the following vote:

Recorded Vote:

AYES: Smith, Ford, Lewis, Riegel

NAYS: None

ABSENT: Comstock

City of Lexington Request for Sidewalk and Lighting Easements

Ordinance Authorizing and Approving Donation of Easements to the City of

Lexington

Mr. Bill Blatter, Lexington Director of Planning and Zoning, was present to answer questions raised by the Board. Chairman Riegel called for public comment but none was offered. Supervisor Lewis moved to adopt the Ordinance and Supervisor Smith provided the second. The motion carried.

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY,
VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES ON MONDAY,
SEPTEMBER 28, 2009

ORDINANCE AUTHORIZING AND APPROVING DONATION OF EASEMENTS TO THE CITY OF LEXINGTON FOR INSTALLATION OF A SIDEWALK FOR PUBLIC PEDESTRIAN ACCESS AND A LIGHTING FIXTURE ON A PORTION OF THE 0.1259-ACRE PARCEL OF LAND OWNED BY THE COUNTY OF ROCKBRIDGE IN THE CITY OF LEXINGTON, VIRGINIA IDENTIFIED UPON THE CITY LAND RECORDS AS TAX MAP #23-1-188A

WHEREAS, the County of Rockbridge is the owner of a parcel of land, of irregular shape and consisting of 0.1259 acre, located behind the Robert E. Lee Building and extending from Main Street to Randolph Street in the City of Lexington, identified upon the City Land Records as Tax Map #23-1-188A, acquired by deed dated February 3, 2005, from Robert E. Lee Building, LLC, et als, and recorded in the Clerk's Office of the Circuit Court of Rockbridge County as Instrument #050000533; and,

WHEREAS, the City of Lexington has planned a public improvement project, in cooperation with the surrounding property owners, to improve the appearance, install underground utilities, and facilitate accessibility between Main Street, the former Courthouse Square, Randolph Street and the new Courts Facility; and,

WHEREAS, on August 24, 2009, the Board of Supervisors approved the City of Lexington's request for easements to install underground utilities and place an above-ground transformer on a portion of the County-owned parcel; and,

WHEREAS, the City of Lexington has also requested a sidewalk easement for public pedestrian access and an easement for installation of a lighting fixture on a portion of the same parcel; and,

WHEREAS, the conveyance of an interest in real estate requires the adoption of an Ordinance, following a public hearing, which has been held on September 28, 2009.

THEREFORE, BE IT ORDAINED by the Board of Supervisors of Rockbridge County, Virginia, as follows:

1. That donation of an easement, five feet (5') in width, for public pedestrian access and installation of a sidewalk, extending from Randolph Street to the western edge of the Transformer Site, and extending across the alley to the property currently owned by Beside Myself, LLC, as shown cross-hatched on the plat labeled 'Sidewalk Easement TM 23-1-188A' attached hereto as Exhibit A, together with the right of ingress and egress thereto for purposes of construction, maintenance, repair or replacement of the sidewalk, across the County-owned parcel of land described above, is hereby authorized and approved.

2. That donation of an above-ground easement for installation of a lighting fixture and related improvements, to be installed in the northwestern corner of the hatched area of the Transformer Site, together with the right of ingress and egress thereto for purposes of installation, inspection, maintenance, repair or replacement of the fixture, as shown highlighted on the plat labeled 'Sidewalk Easement TM 23-1-188A' attached hereto as Exhibit A, is hereby authorized and approved.

3. That the County Administrator is hereby authorized to execute the Easement Agreement, and to execute such other documents and take such further actions, on behalf of the Board of Supervisors of the County of Rockbridge, as are necessary to accomplish this easement grant, all of which shall be upon form and subject to the conditions approved by the County Attorney.

4. That this ordinance shall be effective on and from the date of its adoption.

Adopted this 28th day of September, 2009.

Recorded Vote:

AYES: Ford, Smith, Lewis, Riegel

NAYES: None

ABSENT: Comstock

ROCKBRIDGE COUNTY BOARD OF SUPERVISORS

By: _____
Chairman, Board of Supervisors

Attest: _____
Claire A. Collins, Clerk

**Proposed County Code Amendment to Chapter 25 – Taxation
Ordinance to Amend Section 25-24 of Article II – Personal Property Tax to
Eliminate the Requirement to File an Annual Personal Property Tax Return After Original Filing
Unless or Until a Change in Situs or Status and to Impose a Late Filing Penalty of \$15, in Lieu
of 10% of the Tax Assessable**

Ms. Huffman fielded questions from the Board. Supervisor Ford moved to adopt the Ordinance and Supervisor Smith provided the second. The motion carried.

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY,
VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES ON MONDAY,
SEPTEMBER 28, 2009

**Ordinance to Amend and Reenact Section 25-24 of Article II – Personal Property Tax in
Chapter 25 – Taxation, of the Rockbridge County Code, to Eliminate the Requirement to
File an Annual Personal Property Tax Return After Original Filing Unless or Until a
Change in Situs or Status and to Impose a Late Filing Penalty of \$15, in Lieu of 10% of the
Tax Assessable**

BE IT ENACTED by the Rockbridge County Board of Supervisors that, pursuant to Section 58.1-3515,
et seq., in Chapter 35 of Title 58.1 of the Code of Virginia (1950, as amended), Section 25-24 of Article II in
Chapter 25 – TAXATION of the Rockbridge County Code be and hereby is amended and reenacted as follows:

ROCKBRIDGE COUNTY CODE

Chapter 25

TAXATION

ARTICLE II. PERSONAL PROPERTY TAX

Sec. 25-24. Returns.

(a) Property tax returns for all tangible personal property, including but not limited to a motor vehicle, trailer, semi-trailer, or boat, manufactured homes, and machinery and tools, with a situs in the county as of January 1 of each year shall be filed with the commissioner of the revenue on or before March first (1st) of each calendar year. Tangible personal property tax returns for motor vehicles, trailers, semi-trailers, and boats that acquired a situs within the county or are transferred to a new owner in the county after January 1, shall be filed within thirty (30) days following the date of such transfer or acquisition of situs in the county. Residents of all towns within the county must file personal property tax returns with the commissioner of the revenue in accordance with this section. The commissioner of the revenue shall prescribe forms for the reporting of tangible personal property subject to taxation under this article.

(b) Except as provided in subparagraph (c) hereafter, any person failing to file such return on or before the due date shall incur a late filing penalty thereon of fifteen dollars (\$15.00), provided that such penalty shall not exceed the greater of ten percent (10%) of the tax assessable on such return or ten dollars (\$10.00); provided, however, that the late filing penalty shall in no case exceed the amount of the tax assessable. The late filing penalty shall be added to the amount of taxes or levies due from such taxpayer and, when collected by the treasurer, shall be accounted for in the treasurer's settlements. The assessment of a penalty under this section shall not be deemed a defense to any criminal prosecution for failing to make the return of taxable property as required by law or this section.

(c) Any person (excluding a business) owning or leasing a motor vehicle, trailer, semi-trailer or boat, who has previously filed a personal property tax return with the commissioner of revenue for such tangible personal property in accordance with subparagraph 1 above, and for which personal property there has been no change in status or situs, shall not be required to file another personal property tax return on such personal property, until and if there is a change in status or in situs. In the event of a change in status or in situs, a new personal property tax return shall be filed with the commissioner of the revenue as provided in subparagraph (a) above.

For purposes of this section, the term "change in status" shall mean one (1) or more of the following:

- (1) A change occurs in the name or address of the person or persons, or entity, owning or leasing such tangible personal property.
- (2) A change occurs in the taxable situs of tangible personal property.
- (3) Any action which causes personal property to acquire situs in the county occurs, for which no personal property tax return has been filed by the owner.
- (4) Any change affecting the assessment or levy of the personal property tax occurs for which a tax return has been previously filed, or the use of a personal vehicle has changed to business use, thereby affecting application of the Personal Property Tax Relief Act.

(d) The commissioner of the revenue may grant extensions of time, not to exceed (90) days, for filing returns on tangible business personal property and machinery and tools, whenever good cause exists.

Application for such extension of time must be made prior to the regular March 1st filing deadline. The commissioner of the revenue shall keep a record of every such extension. Failure to file returns within the extended time will cause the taxpayer to be treated the same as if no extension had been granted.

(e) Penalty for failure to file a return shall not be imposed if such failure was not the fault of the taxpayer. The commissioner of revenue shall make such determinations relating exclusively to failure to file a return.

(f) If any taxpayer liable to file a return required by this article neglects or refuses to file such return as herein prescribed, the commissioner of the revenue shall, from the best information he can obtain, enter the fair market value for such property and assess the same as if it had been reported to him, and shall impose applicable penalties for failure to file a return.

This Ordinance shall be effective on and from the 1st day of January, 2010. The Commissioner of the Revenue shall be authorized to adopt such policies and procedures as may be necessary to implement the provisions of this ordinance and transition from annual returns to single original filings until or if there is a change in situs or status.

Adopted this 28th day of September, 2009.

Recorded Vote:

AYES: Ford, Smith, Lewis, Riegel

NAYES: None

ABSENT: Comstock

ROCKBRIDGE COUNTY BOARD OF SUPERVISORS

By: _____
Chairman, Board of Supervisors

Attest: _____
Claire A. Collins, Clerk

Land Sale / Gift Request

Ms. Huffman clarified the parcel in question was not part of the South River Mitigation Project. After some discussion on public access to the river being marked as such, the Board reached a consensus that additional information was needed in order to consider the request and asked staff to place this item on the agenda for the October 13th meeting.

Consent Agenda

Approval of Minutes for August 24th and September 14, 2009 meetings

Supervisor Lewis moved to approve the minutes as amended and Supervisor Ford provided the second. The motion carried by the following vote:

Recorded Vote:

AYES: Smith, Ford, Lewis, Riegel

NAYS: None

ABSENT: Comstock

Closed Session

As Permitted by Virginia Code Section 2.2-3711(A)(1) to discuss Personnel Matters

Supervisor Lewis moved that the Board of Supervisors convene in closed session pursuant to Virginia Code § 2.2-3711 (A) (4), protection of the privacy of individuals in personal matters not related to public business and Supervisor Ford provided the second. The motion carried by the following roll call vote:

Recorded Vote:

AYES: Smith, Ford, Lewis, Riegel

NAYS: None

ABSENT: Comstock

Reconvene in Open Session

Supervisor Lewis moved that the Board of Supervisors return to Open Session and Supervisor Smith provided the second. The motion carried by the following roll call vote:

Recorded Vote:

AYES: Smith, Ford, Lewis, Riegel

NAYS: None

ABSENT: Comstock

Supervisor Ford moved that the Board certify that, in the closed meeting just concluded, nothing was discussed except the matter specifically identified in the motion to convene in closed session and lawfully permitted to be so discussed under the provision of the Virginia Freedom of Information Act cited in the motion. Supervisor Smith provided the second and the motion carried by the following roll call vote:

Recorded Vote:

AYES: Smith, Ford, Lewis, Riegel

NAYS: None

ABSENT: Comstock

Adjourn / Continue

Hearing no further discussion, the meeting was adjourned.