

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, MAY 26, 2020 AT 5:30 P.M.

MEMBERS OF THE BOARD PARTICIPATED REMOTELY

BOARD MEMBERS PRESENT: D. 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 at 5:30 p.m. and offered an invocation for anyone who wished to participate.

The Board then led in the Pledge of Allegiance.

Chairman Lyons conducted a roll call of the Board members present. All Board members were present via electronic media. He then advised of the following important notices: "This meeting is being held by electronic means pursuant to the Continuity of Government Ordinance adopted by the Board on April 6, 2020, due to the threats posed by the COVID-19 pandemic to the health, safety, and welfare of the public, and in accordance with the recommendations, guidelines and requirements of federal, state and local authorities.

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.

We will hold citizen comment near the beginning of the meeting. Also, there are Public Hearings this evening. We will do our best to take citizen comment remotely. There are two options for citizens to offer comment remotely:

1) Join the Rockbridge County Board of Supervisor Zoom webinar. The link is available on the County website to copy into the address line on your browser.

2) Join by Telephone. Dial in to one of the numbers listed on the County Website. Webinar ID and Password are there for your convenience. Citizens wishing to simply view the meeting live or after the fact can do so on the Rockbridge County Board of Supervisors YouTube Channel which is also available on the County website."

Changes to the Agenda:

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

Recognitions and Presentations:

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

Citizens Comments:

Chairman Lyons advised of the following: "I'll remind everyone that, in addition to participating by Zoom or telephone, written Citizens

Comments have been solicited for receipt via email, U.S. Mail and the dropbox located at the front entrance to the County Administration building. We will take comments in the following order:

Comments received via email, letter or dropbox will be shared with the Board.

For in-person participants, if any:

The moderator will ask if there are any participants present to comment. If there are, they will be invited to approach the podium and address the Board.

For Zoom participants:

a. Participants who do not have a microphone on their computer can click on the Q & A button and submit their comment via typing. The moderator will read the comment aloud during public comment. When typing a comment, please begin with your name and magisterial district.

b. Participants with a microphone on their computer can click on "Raise Hand" button. The moderator will unmute participants one at a time to receive verbal comment. Citizens will be asked to state their name and magisterial district.

For Phone Participants:

Citizens participating by phone will also be allowed to speak and can utilize the "Raise Hand" feature. To raise your hand by phone press *9. This will allow the moderator and Board to see a hand raised associated with your phone number. When the moderator or Board member grants you permission to speak you will hear a prompt on your phone that you may speak.

In any case, citizen comments will follow the same rules as normal.

- Please state your name and magisterial district
- Please limit comments to 3 minutes

At this time, I will open the citizens comment period. Please note that the Board is interested in hearing your comments and that staff has done their best to make public comment possible during this challenging time. This period is to take comments unrelated to the 6:00 p.m. public hearings, at which time we will take comments related to those matters.

Chairman Lyons asked Mr. Suter if there was anyone physically present to speak.

Mr. Suter replied, no.

Chairman Lyons advised the following: We will now welcome comments from the public by electronic means. It is important to note that this is a live, recorded, meeting and all comments will be taken under consideration by the Board.

Citizens participating by phone will also be allowed to speak using the "Raise your Hand" feature. To raise your hand by phone press *9. This will allow the moderator and Board to see a hand raised associated with your phone number. When the moderator or Board member grants you permission to speak you will hear a prompt on your phone that you may speak."

Mr. Suter advised that a Ms. Debra Woodcock requested to speak.

Ms. Woodcock of the Buffalo Magisterial District shared with the Board that a petition had circulated a neighborhood near the Country Club Golf Course for barking dogs. She stated that there were 6 or 7 hunting dogs causing a lot of disturbance, resulting in the petition which received 15 signatures so far. Ms. Woodcock noted that there were 5

residencies within 600' of the dogs, 30 residencies within a quarter of a mile of the dogs, and that the dogs bark at 80-90 decibels, making them heard over most of the golf course. She added that the 16th tee is just a few hundred feet from the dogs. Ms. Woodcock asked the Board to address this problem in the County.

Chairman Lyons thanked Ms. Woodcock for her comment and asked the County Administrator if there were any other comments via Zoom text or phone.

Mr. Suter replied, there were none.

Chairman Lyons closed the citizen comment period.

Approval of the May 11, 2020 Minutes:

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

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

Consideration of the School's Appropriation Resolution:

Fiscal Services Director Steven Bolster presented the School's Appropriation Resolution and recommended approval as presented.

Supervisor McDaniel moved to approve the resolution. Supervisor Day provided the second, and the motion carried by the following roll call vote by the Board:

Ayes: McDaniel, Day, Ayers, Lewis, 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 TUESDAY, MAY 26, 2020 AT 5:30 P.M.

On motion by Supervisor McDaniel, seconded by Supervisor Day, 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, 2020** in **FUND 50, SCHOOL FUND** and expended as follows:

Additional Revenue Sources

National Forest Reserve Funds

4-50-63200-1171-903-000-100 Wages.....	\$23,400.00
4-50-63200-1172-903-000-100 Wages.....	\$23,516.00
4-50-64200-1620-904-000-100 Wages.....	<u>\$15,000.00</u>
Sub-total	\$61,916.00
 TOTAL FUND 50 APPROPRIATIONS	 \$61,916.00

Consideration to Create Rockbridge Fire and Rescue Association and Changes to County Code:

Chief of Fire and Rescue Nathan Ramsey briefly reviewed the agenda item which included the following information:

"At the April 27 meeting of the Board of Supervisors, the Board considered a resolution which would form a Countywide Fire and Rescue Association and conducted an associated public hearing on proposed changes

to Chapter 14 of the County Code, with some of the changes associated with formation of the association. Copies of both are attached.

After hearing public comments, the Board directed staff to distribute the resolution which would create the new association, to Fire and Rescue Chiefs and Captains, with request for additional review, prior to the Board considering the changes at its regularly scheduled May 26 meeting. The Fire Association subsequently met and has requested that the Board consider delaying any decisions until:

- After the Fire Association can meet with the RERG to discuss potential changes which may result in RERG support.
- Volunteer leadership can propose potential edits to the document, some of which may include: conformation from the Board that the previous budget funding for RERG and RCFA would continue for the Association, terms of officers, and addition of guidelines on how recommendations can be made for the use of EMS Revenue Recovery funds.

Staff has consulted with the Board Fire and Rescue committee (Supervisors Ayers and Day), and we recommend honoring the request."

Chairman Lyons asked Chief Ramsey how much time would be needed.

Chief Ramsey replied, 30-60 days would allow time for the FCFA to hold an electronic meeting with the RERG during the COVID19 pandemic.

Supervisor Lewis agreed to allow an additional 30 days and applauded the volunteers for working through this, together. He asked Chief Ramsey if 30 days would be enough time.

Chief Ramsey replied, yes.

Chairman Lyons asked Chief Ramsey to let the Board know when to add this back to an Agenda with the hopes to have it back at the second June meeting.

Supervisor Ayers agreed with the deadline of 30 days.

Supervisor McDaniel agreed that the two agencies needed to meet and come to a decision with a deadline of 30 days.

Mr. Suter explained that the associated ordinance would need to be advertised pending a Board decision, to ensure transparency. He noted that the next regularly scheduled meeting after the June 22nd meeting would be near the end of July.

Briefing on Tax Equalization Bill:

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

"The SB588ER2 bill approved changes to the enabling legislation for food and beverage (meals) taxes, transient occupancy taxes, admissions taxes and cigarette taxes, equalizing the authority of counties to that of cities and towns. The following is a summary of the revisions.

Food and Beverage Tax (Meals' Tax)

(i) *Currently:* Counties are authorized to levy a tax, not to exceed 4%, on prepared food and beverages sold for human consumption, if approved by referendum. However, Rockbridge County is one of 5 counties authorized to impose this tax upon holding a public hearing and unanimous vote of the governing body. Rockbridge currently levies the tax at 4% of the amount paid for such food and beverages pursuant to this authority.

(ii) *Effective July 1, 2020:* Any county is authorized to levy the meals' tax at a rate not to exceed 6% of the amount charged for such food and beverages, which represents a 2% increase in the maximum permissible. The provisions requiring referendum are deleted. The Board has consideration of this increase scheduled for public hearing on this agenda for a July 1st effective date.

(iii) *Estimated Fiscal Impact:* Staff estimated a 2% increase in the meals tax would generate \$760,000 in additional revenue in FY 2021. However, a 30% downward adjustment was made due to the COVID-19 pandemic and results in \$532,000 of additional anticipated revenue in the adopted budget figure.

Transient Occupancy Tax (Hotel/Motel/Travel Campground)

(i) *Currently:* Any county may levy this tax not to exceed 2% of the charge for the room or space occupied. Specified counties (including Rockbridge) may levy an additional 3% tax to be solely spent on tourism. Rockbridge County has imposed the entire 5% (with 1% of the tourism portion dedicated to the Horse Center through an economic development performance agreement, after compliance with the requisite state code provisions.) Some additional provisions authorize certain counties to levy a higher or additional percentage in transient occupancy tax. For Rockbridge, Lexington and Buena Vista, there is state authority to impose an additional 2% on the occupancy charge specifically for support of the Horse Center debt. Rockbridge has imposed this tax and expends the

revenues for direct payment to the USDA on the debt. Rockbridge is at the maximum permissible.

(ii) *Effective July 1, 2020:* Any county may levy the transient occupancy tax, not to exceed 5% of the charge, provided any revenue generated from the tax over 2% but not exceeding 5%, is spent as authorized prior to January 1, 2020. The statute authorizing Rockbridge, Lexington and Buena Vista to impose the additional 2% for payment of Horse Center debt remains in effect. The transient occupancy tax can be increased beyond the current rate of 7% currently charged by the County. The first 2% goes to the general fund, the next 3% must be spent on tourism, and the next 2% must be applied to Horse Center debt. Any rate increase over 7% is not restricted and may be placed in general fund.

(iii) *Estimated Fiscal Impact:* Staff estimated a 1% transient occupancy tax levy would generate \$237,500 in FY 2021. However, a 30% downward adjustment due to the COVID-19 pandemic results in \$166,250 of additional anticipated revenue (2% = \$332,500; 3% = \$498,250).

Admissions Tax

(i) *Currently:* Specific counties (Rockbridge not included) have special authority to impose admissions tax for attendance at any event, as defined in §58.1-3817. Several other counties have authority to impose admissions tax for spectator events and still others have authority to impose the tax for specific events or at specific facilities. All include a not-to-

exceed cap of 10% of the admission charge. Cities do not have a cap on the tax rate.

(ii) *Effective July 1, 2020:* Any county is authorized to levy an admissions tax on the admission charge for the event, not to exceed 10%. Counties may elect not to impose the tax on events held for charitable purposes. (There is an exception that does not apply to Rockbridge.)

Under both the current authority and the new authority, as provided in § 58.1-3817, the event classifications for which an admissions tax may be imposed are as follows:

1. Admissions charged for attendance at any event, the gross receipts of which go wholly to charitable purpose or purposes.

2. Admissions charged for attendance at public and private elementary, secondary, and college school-sponsored events, including events sponsored by school-recognized student organizations.

3. Admissions charged for entry into museums, botanical or similar gardens, and zoos.

4. Admissions charged to participants in order to participate in sporting events.

5. Admissions charged for entry into major league baseball games and events at any major league baseball stadium which has seating for at least 40,000 persons.

6. All other admissions.

The classifications mean that different rates (not to exceed 10%) may be charged for the events falling within the specified categories.

(iii) *Estimated Fiscal Impact*: Unknown. The County does not have a data set to generate an estimate of anticipated revenues should the Board move forward on this tax. Presuming a 10% admission tax levy, here are some examples for review.

- Virginia Safari Park: adult (13-64) ticket price of \$25.95 results in a \$2.60 tax

- Natural Bridge Zoo: adult (13-64) ticket price of \$16.00 results in a \$1.60 tax

- Natural Bridge Caverns: adult cavern tours at \$21.75 results in a \$2.18 tax

- Dinosaur Kingdom II: ages 13+ at \$12.00 results in a \$1.20 tax

- Halls Drive-in Theater: double feature night of \$20.00 per car results in \$2.00 tax

Local Cigarette Tax

(i) *Currently*: Generally, cities can impose this tax, but counties may not, except Fairfax and Arlington Counties, or any county that had the power to tax cigarettes prior to January 1, 1977.

(ii) *Effective July 1, 2021:* Any county, city or town is authorized to levy taxes on the sale or use of cigarettes, with authority to enter into an arrangement with the Department of Taxation for use of payment meter impressions or stamps. The tax may not be imposed within any town located in the county if the town imposes the tax, unless the town authorizes both to apply within the town limits. The maximum tax rate shall be two cents (\$0.02) per cigarette sold. Rockbridge County has the option of imposing this tax.

(iii) *Estimated Fiscal Impact:* Unknown.

Imposition of any of these taxes requires adoption of an ordinance, following legal notice and public hearing. The effective date is recommended to be at least 30 days beyond the adoption date to allow time for the business to adapt its system for collection of the tax. No action is required at this time. Staff requests direction from the Board on tax increases or levies."

Supervisor McDaniel recommended moving forward with taxes as presented to help the community and its citizens.

Supervisor Ayers agreed.

Supervisor Lewis agreed adding that the County needs a broader tax base and requested we keep looking into it.

Supervisor Day asked for additional time to review.

Chairman Lyons reminded the Board that a decision was not required at this time.

Public Hearings at 6:00 p.m.

Vacation of Streets and Alleys for Buena Vista Dog Park:

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

"Per last meeting's discussion, we have a request from the City of Buena Vista to rezone some of their land in the County from Residential General District (R-1) to the Conservation District (C-1) for a dog park per Section 601.02-3 of the Regulations. Parks are a permitted use in C-1 and this designation would allow for additional park type uses in the future. Under the current R-1 designation, a Park would be a use by special exception. The property is located directly across 10th Street from the Glen Maury Park entrance and is 100% flood plain. The property was platted during the late 1800's and, as with other properties in the area, is laced with old paper streets and alleys. Before we can consider rezoning this property for the City's intended use, the paper streets and alleys need to be vacated. A plat provided by Green Forest Surveys is in the packet."

Chairman Lyons opened the public hearing. There were no comments received by U.S. Mail, email, dropbox, in person, or by phone.

Mr. Suter advised that one comment was made via Zoom. The comment came from Thomas Roberts, Director of Community and Economic Development for the City of Buena Vista. Mr. Suter read the comment aloud, which simply thanked the Board of Supervisors for considering this request.

With there being no additional comments, Chairman Lyons closed the public hearings.

Chairman Lyons asked how close the Dog Park would be from the complaints about barking dogs as mentioned during the citizens comment period.

Mr. Suter replied, nowhere close to one another..

Supervisor Lewis advised that the Dog Park was something that had been in the works for a couple of years; it was just hard to find a suitable place. He indicated his belief that the proposed location meets all needs of the founding group, which also created a strict set of bylaws to follow.

Supervisor McDaniel asked for clarification on ownership of the land.

Mr. Suter replied that the City owns the land, but the land is in the County which means the County must approve the rezoning.

Supervisor McDaniel asked if there is any liability on the County.

Mr. Suter replied, no because the City owns the land.

Supervisor McDaniel moved to adopt the ordinance. 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

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY,
VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES ON TUESDAY,
MAY 26, 2020

Ordinance to Vacate and Close Unimproved and Unused Rights-of-Way and Alleys Among Multiple Lots Owned by the City of Buena Vista Across From Glen Maury Park on the South and West Side of West 10th Street and Fisherman's Lane (Virginia Secondary Route 1204), Formerly Bridge Street, and North of the Maury River, Shown as "Parcel C – 1.73 Acres +/-" on the Exhibit for City of Buena Vista Street Vacation, Including Mill Street and 1st Street, and the Alleys in Block 4 and Block 5, and a Portion of Alley in Block 2, All as Variably Shown and Created on

the Plats of “West Buena Vista” of Record in Plat Cabinet 3, Slide 15, Deed Book 65, Page 61, Deed Book 187, Page 63, Deed Book 302, Page 547, and Deed Book 237, Page 166, in the Buffalo Magisterial District of Rockbridge County, Virginia

WHEREAS, the City of Buena Vista, Virginia, the Petitioner, is the owner of multiple lots as shown on Plats of “West Buena Vista” (Plat Cabinet 3, Slide 15, Deed Book 65, Page 61, Deed Book 187, Page 63, Deed Book 302, Page 547, and Deed Book 237, Page 166), lying south and west of West 10th Street across from Glen Maury Park, bounded on the south by the Maury River, and located in the Buffalo Magisterial District of Rockbridge County, delineated as Parcel A containing 5.05 acres, on the attached Exhibit for City of Buena Vista Street Vacation, prepared by Green Forest Surveys, revised March 16, 2020; and,

WHEREAS, the tax parcel numbers for identification of the City of Buena Vista lots are listed on Attachment 1, by reference incorporated herein; and,

WHEREAS, the City of Buena Vista has requested that certain rights-of-way and alleys adjoining said lots, shown as “Parcel C – 1.73 Acres +/-“ on the attached Exhibit, be vacated and closed; and,

WHEREAS, the rights-of-way and alleys proposed to be vacated are unimproved and unused as public ways and have not been accepted into the state secondary road system; and,

WHEREAS, §15.2-2272.2 of the Code of Virginia (1950, as amended) requires that such action be accomplished by the adoption of an ordinance, following public hearing, by the governing body; and,

WHEREAS, public notice has been given as required by §15.2-2204 of the Code of Virginia (1950, as amended), and the public hearing was held on May 26, 2020.

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

1. That the streets and alleys in Blocks 2, 4 and 5 on Plats of ‘West Buena Vista’, including 1st Street and Mill Street, outlined in pink and shown as “Parcel C – 1.73 Acres +/-“ on the attached Exhibit for City of Buena Vista Street Vacation, prepared by Green Forest Surveys, revised March 16,

2020, situate in the Buffalo Magisterial District of Rockbridge County, Virginia, being unused and unimproved as public rights-of-way and not accepted into the state secondary road system, be, and hereby are, vacated and closed pursuant to Section 15.2-2272 of the Code of Virginia (1950, as amended), subject to the following conditions:

a. That fee simple title to the rights-of-way and alleys vacated and closed pursuant to this Ordinance shall vest in the owner(s) of the abutting property as provided in §15.2-2274 of the Code of Virginia (1950, as amended), and shall be added and combined to said abutting lots.

b. That all costs and expenses associated herewith, including but not limited to publication, survey and recordation costs, shall be the responsibility of the Petitioner.

2. That the County Administrator or the County Subdivision Agent is hereby authorized to execute such documents and take such actions as may be necessary to accomplish the provisions of this ordinance, all of which shall be approved as to form by the County Attorney.

3. That this ordinance shall be effective on and from the date of its adoption, and an original or a certified copy of this ordinance shall be recorded in the Clerk's Office of the Circuit Court of Rockbridge County, Virginia, in accordance with §15.2-2272.2 of the Code of Virginia (1950, as amended).

Adopted this 26th day of May, 2020.

Meals Tax Increase:

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

“During budget discussions as a result of COVID-19 impacts, the Board asked staff to research the meals tax. The County’s meals tax rate is currently four percent. New legislation, effective July 1st, allows

counties to impose meals tax at a rate up to 6%. The meals tax rates in the Cities of Lexington and Buena Vista are each six percent. The advertised 2021 budget includes a two percent increase, from four percent to six percent. Under normal conditions a two percent increase in the meals tax would generate approximately \$760,000 annually. However, we have reduced that estimate to \$532,000 (30% reduction) based on COVID19 impacts to the local economy.

After discussion at its May 11 meeting, the Board authorized a public hearing in at two percent increase in the meals tax. The public hearing was subsequently advertised for two weeks in the Lexington News Gazette.”

Chairman Lyons opened the public hearing. With there being no comments by U.S. Mail, email, dropbox, in person, by Zoom, or by phone, Chairman Lyons closed the public hearing.

Supervisor McDaniel moved to adopt the ordinance. 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 ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES ON TUESDAY, MAY 26, 2020

ORDINANCE TO AMEND SECTION 25-192 IN ARTICLE X – TAX ON CERTAIN FOODS AND BEVERAGES OF THE ROCKBRIDGE COUNTY CODE CHAPTER 25 - TAXATION, TO INCREASE THE RATE OF TAX ON PREPARED FOODS AND BEVERAGES (A/K/A MEALS) FROM FOUR PERCENT (4%) TO SIX PERCENT (6%)

1. BE IT ENACTED by the Rockbridge County Board of Supervisors that, pursuant to Section 58.1-3833 of the Code of Virginia (1950, as amended), Section 25-192 of Article X – Tax on

Certain Foods and Beverages, in Chapter 25 – TAXATION of the Rockbridge County Code, be and hereby is amended and reenacted, as follows:

ROCKBRIDGE COUNTY CODE

Chapter 25

TAXATION

ARTICLE X. TAX ON CERTAIN FOODS AND BEVERAGES

Sec. 25-192. Levy of tax; amount.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a tax is hereby levied and imposed on the purchaser of all food served, sold or delivered in the County in or from a restaurant, whether prepared in such restaurant or not, and whether consumed on the premises or not.

The rate of this tax shall be six percent (6%) of the amount paid for such food. In the computation of this tax, any fraction of one-half (1/2) cent or more shall be treated as one (1) cent. (Ord. of 6-13-88(2), §2; Sec. 192 Amended by Ord. of 8-28-00)

2. This Ordinance shall be effective on and from July 1, 2020.

Adopted this 26th day of May, 2020.

Re-Adoption and Extension of Continuity of Government Ordinance:

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

“At a Special Emergency Meeting of the Board of Supervisors on April 6, 2020, the Board adopted an Emergency Continuity of Government Ordinance, to address continuing government operations during the current emergency and disaster due to the COVID-19 pandemic. The Ordinance is effective for sixty (60) days, through June 5, 2020.

The necessity was, and continues to be, that the Freedom of Information Act allows for all electronic meetings of local governing bodies to handle matters related to the emergency. However, it does not anticipate a long-term emergency where the local governing body and its many local and regional boards, commissions, committees and authorities must continue to govern and address matters other than the emergency itself.

This item is for the Board to hold a public hearing on re-adoption and extension of the Continuity of Government Ordinance for an additional four (4) months, through October 5, 2020, as authorized by Virginia Code §15.2-1413. Public notice has been provided, in compliance with Va. Code §15.2-1427(F).

The proposed Ordinance allows for real time electronic meetings (without the physical presence of a quorum), establishes procedures that assure public access by electronic means, while observing safety guidelines and directives, suspends deadlines and permits postponement of non-emergency public hearings and action items, and encourages towns within the County to adopt a similar Ordinance. The Ordinance specifically provides that failure to meet deadlines shall not constitute a default, violation, approval, recommendation or otherwise, but all public entities, officers and employees are encouraged to take such action as is practical and appropriate to meet those deadlines. All other local and regional bodies may rely on this action to alter their meetings as needed to conduct government business during the emergency, in accordance with these procedures.

If acceptable to the Board, following public hearing and discussion, adopt the proposed Ordinance to be effective from June 5, 2020, through October 5, 2020.”

Chairman Lyons opened the public hearing. With there being no comments by U.S. Mail, email, dropbox, in person, by Zoom, or by phone, Chairman Lyons closed the public hearing.

Supervisor McDaniel asked if Board Members could attend future meetings after the COVID19 pandemic by electronic means.

Chairman Lyons replied that those provisions were already in place.

Supervisor Lewis added that those provisions only allow for each Board member to participate by electronic means twice per year.

Supervisor Ayers asked the County Attorney if the two-meeting restriction was just the County’s rule or by state statute.

Ms. Huffman responded that those restrictions are State imposed.

Mr. Suter noted that there must be a quorum physically present at the time of the meeting should one or two members participate by electronic means.

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

Ayes: Lewis, Day, Ayers, McDaniel, Lyons
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,
MAY 26, 2020**

RE-ADOPTION AND EXTENSION OF ORDINANCE TO EFFECTUATE TEMPORARY CHANGES IN CERTAIN DEADLINES AND TO MODIFY PUBLIC MEETING AND PUBLIC HEARING PRACTICES AND PROCEDURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIATED WITH PANDEMIC DISASTER (“CONTINUITY OF GOVERNMENT ORDINANCE”)

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One (2020) declaring a state of emergency for the Commonwealth of Virginia arising from the novel coronavirus (COVID-19) pandemic; and,

WHEREAS, Executive Order Fifty-One acknowledged the existence of a public health emergency which constitutes a disaster as defined by Virginia Code § 44-146.16 arising from the public health threat presented by a communicable disease anticipated to spread; and,

WHEREAS, Executive Order Fifty-One ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive “any state requirement or regulation” as appropriate; and,

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency, beginning March 1, 2020, in response to the spread of COVID-19; and,

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic; and,

WHEREAS, on March 17, 2020, the County’s Director of Emergency Management issued a Declaration of Emergency, as amended, applicable throughout the County of Rockbridge, Virginia, pursuant to Virginia Code Sections 44-146.21; and,

WHEREAS, on March 23, 2020, at its regular meeting, the Board of Supervisors of Rockbridge County (the “Board”) adopted a Resolution to ratify and confirm the Declaration of Local Emergency issued by the local Director of Emergency Management on March 17, 2020, specifically finding that the COVID-19 Pandemic constitutes a disaster as defined in Virginia Code § 44-146.16, being a “communicable disease of public health threat”, and amended the Declaration accordingly; and,

WHEREAS, subsequent to the Declaration, there has been confirmation of area citizens having contracted COVID-19; and,

WHEREAS, Virginia Code § 15.2-1413 provides that, notwithstanding any contrary provision of law, a locality may, by ordinance, provide a method to assure continuity of government in the event of a disaster for a period not to exceed six months; and,

WHEREAS, Virginia Code § 44-146.21(C) further provides that a local director of emergency management or any member of a governing body in his absence may upon the declaration of a local emergency “proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to performance of public work;” and,

WHEREAS, Virginia Code § 2.2-3708.2(A)(3) allows, under certain procedural requirements including public notice and access, that members of the Board of Supervisors may convene solely by electronic means “to address the emergency;” and,

WHEREAS, the open public meeting requirements of the Virginia Freedom of Information Act are limited only by a properly claimed exemption provided under that Act or “any other statute;” and,

WHEREAS, the Governor and Health Commissioner of the Commonwealth of Virginia and the President of the United States have recommended suspension of public gatherings of more than ten attendees; and,

WHEREAS, the Attorney General of Virginia issued an opinion dated March 20, 2020, stating that localities have the authority during disasters to adopt ordinances to ensure the continuity of government; and,

WHEREAS, the Board of Supervisors has found that emergency measures are necessary to mitigate the ongoing emergency and disaster that is occurring in the County and to protect the health, safety, and welfare of the citizens; and,

WHEREAS, the Board desired to ensure the continuity of government pursuant to Section 15.2-1413 of the Code of Virginia (1950, as amended), and on April 6, 2020, adopted an emergency ordinance in response to the disaster caused by the COVID-19 pandemic, to promote the public

health, safety and welfare, consistent with the law of the Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United States of America; and,

WHEREAS, said Emergency Ordinance will remain in effect for a period of 60 days, expiring on June 5, 2020, unless re-adopted and extended; and,

WHEREAS, pursuant to Va. Code §15.2-1413, an Ordinance to provide for the continuity of government may be adopted for an additional period of four (4) months; and,

WHEREAS, consideration has been given in the Commonwealth to transitioning back to release of certain restrictions in the Commonwealth, but it is not anticipated that all restrictions will be released or removed prior to June 6, 2020, and the declared state of emergency and disaster remains in effect in the County of Rockbridge and the Commonwealth of Virginia; and,

WHEREAS, public notice has been provided in accordance with §15.2-1427(F) of the Code of Virginia (1950, as amended); and,

WHEREAS, the Board of Supervisors has held a public hearing on this Ordinance on May 26, 2020; and,

WHEREAS, the Board desires to ensure the continuity of government pursuant to §15.2-1413 of the Code of Virginia (1950, as amended), to the extent needed or necessary to promote public health, safety and welfare in response to the disaster caused by the COVID-19 pandemic, for an additional four (4) months as authorized by statute, consistent with the law of the Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United States of America.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Rockbridge County, Virginia:

1. That the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for public bodies of the County, including the Board, the Rockbridge County School Board, the Board of Zoning Appeals, the Planning Commission, the Tourism Corridor Review Board, the Rockbridge County Public Service Authority, the Rockbridge County Economic Development Authority, the Board of Building Code Appeals, and all local and regional boards, commissions, committees and

authorities created by the Board of Supervisors or to which the Board appoints all or a portion of its members (collectively “Public Entities” and individually “Public Entity”), or for such Public Entities to conduct meetings in accordance with normal practices and procedures.

2. That in accordance with Virginia Code § 15.2-1413, and notwithstanding any contrary provision of law, general or special, the following emergency procedures are adopted to ensure the continuity of government during this emergency and disaster:

a. Any meeting or activities which require the physical presence of members of the Public Entities may be held through real time electronic means (including audio, telephonic, video or other practical electronic medium) without a quorum physically present in one location; and

b. Prior to holding any such electronic meeting, the Public Entity shall provide public notice of at least 3 days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment; and

c. Any such electronic meeting of Public Entities shall state on its agenda and at the beginning of such meeting that it is being held pursuant to and in compliance with this Ordinance; identify Public Entity members physically and/or electronically present; identify the persons responsible for receiving public comment; and identify notice of the opportunities for the public to access and participate in such electronic meeting; and

d. Any such electronic meeting of the Public Entities shall be open to electronic participation by the public and closed to in-person participation by the public; and

e. For any matters requiring a public hearing, public comment may be solicited by electronic means in advance, or in writing by mail or drop box in advance, and shall also be solicited through telephonic or other electronic means during the course of the electronic meeting. All such public comments will be provided to members of the Public Entity at or before the electronic meeting and made part of the record for such meeting; and

f. The minutes of all electronic meetings shall conform to the requirements of law, identify how the meeting was conducted, members participating, and specify what actions were taken at the meeting. The Public Entities may approve minutes of an electronic meeting at a subsequent electronic meeting and shall later approve all such minutes at a regular or special meeting after the emergency and disaster has ended.

IT IS FURTHER ORDAINED that notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by a Public Entity, its officers (including Constitutional Officers) and employees of its organization shall be suspended during this emergency and disaster, however, the Public Entities, officers and employees thereof are encouraged to take such action as is practical and appropriate to meet those deadlines. Failure to meet any such deadlines shall not constitute a default, violation, approval, recommendation or otherwise.

IT IS FURTHER ORDAINED, that non-emergency public hearings and action items of Public Entities may be postponed to a date certain provided that public notice is given so that the public are aware of how and when to present their views.

IT IS FURTHER ORDAINED, that each incorporated town within the boundaries of Rockbridge County are encouraged, authorized and/or directed to declare its own state of local emergency and disaster or incorporate by reference the County's local state of emergency and disaster and to adopt an ordinance for the continuity of town government.

IT IS FURTHER ORDAINED, that the provisions of this Ordinance shall remain in full force and effect for a period of four (4) months from June 5, 2020, specifically through October 5, 2020. Upon rescission by the Board or automatic expiration as described herein, this ordinance shall terminate and normal practices and procedures of government shall resume.

Nothing in this Ordinance shall prohibit Public Entities from holding in-person public meetings provided that public health and safety measures as well as social distancing are taken into consideration.

ADOPTED by the Board of Supervisors of Rockbridge County, on this 26th day of May, 2020.

Briefing on Reopening County Governmental Facilities:

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

"Since March 20th, County offices have been closed to the public in an effort to help stop the spread of COVID19. During that time, the Governor of Virginia has issued multiple orders, including a stay at home order. Most recently, he issued a phased plan of reopening the Commonwealth. County staff has done a fantastic job of keeping business flowing. Some have teleworked and other departments have had to work in shifts to avoid a scenario where all we would have to shut down an entire department due to a positive test.

In recent weeks, we have communicated with other localities and both internal and external departments, seeking to achieve gradual reopening plan for County offices. Rockbridge County shares a desire to keep citizens and employees safe, while also gradually moving closer to pre Covid-19 status. As such, a phased plan, in general alignment with the Governor's plan, has been developed using the following overarching goals:

- To establish the procedures to be followed during recovery.
- To develop a plan based on Federal and State Guidelines, and be prepared for changes that may occur at any time.
- To ensure that each department has the resources to create additional recovery plans or restrictions due to their unique activities.

- To collaborate with outside departments/agencies, such as the libraries, social services, fire/rescue, sheriff, courts, commonwealth attorney, schools and service authorities as each will have plans unique to their operations.

We are currently in **Phase 1** of the plan, which involves the status quo which I just described. Some facilities, such as the Lake Robertson Campground, have already reopened in a cautious fashion. The building department and fiscal services have worked to order window screening, signage, sanitation supplies and other necessary items to help keep staff and the public safe. Limited supply chains have created some issues, but we think we are going to be prepared for our planned Phase 2 opening.

Phase 2 would begin on June 11 and some facilities would be opened to the public. Each public facility would have its own protocols. In the administration building a deputy would be stationed in the main hallway to assist with social distancing. As of today, masks are required beginning Friday. The second floor would be by appointment except for PSA payments. While we would continue to encourage folks to use the mail and dropbox, if someone had to visit the PSA, we would send them up the center stairs. We would continue to work in shifts teleworking as possible during phase 1 as well. We would continue the existing electronic meeting format if the Board agrees. Finally, there would be increased cleaning and sanitizing. Key dates during Phase 2 include the extended decal display date of June 15, real estate tax due date of June 22nd and the Republican primary on June 23rd.

The next two phases are tentative and flexible, and will depend on further state and federal guidance.

Phase 3 is tentatively planned for June 25th and would involve further opening of facilities. Staff would return to pre COVID19 work schedules as well. At this point, the Board could determine whether or not to return to standard meeting format and if so, to expand the number of persons in a room to greater than 10.

There is no date set for **Phase 4**, which would basically return everything to pre COVID19 status, with of course, increase caution.

If the board is agreeable to the basic premise, I'd like to begin rolling this plan out in the next few days, for staff to prepare."

Board Members commended Mr. Suter.

Supervisor McDaniel shared that, since the Board began using online measures for Board meetings and for citizens to pay bills during the COVID19 pandemic, and since these measures have proven to be beneficial, he recommended continuing to provide online services after the pandemic.

Supervisor Lewis asked what the staffing plan looks like following the reopening of the County departments.

Mr. Suter replied, it depends on each department.

Chairman Lyons asked for a briefing at the next Board Meeting.

Appointments

The following appointments were postponed to allow the Board additional time to review any applications that may have been received:

1. DSLCCB- Tony McFaddin- Term Expires 6/30/2020
2. MSA- John Higgins- Term Expires 6/30/2020

3. Library Board- Gail Heslep- Term Expires 6/30/2020
4. CSPDC- Jay Lewis- Term Expires 6/30/2020
5. RRCCMB (911 Board)- P.J. Sibold- Term Expires 6/30/2020
6. RRCCMB (911 Board)- Mickey Cochrane- (Alternate Member) Term Expires 6/30/2020

Board Comments:

Chairman Lyons advised that the Commonwealth had a CARES Act Fund that would provide localities with funds to assist with COVID19 expenditures. He stated that there are strict limitations on the use of the funds which would need to be utilized before the end of CY2020. Chairman Lyons shared that the County Administrator had requested that the Board appoint a committee to work with staff to review recommendations on how to use the funds and then bring recommendations back to the full Board. He asked the Board if they wished to appoint a committee or assign this task to the Finance Committee.

Supervisor McDaniel agreed with assigning the task to the Finance Committee.

Supervisor Lewis also agreed with assigning the task to the Finance Committee.

Supervisor Ayers agreed with assigning the task to the Finance Committee and for the full Board to receive updates.

Chairman Lyons asked the County Administrator to send the full Board the funding regulations and for the Board to send their recommendations on how to use those funds to the County Administrator.

Supervisor Ayers asked for the Board to consider going over mechanisms to address the barking dogs issue in residential zones. She noted that the parking dogs petition Ms. Woodcock spoke of during the citizens comment period included 15 individuals in 11 households. She asked for a way to work this types of issue out.

Chairman Lyons asked the County Attorney to provide some guidance or options and let the Board know. He noted that fixing one problem can cause more for others. He recommended adding this for discussion on a future agenda.

Closed Meeting:

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

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

Supervisor Day 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 McDaniel, and the motion carried by the following roll call vote by the Board.

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

Adjournment:

With no further business to discuss, Supervisor Lewis 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: Lewis, Ayers, McDaniel, Day, Lyons
Nays: None
Absent: None
Abstain: None