

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, JUNE 28, 2021 AT 5:30 P.M.

\*\*\*

BOARD MEMBERS PRESENT: D. E. LYONS  
R. W. DAY (Virtually)  
L.E. AYERS (Virtually)  
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 5:34 p.m.

Administrative Assistant to the County Administrator Brandy Whitten conducted a roll call of the Board members. Supervisors Lewis, McDaniel, and Lyons attended in-person while Supervisors Day and 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 30 attendees other than County staff will be allowed into the room at one time. Per the Governor of the Commonwealth of Virginia Executive Order 72, persons who have been fully vaccinated for the COVID-19 virus are not required to wear

a mask. We anticipate additional restriction relaxation in July and we may make adjustments for future meetings.

We will hold citizens comments near the beginning of the meeting.

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:**

Chairman Lyons called for changes to the agenda.

Supervisor Lewis added an item pertaining to the settlement plan in the Perdue Pharma bankruptcy.

Supervisor Lewis moved to add this item to the agenda. Supervisor McDaniel provided the second, and the motion carried by the following roll call vote by the Board:

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

**Recognitions and Presentations:**

**Introduction of New Employee:**

Fiscal Services Director Steven Bolster introduced the new Accounting Clerk Rebecca Huels.

Ms. Huels shared her excitement to be working for Rockbridge County.

Chairman Lyons welcomed Ms. Huels.

**Citizens Comments:**

Chairman Lyons advised of the following announcement:

"At this time, we will welcome citizens comments. To make a comment, please follow these guidelines:

1. Sign up to speak on the Citizens Comments Sign Up Sheet.
2. Once your name is called, address the Board from the podium beginning by clearly stating your name and magisterial district.
3. This is an opportunity for citizens to provide comments on topics unrelated to the public hearings. Please do not expect the Board to respond to questions or engage in dialogue. If you have questions, please ensure that you have entered your contact information on the Citizen Comment Sign Up Sheet and staff will do their best to respond to your questions as soon as possible.

4. Citizens are respectfully requested to keep comments brief, not to speak for more than three (3) minutes. There is a timer located on the podium for your convenience. When the light turns from green to yellow, you have 30 seconds remaining. Once the timer sets off an alert, please return to your seat if attending in-person or simply end your comment if attending virtually.
5. The same rules apply for those attending virtually. Once your name is called, please state your full name, magisterial district, and contact information for the record."

There were no comments.

**Approval of the June 14, 2021 Minutes:**

Supervisor McDaniel moved to approve the minutes. Supervisor Ayers provided the second. Supervisor Lewis abstained due to his absence during the June 14, 2021 meeting. The motion carried by the following roll call vote by the Board:

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

**County Closeout of FY 2020-2021 Including Appropriation Resolution and**

**Payment of Bills:**

Mr. Bolster presented the resolution noting that there were no additional appropriations to end the fiscal year. He then recommended adoption of the resolution as presented.

Supervisor McDaniel moved to approve the resolution. 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 COUNTY ADMINISTRATIVE BUILDING,  
150 SOUTH MAIN STREET, LEXINGTON, VIRGINIA,  
ON MONDAY, JUNE 28, 2021 AT 5:30 P.M.

On motion by Supervisor McDaniel, seconded by Supervisor Lewis, the Board, by record vote, approved the payment of bills for the month as follows:

<b>Current County</b>	
11 - General Fund	\$506,742.21
94 - Central Stores	\$936.73
202 - COVID-19 Response Fund	\$1,606.90
376 - Capital Purchases Fund	<u>\$375.00</u>
<b>Total County Bills</b>	<b>\$509,660.84</b>
<b>Current Fiscal Agent</b>	
80 - Regional Jail	<u>\$144,767.89</u>
<b>Total Fiscal Agent</b>	<b>\$144,767.89</b>
<b>TOTAL ALL BILLS</b>	<b>\$654,428.73</b>

**Approval of Payment of Final 2020-2021 Payroll:**

Mr. Bolster presented the payroll memorandum and recommended approval of the final payroll.

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

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

**MEMORANDUM**

TO: The Honorable Board of Supervisors  
FROM: Director of Fiscal Services  
DATE: June 16, 2021  
SUBJECT: Approval of payment of last payroll for FY 2021

A requirement of the audit is to garner Board consent for the final payroll that will take place prior to the end of the fiscal year. I'm seeking your approval on this action item.

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY,  
VIRGINIA, HELD AT THE COUNTY ADMINISTRATIVE OFFICE,  
150 S. MAIN STREET, LEXINGTON, VIRGINIA,  
ON MONDAY, JUNE 28, 2021 AT 5:30 P.M.

On a motion of Supervisor McDaniel, with a second by Supervisor Ayers, the Board approved payment of payroll for the end of the 2020-2021 fiscal year.

**Appropriation of 2021-2022 County Budget:**

Mr. Bolster presented the appropriation resolution noting each line item was consistent in what was discussed during budget meetings.

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

Ayes: Lewis, McDaniel, Day, Ayers, 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, JUNE 28, 2021 AT 5:30 P. M.

On motion of Supervisor Lewis, with second by Supervisor McDaniel, the following functions are allowed as appropriations in accordance with the Budget dated FY 2021-2022 that is filed with the records of the Board (to become effective July 1, 2021).

APPROPRIATION RESOLUTION

BE IT RESOLVED: By the Board of Supervisors of Rockbridge County, Virginia, that the following appropriations be, and the same hereby are made, for the period ending **June 30, 2022**, in the:

**GENERAL FUND, FUND 11:** (To be expended only on order of the Board of Supervisors with the exception of Social Services activities, which are to be expended only on order of the Rockbridge Area Social Services Board):

Board of Supervisors	\$ 138,832.00
General and Financial Administration	\$ 2,318,328.00
Registrar	\$ 270,202.00
Judicial Administration	\$ 1,940,463.00
Public Safety	\$11,184,156.00
Public Works	\$ 3,560,468.00
Health and Welfare	\$ 1,803,135.00
Education	\$ 75,046.00
Parks, Recreation, and Cultural	\$ 1,520,009.00
Community Development	\$ 2,815,479.00
Non-Departmental	<u>\$23,917,237.00</u>
<b>Total General Fund</b>	<b>\$49,543,354.00</b>

APPROPRIATION RESOLUTION

BE IT RESOLVED: By the Board of Supervisors of Rockbridge County,

Virginia, that the following appropriations be, and the same hereby are made, for the period ending **June 30, 2022**, in the:

**CONSTRUCTION PROJECT FUND, FUND 372:** (To be expended only on order of the Board of Supervisors):

Staffed Collection Center	\$ 293,140.00
Lake Robertson Water Line, Replace	\$ <u>18,000.00</u>
<b>Total Construction Project Fund</b>	<b>\$ 311,140.00</b>

APPROPRIATION RESOLUTION

BE IT RESOLVED: By the Board of Supervisors of Rockbridge County, Virginia, that the following appropriations be, and the same hereby are made, for the period ending **June 30, 2022**, in the:

**CAPITAL PURCHASES FUND, FUND 376:** (To be expended only on order of the Board of Supervisors):

Municipal Management Software	\$ 51,500.00
Imaging X-ray Equipment	\$ 29,116.00
Sheriff Vehicles	\$ 329,182.00
Vehicle A/C Recharge/Recovery Machine	\$ <u>6,400.00</u>
<b>Total Capital Purchases Fund</b>	<b>\$ 416,198.00</b>

**Appropriation of FY 2021-2022 School Division Budget:**

Mr. Bolster presented the appropriation resolution and noted that the numbers are consistent with what was negotiated between the Board of Supervisors and the School Board.

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

Ayes:	Lewis, McDaniel, 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 COUNTY ADMINISTRATIVE BUILDING,  
150 SOUTH MAIN STREET, LEXINGTON, VIRGINIA,  
ON MONDAY, JUNE 28, 2021, AT 5:30 P.M.

On motion by Supervisor Lewis, seconded by Supervisor McDaniel, the Board, by record vote adopted the following resolution to appropriate the FY 2021-2022 School Fund (Fund 50) and the School Cafeteria Fund (Fund 56) in accordance with the Rockbridge County School Division budget dated FY 2021-2022, which is filed with the records of the Board to become effective July 1, 2021. (The School Administration provided account line numbers for the appropriations):

APPROPRIATION RESOLUTION

BE IT RESOLVED: By the Board of Supervisors of Rockbridge County, Virginia, that the following appropriations be, and the same hereby are made, for the period ending **June 30, 2022**, in the **SCHOOL EDUCATION FUND (Fund 50)** and expended on the order of the School Board as follows:

4-050-61000	Instruction.....	\$23,496,966.00
4-050-62000	Administration & Health.....	\$2,036,320.00
4-050-63000	Pupil Transportation.....	\$2,686,289.00
4-050-64000	Operations and Maintenance.....	\$2,978,784.00
4-050-66000	Facilities.....	\$20,000.00
4-050-67000	Debt Service.....	\$4,026,999.00
4-050-68000	Technology.....	<u>\$1,568,989.00</u>
<b>TOTAL APPROPRIATIONS SCHOOL EDUCATION FUND.....</b>		<b>\$36,814,347.00</b>

APPROPRIATION RESOLUTION

BE IT RESOLVED: By the Board of Supervisors of Rockbridge County, Virginia, that the following appropriation be, and the same hereby is made, for the period ending **June 30, 2022** in the **SCHOOL CAFETERIA FUND (Fund 56)** and expended on the order of the School Board as follows:

4-056-65000	School Cafeteria.....	<u>\$1,113,357.00</u>
<b>TOTAL APPROPRIATIONS SCHOOL CAFETERIA FUND.....</b>		<b>\$1,113,357.00</b>

**Consideration of a Resolution Approving Modine Performance Agreements:**

Supervisor McDaniel read aloud the following disclosure statement: "I hereby abstain from all matters, discussions, or voting related to the Board's consideration of Performance Agreements with Modine Manufacturing Company, and my disclosure statement required under Section 2.2-3115(F) is on file with the Clerk to the Board of Supervisors." He then left the dais.

Business Development Assistance Brandy Flint provided the following overview:

"As you all know, Modine Manufacturing Company is expanding its operation in our region and is converting its warehouse in Rockbridge County into a manufacturing facility. This is a 7-million-dollar investment and will average net 60 new jobs with an average salary of \$47,117.

In cooperation with the Virginia Economic Development Partnership, we secured the project with a \$388,000 incentive package that the State will provide \$194,000 and the County will match \$194,000.

Included in your package is the Performance Agreement to facilitate the Commonwealth Opportunity Fund as well as the Performance Agreement for the County match funding.

The EDA will act as the fiscal agent. Ms. Huffman as reviewed both agreements. Modine will received from the County a machinery and tools tax grant, a building permit fee grant, and a gas infrastructure grant totaling \$194,000.

Typically, the EDA would approve this first, however it came in last minute and therefore the EDA is going to meet July 8<sup>th</sup> at 2:00 p.m. to approve the agreement. The Board can go ahead and approve to avoid delay in the project.”

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

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

Supervisor McDaniel returned to the dais.

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY, VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATION CENTER, MONDAY, JUNE 28, 2021

**Resolution to Approve a Performance Agreement Between the County of Rockbridge, Virginia, Modine Manufacturing Company, Virginia Economic Development Partnership Authority, and the Economic Development Authority of Rockbridge County for a Commonwealth’s Development Opportunity Fund Grant in the amount of \$194,000, and to Approve a Performance Agreement Between the County of Rockbridge, Virginia, the Economic Development Authority of Rockbridge County, and Modine Manufacturing Company, for a Local Grant Match of the Commonwealth’s Development Opportunity Fund Grant in the amount of \$194,000, for Economic Development Purposes**

WHEREAS, the County of Rockbridge, Virginia (the “County”), and the Economic Development Authority of Rockbridge County, Virginia (the “Authority”), desire to promote and encourage the economic development and vitality of the County through the recruitment of new industry and the expansion of existing business and through the creation of employment opportunities for the citizens of Rockbridge County, in order to provide for increased employment and corporate investment in the County; and,

WHEREAS, Modine Manufacturing Company (“Modine” or the “Company”) desires to support the economic development efforts of the County and the Authority, and proposes to improve its existing warehouse facility in the County to convert it to a production facility for industrial cooling equipment (the “Facility”), thereby making a significant capital investment to equip, improve, expand and operate its manufacturing facility, and to create and maintain a significant number of new jobs (hereinafter referred to as the “Project”); and,

WHEREAS, the County has been awarded a grant of and expects to receive \$194,000 from the Commonwealth’s Development Opportunity Fund (a “COF Grant”) through the Virginia Economic Development Partnership Authority (“VEDP”) for the purpose of inducing the Company to complete the Project; and,

WHEREAS, the County will match the COF Grant and provide additional assistance as set forth in the proposed Performance Agreement; and,

WHEREAS, the County is willing to provide the COF Grant funds and the local Grant Match funds (the “Grant Match”) to the Authority with the expectation that the Authority will provide the funds to or for the use of the Company, provided that the Company promises to meet certain criteria relating to Capital Investment and New Jobs; and,

WHEREAS, the County, the Authority, the Company and the VEDP propose to enter into the Commonwealth’s Development Opportunity Fund Performance Agreement (the “COF Performance Agreement”) dated February 24, 2021, to set forth their understanding and agreement as to the payout of the COF Grant, the use of the COF Grant proceeds, and the obligations of the Company regarding Capital Investment and New Jobs, a copy of which is attached hereto as Exhibit 1; and,

WHEREAS, the County, the Authority, and the Company propose to enter into a Performance Agreement (the “Local Grant Match Performance Agreement”) dated June 28, 2021, to set forth their understanding and agreement as to the payout of the COF Grant Match, the use of the Grant Match proceeds, the obligations of the Company regarding Capital Investment and New Jobs, and the repayment by the Company of all or part of the Grant Match under certain circumstances, a copy of which is attached hereto as Exhibit 2; and,

WHEREAS, the equipping, improvement, expansion, and operation of the Facility will entail a capital expenditure by or on behalf of the Company of at least \$7,025,000, of which approximately

\$5,775,000 will be invested in machinery and tools, approximately \$150,000 will be invested in furniture, fixtures, and business personal property, and approximately \$1,100,000 will be invested in the improvement and up-fit of the building; and,

WHEREAS, the equipping, improvement, expansion, and operation of the Facility will further entail the creation and Maintenance of at least 60 New Jobs at the Facility; and,

WHEREAS, the stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the COF Grant and the local COF Grant Match.

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

1. That the terms and provisions of the Commonwealth's Development Opportunity Fund Performance Agreement dated February 24, 2021, and attached hereto as Exhibit 1, between the County of Rockbridge, Virginia, Modine Manufacturing Company, the Economic Development Authority of Rockbridge County, and the Virginia Economic Development Partnership Authority, are hereby authorized and approved.

2. That the terms and provisions of the Performance Agreement dated June 28, 2021, and attached hereto as Exhibit 2, between the County of Rockbridge, Virginia, the Economic Development Authority of Rockbridge County, and Modine Manufacturing Company, for the local COF Grant Match, are hereby authorized and approved.

3. That appropriation of the COF Grant Funds and the local COF Grant Match Funds shall be considered as provided in the Performance Agreements.

4. That the County Administrator is hereby authorized to execute the Performance Agreements approved in paragraphs 1 and 2 above, in substantial conformity to the proposed agreements herewith, and to execute such other and further documents and to take such further actions as are necessary to accomplish this transaction on behalf of the Board of Supervisors of Rockbridge County, all of which shall be approved as to form by the County Attorney.

5. That this resolution shall be effective on and from the date of its adoption.

Adopted this 28<sup>th</sup> day of June, 2021.

## **Continued Discussion of the Cigarette Tax:**

Mr. Suter provided the following overview:

"The Board has discussed this item on several occasions since last fall. The Commonwealth provided the ability for Counties to assess a cigarette tax of up to \$0.40 per pack to equalize with Cities and Towns which have been able to do it for years. On April 26<sup>th</sup>, a public hearing to take comment on the potential to implement a cigarette tax was held by the Board. The ordinance that was included for consideration contemplated a \$0.30 per-pack tax, effective January 1, 2022. The Board didn't take action but added the topic to the May 24 meeting for additional discussion. On that date, the Board opted to delay further discussion until the June 28 meeting, to assess the direction neighboring localities may take.

I've included an update on what other localities in the area are doing. The only appreciable changes are that:

Augusta County - Is still considering a \$0.30 tax to be implemented later this year (aligning with Staunton and Waynesboro's rate). However, they are in discussions with the Thomas Jefferson Planning District Commission on the potential to join a regional body.

Lexington - Was considering a \$0.30 tax, but delayed a decision until the Board of Supervisors makes a determination.

Buena Vista - Voted 6 - 1 voted against implementing a cigarette tax

Amherst County - Adopted a \$0.27 tax effective July 1

Alleghany, Bath and Botetourt and Rockingham still have no plans in place to consider at this time.

Ms. Huffman has provided an updated copy of the previously advertised ordinance. The information is the same but dates have been revised. The Board's options are:

- 1) Adopt the attached ordinance and direct staff to take steps to implement.
- 2) Do not adopt the ordinance.
- 3) Determine to table consideration at this time. Staff does recommend that, if the topic is tabled and then brought back at a later date for reconsideration, a new public hearing be advertised and held.

Comm. Of Rev David Whitesell is in attendance as well."

Supervisor Lewis suggested moving ahead with implementation as a County-wide benefit, to avoid putting further pressure on real estate and personal property taxes.

Supervisors McDaniel shared his agreement with Supervisor Lewis on all accounts. However, he expressed concern that the neighboring jurisdictions to the Natural Bridge District are not implementing the tax. For that reason, he did not want to put the retailers in the Natural Bridge District at a disadvantage. He suggested tabling this until neighboring jurisdictions made a decision.

Supervisor Ayers noted that it would provide the City of Buena Vista with a marketing tool to drive business to there should the County implement the tax. She suggested tabling this item.

Supervisor Day suggested tabling this item for 30 days.

Chairman Lyons asked Ms. Huffman if tabling this item for 30 days would result in advertising another public hearing.

Ms. Huffman replied, setting this item over to a certain date for further consideration within 90 days of the first public hearing would be adequate. However, if tabling 6 months or more, a new public hearing should be advertised.

Supervisor Lewis replied to the comment made by Supervisor Ayers stating that it was unlikely that truckers would end up in Buena Vista. He added that there has been recent input by the business coalition that sent a letter previously, saying that they were more understanding what it could accomplish and that something more like \$0.25 would be a smart move.

Supervisor McDaniel stated that, no matter what route the Board decided to take, it would take approximately 6 months to implement.

Mr. Suter concurred, adding that stamps would need to be procured and the Commissioner's and Treasurer's Offices would need time to manage the process. In addition, he added, the retailers and distributors need time to prepare as well.

Supervisor McDaniel noted that the upcoming budget did not have any revenues allotted to this tax.



Mr. Suter concurred.

Supervisor McDaniel suggested looking at this again towards the end of the calendar year, and maybe by then, surrounding localities will have made a decision. He noted that the FY2023 budget could be impacted depending on what the Board decides at that time.

Supervisor Lewis shared his support for bringing this item back before the Board in 30 days.

Chairman Lyons asked the Board if they were in agreement with bringing this back before the Board at the July 26<sup>th</sup> meeting.

Mr. Suter noted that the Towns have the opportunity to make their own decision on implementing this tax.

Supervisor McDaniel asked the Commissioner of the Revenue David Whitesell if timing of the implementation would be better beginning July 1 or January 1 as far as the work that needs to go into this.

Mr. Whitesell replied, July 1<sup>st</sup> would be a better implementation date for his department.

By consensus of the Board, this item will be added to the July 26, 2021 agenda.

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

**Dynamic Energy Solutions LLC (N Lee Highway) - Application for a Special Exception Permit - 5-MW (AC) Solar Project (Public Utility) in the**

**Agricultural and General Uses (A-2) Zoning District [Continued from 05/24/2021]:**

Director of Community Development Chris Slaydon provided an overview of the project as detailed in the agenda item shown below:

“Mr. Pat Hastings with Dynamic Energy Solution LLC has made an application for a 5MW (AC) solar project along N Lee Highway, near the village of Fairfield. The property is located on the west side of N Lee Highway (Route 11), approximately .22 miles south of the intersection N Lee Highway (Route 11) and Red Hill Road (Route 710) and is further identified as tax map number 38-10-A. The property owned by James G. Alexander Jr. and Thomas J. Alexander and is located in the Agricultural and General Uses (A-2) Zoning District and per section 603.03-9 of the County of Rockbridge Land Development Regulations, Public Utilities are a use by special exception in the A-2 District. The proposed 5MW solar site is located on approximately thirty acres of the Alexander Farm. There is an existing dairy operation on the farm. The portion that is proposed for the solar project has been utilized as a crop field. The Alexander Family owns the property to the south and directly across Interstate 81/64 of the proposed solar project. The proposed site is across Route 11 from Fairfield Elementary School. To the north, there is existing industrial zoning (Fitzgerald Lumber) and vacant property that is in the General Residential (R-1) Zoning District. The Planning Commission held a public hearing on March 10, 2021. The public hearing was continued until the April 14, 2021 meeting. At the April 14, 2021 Planning Commission Meeting the public hearing was closed. The review of the project was continued to

the May 12, 2021 Planning Commission Meeting. The project is located within the Tourism Corridor Overlay (TCO). The TCO Board also reviewed the application at its March 3, 2021, April 7, 2021, and the May 5, 2021 meetings. The May 5, 2021 meeting was conditioned to May 19, 2021. The majority of the discussion with the Planning Commission included landscaping/ screening the project from Route 11, Interstate 81/64 and the adjacent properties to the east. The TCO purview was the landscaping/screening along Route 11. At the beginning of the project, the applicant had proposed plantings along the project fence 2 (approximately 300' from Route 11), however as the review moved forward the both the Planning Commission and the TCO Board felt that, due to the topography of the land, relocating and utilizing screening trees/shrubs, closer to Route 11 would provide a better screen. Throughout the process, there have been several landscaping/screening techniques discussed. Along with the original landscaping location, as stated above, other ideas that have been explored included moving the original planting types closer to Route 11 (versus utilizing screening trees/shrubs), utilizing a wooden fence along Route 11, plantings under the utility line that runs parallel to Route 11. Overall, both the TCO Board and the Planning Commission felt that the latest landscaping plan provided the best screening. At the May 12, 2021 Meeting, The Planning Commission recommended approval of the special exception permit application with the following conditions: 1) The development of the property (38-10-A) for which the application is being made shall be in substantial accordance with the development plan prepared by Dynamic Energy, with revision dates of September 25, 2020, April 7, 2021, and May 20, 2021. 2) The maximum height of the tilt for the solar

array shall be fifteen feet (15'). 3) Landscaping shall be maintained in health condition for the life of the project. 4) Acceptance of the Decommissioning Agreement, incorporation decommissioning plan dated May 12, 2021. (The wording for this condition in the draft June 28, 2021 ordinance has been modified to state Acceptance of a Decommissioning Agreement, incorporating the decommissioning plan dated May 12, 2021) 5) Approval contingent on the Tourism Corridor Overlay (TCO) Board approval, VDOT, and Erosion and Sediment/Stormwater Management approvals On May 24, 2021 the Board of Supervisors opened the Public Hearing. The Public Hearing was continued until the June 28, 2021 Board of Supervisors meeting. Since the May 24, 2021 Board meeting, the Office of Community Development has discussed the timing of the implementation of the project with the applicant. The applicant has stated that the project may not be implemented until 2023. With that, staff feels that it would be beneficial to include a timeframe for implementation of the project as a condition of the special exception permit."

Derek Sheehan of Dynamic Energy Solution, LLC., addressed two (2) previous concerns. The first was related to the change in real estate taxes. He advised that, once the project begins construction, the agricultural land use tax exemption would be removed and the land would be changed to commercial use. He added that there would be a 5-year roll-back tax plus a 10% interest totaling \$9,993.65 and the property would go to fair market value. The second concern he addressed was related to the potential for Rockbridge County residents to benefit from the project. Mr. Sheehan advised that the start date for residents to begin signing up for

the service is scheduled for July 2023. He noted that the County could provide details to the residents on how to sign up and noted the service would be available to any resident, commercial business, or municipal electric user in the Dominion service territory.

Supervisor Ayers inquired about a statement brought up at the last meeting regarding Dynamic Energy already beginning to have conversations with universities about this project.

Mr. Sheehan advised that one (1) university did reach out to them. He noted that they may have reached out about this particular project or another, such as the project in Augusta County.

Supervisor Ayers shared that those residents need to be able to get in line for the service and that businesses and universities are not already in queue ahead of those citizens.

Mr. Sheehan confirmed that there was no preferential treatment being given to universities or businesses so early in the process.

Supervisor Ayers asked if there were any assurances that the citizens of Rockbridge County can get in line for any of the projects in Virginia.

Mr. Sheehan replied, they have no control over any of the projects. However, for this particular project, they are willing to provide educational information to the public on how to sign up for the service.

Supervisor Lewis asked for clarification of the revised ordinance.

Ms. Huffman advised that a revised ordinance was provided to the Board prior to the meeting including revised conditions.

Chairman Lyons opened the public hearing at 6:17 p.m. There were no comments. Chairman Lyons closed the public hearing.

Supervisor McDaniel shared that the Board needed to have a better understanding of solar projects. He stated that because that he believed in landowners rights, he 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 MONDAY, JUNE 28, 2021

**Ordinance to Grant a Special Exception Permit to Dynamic Energy Solutions, LLC, for Development of a 5-MW (AC) Solar Project as a Public Utility in the Agricultural and General Uses (A-2) District on Property Owned by James G. Alexander, Jr., and Thomas J. Alexander, Identified as a Portion of Tax Map #38-10-A, Located on the West Side of North Lee Highway Near Fairfield, in the South River Magisterial District**

**WHEREAS**, Dynamic Energy Solutions, LLC, has applied for a special exception permit to develop, construct, operate and maintain a 5-MW (AC) Solar Project as a Public Utility pursuant to Section 603.03-9 of the Rockbridge County Land Development Regulations in the Agricultural and General Uses (A-2) District, on property owned by James G. Alexander, Jr., and Thomas J. Alexander, identified as a portion of Tax Map #38-10-A, and located on the west side of North Lee Highway near Fairfield, in the South River Magisterial District of Rockbridge County, Virginia; and,

**WHEREAS**, the Planning Commission held a public hearing on this matter on March 10, 2021, continued on April 14, 2021, with continued discussion and consideration on May 12, 2021, and recommended approval with specified conditions to the Board of Supervisors; and,

**WHEREAS**, legal notice has been provided in accordance with §15.2-2204 of the Code of Virginia (1950, as amended) and in accordance with the Rockbridge County Land Development Regulations; and,

**WHEREAS**, the Board of Supervisors has held a public hearing on this matter on May 24, 2021, and a continued public hearing on June 28, 2021; and,

**WHEREAS**, the Board of Supervisors, after review of the application and all other documentation submitted by the applicant, the Planning Commission and the public, after due consideration to the presentations and comments at the public hearing hereon, and after evaluation of the factors set forth in §802.03-5 of the Rockbridge County Land Development Regulations, finds and determines that the proposed use, with the herein specified conditions, is consistent with the Comprehensive Plan, the policies of Rockbridge County and the public interest.

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

1. That the Board finds that the granting of a special exception permit to Dynamic Energy Solutions, LLC, to develop, construct, operate and maintain a 5-MW (AC) Solar Project as a Public Utility pursuant to Section 603.03-9 of the Rockbridge County Land Development Regulations in the Agricultural and General Uses (A-2) District, on property owned by James G. Alexander, Jr., and Thomas J. Alexander, identified as a portion of Tax Map #38-10-A, and located on the west side of North Lee Highway near Fairfield, in the South River Magisterial District of Rockbridge County, Virginia, as shown in the development plan prepared by Dynamic Energy, with revision dates of September 25, 2020, April 7, 2021, and May 20, 2021, on file in the office of the Clerk to the Board of Supervisors, is substantially in accord with the Comprehensive Plan of the County adopted pursuant to the provisions of Section 15.2-2232 of the Code of Virginia (1950, as amended), and said special exception permit is hereby approved with and subject to the conditions set out on Exhibit A attached hereto and incorporated herein by reference.

2. That this ordinance shall be effective on the date of its adoption. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Adopted this 28<sup>th</sup> day of June, 2021.

### **EXHIBIT A**

#### **DYNAMIC ENERGY SOLUTIONS, LLC, SOLAR PROJECT SPECIAL EXCEPTION PERMIT CONDITIONS JUNE 28, 2021**

- (1) The development of the property (38-10-A) for which the application is being made shall be substantially in accordance with the development plan prepared by Dynamic Energy, with revision dates of September 25, 2020, April 7, 2021, and May 20, 2021.
- (2) The maximum height of the tilt for the solar array shall be fifteen feet (15').
- (3) Landscaping shall be maintained in healthy condition for the life of the project.
- (4) Acceptance of a Decommissioning Agreement, incorporating the decommissioning plan dated May 12, 2021, subject to a Virginia-licensed engineer's certification of the decommission costs as outlined in the Code of Virginia §15.2-2241.2.
- (5) Implementation of the project by December 31, 2023, and project completion by June 30, 2024.
- (6) Approval contingent on the Tourism Corridor Overlay (TCO) Board approval, and VDOT and Erosion and Sediment/Stormwater Management approvals.

**Paige Gance and Alexander Tallman - (Enfield Road) - Application for a Rezoning from the Residential General (R-1) District to the Agricultural and General Uses (A-2) District:**



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

"Paige Gance and Alexander Tallman, 62 Brushwood Place, Lexington, VA 24450 have made an application for rezoning from the General Residential (R-1) Zoning District to the Agricultural and General Uses (A-2) Zoning District. The property under consideration for the rezoning consists of 24.972 acres (per tax records) and is on the north side of Enfield Road (Route 672), approximately 1 mile west of the intersection of Enfield Road (Route 672) and Kendal Drive (private road). The 24.972 acres is comprised of tax map numbers 74-A-29B, 74-22-2, and 74-22-3. The property is located in the Kerrs Creek Magisterial District. Per the original zoning maps for the County, the Tallman/Gance property and all of the property east towards the City of Lexington (between Enfield Road (Route 672) and Borden Road (Route 670)) was located in the General Residential (R-1) Zoning District. Between the original 1972 zoning maps and 1984, a large portion of the land in this area was downzoned from the General Residential (R-1) Zoning District to the Agricultural and General Uses (A-2) District. However, as shown on the existing zoning map, several tracts remained in the R-1 Zoning District. The current use of the property is woodlands with two accessory structures. The Gance/Tallman house parcel (TM# 60-A-90 = 2.01 ac), as well as the Smith Tracts (3.842 acres), will remain in the R-1 Zoning District. The surrounding property is primarily woodland. The property in the rear is currently mixed woods/farmland. The property directly across is the Brushy Hill Tracts (515.52 acres) that is owned by the City of Lexington. There is no public water or sewer in the area. The

Planning Commission held its public hearing on June 9, 2021 and has recommended approval of the rezoning application.”

Ms. Gance was present for questions. There were none.

Chairman Lyons opened the public hearing at 6:25 p.m. There were no comments. Chairman Lyons closed the public hearing at 6:26 p.m.

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

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

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY,  
VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE  
OFFICES ON MONDAY, JUNE 28, 2021

**Ordinance to Change the Zoning Classification from General Residential (R-1) District to Agricultural and General Uses (A-2) District of 3 Parcels of Land, Consisting of a Total of 24.972 Acres, Owned By Paige E. Gance and Alexander S. Tallman, Located on the North Side of Enfield Road (Route 672), Identified as Tax Map #74-A-29B, #74-22-2, and 74-22-3, in the Kerrs Creek Magisterial District**

WHEREAS, the Rockbridge County Planning Commission held a public hearing on this matter on June 9, 2021, and recommended to the Board of Supervisors that the proposed zoning classification amendment be approved; and,

WHEREAS, legal notice and advertisement has been provided in accordance with §15.2-2204 of the Code of Virginia (1950, as amended) and in accordance with the Rockbridge County Land Development Regulations; and,

WHEREAS, the Board of Supervisors held a public hearing on this matter on June 28, 2021; and,

WHEREAS, the Board of Supervisors has determined that rezoning of the subject parcel of land would promote the health, safety, convenience and general welfare of the public, and that it accomplishes one or more of the objectives set forth in §15.2-2200 of the Code of Virginia (1950, as amended), and serves one or more of the purposes set forth in §15.2-2283 of the Code of Virginia.

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

1. That the change of zoning classification from the General Residential (R-1) District to Agricultural and General Uses (A-2) District of three (3) parcels of land totaling 24.972 acres, owned by Paige E. Gance and Alexander S. Tallman located on the north side of Enfield Road (Route 672), identified as Tax Map #74-A-29B, #74-22-2, and #74-22-3 in the Kerrs Creek Magisterial District of Rockbridge County, is hereby approved.

2. That this action is taken upon the application of the owners, Paige E. Gance and Alexander S. Tallman.

3. That this ordinance shall be effective on the date of its adoption. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. The Zoning Administrator is directed to amend the zoning district map to reflect the change in zoning classification authorized by this ordinance.

Adopted this 28<sup>th</sup> day of June, 2021.

**Added Comment Regarding Solar Projects:**

Supervisor Lewis noted that the Planning Commission is researching future planning for solar facilities and how they can be accomplished.

Mr. Slaydon added that the Planning Commission is looking into what process other localities use for these projects. He noted that he believes

the Special Exception process will remain in place but the ordinance would set out certain goals for up-front information.

**Continued Discussion of the County Decal:**

Mr. Suter presented this item advising that the Board had the options to go to a permeant decal or eliminate the decal and replace with another way of identifying County residents when using solid waste facilities. He noted that unless the Board wished for him to reiterate the information in contained in the board report, he would forgo a detailed review, as the Board was well-versed on the discussion.

Chairman Lyons stated that, if it is the will of the Board to eliminate the decal, and as long as there is a way to make up the lost revenues that are generated by the decals, he would be fine with the elimination.

Supervisor McDaniel stated that there is two ways to look at this, one is replacing the revenue and the other is cutting expenditures. He suggested that over the next few months the Board come up with a plan and discuss all options.

Chairman Lyons agreed.

Supervisor Lewis offered his help in reviewing the options moving ahead.

**Planning Commission- Melissa Hennis- Term Expires 07/13/2021:**

Supervisor Lewis moved to reappoint Ms. Hennis to the Planning Commission. Supervisor Ayers provided the second, and the motion carried by the following roll call vote by the Board:

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

**Tourism Cooridor Overlay Board (TCO)- Jason Harris- Term Expires 07/08/2021:**

Supervisor Lewis moved to reappoint Mr. Harris to the TCO. 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

**Board of Zoning Appeals (BZA)- Lynn Wells- Term Expires 07/31/2021:**

Supervisor Lewis moved to reappoint Mr. Wells to the BZA. Supervisor McDaniel provided the second, and the motion carried by the following roll call vote by the Board:

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

**Rockbridge Regional Communications Center Management Board (911 Board)-Mickey Cochrane- Term Expires 06/30/2021:**

Supervisor McDaniel moved to reappoint Mr. Cochrane to the 911 Board. 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

**Rockbridge Regional Communications Center Management Board (911 Board)-Richard Taylor, Jr.-Term Expires 06/30/21:**

Supervisor McDaniel moved to reappoint Mr. Taylor to the 911 Board as the alternate member. Supervisor Lewis provided the second, and the motion carried by the following roll call vote by the Board:

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

**Economic Development Authority (EDA)- David Ferris- Unexpired Term- 4/10/2025:**

This appointment was carried over to the next agenda.

**RARO Board- Leslie Ayers- Term Expires 06/30/2021:**

Supervisor Lewis moved to reappoint Ms. Ayers to the RARO Board.

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

**RARO Board- Chris Cartwright- Term Expires 06/30/2021:**

Supervisor Lewis moved to nominate Mr. Cartwright for reappointment to the RARO Board. Supervisor Ayers provided the second, and the motion carried by the following roll call vote by the Board:

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

**RARO Board- David Hinty, Jr.- Term Expires 06/30/2021:**

Supervisor Lewis moved to reappoint Mr. Hinty to the RARO Board. 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

**Library Board- Doug Horan- Term Expires 06/30/2021:**

This appointment was carried over to the next agenda.

**Added Item to the Agenda:**

**Item Related to the Perdue Pharma bankruptcy settlement plan:**

Ms. Huffman advised that a settlement plan has been proposed and a deadline is in place to accept or reject the plan. She noted that outside counsel was not in the position to make a recommendation. She explained that the Board of Supervisors have the opportunity to appoint a representative to cast a vote on behalf of the Board, in the decision.

Supervisor Lewis moved to appoint and authorize the County Attorney, on behalf of the Board, to determine whether to approve or reject the settlement plan in the Purdue Pharma (and affiliates) bankruptcy, and to direct the opioid litigation attorney team to cast the vote for the County of Rockbridge accordingly. Supervisor McDaniel provided the second, and the motion carried by the following roll call vote by the Board:

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

**Board Comments:**

Chairman Lyons called for Board Comments. There were none.

**Adjournment:**



At approximately 6:46 p.m., Supervisor Lewis moved to adjourn.  
Supervisor Ayers provided the second, and the motion carried by the  
following roll call vote by the Board:

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