

AT A WORK SESSION OF THE ROCKBRIDGE COUNTY BOARD OF SUPERVISORS
HELD IN THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICE BUILDING
AT 150 SOUTH MAIN STREET, LEXINGTON, VIRGINIA
ON MONDAY, SEPTEMBER 24, 2018 AT 4:30 P.M.

BOARD MEMBERS PRESENT: DAVID W. HINTY, JR. (CHAIRMAN)
 JOHN M. HIGGINS (VICE-CHAIRMAN)
 RONNIE R. CAMPBELL
 DANIEL E. LYONS
 A.J. "JAY" LEWIS, II.

COUNTY ADMINISTRATOR
AND CLERK TO THE BOARD: SPENCER H. SUTER

COUNTY ATTORNEY: VICKIE L. HUFFMAN

CALLED TO ORDER:

Chairman Hinty opened the Work Session at 4:33 p.m.

Jordan's Point Dam Update:

County Administrator Spencer Suter provided a brief update including the following information:

- Jordan's Point Dam is owned by the City of Lexington and is under a conditional permit. They have until next June to either fix it or repair it to DCR's satisfaction.
- Late last year, the City signed a contract with DGIF to remove the dam. The original deadline for the City to opt out was July 30. Per the contract, they would have to pay DGIF back for any expenditures to date. They have been operating from an engineering study completed in 2007, which put a price tag of \$2-\$3 M on repairs.
- In June, the City received an offer letter from American Dams to take ownership and liability for the dam. The City was not keen on a

direct transfer to a 3rd party nonprofit. As a result, the Board stated that it would accept and then transfer ownership; but only if American Dams could first prove that it could perform, and that the cost would be largely bourn by American Dams.

- As a result, DGIF extended its deadline first to October 1, and then again to October 4. Additionally, DCR notified the City that it would require a \$3M bond if the City transferred ownership to any other entity.
- In the meantime, American Dams commissioned a structural study which was delivered last week. It was lacking in two areas:
 - o It did not include a layman's summary
 - o It did not include costs estimates for repair
- They did not commission a downstream inundation study in that they felt that:
 - o 1) One was not required due to the special low hazard classification
 - o 2) Their exploration of the upstream pool indicated that there was not a significant risk.
- They have since requested that the City request DCR to do the study and have offered to pay for the cost.
- American Dams' Executive Director Wayne Dyok was in town last week and hosted a meeting at the Dam and also presented at the City Council meeting on Thursday night.
- Additionally, there are two studies still on the table:

- o Historic Resources - USFWS - Comment period closed on Aug. 28.
We have not yet received a response to our comments.
- o Environmental Assessment - Comment Period closes on Thursday.
I've routed comments to each of you and plan to submit after this meeting.
- Funding - DGIF intends to fund the dam removal project using several pots of money to include USFWS and a private organization. It is my understanding that the federal funds can't be expended until the studies are closed out and I am not sure when that will be.
- Schedule - As it stands, if the City does not receive an offer from the County to accept the dam, and votes to move ahead with their contract with DGIF, demolition is slated for this fall, assuming the water levels drop low enough to complete the project.
- One alternative which has been discussed back and forth is the potential to revisit the Water Park Study that the City commissioned in 2008. Different options include downstream pools or partial removal of the dam with upstream pools. The potential exists to increase safety, provide for fish passage, and also provide for recreation and economic development. However, alternative funding sources would need to be found as DGIF has maintained that the federal and private funds available cannot be used for anything that does not involve full breach/removal of the dam (with exception of the abutments.)
- The 2008 costs were estimated to be in the \$450K range.
- Incidentally, the designer, Gary Lacey, will be in Charlottesville in mid-October and is willing to revisit the study.

- At this point, no official offer has been made from American Dams to the City or County. Given what I know, I cannot recommend that the Board assume ownership. It would simply be a transfer of liability to the County with no solid agreement to move forward.
- I am very grateful to American Dams - They have tried hard and spent a tremendous amount of time, energy and money in trying to make this work.
- Unless we can find a way for everyone involved to partner toward a water park style solution, I cannot provide additional recommendation.
- Finally and as a reminder, DCR will not allow the City to transfer ownership without a \$3M bond.

Supervisor Higgins asked what the percentage would be for the bond and would it be refundable.

Mr. Suter replied that the standard is 10%, and it would be non-refundable.

Supervisor Lewis asked if the 10% would be returned to the County once the project is complete.

County Attorney Vickie Huffman advised that the percentage of bond may go down as the cost of the project goes up.

Supervisor Higgins then asked if the dam will still need to be inspected should the water park idea go through.

Mr. Suter explained that it would if the dam remains at its current 9' height. He noted that any dam below 6' would not be regulated.

Supervisor Higgins asked if the entire dam would need to be reduced by 3' to be unregulated or if just a section, such as 15' across the center could be reduced to 6'.

Mr. Suter replied that it was his understanding that reducing any portion of the dam below 6' would remove the dam from the list of regulated dams. However, it may not address safety concerns.

Supervisor Higgins stated that he was asked by a citizen living upstream if flood insurance would change.

Mr. Suter replied, he felt that it probably would along with changes to the flood maps. He added that, until the flood maps are updated or there is a special letter or survey for a property owner, it will stay the same.

Chairman Hinty asked what is the philosophy pertaining to fish passage at the intake.

Mr. Suter replied, there could be fish passage on the South side where the intake is if the millrace was opened. He added that at some times, there is enough water coming over the dam to provide fish passage.

Chairman Hinty added that regardless, fish would not make it to the James River.

Mr. Suter agreed stating that the Bontex Dam in Buena Vista does not allow for upstream fish passage.

Supervisor Lewis thanked Mr. Suter for the time he has invested in relation to the Jordan's Point Dam. He asked, if heading down the path of dam removal, what will happen with the muddy banks etc. upstream.

Mr. Suter replied that DGIF has stated they are not doing any upstream mitigation because the river will take care of itself. He added

that it is one of the questions he added to the environment assessment comment document he would be remitting.

Supervisor Lewis added that there seemed to be just as many questions about the dam removal that have yet to be answered as there are to keeping it.

Chairman Hinty closed the work session at 5:04 p.m.

AT A REGULAR MEETING OF THE ROCKBRIDGE COUNTY BOARD OF SUPERVISORS
HELD IN THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICE BUILDING
AT 150 SOUTH MAIN STREET, LEXINGTON, VIRGINIA
ON MONDAY, SEPTEMBER 24, 2018 AT 5:30 P.M.

BOARD MEMBERS PRESENT: DAVID W. HINTY, JR. (CHAIRMAN)
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COUNTY ADMINISTRATOR
AND CLERK TO THE BOARD: SPENCER H. SUTER

COUNTY ATTORNEY: VICKIE L. HUFFMAN

CALLED TO ORDER:

Chairman Hinty called the meeting to order at 5:30 p.m. He stated that Supervisor Campbell would deliver the invocation for anyone who wished to participate.

Supervisor Campbell delivered the invocation and led in the Pledge of Allegiance.

Recognitions and Presentations:

Chairman Hinty called for recognitions or presentations. There were none.

Citizens Comments:

Sharon Pecoraro of the Walkers Creek Magisterial District shared her continued concern about Verizon wishing to build a cell phone tower behind her house on her neighbor's property. Ms. Pecoraro advised that Verizon

had submitted its application for the tower and that the Planning Commission would be reviewing the application during its October 10th meeting. She advised that she would be providing the Board with a drawing of what the tower is expected to look like, including the road, which she believes will make it look like an industrial complex. Ms. Pecoraro encouraged the Board to fund Atlantic Technologies to conduct a cellular/mobile data study for a legitimate comprehensive plan.

David Bradford of the of the Walkers Creek Magisterial District encouraged the Board to let the City of Lexington handle the issue with the Jordan's Point Dam and for the County to not be involved.

Steve Kvech of the Kerrs Creek Magisterial District encouraged the Board to allow the dam to be removed and not put County taxpayers at risk by purchasing the dam and having to make the very costly, but necessary repairs.

Daniel Cranston of American Dams replied to the comments regarding the Jordan's Point Dam stating that American Dams will cover all expenses to repair or remove the dam.

Items to be added to the Agenda:

Chairman Hinty added a potential committee appointment.

Approval of the September 10, 2018 Minutes:

Supervisor Lyons moved to approve the September 10, 2018 Board of Supervisors meeting Minutes. A second was provided by Supervisor Campbell, and the motion carried by the following roll call vote by the Board:

Ayes: Lyons, Campbell, Lewis, Higgins, Hinty
Nays: None
Absent: None
Abstain: None

School Appropriation Resolution:

Fiscal Service Director Steven Bolster reviewed School's Appropriation Resolution and recommended approval as presented.

Supervisor Higgins asked if the new school grants were the same amounts as last years.

Mr. Bolster replied that he was unsure.

Supervisor Lyons moved to approve the Appropriation Resolution. A second was provided by Supervisor Higgins, and the motion carried by the following roll call vote by the Board:

Ayes: Lyons, Higgins, Campbell, Lewis, Hinty
Nays: None
Absent: None
Abstain: None

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, SEPTEMBER 24, 2018 AT 5:30 P.M.

On motion by Supervisor Lyons, seconded by Supervisor Higgins, 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 are, and the same hereby are made, for the period ending **June 30, 2019** in **FUND 50, SCHOOL FUND** and expended as follows:

Carryover Grants

Perkins CTE 2017

4-50-61100-3160-390-300-885	Purchased Services.....	\$9,414.00
4-50-61100-5830-390-300-885	Other Charges (Misc.).....	\$1,854.00
4-50-61100-6030-390-300-885	Materials & Supplies.....	<u>\$10,065.00</u>

Subtotal **\$21,333.00**

Total Carryover Grant Appropriations **\$21,333.00**

New Grants

Title II Part A 2018

4-50-61310-1120-901-100-889	Teacher Salaries.....	\$64,439.00
4-50-61310-2100-901-100-889	FICA.....	\$7,953.00
4-50-61310-3160-901-100-889	Purchased Services.....	\$11,003.00
4-50-61310-5540-901-100-889	Travel.....	\$1,200.00
4-50-61310-6030-901-100-889	Materials & Supplies.....	<u>\$674.00</u>
Subtotal		\$85,269.00

CTE Equip

4-50-61100-8100-390-300-156	Equipment-STEM H.....	\$1,975.00
4-50-61100-8100-390-300-157	Equipment-High Demand.....	\$6,070.00
4-50-61100-8100-390-300-158	Equipment.....	<u>\$7,830.00</u>
Subtotal		\$15,875.00

CTE Reserve

4-50-61100-3160-390-300-159	Purchased Services Exams...	\$7,234.00
4-50-61100-3160-390-300-160	Purchased Services WRS.....	<u>\$1,220.00</u>
Subtotal		\$8,454.00

21st Century MRMS 2018

4-50-61100-1130-350-100-886	Grant Coordinator.....	\$20,000.00
4-50-61100-1120-350-100-886	Teacher Salaries.....	\$67,992.00
4-50-61100-1151-350-100-886	Aides.....	\$10,680.00
4-50-61100-2100-350-100-886	FICA.....	\$7,548.00
4-50-61100-3160-350-100-886	Purchased Services.....	\$29,000.00
4-50-61100-4000-350-100-886	Internal Services.....	\$17,252.00
4-50-61100-5510-350-100-886	Mileage.....	\$2,861.00
4-50-61100-5540-350-100-886	In Travel.....	\$2,862.00
4-50-61100-6030-350-100-886	Materials & Supplies.....	<u>\$40,098.00</u>
Subtotal		\$198,293.00

21st Century NBES 2018

4-50-61100-1130-270-100-887	Grant Coordinator.....	\$30,000.00
4-50-61100-1120-270-100-887	Teacher Salaries.....	\$80,934.00
4-50-61100-1151-270-100-887	Aides.....	\$9,000.00
4-50-61100-2100-270-100-887	FICA.....	\$20,627.00
4-50-61100-3160-270-100-887	Purchased Services.....	\$14,170.00
4-50-61100-4000-270-100-887	Internal Services.....	\$25,821.00
4-50-61100-5540-270-100-887	In Service.....	\$2,500.00
4-50-61100-6030-270-100-887	Materials & Supplies.....	<u>\$16,948.00</u>
Subtotal		\$200,000.00

Title I Part A 2018

4-50-61100-1120-220-100-888	Teacher Salaries.....	\$87,997.00
4-50-61100-1120-240-100-888	Teacher Salaries.....	\$87,997.00
4-50-61100-1120-260-100-888	Teacher Salaries.....	\$43,999.00
4-50-61100-1120-270-100-888	Teacher Salaries.....	\$87,997.00
4-50-61100-2100-220-100-888	FICA.....	\$7,323.00
4-50-61100-2100-240-100-888	FICA.....	\$7,323.00
4-50-61100-2100-260-100-888	FICA.....	\$3,662.00
4-50-61100-2100-270-100-888	FICA.....	\$7,323.00
4-50-61100-2210-220-100-888	VRS.....	\$15,009.00
4-50-61100-2210-240-100-888	VRS.....	\$15,009.00
4-50-61100-2210-260-100-888	VRS.....	\$7,505.00
4-50-61100-2210-270-100-888	VRS.....	\$15,009.00
4-50-61100-2300-220-100-888	Hospitalization.....	\$6,128.00
4-50-61100-2300-240-100-888	Hospitalization.....	\$6,128.00
4-50-61100-2300-260-100-888	Hospitalization.....	\$3,064.00
4-50-61100-2300-270-100-888	Hospitalization.....	\$6,128.00
4-50-61100-2400-220-100-888	GLI.....	\$1,254.00
4-50-61100-2400-240-100-888	GLI.....	\$1,254.00
4-50-61100-2400-260-100-888	GLI.....	\$627.00
4-50-61100-2400-270-100-888	GLI.....	\$1,254.00
4-50-61100-2750-220-100-888	RHIC.....	\$1,149.00
4-50-61100-2750-240-100-888	RHIC.....	\$1,149.00
4-50-61100-2750-260-100-888	RHIC.....	\$575.00
4-50-61100-2750-270-100-888	RHIC.....	\$1,149.00
4-50-61100-3160-220-100-888	Purchased Services.....	\$250.00
4-50-61100-3160-240-100-888	Purchased Services.....	\$250.00

Title I Part A 2018 (cont'd)

4-50-61100-3160-260-100-888	Purchased Services.....	\$250.00
4-50-61100-3160-270-100-888	Purchased Services.....	\$250.00
4-50-61100-5540-220-100-888	In Service.....	\$300.00
4-50-61100-5540-240-100-888	In Service.....	\$300.00
4-50-61100-5540-260-100-888	In Service.....	\$300.00
4-50-61100-5540-270-100-888	In Service.....	\$300.00
4-50-61100-6030-220-100-888	Materials & Supplies.....	\$6,421.00
4-50-61100-6030-240-100-888	Materials & Supplies.....	\$6,421.00
4-50-61100-6030-260-100-888	Materials & Supplies.....	\$6,421.00
4-50-61100-6030-270-100-888	Materials & Supplies.....	<u>\$6,421.00</u>

Subtotal **\$443,896.00**

Title VI-B 619 2108

4-50-61230-1120-901-200-890	Teacher Salaries.....	\$14,000.00
4-50-61230-6030-901-200-890	Materials & Supplies.....	<u>\$1,038.00</u>

Subtotal **\$15,038.00**

Total New Grant Appropriations **\$966,825.00**

TOTAL FUND 50 APPROPRIATIONS **\$988,158.00**

Consideration of Virginia Horse Center (VHC) Capital Improvement Plan

(CIP):

Mr. Suter briefly reviewed the Agenda Item which included the following information:

"As you are aware, the Virginia Horse Center (VHC) recently received refinanced a portion of its debt, resulting in availability of \$736,000 for needed capital improvement / capital maintenance projects. This approval was as the result of a tremendous amount of work by VHC, County and City staff and cooperation by the USDA, which needed to approve the transaction. The source for loan repayment remains the 1% additional lodging tax which was originally approved by the Board, EDA, Lexington City Council and Lexington IDA in 2014. The Board and EDA approval was detailed in the attached performance agreement, which has subsequently been extended twice, first in 2015 and again in 2016. Copies of the 2014 agreement and 2016 extension are attached. With funding now available, the VHC Board recently adopted a revised CIP, which is attached for your review. You will note that the document does not contain the detail which is required by the original performance agreement. I have called this with VHC CEO John Nicholson, who understands the need to adhere to the agreement. He shared that, in order begin moving the necessary projects forward, the VHC Board has created a "Facilities Committee," which plans to meet over the next 60 days to refine the CIP. The draft CIP is a broad guide to help guide their discussions and planning. Mr. Nicholson has believes that a final, detailed CIP will be produced by the committee not later than the end of November, to remit to the Board of Supervisors and

EDA. In the meantime, the VHC wishes to gain conditional approval of the attached CIP."

Supervisor Campbell asked the County Attorney if he should abstain from discussion or voting as he has in the past since his wife works at Cornerstone Bank where the VHC obtained a loan.

Ms. Huffman replied that she did not see any relation to the refinancing loan through Cornerstone Bank. She recalled a Conflict of Interest Opinion from the Commonwealth's Attorney that stated there were no conflict even though he had abstained anyway.

Director of Community Development Sam Crickenberger explained that the EDA reviewed the VHC's CIP at its 4:00 p.m. meeting and recommended conditional approval of the plan, subject to receipt of a more detailed plan at the end of November. He added that the EDA was in complete agreement with the progress the VHC was making and looking forward to seeing a more detailed plan.

Chairman Hinty asked if the EDA discussed a water invoice in their meeting.

Mr. Crickenberger replied, the current bill is okay to go ahead any pay.

Mr. Suter asked the Board for conditional approval of the CIP until a more detailed plan was received. He noted that, the Board does not want to micromanager what the VHC does, but that we need to adhere to the agreements in place.

John Nicholson of the VHC announced that the VHC Board has increased its membership by five (5) additional directors, one of which has a very strong engineering and business background. Mr. Nicholson advised that a

more detailed CIP should be finalized in November after additional research is conducted to better analyze the current needs at the VHC. He noted that the master plan that was privately funded offers about \$10M in repairs that could/should be done. Mr. Nicholson stated the VHC's willingness to produce any documentation the Board and EDA requests and asked for the Board's continued support.

Supervisor Higgins asked if the private donations seemed to be increasing.

Mr. Nicholson replied, yes. He noted that they are finding it easier to convince donors to help when specific projects are identified. He added that the VHC is now able to fund an economic impact study because of private donations.

Supervisor Campbell shared how noticeable the changes have been at the VHC over the past couple of years. He stated that he was so impressed about their proposal for improvements and how they wanted to make sure the projects were completed in the proper order.

Supervisor Higgins moved to recommend conditional approval of the plan subject to receipt of a more detailed plan at the end of November just as the EDA had. A second was provided by Supervisor Lewis, and the motion carried by the following roll call vote by the Board:

Ayes: Higgins, Lewis, Lyons, Campbell, Hinty
Nays: None
Absent: None
Abstain: None

Overview of the Shenandoah Valley Workforce Development Board, revised Consortium Agreement, and Consideration of an Alternate County

Representative for the Shenandoah Valley Workforce Development Board Chief

Elected Officials' Consortium:

Mr. Crickenberger introduced Joan Hollen, Data Communications Specialist for the Shenandoah Valley Workforce Development Board (SVWDB).

Ms. Hollen advised that the Rockbridge center had closed due to a 28% budget cut, resulting in reduced staffing at all centers. However, they are still able to serve the County one day per week at the Byers Technical Institute which provides free office space. Ms. Hollen then provided and briefly reviewed a handout. It included the following information:

- The Workforce Innovation and Opportunity Act requires a Chief Elected Officials Consortium to establish and operated Local Workforce Development Areas.
- The Consortium acts as a connection to local economic development to help align the public workforce system with the regional economy.
- Accomplishments include but are not limited to: formalization of the creation of the Chief Elected Officials Consortium and Shenandoah Valley Workforce Development Board, Board of Directors, and Executive Committee.
- The governing body of each member jurisdiction may designate an alternate for the Chief Elected Official as the jurisdiction's representative to the Consortium.

Mr. Crickenberger advised that the Chairman of the Board of Supervisors serves on the Chief Elected Officials Consortium. He stated that Supervisor Higgins was still listed as the member as a past Chairman of the Board of Supervisors and it would need to be switched to Supervisor

Hinty who is the current Chairman. Mr. Crickenberger advised that he has been appointed in the past to serve as the Alternate Member.

Supervisor Higgins moved to appoint Chairman Hinty as the Chief Elected Officials Consortium and Mr. Crickenberger as the Alternate. A second was provided by Supervisor Campbell, and the motion carried by the following roll call vote by the Board:

Ayes: Higgins, Campbell, Lyons, Lewis, Hinty
Nays: None
Absent: None
Abstain: None

Public Hearings At or Around 6:00 p.m.:

Consideration of Short Term Rental Registry Ordinance:

County Attorney Vickie Huffman briefly reviewed the Agenda Item which included the following information:

"The 2017 Virginia General Assembly enacted Va. Code §15.2-983, allowing localities to require providers of transient rental services (through platforms such as Airbnb and VRBO) to register with the locality. The requirement to register is independent of the requirement to comply with other laws, such as zoning, building code, health department regulations, and payment of taxes. A proposed Ordinance to implement the short term rental registry is attached for the Board's consideration. The registration requirement is solely to require providers of transient rental services to identify themselves. Once registered, the Commissioner of the Revenue, the Zoning Administrator, and the Building Official can address tax, zoning, and building code issues, if any. County officials cannot address matters with unknown short term rental operators. A simple registration form (draft attached) will be made available in the

Commissioner of the Revenue's office, and the departments of Community Development and Building, as well as on the County Website. Although a fee to defray costs of administration is permissible, no charge is recommended at this time, to further encourage compliance. The proposed Ordinance provides for the maximum penalty of \$500.00 for each failure to register violation, with each day of continuing offer or rental without registration constituting a separate offense. In addition, an operator may be prohibited from continuing to engage in short-term rentals upon two (2) or more violations for failure to register, or for three (3) or more violations of other Code provisions. One change, from the proposed Ordinance presented at the September 10th meeting, is to provide for initial and subsequent registrations prior to January 31st, rather than initial registration prior to October 31st. After meeting with the Commissioner of the Revenue, it is believed that this will avoid confusion, as well as allow adequate time to set up for electronic registrations, establish a system for processing and maintaining them, and provide notice of the requirement to the public. If acceptable to the Board following public hearing, adopt the proposed Ordinance effective October 1, 2018, with initial and subsequent deadlines for registration on January 31st of each year."

Chairman Hinty opened the Public Hearing at 6:08 p.m.

Cathy Archer of the South River Magisterial District opposed the separate registry being established for short term rentals. She indicated that there was already a registry in Chapter 19 of the County Code which addresses license fees for hotels, motels, etc. and that Air B&B's should already be following the current regulations listed in Chapter 19. Ms.

Archer stated that this separate- free registry- will not produce any revenue for the County and failure to comply results in a penalty that someone will need to keep track of.

Dave Innocent of the Brierley Hill B&B shared his wish that all rentals be treated fairly, paying the same fees. He shared a story of a family who had previously rented rooms from him and decided to rent from an individual that did not have a legitimate business, only to have their reservations canceled at last minute without warning. He added that his business supports all other businesses in the area by purchasing from them and recommending them to his renters, and that he hopes all B&B's are treated fairly.

Amanda Baxter of Lazy Acres Cabin Rentals stated that her business is similar to the B&B's in that she too collects sales tax and recommends local businesses.

Michael Miller of the Fox Hill B&B responded to Ms. Baxter's comment stating that he felt she is an exception to the rule, noting that there are B&B and VRBO properties that are "not on the up an up,". He noted that these come and they go, and that Ms. Baxter has a legitimate business which she advertises; however, only about 10% of B&B's and VRBO's are legitimately on the playing field.

Chairman Hinty closed the Public Hearing at 6:16 p.m.

Supervisor Higgins asked if the State Code requires this change.

Ms. Huffman replied, no.

Supervisor Campbell stated that this would not be a change for current business who already have a business license, because they are

already doing what they are supposed to do. He added that this would only try to get those who are not getting a business license into compliance.

Ms. Huffman clarified that any operator of a short term rental is required to register unless they fall under one of the five (5) exemptions.

Chairman Hinty allowed additional citizens' comments.

Mr. Innocent shared his concern about individuals renting out a room under the radar and not having to pay sales tax. He asked that all renters be treated the same.

Brant Wymond of James River Realty indicated that Air B&B's make for a more personal stay.

Mr. Miller asked how this will be enforced.

Ms. Huffman replied that the Commissioner of the Revenue will enforce the Ordinance.

Supervisor Lyons shared his support to enforce fairness.

Ms. Baxter supported approval of the ordinance.

Supervisor Lewis moved to adopt the Ordinance. A second was provided by Supervisor Lyons, and the motion carried by the following roll call vote by the Board:

Ayes: Lewis, Lyons, Campbell, Higgins, Hinty
Nays: None
Absent: None
Abstain: None

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY,
VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES ON MONDAY,
SEPTEMBER 24, 2018

**ORDINANCE TO AMEND THE ROCKBRIDGE COUNTY CODE, CHAPTER 25 -
TAXATION, TO ADD A NEW ARTICLE XIII – SHORT-TERM RENTAL REGISTRY**

BE IT ENACTED by the Rockbridge County Board of Supervisors that Chapter 25 of the Rockbridge County Code is hereby amended as follows:

ROCKBRIDGE COUNTY CODE

Chapter 25

TAXATION

- Art. I. In General, §§25-1--25-20**
- Art. II. Personal Property Tax, §§25-21--25-35**
- Art. III. Real Property Tax, §§25-36--25-95**
 - Div. 1. Generally, §§25-36--25-50
 - Div. 2. Special Assessment for Agricultural, Horticultural, Forest or Open Space Real Estate, §§25-51--25-65
 - Div. 3. Assessment of New Buildings, §§25-66--25-75
 - Div. 4. Exemptions from Real Estate Taxes, §§25-76--25-95
- Art. IV. Motor Vehicle License Tax, §§25-96--25-120**
- Art. V. Sales Tax, §§25-121--25-130**
- Art. VI. Use Tax, §§25-131--25-140**
- Art. VII. Utility Tax, §§25-141--25-160**
- Art. VIII. Additional Tax on Telephone Services, §§25-161--25-175**
- Art. IX. Transient Occupancy Tax, §§25-176--25-190**
- Art. X. Tax on Certain Foods and Beverages, §§25-191--25-215**
- Art. XI. Bank Franchise Tax, §§25-216--25-225**
- Art. XII. Recordation Tax, §§25-226--25-228**
- Art. XIII. Short-Term Rental Registry, §25-231**

Secs. 25-229--25-230. Reserved.

ARTICLE XIII. SHORT-TERM RENTAL REGISTRY

Sec. 25-231. Creation of registry for short-term rental of property.

A. For purposes of this Article only:

- (1) *“Operator”* means the proprietor of any dwelling, lodging, or sleeping accommodations offered or rented as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.
- (2) *“Short-term rental”* means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than thirty (30) consecutive days in exchange for a charge for the occupancy.

B. There is hereby created a short-term rental registry. An operator of a short-term rental is required to register with the Commissioner of the Revenue annually, on or before January 31st of each year. The registration shall be ministerial in nature and shall require operators to provide the complete name, mailing address, and telephone number of the operator and the address of each property in the County offered for short-term rental by the Operator.

C. No fee will be charged for registration.

D. The following persons are exempt from the registration requirements of this Article under Code of Virginia §15.2-983(B)(2): (i) a real estate professional licensed by the Commonwealth of Virginia Real Estate Board, (ii) a property owner who is represented by a real estate professional licensed by the Commonwealth of Virginia Real Estate Board; (iii) a person registered pursuant to the Virginia Real Estate Time-Share Act (§§ 55-360 et seq.) of the Code of Virginia, 1950, as amended; (iv) a person licensed or registered with the Commonwealth of Virginia Department of Health, related to the provision of room or space for lodging; or (v) a person licensed or registered with the County of Rockbridge, related to the rental or management of real estate, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

E. Penalty:

- (1) The penalty for offering or renting a property for short-term rental that is not registered in accordance with this Article shall be five hundred dollars (\$500.00) per violation. Each day a property is offered for short-term rental that is not registered in accordance with this Article is a separate violation. Written notice of such violation(s) and the penalty imposed shall be sent to the specific property, with a copy sent to an alternate address, if a different address is listed in the real estate records of the Commissioner of the Revenue. The notice shall be effective upon the date received or three (3) business days after mailing by the Commissioner of the Revenue, whichever is sooner. The Commissioner of the Revenue may, at his discretion, waive such penalty if the failure to register was due to no fault of the operator.
- (2) Unless and until an operator pays any penalty authorized by this Article and registers such property, the operator shall be prohibited from offering or renting, or continuing to offer or rent, such property for short-term rental.
- (3) Upon written notice of two (2) or more violations of this Article as it relates to a specific property, an operator may be prohibited from registering and offering or renting that property for short-term rental for two (2) calendar years from the date of the last notification of violation. Notice of such prohibition shall be sent and be effective in the same manner as the notice of violation and penalty described in Subsection (E)(1) above. Such prohibition may be rescinded for good cause by the Commissioner of the Revenue.
- (4) Upon written notice of more than three (3) violations of applicable state or local laws, ordinances, or regulations that relate to a specific property offered or used as a short-term rental, an operator may be prohibited from offering or renting such specific property for short-term rental within the County for two (2) calendar years from the date of last notification of violation. Notice of such prohibition shall be sent and be effective in the same manner as the notice of violation and penalty described in Subsection (E)(1) above. Such prohibition may be rescinded for good cause by the Commissioner of the Revenue.

F. It shall be the responsibility of the Commissioner of the Revenue, or his designee, to administer, interpret and enforce the provisions of this Article, who may be assisted by other officials of Rockbridge County, Virginia, pursuant to their respective positions.

G. The Commissioner of the Revenue shall monthly report to the Department of Community Development and the Building Department the registry information and a list of those operators of a short-term rental that decline to provide the information described in Subsection (B) above. The Office of Community Development may provide such information to the Planning Commission to assist in the development of appropriate land use controls for short-term rentals.

H. Nothing in this Article shall be construed to prohibit, limit, or otherwise supersede existing authority of Rockbridge County to regulate the short-term rental of property through general land use and Rockbridge County's Land Development Regulations (subdivision and zoning ordinances). Nothing in this Article shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants; the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§§ 55-79.39 et seq.) of the Code of Virginia, 1950, as amended; the declaration of a common interest community as defined in § 55-528 of the Code of Virginia, 1950, as amended; the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§§ 55-424 et seq.) of the Code of Virginia, 1950, as amended; or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§§ 55-508 et seq.).

State law reference(s)--Code of Virginia, §15.2-983

Secs. 25-232--25-240. Reserved.

This ordinance shall become effective on the 1st day of October, 2018, and initial registration shall be completed on or before January 31, 2019.

Adopted this 24th day of September, 2018.

Consideration of Athletic Field Design at the Virginia Horse Center (VHC):

Mr. Suter briefly reviewed the Agenda Item which included the following information:

"Late last year, after a great deal of discussion and planning, the Board and the Virginia Horse Center agreed upon a long-term lease for approximately six acres of land off Alphin Lane, to eventually be developed as youth athletic fields. A copy of the lease agreement is attached. As you know, local resident and business owner Connie Loughhead is leading an effort to raise private funds to develop the property in a

public/private partnership. In order to raise funds, we first have to determine the actual costs associated with development, which will require a detailed site plan. The estimated costs would provide Ms. Loughhead with a budgetary target for fund-raising efforts. Such a plan would also eventually be used to bid the work as well. Ms. Loughhead has requested that the Board consider using dedicated funding to pay for the engineering, which is estimated to cost in the range of \$20,000. You may recall that the County received two \$10,000 grants in the past two years - one each from Comcast and BARC - for consideration of cable television franchise agreements. In both cases, the Board dedicated the funds to development of youth athletic fields. Thus, the request is to use those funds to pay for the engineering and site plan. As you may recall, Perkins and Orrison has completed multiple preliminary site plans for the proposed fields over the past several years at no cost, in support of moving the project forward. These included several site, road and parking area designs for fields off of Rt. 39 prior to shifting focus to the Alphin Lane site. The latest plan is attached. Since they've already completed the initial work, it bears consideration for them to continue on with the final, stamped drawings, plans and cost estimates. This could be covered as a task order under the recently approved open-ended Architectural, Engineering and Surveying Services procurement effort."

He then provided the Board with the following recommendation:

Discuss as desired and determine if the Board would like to spend the set-aside funds in the manner described above. If in agreement...

a) Discuss and determine if the Board agrees to negotiate with Perkins and Orrison to complete the work, based on their prior work on this

project and the award to provide open-ended Architectural, Engineering and Surveying Services.

b) If in agreement, authorize staff to negotiate a task order and complete the work.

Ms. Loughhead explained that she has received verbal commitments to help fund this project.

Supervisor Campbell moved to authorize staff to negotiate with P&O and to use the \$20,000 set aside and move forward. Supervisor Higgins provided the second.

Supervisor Lyons shared his concern about not knowing whether or not P&O had performed work on athletic fields before.

Mr. Suter noted that he believed that P&O had recently designed the Brubaker Field annex in Lexington.

Supervisor Lyons clarified that based on specialized drainage and turf requirements for fields, he just wanted to make sure P&O was experienced.

Supervisor Campbell moved to amend his prior motion to negotiate with P&O once it is confirmed that they can perform the work. Supervisor Higgins provided the second, and the motion carried by unanimous roll call vote by the Board.

Ayes: Campbell, Higgins, Lyons, Lewis, Hinty
Nays: None
Absent: None
Abstain: None

Consideration of Cellular/Mobile Data Study with Atlantic Technologies:

Mr. Suter briefly reviewed the Agenda Item which included the following information:

"At its work session on August 23rd, the Board received a presentation from George Condyles with Atlantic Technologies, with whom the County has a contract for consulting services. The presentation focused on the processes involved with determining where cellular coverage is lacking, and how the County could go about correcting deficiencies. Attached to the board report was a proposal for consideration (attached again hereto). The proposal outlines the scope of a study to include deliverables and cost. Please note that the estimated base cost is \$9,650 with a significant cost increase if the required GIS component is completed by the consultant. As we have GIS capacity within the Department of Community Development, we believe we can work with Atlantic Technologies to complete that work in-house. However we want to confirm this before any commitment is made. Mr. Condyles is currently out of the Country and unavailable for discussion. However, we hope to have confirmation on this item prior to the Board meeting on Monday. As the information was covered in a work session, no action was taken. Thus, the Chair requested that this be added to the regular September 24 agenda. There are no funds budgeted for the study."

He noted that he could answer any questions the Board may have and requested that, if the Board was in agreement, and subject to confirmation that we have in-house capability to complete the GIS functions in accordance with the proposal, authorize staff to accept the base proposal

under our existing contract with Atlantic Technologies and to appropriate \$9,650 from the general fund for the services.

Supervisor Lewis moved to proceed with the study. Supervisor Campbell provided the second.

Supervisor Lyons asked where the money will come from.

Chairman Hinty asked if the Finance Committee could meet and review.

Supervisor Lyons asked that the motion be amended to approve the proposal pending the Finance Committee finding the funds to cover the cost.

Supervisor Lewis moved to amend his prior motion to approval of the proposal following the Finance Committee finding the funds. Supervisor Campbell provided the second, and the motion carried by unanimous roll call vote by the Board.

Ayes: Lewis, Campbell, Lyons, Higgins, Hinty
Nays: None
Absent: None
Abstain: None

Continued Discussion on Jordan's Point Dam:

There was no need for a continued discussion regarding the Jordan's Point Dam following the 4:30 p.m. work session.

Consideration of Blue Ridge Pool Renovation Bids:

Mr. Bolster briefly reviewed the Agenda Item which included the following information:

"The County issued an Invitation for Bids (IFB) on August 31, 2018 to procure the services of a qualified contractor to renovate the Blue Ridge Recreation Area pools (swimming and wading) located at 20 Greystone Lane,

Fairfield, VA 24435. The local advertisement ran on September 5th. The IFB was posted on the County and eVA (Virginia's e-Procurement Marketplace) websites from August 31st through September 18th. Two firms submitted bids by 2:00 PM EST on Tuesday, September 18th in accordance with IFB # 2018-08-003. Bid submission amount include:

- National Pools of Roanoke, Inc = \$59,745.00
- Swim Club Management Group = \$72,400.00

Staff has confirmed the qualifications, experience, and ability of National Pools of Roanoke, Inc. to execute this project to the satisfaction of the County's planned budget cost and targeted completion schedule. The Swim Club Management Group bid submission did not include the following IFB requirements: 1) bid form (Appendix A); 2) bidder's qualification statement (part of bid form); 3) bid bond; 4) performance bond; 5) payment bond; and 6) evidence of Class A license. Staff determined their bid submission as non-responsive. Receive the staff report and discuss as necessary. Staff is requesting the Board accept the lowest responsive and responsible bidder, National Pools of Roanoke, Inc. In addition, staff is asking the Board adopt the attached resolution declaring the County Administrator is hereby authorized to execute the respective contract documents on behalf of the Board of Supervisors of Rockbridge County, and to take such other and further actions as may be necessary and appropriate to accomplish this transaction, which shall be approved as to form by the County Attorney."

Supervisor Lewis recommended a record of usage at the Blue Ridge Recreational Pool.

Supervisor Lyons moved to accept the recommendation. A second was provided by Supervisor Campbell, and the motion carried by the following roll call vote by the Board:

Ayes: Lyons, Campbell, Lewis, Higgins, Hinty
Nays: None
Absent: None
Abstain: None

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY HELD AT THE
ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES
ON MONDAY, SEPTEMBER 24, 2018

Resolution Authorizing Award of Bid and Approving the Construction Agreement with National Pools of Roanoke, Inc. for Renovation of Blue Ridge Recreational Area Swimming and Wading Pools

WHEREAS, on August 31, 2018, the County of Rockbridge issued an Invitation for Bids to renovate the Blue Ridge Recreational Area Pools, generally consisting of repairs and upgrades to the swimming and wading pools located at 20 Greystone Lane, Fairfield, VA, 24435, for use during the Memorial Day to Labor Day season; and,

WHEREAS, two (2) companies submitted bids in accordance with IFB # 2018-08-003 by the September 18th response date and time; and,

WHEREAS, National Pools of Roanoke, Inc., submitted the low bid of \$59,745.00; and,

WHEREAS, Rockbridge County staff has completed a review of the bid proposal documents and ascertained that the bid is inclusive of the scope of work contained in the invitation for bids; and,

WHEREAS, the County has received and reviewed references for National Pools of Roanoke, Inc., as well as examples of similar, successfully completed projects, and has determined that National Pools of Roanoke, Inc. is a responsive and responsible bidder; and,

WHEREAS, the proposed Agreement, incorporating all of the Contract Documents, has been prepared for execution between the County of Rockbridge and National Pools of Roanoke, Inc., and is presented herewith for approval.

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

1. That the Agreement, incorporating all of the Contract Documents with National Pools of Roanoke, Inc., for renovations of the Blue Ridge Recreation Area Pools, generally consisting of repairs and upgrades to the swimming and wading pools located at 20 Greystone Lane, Fairfield, VA, 24435, for use during the Memorial Day to Labor Day season, at the contract price of \$59,745.00, work to commence no later than October 1, 2018, with substantial completion of all contract work associated with the pool renovations no later than December 1, 2018, and with final completion and ready for final payment no later than December 31, 2018, be and hereby is authorized and approved.

2. That the County Administrator is hereby authorized to execute the Construction Agreement between the County and National Pools of Roanoke, Inc. on behalf of the Board of Supervisors of the County of Rockbridge, the Notice of Award, the Notice to Proceed, and such other documents, and to take such further actions, as are necessary to accomplish this transaction, all of which shall be upon form and subject to the conditions approved by the County Attorney.

3. That this resolution shall be effective upon the date of its adoption.

Adopted this 24th day of September, 2018.

Boards and Commissions Appointments:

Consideration of Building Code Board of Appeals Appointment- Grigg

Mullen's Term Expires October 24, 2018:

Supervisor Higgins moved to nominate Grigg Mullen for reappointment.

A second was provided by Supervisor Lyons, and the motion carried by the following roll call vote by the Board:

Ayes: Higgins, Lyons, Campbell, Lewis, Hinty
Nays: None
Absent: None
Abstain: None

Added Items to the Agenda:

Potential Committee Appointment:

Mr. Suter explained that he had received a written request from David Whitmore of the U.S. Forest Service, asking him if he would be willing to serve on the Recreation Resource Advisory Committee for the southern region of the U.S. Forest Service. He shared his willingness to serve, with the Boards authorization.

By consensus, Mr. Suter was granted authorization by the Board members to submit an application.

Closed Meeting as Permitted by Virginia Code 2.2-3711(A)(1), a Personnel Matter Involving Performance Evaluation, Job Assignments, or Salaries of Specific Officers, Appointees, or Employees:

At 6:56 p.m., Supervisor Lewis moved to enter into a Closed Meeting 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. Supervisor Higgins provided the second, and the motion carried by the following roll call vote:

AYES: Lewis, Higgins, Lyons, Campbell, Hinty
NAYES: None
ABSENT: None
ABSTAIN: None

Supervisor Higgins moved to reconvene in open session following the Closed Meeting. Supervisor Lyons provided the second, and the motion carried by the following roll call vote:

AYES: Higgins, Lyons, Campbell, Lewis, Hinty
NAYES: None
ABSENT: None
ABSTAIN: None

Supervisor Higgins moved that the Board certify that, in the closed meeting just concluded, to the best of each member's knowledge, nothing was heard, discussed or considered except the matter or matters (1) specifically identified in the motion to convene in closed session and (2) lawfully permitted to be so discussed as exempt from open meeting requirements under the provisions of the Virginia Freedom of Information Act cited in that motion. Supervisor Lyons provided the second, and the motion carried by the following roll call vote:

AYES: Higgins, Lyons, Campbell, Lewis, Hinty
NAYES: None
ABSENT: None
ABSTAIN: None

Adjournment:

With no further business to discuss, the meeting was adjourned.