

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, FEBRUARY 11, 2019 AT 5:30 P.M.

BOARD MEMBERS PRESENT: A.J. "JAY" LEWIS, II.
DANIEL E. LYONS
DAVID W. HINTY, JR.
JOHN M. HIGGINS
R. W. DAY

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

COUNTY ATTORNEY: VICKIE L. HUFFMAN

CALLED TO ORDER:

Chairman Lewis called the meeting to order and advised that Supervisor Higgins would deliver the invocation for anyone who wished to participate.

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

Recognitions and Presentations:

Resolution of Appreciation to Thomas Anderson for his years of service on the Board of Zoning Appeals:

Chairman Lewis read aloud the following resolution:

RESOLUTION OF APPRECIATION TO THOMAS ANDERSON FOR HIS YEARS OF SERVICE ON THE BOARD OF ZONING APPEALS (BZA)

WHEREAS, Mr. Tom Anderson has diligently served on the Rockbridge County Board of Zoning Appeals for 23 years, from August, 1995 until December, 2018; and,

WHEREAS, during his tenure, Mr. Anderson deliberated over 70 applications that came before the Board; and,

WHEREAS, Mr. Anderson was always thoughtful and careful to consider all points of view in any given issue, while understanding the legal limits to which the Board is bound; and,

WHEREAS, Mr. Anderson served as Chairman to the Board for an extended period of time, ensuring that business before the Board was conducted in an organized, positive and thoughtful manner; and,

WHEREAS, Mr. Anderson has devoted many years of service to the Rockbridge Baths Community, where he has lived his entire life.

NOW, THEREFORE, BE IT RESOLVED, that the Rockbridge County Board of Supervisors wish to express their sincere appreciation to Mr. Anderson for his years of service to the Citizens of Rockbridge County.

Adopted this 11th day of February, 2019.

Supervisor Higgins moved to adopt the resolution as presented.

Supervisor Hinty provided the second, and the motion carried by unanimous roll call vote by the Board.

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

A framed resolution was presented to Thomas Anderson who was present.

Resolution Honoring the Central Shenandoah Planning District

Commission on its 50th Anniversary:

County Administrator Spencer Suter read aloud the following resolution:

**RESOLUTION COMMENDING THE CENTRAL SHENANDOAH PLANNING DISTRICT
COMMISSION ON ITS 50TH ANNIVERSARY**

WHEREAS, in 1966, the General Assembly created the Metropolitan Areas Study Commission (the Hahn Commission), which found that a holistic approach to solving local and regional problems needed to be taken, and recommended a new concept, the creation of Planning District Commissions (PDCs); and,

WHEREAS, the Virginia Area Development Act, passed in 1968, created the PDC framework “to encourage and facilitate local government cooperation and state-local cooperation in addressing on a regional basis problems of greater than local significance;” and,

WHEREAS, following passage of this Act, the State undertook an aggressive effort to establish PDC boundaries, and by 1969, the final district boundaries were announced; and,

WHEREAS, on October 1, 1969, the Central Shenandoah Planning District Commission (CSPDC) was established and includes the counties of Augusta, Bath, Highland, Rockbridge, and Rockingham, the cities of Buena Vista, Harrisonburg, Lexington, Staunton, and Waynesboro, and 11 incorporated towns; and,

WHEREAS, in 2019, the CSPDC is celebrating 50 years of promoting and supporting regional collaboration; and,

WHEREAS, the CSPDC serves to foster intergovernmental cooperation by bringing together elected and appointed officials and citizens to discuss common needs and develop solutions to regional issues; and,

WHEREAS, over the years, the CSPDC has conducted studies and identified solutions in the areas of transportation, economic development, infrastructure, housing, the environment, disaster education and mitigation, and community development, among many others; and,

WHEREAS, the CSPDC also implements services and provides technical assistance to its member local governments; and,

WHEREAS, the CSPDC often serves as a liaison between local and state governments, partnering with the State to carry out state initiatives at the local and regional level; and,

WHEREAS, most recently, the CSPDC has been instrumental in bringing in over \$66 million in new investments to the region. For every dollar the CSPDC receives in local dues, it has leveraged \$36 in average in state and federal funds; and,

WHEREAS, the CSPDC is committed to promoting opportunities for regional collaboration and expanding the types of services they provide to their member governments; and,

WHEREAS, the CSPDC takes great pride in their history and accomplishments, while recognizing the importance of looking ahead to the challenges of the future.

NOW, THEREFORE, BE IT RESOLVED, that the Rockbridge County Board of Supervisors hereby commends the CSPDC on the occasion of their 50th Anniversary and expresses its appreciation for the vital support provided by the CSPDC to each of its member jurisdictions and the region.

Adopted this 11th day of February, 2019.

Supervisor Hinty moved to adopt the resolution as presented.

Supervisor Higgins provided the second, and the motion carried by unanimous roll call vote by the Board.

Ayes: Hinty, Higgins, Lyons, Day, Lewis

Nays: None

Absent: None

Abstain: None

Citizens Comments:

Mary Harvey-Halseth of spoke in regard to the revised SPCA Agreement. She thanked the Board for hearing and acting upon the requests put forth by its constituents in June 2016. Ms. Halseth stated that the most positive change was related to reducing the euthanasia rate from one of the highest in the state to now one of the lowest, leading to a no-kill status. She shared her appreciation of the SPCA taking part in transporting the animals to places where more people looking for pets. With regard to the draft, revised SPCA Agreement, Ms. Halseth suggested the following two (2) changes:

- 1) Quarterly statistics must be publicly reported on the contractor's website, municipal website, and social media.
- 2) The contractor shall meet or exceed the average live release rate annually for shelters reporting to VDACS.

Chairman Lewis thanked her for her comments.

Items to be added to the Agenda:

Chairman Lewis called for items to be added to the Agenda.

Supervisor Lyons added a discussion on the membership of the School / County Executive Committee.

Approval of the January 7, 2019 and January 28, 2019 Minutes:

Supervisor Hinty moved to approve the minutes. Supervisor Higgins provided the second, and the motion carried by unanimous roll call vote by the Board.

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

County Financial Package:

Finance Director Steven Bolster reviewed his monthly memorandum. He reminded the Board of future budget meetings and then reviewed the evenues Verses Expenditures Chart. Mr. Bolster presented the County's Appropriation Resolution and recommended approval as presented.

Mr. Suter noted that the athletic fields project listed in the Appropriation Resolution would be funded by grant proceeds from two (2) franchise agreements of \$10,000 each, which the Board had previously dedicated to funding of athletic fields.

Supervisor Lyons moved to approve the resolution. Supervisor Higgins provided the second, and the motion carried by unanimous roll call vote by the Board.

Ayes: Lyons, Higgins, Day, Hinty, Lewis
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, FEBRUARY 11, 2019 AT 5:30 P.M.

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

APPROPRIATION RESOLUTION

GENERAL FUND:

BE IT RESOLVED: By the Board of Supervisors of Rockbridge County, Virginia, that the following appropriations are, and the same hereby is made, for the period ending **June 30, 2019**, from the UNAPPROPRIATED SURPLUS of the **GENERAL FUND** and expended as follows:

4-11-32020-3501 HAZMAT Reimb-Fire & Rescue.....	\$656.00
4-11-53010-5604 Cont-Comp Services Act.....	\$250,000.00
4-11-71005-5620 Cont-VHC Athletic Field.....	<u>\$14,000.00</u>
Total General Fund Appropriations	\$264,656.00

Current County

11 - General Fund	\$488,932.49
94 - Central Stores	\$8,242.72
372 - Construction Project Fund	\$54,062.59
376 - Capital Purchases Fund	<u>\$113,750.00</u>

Total County Bills **\$664,987.80**

Current Fiscal Agent

80 - Regional Jail	\$145,794.95
241 - E-Summons Fees	<u>\$7,282.83</u>

Total Fiscal Agent **\$153,077.78**

TOTAL ALL BILLS **\$818,065.58**

Consideration of Recycling Education Agreement with Roanoke Clean Valley Council:

Solid Waste and Recycling Manager Tracy Shafer briefly reviewed the Agenda Item which included the following information:

"For many years, Rockbridge County has applied for, received and administered a regional Virginia Department of Environmental Quality (VDEQ) grant for purposes of litter prevention and recycling education, on behalf of the County and Cities of Lexington and Buena Vista. Typically the grant is approximately \$22,000, divided among the localities on a basis of population. Until last year, the County used the grant to fund a Recycling and Litter Prevention Education Coordinator Position which served all three localities. In 2018, and in association with the transition from the Rockbridge County Solid Waste Authority transition to the Blue Ridge Resource Authority, the position became vacant, as Tracy Shafer moved into the role of Solid Waste and Recycling Manager. As a result of the transition, our efforts to provide education under the grant temporarily stalled. Over the past six months, staff reviewed options to reinvigorate the program. Options included hiring a part time coordinator or contracting the service. We discovered that the Roanoke Clean Valley Council (RCVC), a non-profit organization, currently offers similar services to multiple localities in the Roanoke area, and that their contract allowed for other localities to contract with them for similar services under the Virginia Public Procurement Act. Recognizing that our own, local Boxerwood Nature Center (also a 501-C3) was well-positioned to provide similar services, we entered into discussion with both parties (collectively) and found that they were interested in a collaborative effort, with RCVC providing administrative assistance and community outreach and Boxerwood, acting as a subcontractor, providing much of the hands-on training in our schools. Similarly, RCVC would work with the Rockbridge Area Conservation Council (RACC) for some services. In 2018,

the City of Lexington determined to pull its portion of the grant funds (\$6702) to provide its own services under the grant. The City of Buena Vista wishes to remain in partnership with the County in providing services through RCVC (and Boxerwood and RACC). The attached contract details the services which would be provided, and associated costs. The contract is limited to the grant award amount attributed to Rockbridge County and the City of Buena Vista. As noted in the document, it provides for at least 160 classroom contacts and participation in multiple annual community festivals and events, as well as education at our staffed collection centers. In addition, RCVC will assist in annual grant reporting and administration. The first term of the proposed contract would be for approximately 16 months. Services would commence immediately, to take advantage of FY2019 grant funds, and would continue through FY2020, using anticipated grant funds. There are options for up to four, one year extensions. In summary, staff believes that this solution is the most efficient and effect way to provide youth and community litter and recycling education, maximizing grant dollars and leveraging the ample and proven abilities both local and regional conservation/education partners. The contract has been reviewed and approved by County Attorney Vickie Huffman."

Mr. Suter noted that this will be a good partnership between Clean Valley and Boxerwood Education, and should the City of Lexington wish to join in the future, the agreement provides for a smooth transition.

Supervisor Higgins moved to authorize the County Administrator to execute the agreement. Supervisor Lyons provided the second, and the motion carried by unanimous roll call vote by the Board.

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

Consideration of VDOT Land Use Resolution for the Fancy Hill Collection

Center:

Mrs. Shafer briefly reviewed the Agenda Item which included the following information:

"As you are aware, the Board has been working for some time to implement recommendations from the 2015 Solid Waste Management Strategic plan. The County had already purchased land near the intersection of Route 11 and Falling Spring Road, a primary location for the New Standardized Center D (in the south). The New Fancy Hill Center is intended to serve County residents who currently use unstaffed collection centers in the south west portion of the County. Construction will include some moderate modifications to the commercial entrance and landscaping in the VDOT right of way. In lieu of posting surety, with the attendant costs, VDOT allows localities to provide a standard Resolution granting VDOT assurances that the County will abide by conditions in associated permits, and provide surety upon request. The Resolution also includes authorization of the County Administrator to execute required documents on behalf of the County."

Mr. Suter noted that this provides VDOT with financial assurance by the County, without having to post a bond.

Supervisor Higgins moved to adopt the resolution. Supervisor Hinty provided the second, and the motion carried by unanimous roll call vote by the Board.

Ayes: Higgins, Hinty, Lyons, Day, Lewis
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, FEBRUARY 11, 2019

LAND USE PERMIT RESOLUTION

WHEREAS, it becomes necessary from time to time for the County of Rockbridge to obtain land use permits from the Virginia Department of Transportation to install, construct, maintain and operate certain public works and public utilities projects along, across, over and upon highway systems of the Commonwealth of Virginia; and,

WHEREAS, expense, damage or injury may be sustained by the Commonwealth of Virginia growing out of granting to the *County of Rockbridge* by the Virginia Department of Transportation of said permits for the work aforesaid;

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

Section 1: That in accordance with the provisions of Section 24VAC30-151-720 of the Land Use Permit Regulations of the Virginia Department of Transportation, the County of Rockbridge does hereby grant assurances to the Virginia Department of Transportation (VDOT) that it shall in all respects comply with all of the conditions of the permit or permits that have been, or will be, granted to the County of Rockbridge and that said jurisdiction does hereby certify that it will carry liability insurance for personal injury and property damage that may arise from the work performed under

permit and/or from the operation of the permitted activity as follows: up to one-million dollars (\$1,000,000) each occurrence to protect the Commonwealth Transportation Board members and the Virginia Department of Transportation's agents or employees; seventy-five thousand dollars (\$75,000) each occurrence to protect the Commonwealth Transportation Board, the Virginia Department of transportation or the Commonwealth of Virginia in the event of suit.

Section 2: That the County Administrator, City or Town Mayor, or their designee, be, and hereby is, authorized to execute on behalf of the *County of Rockbridge* all land use permits and related documents of the Virginia Department of Transportation.

Section 3: That this resolution shall be a continuing resolution and shall not be revoked unless and until sixty (60) days written notice of any proposed revocation be submitted to the Virginia Department of Transportation.

Section 4: That the County of Rockbridge shall, if requested by the Virginia Department of Transportation, provide a letter that commits to using the surety provided by its contractor or to have the contractor execute a dual obligation rider that adds the Virginia Department of Transportation as an additional obligee to the surety bond provided to the locality, with either of these options guaranteeing the work performed within state maintained right-of-way under the terms of the land use permit for that purpose.

BE IT STILL FURTHER RESOLVED that the County Administrator, City or Town Mayor, or their designee, be, and hereby is authorized and directed to procure insurance required by Section 1 herein.

This resolution shall be effective on and from the date of its adoption.

Adopted this 11th day of February, 2019.

Consideration of Nutrient Credit Purchase for Fancy Hill Collection

Center:

Mrs. Shafer briefly reviewed the Agenda Item which included the following information:

"As you are aware, the Board has been working for some time to implement recommendations from the 2015 Solid Waste Management Strategic plan. The County is currently under contract with Randy Hostetter Excavating, LLC to construct the New Fancy Hill Collection Center that is intended to serve County residents in the southwest portion of the County.

One requirement includes a storm water management plan for the site. The site design requires purchase of nutrient credits to meet the qualitative phosphorous loading reduction requirements of the Virginia Storm Water Management Program (VSWMP). This is a one-time purchase to be made from Chesapeake Bay Nutrient Land Trust, LLC in the amount of \$20,020."

Mr. Suter noted that funds are available in the budget for this site.

Supervisor Higgins moved to authorize the County Administrator to execute the Agreement. Supervisor Hinty provided the second, and the motion carried by unanimous roll call vote by the Board.

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

Consideration of Employee Recognition Program:

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

"At its last work session on January 28th, and with the support of the Board of Supervisors Personnel Committee, the Board was presented a proposal for a staff recognition and retirement program, in the form of a policy (attached). The policy is intended to recognize and reward dedication of staff, to include a more standardized method of celebrating retirements. In addition to providing guidance on retirement recognition, the program would provide for recognition of staff longevity milestones each December at a regular meeting of the Board of Supervisors. Staff reaching a 5 year milestone would be presented a certificate of achievement/appreciation and award of \$50 for their first 5-year milestone and an additional \$25 for each 5 years of service. For example, an employee reaching the 5 year milestone would receive the base of \$50. An employee reaching the 15 year milestone would receive \$100 (\$50 + \$25 + \$25). In order to achieve equity, it is recommended that, in the first year of the program, all employees who have hit milestones in their tenure receive recognition for their last milestone achieved. For example, an employee with 9 years of service would receive the 5 year award and an employee with 13 years of service would receive the 10 year award. Awards would be calculated in gross amounts to account for any taxes taken out. In this way, employees would receive the full, round number of the award. The total estimated cost in the first year would be \$3,870. Succeeding year costs would fluctuate depending on the number of employee reaching milestones, but would be much less, since "catch-up" is being completed in the first year. After discussion during the work session, the Board expresses support and directed staff to bring the policy back for consideration during a regular meeting."

Although the recommendation was to approve the policy, the County Attorney notified the Board that adoption of an Ordinance following a Public Hearing is required. She recommended that the Public Hearing be scheduled for the next Board Meeting.

Supervisor Lyons moved to authorize staff to schedule a Public Hearing on this matter for the February 25th meeting. Supervisor Day provided the second, and the motion carried by unanimous roll call vote by the Board.

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

Authorization for Refund of Machinery and Tools Taxes to Aladdin

Manufacturing Corporation (Mohawk Industries):

Mrs. Huffman briefly reviewed the Agenda Item which included the following information:

"Aladdin Manufacturing Corporation ("Aladdin"), a Delaware corporation authorized to transact business in the Commonwealth, and operating in Rockbridge County as Mohawk Industries, has discovered errors in its reporting of business personal property for assessment of machinery and tools tax. Aladdin is a qualified manufacturer, and under Virginia law, is entitled to significant exemptions from assessment of business personal property, including office equipment not used in the manufacturing process. Aladdin has conducted a thorough review of its reporting for the Glasgow plant, and found that exempt business personal property had been reported for the years 2015, 2016, 2017 and 2018. On December 31, 2018, Aladdin filed amended returns for the specified years and requested a tax

refund, amounting to a total of \$72,743.60, for the over-reported business personal property. The Commissioner of the Revenue has evaluated the amended returns and is convinced that the amended returns, with supporting documentation, and request for refund are valid. (See attached certification letter from David Whitesell.) Rockbridge County Code §25-1, adopted pursuant to Virginia Code §58.1-3981, provides that any correction of an erroneous assessment, resulting in a refund of \$2,500 or greater, requires certification by the Commissioner of Revenue, and approval of the County Attorney, to the Board of Supervisors. The Board of Supervisors may authorize the Treasurer to issue the refund as a result of the erroneous assessment, which shall direct the Treasurer to refund the excess taxes to the taxpayer with interest at the same rate as the rate imposed by the County for delinquent taxes."

The recommendation from staff was to approve, appropriate, and direct the Treasurer to issue the refund to Aladdin Manufacturing Corporation, in the amount of \$72,743.60, plus interest at the rate of 10% per annum as provided by state law.

Supervisor Lyons shared his concern about the County being penalized by paying a 10% interest rate as result of Mohawk's mistake.

Mrs. Huffman noted that State Code does not distinguish between erroneous filings and erroneous reviews.

Supervisor Day asked the County Attorney what would happen if the Board of Supervisors denied the request.

Mrs. Huffman replied that Mohawk could take this matter to Circuit Court.

Supervisor Hinty moved to approve, appropriate, and direct the Treasurer to issue the refund to Aladdin Manufacturing Corporation, in the amount of \$72,743.60, plus interest at the rate of 10% per annum as provided by state law. Supervisor Higgins provided the second, and the motion carried by the following roll call vote by the Board:

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

Consideration of SPCA Agreement:

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

"Since 1992, the County and Cities of Lexington and Buena Vista have contracted with the Rockbridge SPCA for animal sheltering services, each with separate but similar contracts. In 2016, discussions about revising the agreement began and since then, County and Lexington City staffs have been in negotiations for an updated agreement. The negotiations stalled at several points over this time, but recently, the SPCA Board of Directors has approved the version attached to this Board report. Typically, when staff or a Board committee brings an agreement to the full Board, it is accompanied by a request/recommendation to approve the agreement. However, in this case, it is important to note that over time, some County residents have expressed keen interest in reviewing the final draft of any proposed new agreement. As a result, and to give ample time for any potential comment, staff recommends delaying any action until the Board's next regular meeting on February 25th. Consideration of this agreement is expected to be on Lexington City Council's March 7th agenda.

The City of Buena Vista has already entered into a separate agreement with the SPCA. In addition to the new, draft agreement, the original agreement from 1992 is attached for comparison.”

Supervisor Hinty asked the County Attorney for her opinion on why the SPCA does not follow FOIA regulations when all other entities receiving County funds are subject to them.

Mrs. Huffman shared her opinion that the SPCA should follow the same FOIA regulations as the other entities, however, the SPCA has not incorporated those provisions into their agreement in the past. She added that there are two (2) advisory council opinions that indicate that any entity whose primary source of funding comes from its locality, should be subject to FOIA. She shared that a citizen could make a FOIA request and the SPCA would have to release all information other than that which is state mandated records. However, Mrs. Huffman noted, should the SPCA determine not to release the information, and the decision be contested by the requestor, the General District Court would have make a determination.

Supervisor Higgins asked if there have been any issues with the SPCA in the past several years.

Mr. Suter replied that, like Ms. Halseth had noted earlier in the meeting, he has been satisfied with the operations and improvements made by the SPCA. He noted that the only concern that he had was over the process of negotiating the draft contract.

Appointments:

Board of Zoning Appeals:

Supervisor Hinty indicated that he was still working with someone to fill this vacancy.

Mrs. Huffman advised that the courts are aware that the County is searching for a recommendation to fill this position.

Chamber of Commerce Economic Development Committee:

Chairman Lewis recommended Supervisor Day to fill this vacancy.

Supervisor Day accepted the recommendation.

Added Item:

School Board's Executive Committee:

Supervisor Lyons indicated that the Chair and Vice Chair typically serve on the School Board's Executive Committee. He stated that the meeting schedule does not suit both of their schedules. He asked if the Board wished to change the name of this committee and appoint other Supervisors.

Supervisor Higgins, Lewis, and Hinty shared their opinions that this committee was necessary and very beneficial, especially around budget season.

Supervisor Hinty recommended that the name remain the same and that Supervisors Lyons and Higgins serve on this committee.

All Board members agreed to the recommendation.

Monthly Staff Reports:

Supervisor Hinty accepted the staff reports. Supervisor Higgins provided the second, and the motion carried by unanimous roll call vote by the Board.

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

Mr. Suter reminded the Board of the budget meeting on February 20th.

Adjourn:

Supervisor Higgins moved to adjourn. Supervisor Hinty provided the second, and the motion carried by unanimous roll call vote by the Board.

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