

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 TUESDAY, NOVEMBER 12, 2019 AT 5:30 P.M.

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

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 at 5:30 p.m. He advised that Supervisor Higgins would typically deliver the invocation, however, in observance of Veterans Day, he would be delivering a prayer honoring Veterans for anyone who wished to participate.

Chairman Lewis delivered the prayer and led in the Pledge of Allegiance.

Changes to the Agenda:

County Attorney Vickie Huffman added two (2) Closed Meetings as follows: As Permitted by Virginia Code §2.2-3711(A)(7), a matter involving consultation with legal counsel about the pending case of Guise v. Board of Supervisors of Rockbridge County, Virginia and Rockbridge County, Virginia v. Purdue Pharma, L. P., et als, because public discussion at this time would adversely affect the Board's negotiating or litigating posture.

Recognitions and Presentations:

Chairman Lewis called for recognitions and presentations. There were none.

Citizens Comments:

Chairman Lewis called for citizens comments.

Steve Neas of the Buffalo Magisterial District shared his concern about the Rocky Forge/APEX wind turbine project in Botetourt County. He stated that a primary responsibility of government is to protect citizens. He stated that APEX initially did what they had to do to be approved for the project, but now are asking to make changes. He noted that this has been their pattern on prior projects in other areas. Those changes, he advised, were to increase the height of the wind turbines from 550 feet to 680 feet and change the number of structures. He added his serious concerns about the noise the structures will make and how it will impact property owners and wildlife. He noted that in the Midwest, local governments are passing laws outlawing wind farms, based on the fact that residents are having to leave their homes to escape the impacts.

Approval of the October 28, 2019 Minutes:

Supervisor Lyons moved to approve the minutes. A second was provided by Supervisor Hinty, and the motion carried by the following roll call vote by the Board, with Chairman Lewis abstaining due to his absence:

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

Recognition:

Chairman Lewis recognized and welcomed Buffalo District Supervisor elect Leslie Ayers.

County Financial Package:

Fiscal Services Director Steven Bolster briefly reviewed the financial memorandum which included the following, to include revisions he made during his review:

"Section I - Commissioner of the Revenue**Activities for Month:**

1. Working land use revalidations as well as applications for 2020.
2. Working DMV report on new titles to enter into personal property tax rolls.
3. Completed 2019 Public Service Corporation Tax Book and presented to the Treasurer; total tax billed is \$1,739,000.
4. Preparing the CY 2020 tax forms: tax-relief applications, business personal property, business licenses, short term rental and meals/lodging tax forms.
5. Issued 97 Summons for delinquent 2019 Business Licenses.
6. Continuing audits of Schedule C.
7. Worked building permit certificates of occupancy.

Section II - Treasurer**Activities for Month:**

1. Mailed out 2nd half of Real Estate taxes which are due on or before Thursday, December 5, 2019.

2. Continuing work on delinquent notifications for Personal Property.
3. Debt-Set-Off collections continue this fiscal year; \$17,642 associated with 200 filings
4. CY 2020 Dog Tags started sale on November 1st and are due on or before January 31, 2020."

Mr. Bolster then reviewed the Revenues Verses Expenditures Chart followed by the County's Appropriation Resolution.

Supervisor Higgins moved to adopt the resolution shown below as presented. A second was provided by Supervisor Lyons, and the motion carried by the following roll call vote by the Board:

Ayes: Higgins, Lyons, 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 TUESDAY, NOVEMBER 12, 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, 2020**, from the UNAPPROPRIATED SURPLUS of the **GENERAL FUND** and expended as follows:

4-11-71005-5622 Contrb-Glasgow Events Pavilion.....	\$18,068.00
Total General Fund Appropriations	\$18,068.00

CONSTRUCTION PROJECT 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, 2020**, from the UNAPPROPRIATED SURPLUS of the **CONSTRUCTION PROJECT FUND** and expended as follows:

4-372-94432-8001-005 Replace Cnty Admin Bldg Roof.....	<u>\$34,000.00</u>
Total Construction Project Fund Appropriations	\$34,000.00
Total Appropriations	\$52,068.00
Current County	
11 - General Fund	\$561,900.76
94 - Central Stores	\$8,333.25
372 - Construction Project Fund	<u>\$25,794.70</u>
Total County Bills	\$596,028.71
Current Fiscal Agent	
80 - Regional Jail	\$295,687.63
241 - E-Summons Fees	<u>\$1,751.72</u>
Total Fiscal Agent	\$297,430.35
TOTAL ALL BILLS	\$893,459.06

Consideration of Financial Advisor Proposal:

Mr. Bolster briefly reviewed the agenda item which included the following information:

"From September 6th to the 27th, the County advertised a Financial Advisory Services Request for Proposals (RFP). The advertisement efforts included local print, the County website, and the Virginia eProcurement Portal (eVA). Four financial advisory firms submitted proposals in accordance with RFP # 2019-09-001: no later than 2:00 PM EST on September 27, 2019.

Staff contacted references provided by the financial advisor firms in the weeks following the proposal opening. The Finance Committee met on October 17th to complete the evaluation scoring for each proposal using the criteria set forth in the RFP. The committee selected the top two ranked firms to complete phone interviews. These interviews took place on

October 21st. The chart below reflects the final ranking and scoring of each proposal.

Final Ranking	Firm	Eval Score
1	Davenport & Company, LLC	95
2	PFM Financial Advisors, LLC	92
3	First-Tryon Advisors	88
4	Baker Tilly Municipal Advisors, LLC	87

The Finance Committee is recommending the Board accept the proposal ranking and enter into agreement with Davenport and Company for financial advisory services. Attachments to the agenda report include an authorizing resolution and a financial advisory services agreement. Receive a brief staff report. Pose any questions you may have and discuss as desired. If in agreement, 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 Higgins moved to approve staff's recommendation to adopt the resolution shown below as presented. A second was provided by Supervisor Day, and the motion carried by the following roll call vote by the Board:

Ayes: Higgins, Day, Lyons, Hinty, 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 TUESDAY,
NOVEMBER 12, 2019

RESOLUTION TO APPROVE CONTRACT BETWEEN THE COUNTY OF ROCKBRIDGE AND DAVENPORT & COMPANY, LLC, FOR FINANCIAL ADVISOR SERVICES

WHEREAS, on September 9, 2019, the County of Rockbridge issued a Request for Proposals from qualified firms to provide general, transaction-related, and other project-specific financial advisory services for the County; and,

WHEREAS, four firms submitted proposals in accordance with RFP # 2019-09-001 by the September 29th response date and time; and,

WHEREAS, the members of an evaluation committee corporately ranked each proposal and conducted interviews; and,

WHEREAS, the evaluation committee has determined that the highest-ranking proposer is Davenport & Company, LLC, and has recommended negotiation of a professional services contract; and,

WHEREAS, staff has negotiated an agreement dated as of November 15, 2019, presented herewith to the Board for approval.

NOW THEREFORE, BE IT RESOLVED as follows:

1. That the Financial Advisory Services Agreement, dated as of November 15, 2019, with Davenport & Company, LLC, to provide general, transaction-related, and other project-specific financial advisory services for the County, at the rates shown on Attachment A to the Agreement, for an initial period of three (3) years, with the right to renew for up to two (2) one-year periods, is hereby authorized and approved.

2. That the County Administrator is hereby authorized to execute the Agreement and such other documents and take such further actions, on behalf of the Board of Supervisors, as are necessary to accomplish this transaction, all of which shall be approved as to form by the County Attorney.

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

Adopted this ____ day of November 12, 2019.

Consideration to Increase Collection Center Hours of Operation:

Mr. Suter briefly reviewed the agenda item which included the following information:

"During its most recent work session on October 28th, the Board discussed solid waste collection centers, including which unstaffed dumpster sites to close in concert with opening of new, staffed centers. In a related discussion, the question was posed as to the cost of opening centers on Tuesdays. To recap, after study and discussion in 2017, the Board instructed staff to provide Sunday hours (1:00 PM - 6:00 PM) and, to help balance the proposed budget, close all staffed centers on Tuesdays. Over time, the Board has received requests from the public, asking to bring back Tuesday hours.

Solid Waste and Recycling Manager Tracy Shafer has subsequently completed an analysis and estimates that the combined cost to add Tuesdays back to the schedule would be approximately \$43,500 a year. All additional costs are associated with personnel. We are in the process of staffing up for the opening of the new Fancy Hill site on November 13th. In the short term, we could likely get by with existing staff levels by increasing the number of hours that some staff work. Most currently average around 20 hours per week. In accordance with the Affordable Care Act, part-time employees must average under 30 hours per week. Ms. Shafer believes that most staff would welcome some additional hours.

Costs for an expanded schedule are not budgeted in the current fiscal year. If the Board determines to adjust the staffed collection center schedule, staff will request additional funding via an appropriation resolution in FY 2020. As an example, if the Board chose to implement on December 1st, the cost for the remaining seven months of the fiscal year

would be approximately \$25,375. Also, please be aware that this action will result in an approximately \$43,500 budget increase over FY 2020's adopted budget."

Mr. Suter advised that he was directed by the Board at the previous meeting to request the number of citations issued relating to illegal dumping at the collection sites. He stated that 12 citations had been issued.

Chairman Lewis asked what the hours of operation would be if approved.

Mr. Suter replied, Monday through Saturday from 7:00 A.M. to 6:00 P.M. and Sunday from 1:00 P.M. to 6:00 P.M.

Supervisor Higgins advised that he had asked staff to look into opening centers on Tuesdays during the Board's previous meeting to make it more convenient for the citizens. He shared that the County would be seeing a savings following the closure of unmanned sites from cleanup costs that could go towards paying staff to work on Tuesdays.

Supervisor Higgins moved to authorize staff to begin opening collection sites all day on Tuesdays beginning December 3rd. A second was provided by Supervisor Hinty, and the motion carried by the following roll call vote by the Board:

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

Mr. Suter recognized Solid Waste and Recycling Manager Tracy Shafer for her assistance in ensuring the Fancy Hill Collection Center would open the following day given there were a few setbacks she had to handle.

Update on Apex/Rock Forge Wind Project in Botetourt County:

Mr. Suter briefly reviewed the agenda item which included the following information:

"As you are aware, Dominion Energy and the Governor's office recently announced an agreement to expand renewable energy projects in the Commonwealth. Included in the announcement is the Rocky Forge Wind project in Botetourt County, near the Rockbridge County line in the vicinity of Blue Grass Trail. Please recall that this project was approved by the Botetourt County Board of Supervisors in 2016 with plans for construction in 2017; however, the project stalled, ostensibly while Apex searched for a buyer of the electricity. As per the announcement, it appears that an agreement has been reached for Dominion to purchase the energy, which would subsequently be purchased from Dominion by the Commonwealth.

On November 5th, I was contacted by Botetourt County officials who wanted to ensure that we were aware that Apex had submitted applications to amend their 2016 special exception permit and a request for a text amendment. Links to the applications are shown below.

Text Amendment Request <https://www.dropbox.com/sh/42b7edalvabbj1c/AAABe-dZ5y8XJ9YqV5FF5PdEa?dl=0>

SEP amendment request:

https://www.dropbox.com/sh/wa8cwr9748pzvs/AACF6Qyv_vf0GR13E1BhoDVca?dl=0

While staff has not had time to fully review all associated documents, here are bullet points that I believe are correct:

Text amendment

- Requesting that the ordinance be changed to provide the Board of Supervisors with the authority to issue a variance to overall height restriction of both the turbines (currently restricted to 550') and accessory structures (currently 100'). In other words, the ability to approve any height.

SEP Amendment

- Requesting the overall height in this project be increased from 550' to 680' (23% increase)
- The number of proposed turbines would be reduced from 25 to 22.
- The proposed maximum output would increase slightly

The process from here could be as follows:

- 1) The text amendment request would need to be placed on the Botetourt Board of Supervisors' agenda. When that may happen is not yet known. The earliest it could happen is later in November.
- 2) The Board would then need to consider the request and determine whether or not to send it to the Planning Commission to gain that body's recommendation. Based on Botetourt's meeting schedule, the earliest that the Planning Commission could consider would be in January.
- 3) Should the Board send it to the Planning Commission, the SEP amendment request could be heard either separately or concurrently.

Other than presenting the facts above, I can make no predictions about if and when this process may proceed. Recognizing the attention that this issue generated back in 2016, my intent here is to simply get this information to you and the public as soon as possible, in that there is a request to substantially amend the original ordinance and SEP. I and staff will continue to keep you updated as we gain more information."

Chairman Lewis asked why the Board of Supervisors would be looking at these changes before its Planning Commission.

Mr. Suter replied that the Board would first be considering if they wanted to entertain the applications, and if so, pass it on to the Planning Commission.

Supervisor Higgins asked what the (Rockbridge) Board can do, if anything, and asked if we could write a letter to Botetourt County with our concerns.

County Attorney Vickie Huffman replied that there will be multiple public hearings to provide the citizens of both Counties to voice their concerns.

Supervisor Hinty abstained from discussion, citing his employment with Dominion Energy.

Chairman Lewis asked if the Board should receive additional information before sending the letter.

Supervisor Lyons recommended that the letter go ahead and be sent sooner rather than later, to let The Botetourt Board know how the Board feels about the noise and height change, since both will impact citizens of Rockbridge County.

Chairman Lewis asked the County Administrator to draft a letter for review by the full Board before sending.

Mr. Suter concurred.

Ms. Huffman asked the Board to think about what would have the most impact, reading a letter or seeing Board Members face to face to voice their concerns. She shared that often, Boards are more receptive to concerns voiced in person rather than in a letter. However, she added, she was not indicating that the Board should not send a letter, also.

Monthly Staff Reports:

Supervisor Lyons moved to accept the reports as presented. A second was provided by Supervisor Higgins, and the motion carried by the following roll call vote by the Board:

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

Closed Meeting:

Chairman Lewis notified the public that the Board would be taking action following the closed meeting and then continuing the meeting for a Joint School Board Meeting.

Supervisor Hinty moved to enter into a closed meeting as Permitted by Virginia Code §2.2-3711(A) (7), a matter involving consultation with legal counsel about the pending case of Guise v. Board of Supervisors of Rockbridge County, Virginia and Rockbridge County, Virginia v. Purdue Pharma, L. P., et als, because public discussion at this time would adversely affect the Board's negotiating or litigating posture. A second

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

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

Supervisor Higgins asked the County Attorney if Buffalo District Supervisor-elect Leslie Ayers would be allowed to stay for the closed meeting since she would be taking his place soon and would be dealing with the matters following his departure from the Board.

Ms. Huffman stated that Ms. Ayres was welcome to stay for the closed meeting if the Board agreed and she desired to do so. All Board members concurred.

Supervisor Day moved to reconvene in open session following the closed meeting. A second was provided by Supervisor Lyons, and the motion carried by unanimous roll call vote by the Board.

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

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

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

In the matter of Rockbridge County, Virginia v. Purdue Pharma, L. P., et als, Supervisor Lyons made a motion to authorize the County Attorney to opt out of the Negotiation Class, established by the Court in In Re: National Prescription Opiate Litigation (Northern District of Ohio), by signing and filing the Exclusion Request Form. Supervisor Higgins provided the second, and with no discussion, the motion carried by the following roll call vote by the Board:

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

In the matter of Guise v. Board of Supervisors of Rockbridge County, Virginia, Supervisor Lyons made a motion to authorize counsel for the County to seek to enjoin the plaintiffs from further expansion of uses under the trial court order pending a decision on appeal. Supervisor Higgins provided the second. There being no discussion, the motion carried by the following roll call vote by the Board:

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

Chairman Lewis stated that his vote in favor of the motion was to support the decisions of the County's Zoning Administrator and the County

Board of Zoning Appeals, rather than any particular group of citizens on either side of the issue.

Continued Meeting:

Continue Meeting until Thursday, November 14, 2019 at 5:00 P.M. for a Joint Meeting with the School Board held at the School Board Office located at 2893 Collierstown Road, Lexington.