

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, APRIL 13, 2020 AT 5:30 P.M.

BOARD MEMBERS PRESENT: DANIEL E. LYONS
R. W. DAY
L.E. AYERS
D.B. MCDANIEL
A.J. "JAY" LEWIS, II.

COUNTY ADMINISTRATOR: SPENCER H. SUTER

COUNTY ATTORNEY: VICKIE L. HUFFMAN

CALLED TO ORDER:

Chairman Lyons called the meeting to order and advised of the following: "Board members will be participating remotely. Staff will be presenting as normal in the Board of Supervisors meeting room at 150 S. Main Street, Lexington and while the room will be open to the public, no more than 10 persons, including staff, will be allowed into the room at one time, as per the Board's COVID19 meeting policy. Citizens are encouraged not to attend the meeting in person, but have several options to view or participate in the Zoom Meeting Webinar as described on the County Website; view meeting through Live Stream on Youtube; or, join Zoom Webinar by phone dialing in or by computer."

Chairman Lyons then offered an invocation for anyone who wished to participate.

Changes to the Agenda:

Chairman Lyons called for changes to the Agenda. There were none.

Recognitions and Presentations:

Chairman Lyons called for recognitions and presentations.

Foster Care Awareness Month Resolution:

County Administrator Spencer Suter advised that the proclamation stresses the importance of foster care in our community.

Supervisor Lewis moved to adopt the proclamation. Supervisor Day provided the second, and the motion carried by the following roll call vote by the Board:

Ayes: Lewis, Day, McDaniel, Ayers, Lyons
Nays: None
Absent: None
Abstain: None

Foster Care Awareness Month 2020 Proclamation

WHEREAS, children are key to our community's future success, prosperity, and quality of life; and,

WHEREAS, more than 5,300 children in Virginia's foster care system have a right to thrive, learn, and grow in a safe and loving environment; and,

WHEREAS, foster parents provide love, safety, and stability that children need in order to overcome past traumatic experiences in order to reach their full potential; and,

WHEREAS, Rockbridge County foster parents are caring for and nurturing children and youth in foster care today; and,

WHEREAS, we must come together as a community to recognize the important role foster parents play in caring for children who have experienced abuse and neglect, supporting family reunification, and building strong communities; and,

WHEREAS, a need exists to identify more foster parents in order to ensure children, older youth, children with complex needs, and siblings have a safe and stable home in their community; and,

WHEREAS, there are numerous individuals, businesses, organizations, associations, religious groups, and public servants who are dedicated to raising awareness about the needs of children and youth in foster care; and,

WHEREAS, Foster Care Awareness Month is celebrated nationally to raise awareness about foster care and to encourage community involvement as foster families, volunteers, and mentors.

NOW, THEREFORE, BE IT RESOLVED, that the Rockbridge County Board of Supervisors does hereby declare May 2020 as Foster Care Awareness Month in Rockbridge County and urge all citizens to come forward and take action that will positively impact the life of a child in foster care.

BE IT FURTHER RESOLVED, that the Rockbridge County Board of Supervisors does hereby commend Intercept Health for their efforts to raise awareness surrounding this societal crisis.

Adopted this 13th day of April, 2020.

Citizens Comments:

Chairman Lyons advised the following: "Citizens may submit comment in writing by U.S. Mail to 150 South Main Street, Lexington, email the County Administrator's Office at citizencomment@rockbridgecountyva.gov , or place in the dropbox located at the front entrance on Main Street at the County Administrative Office Building. Comments submitted in this manner will be read into the record at the meeting." He also noted that, at the last meeting, the Board included a citizen comment regarding barking dogs in the Ross Road area and the full comments are included in the minutes.

Approval of the March 23, 2020 Minutes:

Supervisor Lewis questioned where the comments were included regarding barking dogs. Later in the meeting, Mr. Suter advised that the citizen comment pertaining to barking dogs was made during the April 6th meeting and would be added to those minutes. At that time, Supervisor McDaniel moved to approve the March 23rd minutes. Supervisor Ayers provided the second, and the motion carried by the following roll call vote by the Board:

Ayes: McDaniel, Ayers, Lewis, Day, Lyons
Nays: None
Absent: None
Abstain: None

Consideration of the County's Appropriation Resolution:

Fiscal Services Director Steven Bolster reviewed his monthly memorandum, revenues verses expenditures chart, and presented the appropriation resolution.

Chairman Lyons asked if the Board had any comments.

Supervisor McDaniel asked if the June 15th County decal extension remained relevant given the Governor had shut down businesses through May 10th, or if it was possible to further extend the deadline. He asked Mr. Bolster to review the subject with the County Treasurer and bring back his findings to the full Board.

Supervisor McDaniel moved to approve the County's Appropriation Resolution. Supervisor Ayers provided the second, and the motion carried by the following roll call vote by the Board:

Ayes: McDaniel, Ayers, Lewis, Day, Lyons
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, APRIL 13, 2020 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:

4-11-22010-3015 Contracted Services.....	\$14,150.00
Total General Fund Appropriations	\$14,150.00

Total Appropriations	\$14,150.00
Current County	
11 - General Fund	\$1,018,900.26
94 - Central Stores	\$8,685.52
202 - 2020 COVID-19 Pandemic Response Fund	\$3,054.52
376 - Capital Purchases Fund	<u>\$40,311.90</u>
Total County Bills	\$1,070,952.20
Current Fiscal Agent	
80 - Regional Jail	\$251,206.92
241 - E-Summons Fees	<u>\$6,574.13</u>
Total Fiscal Agent	\$257,781.05
TOTAL ALL BILLS	\$1,328,733.25

Authorize Extension of the Option to Purchase Locher Property for Natural Bridge Station Collection Center:

County Attorney Vickie Huffman briefly reviewed the agenda item which included the following information:

"By Option to Purchase Agreement dated October 23, 2019, Baldwin G. Locher, Jr., granted to the County an option to purchase multiple lots along Wert Faulkner Highway in Natural Bridge Station for development of a solid waste collection center. The initial option period was for 90 days, was extended for another 90 days, and expires on April 23, 2020.

Staff proceeded to contract with Perkins & Orrison to survey the lots and prepare a preliminary site plan and feasibility study. Additionally, a title search has been completed.

Unfortunately, the title search revealed that Lot 17, in Block 66, has no source of title to Mr. Locher, or anyone for that matter. Todd Jones (representing Mr. Locher) is still looking for any title information that might be helpful. In addition, we have known from the outset that

Lots 19 and 25, in Block 49 (at the rear of the parcel) are shown on the County Land Records as "unknown" parcels and are included in a pending Circuit Court proceeding to clear title. However, little progress has been made due to the courts being closed for virtually all matters except emergencies.

Due to the title issues that remain to be resolved by Mr. Locher, staff is recommending agreement with Mr. Locher for further extension of the Option to Purchase Agreement.

If acceptable to the Board, take action to authorize the County Administrator to execute an Extension Agreement for the Option to Purchase with Mr. Locher for an additional 90 days, with ability to extend for another 90 days if needed."

Supervisor Lewis asked the Board should go ahead and authorize a 180 day extension so it would not have to come back before the Board for another extension after 90 days.

Ms. Huffman replied, yes, however we would need to talk to the property owner to see if he were okay with it.

Supervisor Lewis suggested leaving it at 90 days to keep things progressing so there is not time lapse between now and talking with the property owner and bringing it back to the Board for approval.

Supervisor Ayers suggested leaving it at 90 days to push for completion within those 90 days as opposed to changing it to 180 days, as there may not be as much of a push to get it done sooner.

Ms. Huffman suggested that the approval be for a 90-day extension with additional authority for the County Administrator to extend 90 days thereafter if needed. In doing so, she advised, it would not need to be

brought before the Board for approval of an additional 90 days should more time be needed.

Supervisor McDaniel moved to approve the County Attorney's suggestion shown above. Supervisor Lewis provided the second, and the motion carried by the following roll call vote by the Board:

Ayes: McDaniel, Lewis, Ayers, Day, Lyons
Nays: None
Absent: None
Abstain: None

Consideration of BB&T Bank Franchise Tax Refund:

Ms. Huffman briefly reviewed the agenda item which included the following information:

"The Bank Franchise Tax Act (Va. Code §58.1-1200, et seq.) imposes a state bank franchise tax (BFT) at the rate of \$1 per \$100 of net capital, as defined in the Act. Counties are authorized to impose the tax at a rate not to exceed 80 percent of the state rate for each \$100 of net capital. Banks self-report for this tax and file with the local Commissioners of Revenue, who forward the returns to the Virginia Department of Taxation. Administration of the tax is a hybrid, in the sense that the local tax is a portion of the total due to the state, but is paid directly to the locality, rather than all being paid to the state with the local portion distributed back to the locality.

BB&T filed its returns and paid the BFT for the 2012, 2013 and 2014 tax years. Subsequently, but within the statute of limitations period, BB&T filed amended returns with the Virginia Department of Taxation (the Department) with a request for substantial refunds, based on a significant increase in deductions for retained earnings and surplus of subsidiaries.

The Department requested additional documentation on the deductions, then granted deductions that were less than what was claimed. The Department also increased the taxable capital on the 2014 return. The refunds were denied and assessments were issued for 2013 and 2014. The Department's determination was appealed to the State Tax Commissioner.

On October 1, 2019, the Tax Commissioner issued an Opinion reversing the Department's determinations and ordering refund of the BFT overpayments. The Tax Commissioner also directed the Department to notify the affected localities for refund of the local portion of the BFT to be refunded by those localities. More than 170 localities are faced with issuing unbudgeted refunds as a result. The total refund due for tax years 2012, 2013 and 2014 from Rockbridge County is \$45,690.00. Notification to the localities was not received until early March, 2020.

In my opinion, interest is not required to be paid on this refund. There is no provision in County Code that imposes interest for delinquent payments of this tax, and the state code provisions that require payment of interest on refunds is in §58.1-3916, which deals with all of the local taxes, i.e. license, tangible personal property, M & T, merchants' capital, real property, and the fiduciary taxes (meals, transient occupancy, and admissions taxes).

In any event, Truist Bank has agreed that no interest will be payable by localities if the refund is paid by May 1st or other date that may be agreed to. The Treasurer has indicated that she intends to issue the refund by May 1st.

Like the rather peculiar nature of the BFT, this refund directive from the Tax Commissioner does not fall within the parameters of County

Code §25-1, adopted pursuant to Va. Code §58.1-3981. The usual procedure for an erroneous assessment is for the Commissioner of the Revenue to evaluate an amended return and certify that a request for refund is valid, followed by evaluation by the local government attorney to confirm the legality of the certification. If this results in a refund of \$2,500 or greater, the Board of Supervisors must approve and authorize the Treasurer to issue the refund. That process has not occurred in this case.

Nevertheless, the Tax Commissioner's directive involves disbursement of local funds. In my opinion, the refund requires approval from and appropriation by the Board of Supervisors, if for no other reason than to inform the Board of the circumstances."

Supervisor McDaniel moved to appropriate and direct the Treasurer to issue the refund to Truist Bank in the amount of \$45,690.00. Supervisor Lewis provided the second, and the motion carried by the following roll call vote by the Board:

Ayes: McDaniel, Lewis, Ayers, Day, Lyons
Nays: None
Absent: None
Abstain: None

Appointments:

BZA- Grigg Mullen, III.- Term Expires 5/12/2020:

Supervisor Lewis advised that Mr. Mullen was contacted and wished to be reappointed at the pleasure of the Board. He moved to reappoint Mr. Mullen to the Board of Zoning Appeals. Supervisor Ayers provided the second, and the motion carried by the following roll call vote by the Board:

Ayes: Lewis, Ayers, Day, McDaniel, Lyons
Nays: None
Absent: None
Abstain: None

Monthly Staff Reports:

Supervisor Lewis shared that the report provided by Extension Agent Tom Stanley was especially interesting in that he added some perspective for farmers that in 1973 it took the equivalent of 7 steers to purchase a new round baler, whereas today it takes the equivalent of 28.

Supervisor Lewis moved to approve the monthly staff reports.

Supervisor Ayers provided the second, and the motion carried by the following roll call vote by the Board:

Ayes: Lewis, Ayers, McDaniel, Day, Lyons
Nays: None
Absent: None
Abstain: None

Closed Meeting:

Supervisor McDaniel moved to enter into a closed meeting as permitted by Virginia Code §2.2-3711(A)(3), discussion or consideration of a matter involving acquisition of real property for public purposes, where discussion in open meeting would adversely affect the County's bargaining position or negotiating strategy. A second was provided by Supervisor Ayers, and the motion carried by the following roll call vote by the Board.

Ayes: McDaniel, Ayers, Day, Lewis, Lyons
Nays: None
Absent: None
Abstain: None

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

Ayes: McDaniel, Ayers, Lewis, Day, Lyons
Nays: None
Absent: None
Abstain: None

Supervisor McDaniel 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, as to both matters for which the closed meeting was convened. A second was provided by Supervisor Lewis, and the motion carried by the following roll call vote by the Board.

Ayes: McDaniel, Lewis, Day, Ayers, Lyons
Nays: None
Absent: None
Abstain: None

Adjournment:

With no further business to discuss, Supervisor McDaniel moved to adjourn the meeting. A second was provided by Supervisor Ayers, and the motion carried by the following roll call vote by the Board:

Ayes: McDaniel, Ayers, Lewis, Day, Lyons
Nays: None
Absent: None
Abstain: None