

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, AUGUST 9, 2021 AT 5:30 P.M.

BOARD MEMBERS PRESENT: D. E. LYONS
L.E. AYERS
D.B. MCDANIEL (Virtually)
A.J. "JAY" LEWIS, II.
R. W. DAY (Virtually at 5:33 p.m.)

COUNTY ADMINISTRATOR: SPENCER H. SUTER

COUNTY ATTORNEY: VICKIE L. HUFFMAN

CALLED TO ORDER:

Chairman Lyons called the meeting to order at 5:30 p.m.

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

Supervisor Lewis 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:

"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 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. There were none.

Recognitions and Presentations:

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

Citizens Comments:

Chairman Lyons called for citizens comments. There were none.

Approval of the July 14, 2021 and July 26, 2021 Minutes:

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

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

Consideration of County Appropriation Resolution:

Fiscal Services Director Steven Bolster reviewed his Monthly Memorandum which included activities for the month for the Commissioner of the Revenue and the Treasurer.

County Treasurer Betty Trovato presented the FY 2020-2021 Uncollected Tax Report and handed an official copy to Mr. Bolster. Ms. Trovato advised that, because of the pandemic, real estate auctions were conducted online using an online bidding program. She added that the process went really well and she planned to continue using those services.

Mr. Bolster advised that some of the financial documents were not included in the Boards packet because they were not ready at the time BoardDocs went live. He added that hardcopies of those documents were available at this meeting. He then presented the County's Appropriation Resolution and recommended approval and payment of the bills.

Supervisor Lewis moved to approve the resolution and payment of the bills. 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

{see revised appropriation resolution in the August 23, 2021 Minutes}

Consideration of Employee Bonuses:

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

"At its July 26th work session, I provided the Board with the following report/update regarding employee bonuses:

In November 2020, the Board approved bonuses for emergency responders including law enforcement and fire-rescue positions. A number of localities in our region ultimately provided bonuses to all employees at varying levels. The Cities of Lexington and Buena Vista provided \$1,000 to all full-time staff and \$250 to all part-time staff. The Board considered the potential to follow suit with County administrative staff, but determined to table the discussion until later in FY2021. In the same timeframe, the 911 Board discussed awarding bonuses to 911 Center staff, to align with that agency's fiscal agent (Lexington's) decision to award bonuses to all staff. That decision was also tabled until a final decision by the Board of Supervisors.

In May, a discussion on this topic was revisited by the 911 Board which led to an additional discussion by the Board Personnel Committee. At

the request of the Personnel Committee, staff was asked to present this information to the full Board for consideration.

Staff suggests that, in order for an employee to be eligible for the proposed bonus, he/she would have to have been employed as of November 1, 2020 and have maintained active status until August 1, 2021.

As the report was delivered in a work session, no action was requested; rather it was added to the August 9th meeting for further consideration."

Chairman Lyons suggested that anyone currently working for the County would be included in the bonuses.

Supervisor Ayers asked if that would include brand new employees.

Chairman Lyons replied it is better to make someone happy and have them continue working for the County than to put a date and leave someone out.

Supervisor Ayers shared her concern about giving a new employee who was recently hired the same bonus as someone who worked through the pandemic.

Mr. Suter stated that the Board would need to determine whether they are wanting to give a bonus to those who were employed throughout the pandemic or is the desire is to provide everyone something extra.

Supervisor McDaniel stated that he thought the bonuses were being looked at for those who assisted during the pandemic.

Mr. Suter replied, that was the original intent when the Board considered last fall.

Chairman Lyons asked why those who were working in March of 2020 when the pandemic began would not be included in this.

Mr. Suter replied that they would still have to be working for the County upon award of the bonus or else there would be many tax implications.

Chairman Lyons stated that the November 1, 2020 beginning date seemed confusing.

Mr. Suter explained that there needs to be a firm date for staff to process bonus. He noted that the November 1 date was suggested since November 2020 is when the Board made the initial decision to provide bonuses to sworn law enforcement and uniformed Fire-Rescue staff.

Supervisor Lewis moved to approve the request as presented in the agenda item. Supervisor Ayers provided the second, and the motion carried by the following roll call vote by the Board:

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

Consideration of Fire and Rescue/ Sheriff's Office Pay Rate Adjustment:

Mr. Suter briefly reviewed the following information:

"At the Board's last work session, Chief Ramsey presented a recommendation from the F&R Committee regarding pay adjustments for F&R

staff. You may recall that he found about adjustments in adjacent localities in May, after our budget had been adopted, and soon began seeing the issues with recruiting and retention of staff in this competitive field. To summarize, the recommendation is to promote two positions: one Lt to Captain; and current Captain to Deputy Chief, and provide an across the board 10% increase for staff with exception of the Chief's position which is recommended for a 5% increase.

Subsequent Board conversations at the July 26 meeting included discussion of the same issue being experienced by the Sheriff's Department. Since then, Sheriff Funkhouser completed and remitted to the Board a salary study and proposal for an across-the-board increase of 10% for his department.

Both the F&R and SO study and proposal are included in your agenda package. If implemented in September 1, budget impacts for the current year to include salary and fringes would be:

F&R: Just over \$80,000

Sheriff's Office: Just under \$200,000

For a total of about \$280,000

Annual ongoing costs for the combined amount would be about \$335,000.

Also, as noted in your Board report, there has not been an across-the-board salary study since 2014. Heidi Hoke has already begun working on this to be prepared to present to the personnel committee, finance committee and full Board for consideration during the FY23 budget

process." He then introduced Chief Ramsey and Sheriff Funkhouser who were present to answer any questions.

Chairman Lyons stated he would like to see all staff salaries reviewed.

Supervisor Lewis shared that he had tried to find a way back in 2017 to support deputies, fire, and EMS staff better but did not know how to fund it. He reminded the Board of another revenue stream coming up that may be a good source of funds fore these types of needs.

Supervisor Ayers stated that the proposed 10% still does not address the serious problem with wages in the community.

Mr. Suter added that other departments such as Fleet Services are also seeing problems with the pay scale.

Supervisor Lewis moved to approve the request as presented with a September 1st implementation date. 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

Consideration of Opioid Litigation Approval:

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

"The County of Rockbridge and the Commonwealth of Virginia share the common goal of abating and alleviating the impacts of the opioid addition

epidemic and maximizing litigation recoveries from the responsible third parties. To advance these common interests, the County and the Commonwealth, through counsel, have extensively negotiated the terms of a memorandum of understanding relating to the allocation and use of such litigation recoveries. The County's outside opioid litigation counsel has recommended that the County approve the proposed memorandum of understanding (MOU).

As the MOU was being considered and negotiated, the Attorney General also proposed corresponding legislation to create the Virginia Opioid Abatement Authority ("VOA Authority") to administer the Virginia Opioid Abatement Fund. The legislation was approved in the 2021 Regular and Special Sessions of the General Assembly with a few amendments, was approved by the Governor, and became effective July 1, 2021. Copies are attached as Exhibit B to the MOU.

The MOU provides for the allocation of Opioid Funds as follows:

1. 15% to the Participating Political Subdivisions ("Subdivision Share") - allocated and paid to the localities in accordance with the division of proceeds in Exhibit A. Rockbridge County share will be 0.235%. This share is not restricted unless the Settlement Agreement requires use of the funds solely for opioid abatement, e.g. Perdue Pharma.
2. 70% to the Virginia Opioid Abatement Fund and to other Approved Abatement Purposes as further described in the MOU ("Opioid

Abatement Share") - this share will be allocated and paid as follows:

a. 55% to the Virginia Opioid Abatement Fund ("Fund") - this Fund is to be administered by the VOA Authority, per the legislation, and may be distributed in grants or awards to state agencies or Participating Political Subdivisions to support opioid abatement programs as described in the MOU. This Fund shall be further restricted as follows:

- i. 15% restricted for use by state agencies;
- ii. 15% restricted for use by Participating Political Subdivisions, distributed per Exhibit A;
- iii. 35% restricted for use for regional efforts (a partnership of at least two Participating Political Subdivisions within a community services board region);
and
- iv. 35% unrestricted and may be used to fund the VOA Authority's staffing and administrative costs and/or may be distributed for use by state agencies, by the Participating Political Subdivisions, or for regional efforts.

b. 15% to the Participating Political Subdivisions and shall be used for Approved Abatement Purposes ("Direct Subdivision Abatement Share") in accordance with Exhibit A - this share is restricted.

3. 15% to the Commonwealth of Virginia ("Commonwealth Share").

The MOU also provides for a Deficiency Fund to cover agreed upon counsel fees that are not covered under a national settlement.

If acceptable to the Board following discussion, adopt the proposed Resolution to approve the Virginia Abatement Fund and Settlement Allocation Memorandum of Understanding."

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, McDaniel, 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,
AUGUST 9, 2021

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE
COUNTY, VIRGINIA, TO APPROVE THE VIRGINIA ABATEMENT
FUND AND SETTLEMENT ALLOCATION MEMORANDUM OF
UNDERSTANDING**

WHEREAS, the County of Rockbridge, through their elected representatives and counsel, and the Commonwealth of Virginia, through the Office of the Attorney General, are separately engaged in litigation seeking to recover costs incurred and to be incurred in abating the opioid addiction epidemic that plagues Virginia communities;

WHEREAS, the County of Rockbridge and the Commonwealth of Virginia share a common desire to abate and alleviate the impacts of the opioid addiction epidemic and to maximize litigation recoveries from those third parties responsible for same;

WHEREAS, in order to advance their common interests, the County of Rockbridge and the Commonwealth of Virginia, through counsel, have extensively negotiated the terms of a memorandum of understanding relating to the allocation and use of such litigation recoveries;

WHEREAS, the County's outside opioid litigation counsel has recommended that the County approve the proposed memorandum of understanding; and

WHEREAS, the County Attorney has reviewed the available information about the proposed memorandum of understanding and concurs with the recommendation of outside counsel;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Rockbridge, Virginia, assembled on this day at which a quorum is present, that the Board of Supervisors hereby authorizes and approves, or confirms authorization and approval, of the Virginia Abatement Fund and Settlement Allocation Memorandum of Understanding attached hereto and incorporated herein by reference thereto as Exhibit "A", and authorizes and directs the County Administrator or the County Attorney to execute and enter into such Memorandum of Understanding on behalf of the County of Rockbridge, Virginia.

Adopted this 9th day of August, 2021.

Broadband Opportunities Discussion:

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

"As I have shared, there is an opportunity coming up in September to apply for state grant funding for broadband buildout. Our goal continues to be getting broadband access to any business or residence in the County which does not already have it. What we have done so far is attempt to identify all areas unserved at least a 25/3 service.

As you know RANA - in partnership with various ISP's - provides service in some areas of the County. BARC Connects is steadily working toward provision of broadband to the door of all its customers who are not already served. Recently, Dominion Energy has entered the broadband effort and wishes to partner with BARC Connects to build out middle and last mile service in the Dominion service area.

Per my report on Board docs, I have worked on a memorandum of understanding with Dominion, BARC and RANA. After some communications over the weekend, we think we have a final document, though Ms. Huffman

will need some time to complete a final review and we would still need to get comments from the EDA. Consideration of the MOU is the next item on the agenda.

For some background, Dominion has fairly recently entered the broadband arena. However, their segment is the middle mile. They do not wish to be a last mile ISP (internet service provider). They are happy to build much of the middle mile in their service area, but require an agreement between the locality and an ISP. Dominion and BARC Connects have agreed in concept for this relationship to be formed between than - Dominion building middle mile at their cost and BARC being the last mile internet service provider. As noted, in order for Dominion to commit to building the middle mile, they need an MOU from the partners - BARC, the BOS and EDA.

You will note that, while mentioned in the recitals, RANA is not a party to the agreement. We had originally included RANA, but it became clear that Dominion can only partner with an ISP. RANA is not an ISP. Rather, it is an Authority providing open access middle mile fiber to ISPs which serve the last mile, and bill the customer direct. RANA's Executive Director Valeri Jacoutot reviewed the agreement and agrees that it would serve no purpose for RANA to be party this MOU. Rather, I have been working with BARC and RANA to identify any areas in the Dominion network which make sense for RANA to build with grant funds and some County grant match. I want to support RANA as much as is possible as they are an important cog in the Broadband wheel as are their ISPs, particularly VTS.

In the other areas subject to the MOU, Dominion would build the middle mile at their cost, which can be parlayed into an in-kind grant match to help satisfy the grant application requirements. Similarly, BARC will be bringing some in-kind match to the table. We want to leverage these inputs as much as possible in a grant application.

Ultimately, the plan is to finish nailing down the areas where RANA would build and the areas that Dominion/BARC would build. Then, cost estimates for each project would be generated to see how much money needs to be requested in the grant application and how much local match would ultimately be required. After that, we would include both the RANA and BARC/Dominion projects in a grant application.

In the next item on the agenda, I'll ask for approval in concept of the document, with the understanding that we still may hear back from Dominion and that the EDA would still need to approve. In addition, Ms. Huffman has had limited time to review as well. As such, there could be some minor changes - I'd just need authority to execute the MOU.

Finally, we anticipate that we will call on the Central Shenandoah Planning District Commission (CSPDC) again to assist in grant application."

Chairman Lyons asked Mr. Suter if this would provide service to those few Dominion customers in the County who cannot currently receive service from BARC.

Mr. Suter replied that in most cases it would.

Supervisor Ayers suggested finding out the number of constituents who are considered "served" with broadband but actually are not.

Mr. Suter noted there are a lot.

Ms. Huffman advised that this would not be a binding agreement.

Mr. Suter requested the Boards authorization to execute an MOU.

Supervisor McDaniel suggested that during further review, those providers who say they provide service to a location but in actuality do not should prove that they do.

Supervisor Day moved to authorize the County Administrator to execute an MOU. Supervisor McDaniel provided the second, and the motion carried by the following roll call vote by the Board:

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

Consideration of Broadband MOU:

This item was covered in the previous motion.

Appointments:

Building Code Board of Appeals Vacancy- Term Expires 7/31/2025:

Supervisor Lewis moved to appoint George Bezold to fill the unexpired term. Supervisor Ayers provided the second, and the motion carried by the following roll call vote by the Board:

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

Building Code Board of Appeals Vacancy- Term Expires 3/13/2024:

Supervisor Lewis moved to appoint Tim Hickman to fill the unexpired term. Supervisor Ayers provided the second, and the motion carried by the following roll call vote by the Board:

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

Monthly Staff Reports:

Supervisor Lewis moved to accept the staff reports with appreciation to staff. Supervisor Ayers provided the second, and the motion carried by the following roll call vote by the Board:

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

Board Comments:

Chairman Lyons reminded the Board that the Rockbridge Regional Fair will be at the end of the month.

Adjournment:

Supervisor Ayers moved to adjourn at 6:25 p.m. Supervisor Lewis provided the second, and the motion carried by the following roll call vote by the Board:

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