

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 8, 2021 AT 5:30 P.M.

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

COUNTY ADMINISTRATOR: SPENCER H. SUTER

COUNTY ATTORNEY: VICKIE L. HUFFMAN

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CALLED TO ORDER:

Chairman Lyons called the meeting to order.

Administrative Assistant to the County Administrator Brandy Whitten conducted a roll call of the Board members. Supervisors Lewis, Day, McDaniel, and Lyons attended in-person, while Supervisors Ayers, attended virtually.

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

The Board then led in the Pledge of Allegiance.

Chairman Lyons advised of the following announcements:

"While the room will be open to the public, due to the size of the meeting room and social distancing requirements, no more than 10 attendees other than County staff will be allowed into the room at one time. Per the Governor of the Commonwealth of Virginia Executive Order 63, all persons over the age of five, that do not have a precluding medical condition, are asked to wear a face covering.

We will hold citizens comments near the beginning of the meeting.  
There is one (1) Public Hearing at 6:00 P.M.

We will do our best to take citizen comment remotely. There are two options for citizens to offer comment:

- 1) To join by Telephone, you may 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, also available on the County website.
- 2) If you wish to make a citizen comment as a Zoom meeting participant, you will use the "Raise your Hand" feature. You can press the "Raise Hand" button on the bottom of your Zoom window, or press \*9 if you are calling in by telephone."

**Changes to the Agenda:**

There were none.

**Recognitions and Presentations:**

There were none.

**Citizens Comments:**

Chairman Lyons called for citizen comments. Several citizens asked to speak on the Admissions tax. Chairman Lyons noted that there would be a public hearing at 6:00 PM to take comment on the Admissions tax, but that if citizens wanted to speak now they were welcome to.

Anne Russek of the Buffalo Magisterial District spoke in regard to the admissions and cigarette tax and the decal fee. She stated that the admissions tax would be a bad idea because there are few attractions in the County, one of which is the Virginia Horse Center which receives tax dollars from the lodging tax, and others such as the Dinosaur Kingdom and the Safari Park. She noted the unfairness of one attraction (the VHC) receiving lodging tax revenues verses the non-profits who will be asked to pay the admissions tax. Ms. Russek disagreed with a previous statement that outsiders would be the ones paying the admissions tax, stating that locals also support the non-profit businesses. She shared her disagreement with discussing such taxes during unprecedented times and suggested time be spent focusing on education and raising the tax base by bringing in new businesses. She also asked the Board to consider using revenues from the cigarette tax to provide programs to deter children from smoking. She asked the Board to consider reducing the tax from \$.30 cents per pack to \$.20 cents per pack to bring in more sales from outsiders who are forced to pay more where they are from.

Scott Guise from the Kerrs Creek Magisterial District stated that the last thing he is in favor of is removing the tax exemption for logging equipment. He advised that he was advocating on behalf of any business

that would be subject to the attractions (admissions) tax. Mr. Guise shared his disagreement with the Board using tax payer dollars to consistently provide a backup plan for the shortfalls in the budget as a crutch for implementing additional taxes and suggested discussions be had to pinpoint where cuts can be made in the budget and money be better allocated. Mr. Guise shared his concern about local small businesses not being able to stay afloat once implementing the admissions tax, forcing those businesses to shut down, and ultimately resulting in money leaving the County and being spent in surrounding localities. He then suggested that the Board reevaluate the County decal situation as it is currently not serving anyone and is only used for taxing citizens.

Morgan McCown of the Kerrs Creek Magisterial District shared that one of the first things her family noticed when moving to the County some 25 years ago was that the cost of living was astronomical and taxes are ever increasing. She added that it is nearly impossible for residents to find affordable housing without utilizing government assistance and they are being forced to do moronic things such as buying a County decal. She stated it is time the Board look at families whose overall salaries are around \$55,000 per year and make decisions that benefit them, not cripple them.

Lauren Summers of the South River Magisterial District spoke on behalf of Hulls Drive In and what the admissions tax could do to the business. She stated that about 60% of the attendees are residents of the County and adding the tax would reduce the number of visits they could make. She shared that currently, about 70% of their admission cost goes to

the studio which allows them to play movies and adding the admissions tax would result in an unsustainable business model from that point forward. Ms. Summers asked that Hulls Drive In be exempt from the admissions tax.

John Meyer of Lexington advised that he was new to the area and was seeing a trend in localities taxing its residents during a pandemic and demanded to know why.

**Approval of the January 25, 2021 Minutes:**

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

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

**Consideration of County Financial Package:**

Fiscal Services Director Steven Bolster briefly reviewed his monthly memorandum which included activities for the month for the Commission of the Revenues Department and the Treasurers Department. During his update, Mr. Bolster received a question from Supervisor McDaniel in regard to term of the Virginia Public School Authority (VPSA) application for Central and Fairfield Elementary Schools HVAC project financing.

Mr. Bolster replied, the lifecycle of the HVAC system, which is about 20 years. He then reviewed the upcoming budget schedule followed by the

Revenues verses Expenditures Chart and the School Division's Appropriation Resolution.

Supervisor Lewis moved to approve resolution, as presented.

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 COUNTY ADMINISTRATIVE BUILDING, 150 SOUTH MAIN STREET, LEXINGTON, VIRGINIA, ON MONDAY, FEBRUARY 8, 2021 AT 5:30 P.M.

On motion by Supervisor Lewis, seconded by Supervisor Day, 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:

4-11-31020-7005 Police Equipment..... \$3,472.00  
**Total General Fund Appropriations** \$3,472.00

**Total Appropriations** \$3,472.00

**Current County**

11 - General Fund \$396,057.30  
94 - Central Stores \$9,740.76  
202 - COVID-19 Response Fund \$39,704.46  
204 - CRF Municipal Utility Relief Fund \$10,668.14  
376 - Capital Purchases Fund \$45,350.83

**Total County Bills** \$501,521.49

**Current Fiscal Agent**

80 - Regional Jail Fund \$194,845.64

**Total Fiscal Agent** \$194,845.64

**TOTAL ALL BILLS**

**\$696,367.13**

**Public Hearing at 6:00 P.M.:**

**Ordinance to Amend the Rockbridge County Code, Chapter 25 - Taxation,  
To Add a New Article XIV - Admissions Tax:**

County Administrator Spencer Suter briefly reviewed the agenda item which included the following information:

"In the 2020 legislative session, SB588ER2 was approved to equalize the authority of counties to that of cities and towns for food and beverage taxes, transient occupancy taxes, admissions taxes and cigarette taxes. Effective July 1, 2020, Rockbridge County had authority to impose Admissions tax, not-to-exceed 10% of the admission charge.

The Board adopted the tax, at the rate of 10% per admission charge, effective August 1, 2020. Subsequently, the tax was repealed in response to business-owner concerns related to the rate and the current business environment due to the pandemic.

The Finance Committee, David McDaniel and Jay Lewis, met with several representative business owners to discuss alternative measures for implementing the admissions tax. The current draft Ordinance (attached) represents the Committee's recommendations.

The proposed Ordinance provides for imposition of the tax at the rate of 3% per charge for the first year, beginning January 1, 2022. Beginning

January 1, 2023, and extending through December 31, 2023, the rate would increase to 6% per admission charge. Effective January 1, 2024, and continuing thereafter, the rate would be 10% per charge. Any admission tax would be capped at \$3.00 per charge.

The proposed Ordinance also includes the following exemptions

- (1) Admissions charged for attendance at public and private elementary, secondary, and college school-sponsored events, including events sponsored by school-recognized student organizations; and,
- (2) Admissions charged to participants in order to participate in sporting events.

The tax is collected by the operator of the event or business from the customer and is held in trust until paid to the County. Returns are filed with the Commissioner of the Revenue.

Determinations as to whether the tax applies to a specific event, series of events, or business is within the purview of the Commissioner of the Revenue. However, generally speaking, the tax would not be imposed on purchase of a meal or product, but would be imposed on any admission charge for entry to an event, occasion or business. A non-exclusive list of examples is included in Section 25-242 of the Ordinance.

At its January 25<sup>th</sup> meeting, the Board reviewed and discussed the proposed Ordinance, and took action to schedule a public hearing for February 8, 2021.



FISCAL IMPACT:

There is no history with this tax to provide an accurate estimate of the revenue that may be generated. However, some examples of the amount of tax that may be generated for the 2022 calendar year, at the 3% tax rate, are as follows:

- Virginia Safari Park: adult (13-64) ticket price of \$25.95 results in a \$.78 tax
- Natural Bridge Zoo: adult (13-64) ticket price of \$16.00 results in a \$.48 tax
- Natural Bridge Caverns: adult cavern tours at \$21.75 results in a \$.65 tax
- Dinosaur Kingdom II: ages 13+ at \$12.00 results in a \$.36 tax
- Hulls Drive-in Theater: double feature night of \$20.00 per car results in \$.60 tax."

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

Mark Cline of the Natural Bridge Magisterial District shared his appreciation of the discussion held in regard to this tax. He shared that, when asked where the money collected from this tax should go, Supervisor Lewis answered that the County needed more money as expenses grew.

Supervisor Lewis clarified that this statement was incorrect and what he had said was that the Commonwealth has given less funding and those funds needed replaced. He added that the Commonwealth suggested those lost funds be made up through this tax.

Mr. Cline apologized for the inaccurate statement and continued sharing his concern that there is still uncertainty as to where the funds will go. He added that, since President Biden took office, the price of gas has increased and could reach up to \$4 per gallon which will hurt small businesses. Mr. Cline suggested the tax be looked at on a year-by-year bases and asked that nonprofit businesses be exempt from the tax as they are already on razor thin budgets.

Charles Barger representing Lime Kiln Theatre asked that nonprofit organizations be exempt from the tax because a lot of their fundraising efforts are ticket-based and would be taxed. He listed the following examples of ticket-based fundraisers that would be subject to the tax: the Christmas Basket Program, the Community Table of Rockbridge, Effinger and Kerrs Creek Fire Departments, Project Horizon, Hospice, and more. He suggested there be a re-evaluation of the tax and how much money was brought in after the first year and to see if it is working out the way the Board wanted it to. If not, he suggested looking at more equitable and fair ways to raise funding for the County.

Chairman Lyons closed the Public Hearing at 6:15 p.m.

Supervisor Ayers stated that during the last meeting she asked why the Board would consider including three (3) years of taxing in the ordinance and was told it was to give a timeline and expectation so the community would know what the Board was thinking. She advised that it was not her expectation to have automatic increases after the first and second year without receiving public comment.

County Attorney Vickie Huffman confirmed that the ordinance, as written, imposes the increases over the course of three (3) years. She noted that, once the ordinance is adopted, it could be amended at any time following a Public Hearing. Ms. Huffman added that the ordinance was drafted as it is following public comments advising that it would take a year of lead time for businesses to prepare.

Supervisor McDaniel suggested that re-evaluation of the tax take place in October or November of 2022 at which time some data would be available to look at.

Supervisor Ayers shared her concern about implementing the tax the first year and imposing the addition 3% the second year without knowing if the first year was successful or damaging to businesses and nonprofits. She noted that Mr. Barger's comments during the public hearing needed to be considered. She stated she had a real concern about how money is being raised to fulfil obligations when some of the nonprofit organizations are the very reason people visit the County. She added that those nonprofits spend much of their time and energy with fundraising and daily operations which are driven by volunteers. She asked for a study to show how much those businesses and nonprofits cost the County in terms of services, and if they do not cost the County anything, why would they be hit with this tax. Supervisor Ayers stated that she was in agreement with imposing the 3% for the first year and then re-evaluating, but did not agree with adding 3% more the second year before knowing the ramifications of the first year.

Supervisor McDaniel suggested a work session at the next meeting for further discussion should changes need to be made to the proposed ordinance.

Chairman Lyons asked for clarification by Ms. Huffman to clarify that the tax would not be imposed until January 2022 and if there were anything that would prohibit the Board from making a change to the ordinance after finding that the tax was in fact a burden on businesses.

Ms. Huffman agreed that implementation of the tax wasn't until January 2022, and following adoption of the ordinance, the Board can make changes following a Public Hearing.

Chairman Lyons asked Ms. Huffman if the Board could receive feedback from the nonprofits in November or December of 2022 and have the ability to delaying the additional 3% for the following year.

Ms. Huffman replied, correct, that it could be eliminated, delayed, or changed following a Public Hearing.

Chairman Lyons reiterated that the percentages were not set in stone and could be changed at the will of the Board. He stated the Board could go ahead and impose the tax in January 2022 and re-evaluate later that year.

Supervisor Lewis moved to adopt the ordinance, as presented. 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 MONDAY,  
FEBRUARY 8, 2021

**ORDINANCE TO AMEND THE ROCKBRIDGE COUNTY CODE, CHAPTER 25 -  
TAXATION, TO ADD A NEW ARTICLE XIV – ADMISSIONS TAX, TO IMPOSE AN  
ADMISSIONS TAX ON ANY ADMISSION CHARGE FOR ATTENDANCE AT AN  
EVENT OR BUSINESS AS FOLLOWS: 3% FOR JANUARY 1, 2022 THROUGH  
DECEMBER 31, 2022; 6% FOR JANUARY 1, 2023 THROUGH DECEMBER 31, 2023;  
AND 10% FOR JANUARY 1, 2024 THROUGH DECEMBER 31, 2024; BUT NOT TO  
EXCEED \$3 PER CHARGE**

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

## **ROCKBRIDGE COUNTY CODE**

### Chapter 25

#### **TAXATION**

- Art. I. In General, §§25-1--25-20**  
**Art. II. Personal Property Tax, §§25-21--25-35**  
**Art. III. Real Property Tax, §§25-36--25-95**  
Div. 1. Generally, §§25-36--25-50  
Div. 2. Special Assessment for Agricultural, Horticultural, Forest or Open Space Real Estate,  
§§25-51--25-65  
Div. 3. Assessment of New Buildings, §§25-66--25-75  
Div. 4. Exemptions from Real Estate Taxes, §§25-76--25-95  
**Art. IV. Motor Vehicle License Tax, §§25-96--25-120**  
**Art. V. Sales Tax, §§25-121--25-130**  
**Art. VI. Use Tax, §§25-131--25-140**  
**Art. VII. Utility Tax, §§25-141--25-160**  
**Art. VIII. Additional Tax on Telephone Services, §§25-161--25-175**  
**Art. IX. Transient Occupancy Tax, §§25-176--25-190**  
**Art. X. Tax on Certain Foods and Beverages, §§25-191--25-215**  
**Art. XI. Bank Franchise Tax, §§25-216--25-225**  
**Art. XII. Recordation Tax, §§25-226--25-228**  
**Art. XIII. Short-Term Rental Registry, §§25-231--25-240**  
**Art. XIV. Admissions Tax, §§25-241--25-250**

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

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#### **ARTICLE XIV. ADMISSIONS TAX**

##### **Sec. 25-241. Imposed; amount.**

A. Pursuant to the authority granted by § 58.1-3818 of the Code of Virginia (1950, as amended), there is hereby imposed a tax on admissions charged for attendance at an event occurring within Rockbridge County, exclusive of any governmental tax or fee added to the charge paid for admission, as follows:

- (1) From January 1, 2022, through December 31, 2022, the admissions tax shall be three percent (3%) of the amount of the charge for admission to any event.
- (2) From January 1, 2023, through December 31, 2023, the admissions tax shall be six percent (6%) of the amount of the charge for admission to any event.
- (3) From January 1, 2024, and thereafter, the admissions tax shall be ten percent (10%) of the amount of charge for admission to any event.

The tax on admissions shall not exceed Three Dollars (\$3.00).

B. The charge paid for admission shall include any payment made for season tickets, whether obtained by contributions or subscription; any cover charge or other charge paid for the use of seats or tables, reserved or otherwise; and any other form of payment required for admission to see or participate in an event as defined in this Article. When a person is admitted free and a service charge is paid, the service charge shall be considered as a charge paid for admission.

C. No such tax shall be charged on the admissions charged for the following classes of events:

- (1) Admissions charged for attendance at public and private elementary, secondary, and college school-sponsored events, including events sponsored by school-recognized student organizations; and,
- (2) Admissions charged to participants in order to participate in sporting events.

##### **Sec. 25-242. Applicability.**

For the purpose of this Article, an “event” subject to the tax on the charge paid for admission shall mean admission to any performance, exhibition, entertainment, participation, or other occurrence, affair or occasion, whether occurring sporadically or on a regular basis, and including establishments and places of business, for which an admission fee or cover charge is required to allow entry, attendance and/or participation. Examples of such events are, without limitation: amusement park, amusement ride, athletic or other competitions, athletic or other type of exhibition, athletic park, recreation park, water park, automobile races, horse shows or races, carnival, circus, zoo, concert, dance, dance halls, bars, music festival or other type of festival or performance,

theater performances, whether live or by tape or film, movie showings, and/or other entertainments, happenings or gatherings at which admission is charged for attendance.

**Sec. 25-243. Collection and remittance; records.**

A. Each person, operator or business liable for the payment of the admissions tax imposed hereunder shall collect said tax on behalf of the County from the person paying for admission as provided in this article, and shall pay the same to the Treasurer of Rockbridge County, within ten (10) calendar days after each event, except for events that are held on a regular basis, for which remittance of the admissions tax imposed hereunder shall be made monthly and shall be paid to the Treasurer within ten (10) calendar days after the last day of the month in which such events occurred.

B. The Commissioner of the Revenue may require prospective collectors of the admissions tax to register for the collection of the tax imposed by this Article.

C. The taxes required to be collected by this Article shall be deemed to be held in trust by the person required to collect the taxes until such taxes are remitted to the County.

D. Every person collecting the admissions tax shall complete a return, upon such forms and setting forth such information as the Commissioner of the Revenue may prescribe and require. Such return shall include the following information: the amount of admission charged to each event; the total number of tickets sold or, if no tickets, then the total number of attendees; the total amount of admission charges collected, exclusive of governmental taxes and fees; and the amount of tax from the admission charge for which such person is liable. Such person shall sign and deliver the return to the Commissioner of the Revenue, with the remittance of such tax. All remittances received hereunder by the Commissioner of the Revenue shall promptly be delivered to the Treasurer.

E. The complete records shall be maintained by the person responsible for collecting and remitting the admissions tax for a period of six (6) years and shall be made available for inspection by the Commissioner of the Revenue or the Sheriff of Rockbridge County during such time.

F. Whenever any person required to collect and pay to the County the tax imposed herein quits, goes out of business, or otherwise disposes of the business, the tax payable under this Article shall become immediately due and payable and such person shall immediately make a report and pay all admissions taxes due.

**Sec. 25-244. Enforcement.**

A. Anyone who fails or refuses to collect and pay the admissions tax imposed hereunder or who makes a false statement with intent to defraud in any report required herein, or violates any other provision of this Article, shall be guilty of a Class 1 misdemeanor, punishable by a fine not to exceed the maximum amount allowed by law or twelve (12) months in jail. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense.

B. Failure to collect or pay the admissions tax herein imposed shall cause the event operator to be personally liable for the same.

C. Interest at the rate of ten percent (10%) per annum upon the principal and penalties shall commence to accrue on any past-due amount on the first day following the day such tax payment is due.

D. A penalty of ten percent (10%) of the amount due for failure to pay the admissions tax when due shall also be assessed for the first month the taxes are past due, and five percent (5%) for each month thereafter, up to a maximum of 25 percent (25%) of the taxes collected but not remitted or ten dollars (\$10.00), whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the delinquent amount of tax, and in addition such amount shall accrue interest at the rate of ten percent (10%) per annum until paid. Either the Commissioner of the Revenue or the Treasurer of Rockbridge County shall have the right to waive interest and penalty upon a determination that the failure to pay this tax was due to excusable neglect.

E. If any person shall fail or refuse to collect the tax imposed by this Article and to make, within the time provided in this Article, any report of the remittance required by this Article, the Commissioner of the Revenue shall obtain facts and information on which to base an estimate of the tax due and shall assess against such person the tax and penalties provided for by this Article based on such facts and information. The Treasurer shall notify such person, by certified and first-class mail, of the total amount of tax, interest and penalties, and the total amount so assessed shall be payable within ten (10) days from the date of such notice.

F. Where any tax assessed pursuant to this Article is delinquent and unpaid for a period of thirty (30) days from the date the tax is due, the Treasurer shall add a thirty-dollar (\$30.00) administrative fee for taxes collected subsequent to thirty (30) days after notice of delinquent taxes but prior to the taking of any judgment, in addition to all penalties and interest owing thereon. In addition, such person shall pay reasonable attorney's or collection agency fees, not to exceed twenty percent (20%) of the delinquent tax bill. Attorney's fees and collection agency fees pursuant to this section shall be added only if such fees are incurred by the County upon filing pleadings for judgment for recovery of such delinquency.

G. No tax assessment or tax bill shall be deemed delinquent and subject to collection procedures, interest, penalties, and other fees prescribed herein during the pendency of any administrative appeal of such amount pursuant to state law so long as the appeal is filed within ninety (90) days of the date of the assessment, and for thirty (30) days after the date of the final determination of the appeal.

**Secs. 25-246--25-250. Reserved.**

This Ordinance shall be effective on and from the 1<sup>st</sup> day of January, 2022.

Adopted this 8<sup>th</sup> day of February, 2021.

Recorded Vote:

**Review of the Annual Report for the Natural Bridge Speedway:**

Director of Community Development Chris Slaydon briefly reviewed the agenda item which included the following information:



"Per condition number one of the special exception permit, The Natural Bridge Speedway is required to present annual reports to the Board of Supervisors. The report is supposed to be presented to the Board of Supervisors before the second meeting in January. The owners submitted the 2020 report for the second meeting in January, but there were corrections and revisions required before submitting the report to the Board.

The owners revised the report and resubmitted it for the February 8, 2021 meeting. There was a total of three formal zoning violation letters in the 2020 racing season. Violations included lack of a Basic Life Support (BLS) ambulance during racing, Curfew violation, and lack of proper security on site. All of these items were address and modifications were made to address the violations. During the latter part of the 2020 racing season, staff also communicated with the owners on dust control issues on the track and access roads. For your use, staff has included the February 27, 2012 ordinance and associated conditions for the speedway."

Owner George Fitzgerald shared that he was only able to run 11 weeks last year due to COVID-19.

Supervisor Lewis shared the Board's support of Mr. Fitzgerald's business, which brings people into the community, and stressed the need to follow the Conditions for the safety of those people.

**Consideration of General Reassessment RFP:**

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

"The County of Rockbridge is soliciting sealed proposals from qualified firms for services to complete the General Reassessment of Real Property. The selected firm is responsible for furnishing all labor, equipment, materials, and insurance to perform work described in the Request for Proposals.

BACKGROUND:

In accordance with Section 58.1-3252 of the code of Virginia, 1950, as amended, the County of Rockbridge Board of Supervisors has elected to conduct its General Reassessment at 6-year intervals. The County is seeking a qualified contractor to provide reassessment services, a proposed work schedule for each phase of the reassessment project, and a description of work in each phase. All phases must be completed in time for the general reassessment to become effective January 1, 2023. The estimated work should be based on 20,962 taxable parcels and 672 non-taxable parcels.

SCOPE OF SERVICE:

To perform a General Reassessment of Real Property in the County of Rockbridge, Virginia, excluding public service properties, in accordance with Section 58.1-3252 of the Code of Virginia, 1950, as amended.

SELECTION CRITERIA:

The following criteria, not necessarily listed in the order of importance, will be used in evaluating the responses to this RFP with weighting as determined at the sole discretion of the County of Rockbridge:

1. Overall professional skill and experience of the firm
2. Professional qualifications of management and staff to be assigned to the project.
3. Written comment and opinions from Proposer's references.
4. Specific plan or methodology proposed for this project.
5. Demonstrated knowledge of local conditions.
6. Proposal date and time schedule to meet County needs.
7. Estimated cost of services to complete the General Assessment

Evaluation may also include, at no additional cost to Rockbridge County, an oral presentation of the proposal by the Offeror to the County's evaluation committee and/or submission of additional clarifying and/or amplifying written information.

RECOMMENDATION:

- Staff believes this work falls under the non-professional services category.

- Virginia Code § 2.2-4303.C, states that, "Goods, services other than professional services, and insurance may be procured by competitive sealed bidding or competitive negotiation. Upon a determination made in advance by the local governing body in the case of a procurement by a political subdivision of the Commonwealth, that competitive negotiation is either not practicable or not fiscally advantageous. The basis for this determination shall be documented in writing."

- Staff deems that, in order to ensure that we gain the best service for the County and to meet the intent of the scope of services, we will be better served by issuing a Request for Proposals, rather than an Invitation for Bids. This recommendation is based on the fact that the County would be best served by soliciting the most technically-qualified provider of services, rather than the lowest bidder. In addition, an experienced proposer may offer recommendations which may prove beneficial and cost-effective to the County.

**ACTION:**

Request the Board authorize issuance of a Request for Proposal for the services outlined in the scope of services, finding that an Invitation for Bids is neither practicable nor fiscally advantageous to the public for the reasons set forth above.

Select a Board of Supervisor to serve on the proposal evaluation committee. Evaluation committee currently includes County Administrator Spencer Suter, Fiscal Services Director Steve Bolster, Commissioner of the

Revenues David Whitesell, and Commissioner of the Revenues Chief Deputy Brooke Tomlin.”

Supervisor Lewis asked if the General Assembly requires this service, and if so, do they provide any funding for it.

Mr. Bolster confirmed that the General Assembly requires the County provide this service and does not provide any funding for it.

Supervisor Lewis asked if the reassessment cost roughly \$500,000.

Mr. Bolster replied, yes.

Mr. Suter noted that the estimate could increase this time.

Supervisor Lewis moved to authorize issuance of a Request for Proposal for the services outlined in the scope of services, finding that an Invitation for Bids is neither practicable nor fiscally advantageous to the public for the reasons set forth. 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

Chairman Lyons offered to serve on the proposal evaluation committee. There were no objections.

**Lewis and Clark Trail Update:**

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

"In 2014, the Board adopted a resolution supporting the eastward extension of The Lewis and Clark National Historic Trail through Rockbridge County. Over time, the Board has received periodic updates. In 2018, the Board adopted a follow-on resolution to expand heritage and tourism development in the Commonwealth. Both resolutions are attached. Also attached are two maps, one showing the trail through the region and one showing the approximate route of the Lewis and Clark expedition through the County.

Last year, County resident Dawn Wiese agreed to represent Rockbridge on the Virginia Lewis and Clark Legacy Trail Board of Directors."

**Dr.** Wiese explained there were four (4) counties participating in this project with a Board of 13 members. She advised that Rockbridge County had more sites related to Lewis and Clark than any of the participating counties in the State of Virginia. She then shared that there were three (3) sites identified in the County thus far.

Supervisor Lewis thanked Dr. Wiese for working on this for the County.

Chairman Lyons also thanked Dr. Wiese for her presentation.

**Consideration to Set Public Hearing for Ordinance to Approve Relocation of Polling Places for Collierstown and South Buffalo Precincts:**

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

"The Rockbridge County Electoral Board has submitted information to the County Administrator on plans to relocate the two polling places that have been in the Effinger Fire Department. The Collierstown Precinct in the Kerrs Creek Magisterial District would be moved to the School Board Office of the Rockbridge County Public Schools at 2893 Collierstown Road.

The second proposed change is to relocate the polling place for the Effinger Precinct in the Buffalo Magisterial District from the Effinger Fire Department to the Palmer Community Center at 1230 Blue Grass Trail.

This action requires adoption of an Ordinance to amend the County Code, following a public hearing."

Supervisor Day moved to schedule a public hearing on the proposed Ordinance for February 22, 2021. Supervisor Lewis provided the second, and the motion carried by the following roll call vote by the Board:

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

**Update on the Cigarette Tax Ordinance:**

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

"On January 11, the Board received and discussed an update on the potential to implement a cigarette tax. To recap, 2020 General Assembly legislation provided an avenue for counties to begin assessing certain taxes (or increase certain tax rates) which had previously only been granted to cities. Since July, counties across the state have been

considering implementation of a tax up to the cap of \$0.40 per pack. The earliest a tax could be implemented is July 1, 2021.

After discussion, the Board determined to:

- Consider setting a rate of \$0.30 per pack, which would be consistent with a rate being considered by others in the region, including Lexington, Buena Vista and Augusta County.
- Consider an implementation date of no earlier than six months after adoption
- Move ahead individually as a locality, rather than join a regional board with other localities.

The Board subsequently directed staff to the Board on February 8 with an ordinance for consideration. Since then, staff has learned that legislation (SB1326) has been introduced in the General Assembly which would require that any localities implementing a cigarette tax form a regional cigarette tax board of no fewer than 10 localities.

On February 3, 2021, SB1326 was reported out of the Senate Finance and Appropriations Committee with amendments. The proposed amendment is as follows:

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1. Line 66, introduced, after *board*.

insert

*However, if such locality, on or before January 31, 2021, enacted a cigarette tax ordinance or adopted a resolution indicating its intent to*



*impose a cigarette tax, such locality may impose a tax under this article without being a member of a regional cigarette tax board until January 1, 2026, at which time such locality may impose a tax under this article only if it is a member of a regional cigarette tax board.*

The potential for this bill to be signed into law changes the discussion. As such, staff has not attached an ordinance at this time. We are continuing to monitor the bill and will update the Board as new information becomes available. Also, we have received communication from the Virginia Wholesalers and Distributors Association (VWDA) and the National Association of Tobacco Outlets (NATO) opposing implementation of a cigarette tax. At such time as the Board considers an Ordinance for public hearing we will include their comments."

He recommended that the Board direct staff to continue coordinating on options with localities in the region, monitor the legislation and return to the board with an update as soon as the bill is resolved.

Ms. Huffman provided an update advising that the Senate declined to adopt the amendment and the original bill approved unanimously.

**Continued County Decal Discussion:**

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

"At a January 25 work session, the Board discussed options concerning annual County decals. To recap, the following information was presented by staff:

Over the years, on multiple occasions, the Board of Supervisors has considered elimination of the requirement for residents to purchase County decals. Ms. Huffman has previously issued at least five Board reports on the topic, dating back to the mid 2000's. The most recent consideration was in December, 2018, but no action has ever been taken. Ultimately, there has been no change to the decal requirement, though there was a short-term change to the type of decal issued, and there was a change to the placement location on the windshield, corresponding to a change for inspection stickers.

The interest in making a change has recently been rekindled. County staff, Commissioner of Revenue David Whitesell and Treasurer Betty Trovato have met recently to discuss options again.

Background:

Historically, and to our understanding, the primary purpose of requiring residents to purchase County decals was to provide a source of revenue where each resident vehicle owner was charged a flat rate on vehicles being used by that owner. Additional benefits included:

- A way to help enforce payment of personal property taxes
- Ability to quickly identify a resident of the County - primarily related to waste disposal locations.

Over time, the ability to share information with the Virginia Department of Motor Vehicles (DMV) evolved. All vehicle title changes can now be more easily shared with localities, so that personal property taxes can be accurately tracked and assessed. Similarly, the Treasurer has the ability to place a DMV stop to vehicle registration renewal. The stop is not removed until payment of the outstanding indebtedness to the County is made. However, the annual decal requirement is still a tool that the Treasurer relies on to help ensure fair and equitable tax collection.

Also, the fact remains that for the foreseeable future, the County will still need a method to quickly and accurately identify residents at points of service - mainly at solid waste collection centers (including the BRRRA Landfill), and for the Sheriff's enforcement efforts for improper use of dumpster sites. Additionally, the County relies on the revenue source to support governmental services.

Currently, decal notices are sent to residents in March each year and purchase is due by April 15. In order to provide additional time for the Board to consider options, the current decal deadline is anticipated to be extended until June 30, 2021.

Not all vehicles registered in the County have a decal. Some residents have multiple vehicles, but they may not purchase decals for all. Rather, they are required to purchase decals for only the vehicles which will be used on public roads.

Issues with the current system include:

- From the residents' position
  - o Annual inconvenience of procuring a decal
  - o Difficulty in removing old decals
- From the County's position
  - o Annual task of billing, tracking and enforcing the decal program
  - o Cost of the program
    - Staff time
    - Materials

The current goal is to find a solution which:

- Maintains current levels of revenue at approximately \$535,000 per year
- Provides the ability to quickly and easily identify County residents
- Reduces the amount of time (and money) expended by residents and staff in achieving/maintaining compliance

Staff, Ms. Trovato and Mr. Whitesell have developed a proposal which could meet all the requirements. This option would involve implementation of a permanent decal or other vehicle sticker and increase in current taxes (personal property / real estate, implementation of new taxes (i.e. cigarette, admissions, etc.) or a combination of these, to replace the revenue currently generated by decal fees. State regulations (applicable section attached) provide for either a decal or a sticker.

Suggested implementation steps:

- January 2021 - Extend vehicle decal deadline to June 30, 2020, with intention to transition to a permanent decal, due on that date.
- February 2021 - Consider and determine whether to utilize a permanent decal or window sticker to identify vehicles owned by residents. Advertise and conduct a public hearing to consider an ordinance as such.
- April 2021 - In lieu of the annual decal purchase notice sent to vehicle owners, County Treasurer Betty Trovato sends a no-fee permanent decal or sticker, to be applied to windshields by June 30, 2021. After sending the initial batch of decals, Ms. Trovato would transfer administration of the permanent decal program to Commissioner of Revenue David Whitesell, who would provide each new vehicle registrant with a no-fee permanent decal or sticker. His office will also be able to replace decals or stickers which have been damaged or aged.
- March - April 2021 - The Board considers and implements alternative sources of revenue for FY2022 and beyond.

There are several considerations for the Board should this proposal be implemented:

- Revenue anticipated for the current fiscal year (2021) will not be realized, as decals would not be sold. Up to \$535,000 of anticipated general fund surplus can be dedicated to this one-time replacement. Again, the Board will need to determine the ongoing source of revenues for 2022 and beyond.

- The new, permanent decal or sticker would remain on a vehicle as long as it is owned by a County resident. Upon sale, it would be removed. The proposed ordinance would prohibit a non-resident from using a decal or sticker to access County services such as collection centers.
- Upon purchase of a vehicle, a County resident would obtain a permanent decal or sticker from Mr. Whitesell's office at no charge.
- We would need to ensure coordination with the Towns of Glasgow and Goshen, which also currently require decal purchase. Should they wish to follow suit, they could issue a similar, permanent decal, or in some other way provide a visible symbol of residency to access County services such as collection centers or the BRRR Landfill.

Following a staff presentation, the Board discussed several concerns, which included:

- Impacts to the workload of either the Commissioner of Revenue or Treasurer
- Method of replacing revenue (approximately \$535,000 currently) or decreasing expenditures.

Purchase of decals and postage for the program are approximately \$15,000. One point of discussion was the personnel cost for administering the decal program. Mr. Suter explained that the current decal program is cyclic and that staff in the Treasurer's office could

utilize time previously spent on processing decal purchases to focus on tax collections.”

Ms. Trovato noted an additional option for the Board to consider to replace revenue, involving an increase to the personal property tax such that the highest valued vehicles would only increase by the current decal amount (\$25). That percentage increase would be applied to the personal property tax rate, so that no increase would exceed the amount of the previous decal fee. In addition, the increase would be spread over all taxable personal property to help close the funding gap. The remaining gap could be closed by other fund sources, to include consideration of increase to the real estate tax.

During the regular session on January 25<sup>th</sup>, the Board extended the decal deadline to June 30. Should the Board wish to change to a permanent decal, or keep the status quo, Ms. Trovato would need to know by mid-March in order to give time to order decals annually for sale (in the case of the status quo) or order permanent decals to send to personal property owners.

RECOMMENDATION:

Receive a staff report, pose questions and discuss as desired. Provide staff with direction as to whether the Board wishes to a) continue pursuit of this proposal, and if so, b) whether the Board would prefer to see a permanent decal or other window sticker.

If a permanent decal is desired, direct staff on the preferred method to replace revenue and to return to the Board with a draft ordinance for consideration on February 22<sup>nd</sup>."

Chairman Lyons asked for clarification that the change would be cost neutral for residents of the County who already pay the decal fee as no fee would be greater than the current \$25.

Mr. Whitesell responded that it would not be cost neutral to those who were not used to paying a decal fee on boats, trailers, and business personal property as they would be subject to a decal fee should this change be made as those pieces of property would then be taxed at the same rate as vehicles.

Supervisor Day shared his concern about adding work on staff to research who has the expensive vehicle to on which the full \$25 would be assessed. He added his concern about making up the lost revenues some other way and asked for that other way. Supervisor Day stated there was a process in place that works so why change it.

Supervisor Lewis replied that the current process does not and has not worked as constituents have continued to complain about it for over 10 years.

Supervisor Day disagreed stating that the current process brings in half a million dollars.

Supervisor Lewis noted that the process for the citizens is not working and other localities eliminated the decal and simply forgave the



revenue loss; however the County cannot do that for obvious reasons, one being the upcoming reassessment previously discussed.

Supervisor McDaniel asked if the decal could be eliminated this year and the lost revenues replaced from reserves and budget accordingly next year.

Mr. Suter explained that the Treasurer would soon need to make a purchase for the annual decal or a permanent decal, if that is the decision the Board makes. He added that a decal is important for staff at collection sites to monitor who is legally disposing of their trash. He noted that lost revenues would need to be replaced this year from reserves.

Supervisor Ayers disagreed with using reserves to cover lost revenues of around \$535,000 this year when the Board just passed an ordinance to begin taxing nonprofit organizations for an admissions tax, and if the County doesn't need the \$535,000, then the admissions tax should never have been approved. Supervisor Ayers shared her concern about illegal dumping at the collection sites and asked that this concern be handled first before moving on to something else.

Supervisor McDaniel stated that he understood the entire problem was with citizens having to come into the County building to purchase the decal each year, so maybe a permanent decal be issued to eliminate those concerns and be paid for by check in the mail.

Supervisor Ayers asked what would make citizens pay the decal fee each year once they already have the permanent decal.

Mr. Suter advised that an option to send out a separate bill had not been discussed, yet. He added that the Commissioner of the Revenue had advised that adding a decal fee to personal property each year would cause more work for his department to do abatements.

Supervisor McDaniel suggested only invoicing those vehicles that currently get a decal. He added that he did not believe the \$535,000 estimate for the decal process was an incorrect figure as there are expenses the County would save by not engaging in the process.

Supervisor Ayers noted that the mailing fee would remain the same whether or not sending an invoice or a bill. She added her concern about law enforcement not being able to track who had expired decals due to non-payment. She suggested leaving the process the same this year until further study could take place.

Supervisor Lewis stated that studies had been conducted over the years.

Mr. Suter noted that the last study was conducted in 2018.

Supervisor Lewis advised that there was lack of data from that study primarily because no one could remember the process of eliminating the decal.

Mr. Suter advised that a lot of other localities use a "pay-as-you-go" process at their landfill where the citizens pay to dispose of their trash whereas the County currently pays for disposal of trash, which is why it is important to track illegal dumping.

Supervisor McDaniel suggested adding a work session at the next meeting for further discussion.

Chairman Lyons asked if the ordinance could be advertised in time following the work session.

Mr. Suter and Supervisor Ayers replied, no.

Supervisor McDaniel stated that there were too many unanswered questions under time restraints. He asked why this was not brought up in September or October of last year.

Supervisor Ayers advised that it was her understanding that this had been brought up years prior when she was not serving as a Board member and during those times was repeatedly declined. She asked to see the evidence supporting the request to eliminate the decal, if there was any, and until then just leave the process the same for this year and make a decision next year or the year after. Supervisor Ayers stated that she was against making up lost revenues with property taxes and definitely not during a pandemic.

Chairman Lyons asked Mr. Suter to add a work session to the next agenda.

Mr. Suter concurred.

**Break:**

Chairman Lyons suspended the meeting at 7:08 p.m. for the Blue Ridge Resource Authority to hold its monthly meeting.

**Reconvened:**

Chairman Lyons reconvened the meeting at approximately 8:00 p.m. Supervisors Day and Ayers were absent for the remainder of this meeting.

**Appointments:**

**Rockbridge Regional Jail Commission- Glasgow Representative:**

This appointment was added to the next agenda.

Chairman Lyons advised that the Town of Glasgow hired a new Town Manager, Mr. George Hayfield, and asked Mr. Suter to extend an invitation for him to attend a future meeting via in-person or virtually for a formal introduction.

**Monthly Staff Reports:**

Supervisor McDaniel moved to accept the reports, as presented. Supervisor Lewis provided the second, and the motion carried by the following roll call vote by the Board:

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

**Board Comments:**

Supervisor McDaniel asked that review of the Admissions Tax be added to the first October meeting of each year.

**Adjournment:**

Supervisor McDaniel moved adjourn. Supervisor Lewis provided the second, and the motion carried by unanimous vote by the Board.

Ayes: McDaniel, Lewis, Lyons

Nays: None

Absent: Day, Ayers

Abstain: None