

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, NOVEMBER 9, 2009 AT 6:00 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
FISCAL DIRECTOR: ROBERT E. CLAYTOR
COUNTY ATTORNEY: VICKIE L. HUFFMAN
STAFF: SAM CRICKENBERGER, CHRIS SLAYDON, PENNI MCMICHAEL, ROBERT FORESMAN

Call to Order

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

No items were added.

Citizens' Comments

Chairman Riegel called for public comment. The first individual to speak read the following prepared statement:

"My name is Stan Donald and I reside in the Buffalo District at 612 Old Farm Road. I am here tonight to publicly voice my complaint to the county government regarding the recent fly rock incident at Barger's Quarry. This latest incident occurred on October 29, 2009. For the record, I am one of the named plaintiffs in a continuing court action which appeals the zoning change and special exception permit granted to Mr. Barger in December, 2007. I am speaking tonight for myself, but am supported by my fellow plaintiffs, as well as other concerned citizens in the community.

Mid-morning of Thursday, Oct.29 a blast was set off in the east side of the quarry. As a result of that blast, rock was hurled onto the adjoining property owner, Rick Mast. Mr. Mast's commercial complex has at least 6 different businesses in the center who were all operating at the time of the incident. Fortunately, this time the fly rock did not hit any human beings, but it did damage two automobiles parked on the site. We were lucky again ---THIS TIME!

The uncontrolled hurling of unrestrained fly rock is one of the major issues in our court case. Rocks blown out of this pit mining operation are extremely dangerous and will continue to occur in the future. It is impossible to guarantee that fly rock will be contained 100% of the time. This is why quarrying operations normally are only approved on significantly larger sites and are not permitted in such close proximity to adjoining property. The quarry operator should provide his own safety zone and not be allowed to hurl rock onto the property of others. A quarrying operation that is 100% flyrock (sp) free is what would be required to protect our lives and property.

Ironically at the very same time that this latest wayward blast occurred, the litigants involved in the quarry action were gathered at the Rockbridge County Courthouse for a hearing. Coincidentally, these motions were, in part, to discuss the fly rock issue.

It is my understanding the investigation of the recent incident, by the DMME, concluded the rock traveled approximately 600 feet beyond the blast site and 100 feet above the property before

falling to the earth. With that in mind you should know that a object free falling, with no blast force behind, will fall about 40 feet per second at approximately 120 miles per hour at maximum velocity. It takes about 4 seconds to reach that maximum speed. Gentlemen, you do the math and think about what even a small rock could potentially do to a human head!!

In an open space this is a dangerous operation at best. In a confined space like this quarry, surrounded by residential, agricultural and commercial activity, it is unacceptable. We believe you have the ability to bring this permit back to your board for review and additional public comment. This would, it seems clear, be in keeping with your duty as our representatives, to protect this public welfare.

These blasts are equivalent to **BOMBS**. No matter how careful the blasting expert, once the switch is pushed, the blast cannot be called back. A few pennies saved per ton on the transportation cost of rock is not worth the risk to human life. Thank You.”

Mr. Chuck Barger, owner of Charles W. Barger & Son and Kerrs Creek Magisterial District resident, explained the incident is being investigated by DMME (Department of Mines, Mineral and Energy) and the company’s blasting plan is currently under review. Mr. Barger stressed that his company is taking this issue very seriously and blasting has ceased. Mr. Barger noted that his company should receive the results of the review in a few weeks.

Mr. Rick Mast, Walkers Creek District resident and owner of commercial property near the quarry described hearing the blast. Mr. Mast also expressed the concerns of the tenants of the commercial property about property being damaged and the potential for personal injury due to fly rock (which according to an expert in the current court case cannot be prevented). He asked for the Board’s help in preventing future incidents.

Mr. John Gunner, Buffalo Magisterial District resident, echoed Mr. Mast’s concern and stated that although DMME is the regulatory agency it can’t guarantee another fly rock incident won’t occur. Mr. Gunner suggested the Board meet with Mr. William Hartwell, a consultant who trains inspectors in mine safety.

Chairman Riegel responded that although the Board was most sympathetic to the issue, at this time with DMME in the midst of their investigation and also with the current pending litigation the Board feels it does not have any jurisdiction over the matter but acknowledges the great concern about safety.

Commonwealth’s Attorney Funding Request

Mr. Robert N. Joyce, Jr., Commonwealth’s Attorney for Rockbridge County and the City of Lexington was present to speak to the request. The Board had been provided a letter from Mr. Joyce detailing the budget shortfall for his office. Ms. Collins suggested that the State Compensation Board be contacted in writing by Mr. Joyce’s office and a request be made to be put on the docket to address the budget shortfall situation since the Compensation Board is charged with the protection of the salaries for constitutional officers. Ms. Collins added the County could offer a letter of support that could accompany Mr. Joyce’s request to the Compensation Board. She also suggested a representative from the County travel with Mr. Joyce when the issue is considered as an additional show of support. Supervisor Smith moved to direct staff to submit the letter of support to accompany Mr. Joyce’s funding request of reconsideration to the Compensation Board. Supervisor Lewis provided the second and the motion carried by the following unanimous vote:

AYES: Comstock, Smith, Ford, Lewis, Riegel

NAYES: None

ABSENT: None

Presentation on State Energy Grant Application

Mr. Jeff Crate, Draper Aden Associates representative, gave an update to the Board on the status of the County's grant application. He briefly spoke to the strengths and challenges of such application as well as fielded questions from the Board. Supervisor Ford moved to authorize Ms. Collins to sign the grant application document once it is completed and to submit it by the November 15th deadline. Supervisor Lewis provided the second and the motion carried by the following unanimous vote:

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

Boxerwood Education Association Tax Exempt Status Application

Ms. Huffman explained the application and noted Mr. Tony Russell, Executive Director of the BEA, was present to answer any Board questions. Ms. Huffman stated consideration of a tax exemption request requires adoption of an Ordinance following a public hearing. Supervisor Comstock moved to schedule a public hearing for November 23rd on this application and Supervisor Ford provided the second. The motion carried by the following unanimous roll call vote:

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

Resolution Requesting Reinstatement of Funding for Virginia Cooperative Coyote Damage Control Program

Ms. Collins noted the Board previously directed staff to provide a draft resolution relative to the coyote control program. Supervisor Smith opined the cost of losing livestock to coyotes should be considered just one of the costs of farming rather being paid for by all taxpayers. Supervisor Comstock stated the County would not be committing itself financially by adopting the resolution. No motion was offered.

2010 Census Partner Proclamation

Supervisor Comstock moved to adopt the Proclamation and Supervisor Lewis provided the second. The motion carried by the following unanimous vote:

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



WHEREAS an accurate census count is vital to our community and residents' well-being by helping planners determine where to locate schools, day care centers, roads and public transportation, hospitals and other facilities, and achieving an accurate and complete count of the nation's growing and changing population;

WHEREAS more than \$400 billion per year in federal and state funding is allocated to states and communities based, in part, on census data;

WHEREAS census data help determine how many seats each state will have in the U.S. House of Representatives and often is used for the redistricting of state legislatures, county and city councils and voting districts;

WHEREAS the 2010 Census creates jobs that stimulate economic growth and increase employment;

WHEREAS the information collected by the census is confidential and protected by law;

Now, therefore, we PROCLAIM that County of Rockbridge, Virginia is committed to partnering with the U.S. Census Bureau to help ensure a full and accurate count in 2010.

As a 2010 Census partner, we will:

1. Support the goals and ideals for the 2010 Census and disseminate 2010 Census information to encourage those in our community to participate.
2. Encourage people in our community to place an emphasis on the 2010 Census and participate in events and initiatives that will raise overall awareness and ensure a full and accurate census.
3. Support census takers as they help our community complete an accurate count.
4. Create or seek opportunities to collaborate with other like-minded groups in our community by participating in Complete Count Committees and/or utilizing high-profile, trusted voices to advocate on behalf of the 2010 Census.

Signed this 9th day of November, in the year 2009.

Signature: _____

Title: County Administrator

Organization Name: County of Rockbridge

Discussion of Request for Dialogue with State for Future Use of NBJCC Property, Facilities and Equipment

Supervisor Ford recognized Mr. Joseph H. Hawes, Thunder Ridge High Principal as being present and suggested the Board call upon him for his insight and to respond to questions relative to the closing of the NBJCC. Supervisor Smith started the discussion by reiterating the most favorable option would be to reopen the facility but if this was not possible, the County should have an alternative use plan in place. Chairman Riegel called for public guidance / input. Mr. Hawes told the Board he is a passionate defender of the facility and is embittered by the closure, He emphasized the action was very sudden and no one anticipated the closure. Mr. Hawes requested the Board consider adopting a resolution in support of the re-opening of the facilities. Mr. Hawes called attention to the following factors: 1) the economic impact the closure will have on the southern end of the County; 2) the potential loss of County citizenry because many of those affected by the closure are mid career and will have to seek other employment outside the area; 3) the loss of the uniqueness of such a facility as well as its successfulness; and 4) the loss of the historical significance of the facility. There was also discussed the minimal amount of equipment left behind after the closure. The Board directed staff to send a letter (attaching the Resolution adopted by the Board on September 14th regarding the closure) requesting that the facility remain intact and also requesting a dialogue be initiated between the State and the County concerning use of the property, facility and equipment. The letter would be sent to Governor Kaine and Governor-Elect McDonnell as well as to the County's legislative delegation, the Director of Justice and the Secretary of Public Safety.

Schedule Public Hearing on Assessment of Courthouse Construction and Maintenance Fee

Ms. Huffman gave a brief summary to the Board. Supervisor Smith moved to schedule a public hearing on this matter on November 23rd and Supervisor Comstock provided the second. The motion carried by the following unanimous vote:

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

Schedule Public Hearing on Creation of Regional Fire and Rescue Commission

Ms. Huffman distributed an amended concurrent resolution. Supervisor Ford moved to schedule a public hearing on this matter on November 23rd and Supervisor Smith provided the second. The motion carried by the following unanimous vote:

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

Financial Report

Mr. Claytor began the report by giving the Board the ongoing monthly activities for the offices of the Commissioner of the Revenue and the Treasurer. He continued by providing a financial update, VPSA loan information, and the status of the County audits. Supervisor Comstock moved to approve the School Appropriations Resolution and Supervisor Smith provided the second. The motion carried 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, NOVEMBER 9, 2009 AT 6:00 P. M.

On motion by Supervisor Comstock, seconded by Supervisor Smith, the Board, by record vote adopted the following appropriation resolutions:

APPROPRIATION RESOLUTION

BE IT RESOLVED: By the Board of Supervisors of Rockbridge County, Virginia, that the following appropriations is, and the same hereby is made, for the period ending **June 30, 2010** in the **SCHOOL FUND** and expended as follows:

Title I Part A 2009

4-050-61000-2100-910-100-764	FICA.....	\$1,883.00
4-050-61000-2210-910-100-764	VRS.....	\$3,399.24
4-050-61000-2300-910-100-764	Medical.....	\$3,142.33
4-050-61000-2400-910-100-764	GLI.....	\$194.45
4-050-61000-2500-910-100-764	RHIC.....	\$255.99
4-050-61100-1121-910-100-764	Salary Teachers.....	\$24,614.34
	Total	\$33,489.35

Title II A 2009

4-050-61000-3160-910-100-766	Purchased Services.....	\$709.46
	Total	\$709.46

Title VI B Section 611 2009

4-050-61100-1121-910-200-762	Salary Teachers.....	\$25,760.00
	Total	\$25,760.00

Title VI B Section 619 2009

4-050-611006013-910-200-763	Material and Supplies.....	(\$198.00)
	Total	(\$198.00)

TOTAL APPROPRIATIONS **\$59,760.81**

RECORDED VOTE:

AYES: Comstock, Smith, Ford, Lewis, Riegel

NAYS: None

ABSENT DURING VOTE: None

ABSENT DURING MEETING: None

R. Hunt Riegel

Attest: _____
County Administrator

Mr. Claytor briefly explained the policy / procedure used by the County when parts are purchased for repairs/maintenance of equipment and vehicles at the garage. Supervisor Ford moved to approve the County Appropriations Resolution and to authorize payment of monthly bills. Supervisor Smith provided the second and the motion carried by a unanimous roll call vote,

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On motion by Supervisor Ford, seconded by Supervisor Smith, 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 is, 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:

4-11-31020-1008 Overtime (DMV Grant).....	\$5,589.00
4-11-31020-7005 Police Equipment (DMV Grant).....	\$3,345.00
4-11-32080-3501 Reimb.-Fire Depts. & Rescue.....	\$1,586.00
4-11-32050-5601 Contribution Rescue Squads.....	\$6,207.00
4-11-34015-3002 Contracted Services (E&S).....	\$2,485.00
4-11-43020-7002 Capital Outlay	\$11,408.00
4-11-43045-3404 Repairs Bldg & Grounds NB.....	\$1,535.00
4-11-43045-5101 Electricity.....	\$1,528.00
4-11-53010-3901 Fees (Public Defender).....	\$480.00
4-11-92010-5803 Auto Tag Refunds	\$25.00
Total Appropriations General Fund	\$34,188.00

APPROPRIATION RESOLUTION

BE IT RESOLVED: By the Board of Supervisors of Rockbridge County, Virginia, that the following appropriation/s is, and the same hereby is made, for the period ending **June 30, 2010**, from the UNAPPROPRIATED SURPLUS of the **SOLID WASTE FUND (Fund 19)** and expended as follows:

4-19-19040-3002 Professional Services\$9,939.00

Current County

General Fund.....	\$478,546.50
SWA/Landfill.....	\$39,924.59
SWA/Recycling.....	\$9,743.48
Central Stores.....	\$2,262.68
Total County Bills	\$530,477.25

Current Fiscal Agent

Regional Jail.....	\$46,343.07
Partnership.....	\$3541.66
CSA Administration.....	\$663.98

Total Fiscal Agent **\$50,548.71**

TOTAL ALL BILLS **\$581,025.96**

RECORDED VOTE:

AYES: Ford, Smith, Comstock, Lewis, Riegel

NAYS: None

ABSENT DURING VOTE: None

ABSENT DURING MEETING: None

R. Hunt Riegel
Chairperson

Attest: _____
County Administrator

Mr. Claytor called attention to the final draft of the Board's funding priorities for FY10-11 Budget. The draft includes feedback Mr. Claytor had received from Board members. The Board will address these priorities again at its next meeting.

Authorization to Serve as Rockbridge Area Network Authority Fiscal Agent

Chairman Riegel informed the Board that the Network Authority has asked the County to be its fiscal agent until grant money is awarded. Mr. Claytor stated he sees no problem until the money is awarded.

Committee / Board Activity Report

Agricultural Center Committee

Ms. Collins reported the Committee will be meeting with representatives from Virginia Teach to discuss an action plan and proposal for feasibility/business plan development.

Central Shenandoah Planning District Commission

Supervisor Lewis gave a brief listing of all the projects / programs the CSPDC is working on that involve the County.

Emergency Water Supply / Moore's Creek Committee

Chairman Riegel reported this committee met last week and is in the process of checking costs to test the wells being considered. The Committee will be extending a request that representatives from Buena Vista attend the next meeting. Mr. Riegel noted the Committee is still in an information gathering stage.

Natural Bridge Gym Steering Committee

Several members of the Steering Committee were present to provide an update on the ongoing activities at the facility. The Committee asked the Board for ongoing use of the football field. After some discussion concerning how long to extend the use of the field, the Board decided to address this matter at its next meeting.

RARO

Chairman Riegel noted he had attended the last two meetings. In reading RARO's Master Plan, Chairman Riegel recommended the Board of Supervisors ask the RARO Board to inventory recreational activities and prioritize those needing embellishment which would help the Board of Supervisors better understand RARO's requests for support.

Regional Jail Committee

Supervisor Comstock summarized the discussion he had with Mosley & Associates relative to full jail expansion as well as a scaled down version of expansion.

Regional Sustainability Center

Ms. Collins noted the Management team had met and selected the top firm to prepare the feasibility study. This firm will be contacted later in the week to schedule meeting for contractual arrangement based on scope of work and planning grant requirements.

Rockbridge Area Network Authority

The Authority will not meet again until January and announcements of grant awards have been delayed at least until December 7th.

Upper James Resource Conservation and Development Council

The Board spent some time clarifying the duties and make-up of this Council.

Virginia Association of Counties Conference / Meetings

Members attending the recent conference briefly highlighted their experiences /discussions.

Consent Agenda

Approval of Minutes (9/28, 10/13 and 10/26 [Retreat])

Supervisor Comstock moved to approve the consent agenda and Supervisor Lewis provided the second. The motion carried by the following unanimous vote:

AYES: Comstock, Smith, Ford, Lewis, Riegel

NAYES: None

ABSENT: None

Adjourn / Continue

Hearing no further discussion, the meeting was adjourned at 9:20 p.m.