

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY  
VIRGINIA, HELD IN THE COUNTY ADMINISTRATION BUILDING,  
150 SOUTH MAIN STREET LEXINGTON, VIRGINIA,  
ON TUESDAY, MAY 26<sup>th</sup>, 2015, AT 4:30 P.M.

PRESENT: CHAIRMAN J.M.HIGGINS  
MEMBERS: R.R.CAMPBELL, R.S.FORD, A.W.LEWIS, JR., D.W.HINTY, JR.  
CLERK TO BOARD: SPENCER H. SUTER  
COUNTY ATTORNEY: VICKIE L. HUFFMAN  
STAFF: JEREMY GARRETT, STEVEN BOLSTER, TRACY SHAFFER

**Called to Order**

Chairman Higgins called the meeting to order at 4:31 P.M.

**Solid Waste Strategic Plan Discussion**

Mr. Suter reviewed the process leading up to the final Solid Waste Management Strategic Planning report. He noted that the Board had previously appointed a team consisting of Mr. Campbell, Mr. Ford, staff members Spencer Suter, Jeremy Garrett and Tracy Shaffer, citizen representative Jenny DeHart, and law enforcement representative Larry Conner. The team developed a request for proposals and the Board ultimately hired SCS Engineers to complete the report. The report was worked on through the fall of 2014 before being finalized in January, 2015. The report was presented to the Board on January 26<sup>th</sup>, 2015 and the Board subsequently revisited it during a February 23<sup>rd</sup> work session. He then noted that the report was divided into four main areas of focus: Collections, Transportation, Disposal and Recycling and went on to detail progress in each area since the February work session:

- Transportation

- o Request for proposals for solid waste (refuse and recycling) hauling services issued
- o Pre-proposal meeting hosted with 4 potential proposers attending
- Collections
  - o Informal discussions have taken place on the pros and cons of the recommendations in the report
  - o Preliminary investigations on site planning and VDOT entrance for the recently acquired Fancy Hill site have been made, but no funding has been expended
- Disposal
  - o DEQ review of the Part B submission for the planned piggyback landfill continues
  - o DEQ has found the submission to be complete and is now in the technical review phase
- Recycling
  - o The hauling contract RFP contains options for partnering with a 3<sup>rd</sup> party to share recycling proceeds

Mr. Suter then noted that in addition to these items, a litter control fence has been erected at the Buffalo Creek site, and Natural Bridge and Conference center has again requested removal of the Natural Bridge collection site on Rt. 11 and has offered up an alternative space on private property within the Natural Bridge Complex.

He then noted that of the 4 main topics covered by the SCS report, the main area where decisions must be made is in collections. He emphasized that staff will require some additional direction from the

Board prior to moving ahead with some of the recommendations contained in the report. He clarified that once we receive proposals for the hauling contract we should have a better idea on cost, which will guide us in moving ahead on collection. He concluded by noting that there had been interest in having citizen forums in the County regarding changes in the handling of solid waste, and that after polling the Board, it was determined to push these out until late summer.

Supervisor Campbell noted that the Board should determine whether these meetings are intended to obtain citizen input or to provide citizen information.

Chairman Higgins stated that they should be a combination of both.

Supervisor Lewis noted that the meetings could be utilized to help find potential locations of collection center sites.

Mr. Suter suggested that the Board consider additionally forming a citizen group, with one member appointed from each district, to work with staff and the Board to develop some additional recommendations.

Chairman Higgins expressed concern that this would put too much pressure on citizens.

Supervisor Ford reiterated noted that many decisions will be influenced by the cost of transportation, which we should know soon; then we can move more decisively on interactions with the public.

Chairman Higgins stated that he has learned by talking to many residents that they don't mind if we remove unstaffed dumpster site - just don't take theirs. He noted that convenience is very important to citizens.

Supervisor Ford cited Goshen as a success story in this discussion, with a single, staffed collection center; he added that offering dozens of little dumpster sites is a luxury we may not be able to afford in future.

Mr. Suter noted that the only complaints he has heard from Goshen involve the inconvenience of not being able to dispose of large items.

Supervisor Campbell stressed that one thing that got the whole conversation started was the need to protect the new landfill liner - that we have to know what is going into the landfill.

Supervisor Hinty asked if we have ever gotten an agreement back from Lexington on their membership in the Authority.

Mr. Suter noted that the draft agreement is still with the City Manager. He noted that the new City Manager has had a lot on his plate and that we hope to see movement in this area soon.

Supervisor Hinty stated that the existing Natural Bridge collection site is a "wicked" place to enter and exit. He noted that if we could get another site secured within  $\frac{3}{4}$  mile or so of the existing site, he would support removing it.

Mr. Suter stated that staff would go back and take another look at potential sites.

Supervisor Hinty asked staff to also look at the area across the road on the hill East of RT. 11.

Mr. Garrett noted that it really is a beautification concern and Mr. Hinty agreed.

Supervisor Campbell noted that some areas, like the Kerrs Creek site, get vandalized on weekends, and that this gets expensive.

Chairman Higgins suggested looking into installing game cameras which can be remotely monitored.

Mr. Garrett stated that law enforcement has had a hard time gaining convictions on the tickets they write at dumpster sites.

Chairman Higgins noted that getting convictions for vandalism is the key.

Supervisor Lewis stated that he would like to see continued progress.

### **Update on Landfill Progress**

Mr. Suter introduced Ms. Lynn Klappich with Draper Aden Associates, the County's primary solid waste consultant, to give an update on landfill planning progress. Ms. Klappich indicated that FY2016 was going to be extraordinarily busy for County staff in preparing for the new landfill. She then updated the Board on progress via a PowerPoint presentation. She described the current landfill operation and the fact that the landfill needs to be closed in June, 2017. She noted that the Department of Environmental Quality (DEQ) is working with us on a "soft" closing, noting that, in order to protect the liner in the new landfill, the best (softest) waste would be put in first, with harder waste going into the old landfill face.

She then described the new landfill as encompassing 36 acres with a leachate holding pond and approximately 50 years of useful life. The design of the landfill is such that the first several cells will have shorter lifespans (five to eight years), while the latter cells increase in longevity up to 28 years. She noted that the height of the new landfill

will be about the same as it is today, or 70' high. She then advised that we will need to close about 11 acres of the existing landfill and that the County probably can do that ourselves with skilled staff and equipment.

She then reviewed the current status of regulatory compliance requirements for the new landfill. She noted that Part A of the application was essentially complete, with exception of the Army Corps of Engineers wetland inspection, which had actually been completed just that morning. With regard to Part B of the application, the completeness review is done and the technical review is underway. She noted that one landfill is ahead of us (Rockingham County) in the review process. She discussed the need for additional permits for air quality and a stream crossing.

Next, she reviewed the actions that will need to be taken during FY2016. She stressed that the regional solid waste management plan will need to be revised to incorporate any changes involving waste handling by the cities of Buena Vista and Lexington. She noted that any major changes will require resolutions of each governing body.

She then reviewed the Cell 1 engineering design, noting an estimated cost of \$5.7M, with approximately \$2M of that in liner and earth work. The largest expense is in gravel to cover the liner. She noted that the top 6" of the liner cover can be shredded tires and that staff is working on getting some of that material prepared. Not included in the \$5.7M is the cost of relocation of the scales. With all the gravel coming in, careful management of trucking will be a concern that needs to be addressed. Mr. Garrett added that trucking is something that we want to stay ahead of.

The work session concluded at 5:25 P.M.

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY  
VIRGINIA, HELD IN THE COUNTY ADMINISTRATION BUILDING,  
150 SOUTH MAIN STREET LEXINGTON, VIRGINIA,  
ON TUESDAY, MAY 26<sup>th</sup>, 2015, AT 5:30 P.M.**

**PRESENT:** CHAIRMAN J.M.HIGGINS  
**MEMBERS:** R.R.CAMPBELL, R.S.FORD, A.W.LEWIS, JR., D.W.HINTY, JR.  
**CLERK TO BOARD:** SPENCER H. SUTER  
**COUNTY ATTORNEY:** VICKIE L. HUFFMAN  
**STAFF:** SAM CRICKENBERGER, CHRIS SLAYDON, BRANDON MITCHELL,  
STEVEN BOLSTER, BRANDY FLINT, JEREMY GARRETT

**Called to Order**

Chairman Higgins called the meeting to order at 5:31 P.M.

Supervisor Campbell delivered the invocation and led in the Pledge of Allegiance.

**Recognitions and Presentations**

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

**Citizens Comments**

Chairman Higgins called for citizen comments. There were none.

**Items to be added to the Agenda**

Chairman Higgins called for items to be added to the Agenda. There were none.

**Approval of Minutes for May 11<sup>th</sup>, 2015**

Supervisor Ford moved to approve the Minutes for May 11<sup>th</sup>, 2015 as presented. Supervisor Campbell provided the second, and the Minutes were approved by unanimous roll call vote by the Board.

AYES: Ford, Campbell, Lewis, Hinty, Higgins  
NAYES: None  
ABSENT: None

**School Appropriation Resolution**

Finance Director Steven Bolster presented the Schools Appropriation Resolution and recommended approval as presented. He noted that \$123,000 in unplanned technology revenues were included.

Supervisor Lewis moved to approve the County Appropriation Resolution as presented. Supervisor Hinty provided the second, and the motion carried by unanimous roll call vote by the Board.

AYES: Lewis, Hinty, Ford, Campbell, Higgins  
NAYES: None  
ABSENT: None

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE  
COUNTY, VIRGINIA, HELD AT THE COUNTY ADMINISTRATIVE BUILDING,  
150 SOUTH MAIN STREET, LEXINGTON, VIRGINIA,  
ON TUESDAY, MAY 26, 2015 AT 5:30 P.M.

On motion by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, the Board, by record vote adopted the following appropriation resolutions:

**APPROPRIATION RESOLUTION**

**BE IT RESOLVED:** By the Board of Supervisors of Rockbridge County, Virginia, that the following appropriations are, and the same hereby are made, for the period ending **June 30, 2015** in **FUND 50, SCHOOL FUND** and expended as follows:

4-50-61100-1624-390-500	Coaching Supplement.....	\$4,000.00
4-50-61100-6012-910	Purchasing Textbooks .....	\$8,000.00
4-50-68200-6060-910	Technology Infrastructure .....	\$38,000.00
4-50-68200-6050-910	Technology Hardware .....	\$85,000.00

**TOTAL FUND 50 APPROPRIATIONS** **\$135,000.00**

**VDOT 6 YEAR PLAN**

Mr. Suter introduced this agenda item, noting the following: "The VDOT 6 year highway improvement plan is reviewed and approved by the Board each year. Last year, VDOT Resident Engineer Susan Hammond led a Board Work Session to review the updated 6 year plan. In our recent conversations, Ms. Hammond has noted that there is only one substantive change in the plan for the upcoming cycle: a section at the end of Waterloo Road has been added back into the plan, slated for rural rustic improvement. This improvement has been added to the bottom of the plan, meaning that it would be improved after the projects which were already on the list are completed. Since there are few changes from last year, it is recommended that the Board forgo a detailed Work Session. Rather, the Board could simply conduct a public hearing at its next regular meeting on June 8<sup>th</sup>. After taking public comment on June 8<sup>th</sup>, the Board could opt to

adopt the plan, or schedule adoption to occur at the regular June 22<sup>nd</sup> meeting." He then called attention to the draft 6 year plan included as part of the Board's agenda package and asked VDOT Resident Engineer Susan Hammond to assist in answering any questions from the Board.

Ms. Hammond briefly reiterated Mr. Suter's opening statements. There were no questions from the Board.

Supervisor Lewis moved to set the public hearing for June 8<sup>th</sup>. Supervisor Hinty provided the 2<sup>nd</sup> and the motion carried by unanimous roll call vote by the Board.

AYES: Lewis, Hinty, Ford, Campbell, Higgins  
NAYES: None  
ABSENT: None

#### **BOARD MEMBERS' SALARIES**

County Attorney Vickie Huffman reviewed the agenda item, which contained the following information: "Between May 1<sup>st</sup> and June 30<sup>th</sup> of each year, the Board of Supervisors is required to establish the annual salary of its members for the ensuing year, following notice and public hearing. For your reference, copies of the applicable statutes are attached - Va. Code §§15.2-1414.1, 15.2-1414.2, and 15.2-1414.3. Section 15.2-1414.2 contains provisions for setting the maximum compensation for Board members, which may exceed the traditional maximums if the specified procedure is followed. The maximum annual compensation must be set prior to July 1<sup>st</sup> in any year in which at least two (40%) of the members of the Board are to be elected, and such decision shall be effective as of the

following January 1<sup>st</sup>. An additional amount for the Chairman and/or Vice-Chairman is permissible. There is no inflation factor provided for in this option, but you will notice that the County may provide for reimbursement of certain actual expenses, directly attributable to the proper performance of official duties, in addition to salary. This option is available this year. Section 15.2-1414.3 is now designated as an alternative procedure for establishing salaries, but was historically the only provision for establishing board member salaries. This statute provides the maximum annual salaries for Board members based upon population brackets, but may be adjusted annually by an inflation factor not to exceed 5%. The maximum for Rockbridge County is \$5,500 per year; the Chairman may receive up to an additional \$1,800 per year, and the Vice-Chairman may receive up to an additional \$1,200 per year. Board salaries are currently set at \$5,500 per year, the maximum permissible under Va. Code §15.2-1414.3. No inflation factor has previously been approved. In some jurisdictions, the increase for the Board is set at the same percentage as for employees. However, in Rockbridge County, the Board of Supervisors has not had a salary increase since January 1, 1996. The Board must also establish the additional annual salary of the Chairman and the Vice-Chairman, currently set at \$1,800 for the Chairman and \$23 per week for the Vice-Chairman to serve during an extended absence of the Chairman, up to a maximum of \$1,200 per year. A draft Ordinance is attached for the Board's consideration. This draft is the same as the 2014 Ordinance, but can be revised if the Board determines to establish Board salaries under Va. Code §15.2-1414.2 or to add an inflation factor

to the salaries, to reinstate the Vice-Chairman's annual salary, or otherwise make adjustments."

Supervisor Campbell moved to advertise Board salaries with no change, for a June 22nd public hearing. Supervisor Ford provided the second and the motion carried by unanimous roll call vote of the Board.

AYES: Campbell, Ford, Lewis, Hinty, Higgins  
NAYES: None  
ABSENT: None

Chairman Higgins called for a ten minute break until the scheduled 6:00 public hearings.

#### **PUBLIC HEARINGS**

#### **SPECIAL EXCEPTION REVIEW - BARC ELECTRIC COOPERATIVE - UTILITY IN A-2**

##### Disclosure Statement by Supervisor Hinty

Supervisor Hinty read aloud the following Disclosure Statement: I hereby abstain from all matters, discussions, or voting related to (1) the special permit application by BARC Electric Cooperative for the Highland Belle School property, and (2) the approval to donate and convey the 8-acre Highland Belle Property to the Rockbridge County Economic Development Authority (EDA) for conveyance to BARC Electric Cooperative for economic development purposes, and my disclosure statement required under the Conflict of Interest Act is on file with the Clerk to the Board of Supervisors.

Supervisor Hinty left the dais.

Supervisor Lewis read aloud the following Disclosure Statement: I hereby abstain from all matters, discussions, or voting related to (1) the special permit application by BARC Electric Cooperative for the Highland Belle School property, and (2) the approval to donate and convey the 8-acre Highland Belle Property to the Rockbridge County Economic Development Authority (EDA) for conveyance to BARC Electric Cooperative for economic development purposes, and my disclosure statement required under the Conflict of Interest Act is on file with the Clerk to the Board of Supervisors.

Supervisor Lewis left the dais.

Supervisor Ford, in responding to a citizen suggestion that he might have a conflict of interest, referred to a letter of opinion written on May 22, 2015, by Commonwealth's Attorney Robert N. Joyce to the effect that he saw no such conflict.

Assistant Director of Community Development Chris Slaydon reviewed the agenda item, stating, "On March 11, 2015 the Planning Commission held their public hearing on the special exception application by BARC Electric cooperative to utilize the former Highland Belle School as an office, lay down yard, and a location for a proposed solar array project.

At that meeting concerns were raised over these issues:

- 1) Development in the flood plain;
- 2) Viewshed concerns from adjoining properties, including solar array and type of fencing, such as razor wire;
- 3) Increased screening and buffer needs;

- 4) Lighting associated with the site;
- 5) Formalizing the schematics of the plan - how BARC was going to utilize the building;
- 6) Traffic concerns;
- 7) Negative impacts on property values in the area;
- 8) Impacts on existing businesses in the area;
- 9) Loss of playing fields;
- 10) The advertising and performance agreement process used by County officials; and
- 11) Negative environmental impacts.

Ultimately, the Planning Commission postponed action until their April 8, 2015 meeting. The Commission has 60 days to act on the application. On March 18, 2015, BARC requested an extension that exceeded the 60 day time period as set forth in section 802.03-3 of the Rockbridge County Land Development Regulations. This extension was granted by the Supervisors at their meeting on March 23, 2015. On May 13, 2015, the Planning Commission reviewed the revised plan. Changes from the plan presented at the March 11, 2015 plan to the May 13, 2015 plan included:

- 1) Addition of proposed communications pole;
- 2) Addition of proposed Fuel island;
- 3) Proposed location of power line to connect power from the solar

array back to the grid; and

4) A buffer of evergreens along the eastern property line.

At this meeting, Commissioner Stolarz was out of the Country on business, leaving 4 members present.

After hearing additional public comments and further discussion, a motion was made to approve the project without the solar array. This would include the plans to utilize the building and rear yard portion of the building as a laydown yard. This motion failed on a two to two vote.

The next motion was to approve the project with revised conditions that included a vegetative buffer along the entire eastern property line. Other conditions included:

- Substantial compliance with concept site plan prepared by BARC Electric Cooperative, dated February 18, 2015, and as revised May 4, 2015, with approval of Phase I of the solar array;
- Lower portion of any solar panel shall be installed above base flood elevation and materials used shall not be harmful to aquatic life;
- If the solar array is decommissioned or no longer functional, it shall be removed;
- No razor or barbed wire shall be used for security fencing associated with the solar array;
- Any chain link fencing installed along Big Spring Road shall be green or black rubber coated;
- Any outdoor lighting shall meet the requirements of Section 1303,

## Lighting Ordinance

- Any replacement power poles or new communication towers shall be made of wood; and
- Any power lines connecting the solar array to BARC lines shall be installed underground through effected properties.

This motion also failed on a two to two vote.

Per section 802.03-3 of the Land Development regulations, if the Commission fails to submit a report on a proposal within sixty days, the special exception permit shall be deemed approved. Therefore, the application is deemed to be recommended to be approved without conditions.

I believe that this was one of the toughest applications that the Planning Commission has had in front of them and they did not take their charge lightly. It can be a difficult task to attempt to balance community needs and wants, with the needs/wants of businesses. It can be more difficult in an agricultural zoning district in a predominately agricultural area. Staff have received numerous emails pertaining to the project, and all emails have been forwarded to the Board of Supervisors.

Since the March 13, 2015, meeting the site plan has been revised, it now includes an alternative power route on the western side of the property while removing separate phases of the solar project.

Current possible conditions that have been discussed and are in the Board package include:

1. Substantial compliance with a concept site plan prepared by BARC

Electric Cooperative, dated February 18, 2015, and as revised May 4, 2015 and May 8, 2015, May 20, 2015 and May 21, 2015, with approval of Phase I of the solar array as depicted on the site plan dated May, 8, 2015;

2. Lower portion of any solar panel shall be installed above base flood elevation and materials used shall not be harmful to aquatic life;

3. If the solar array is decommissioned or no longer functional, it shall be removed;

4. No razor or barbed wire shall be used for security fencing associated with the solar array;

5. Any chain link fencing installed along Big Spring Road shall be green or black rubber coated;

6. Any outdoor lighting shall meet the requirements of Section 1303 of the County Lighting Ordinance;

7. Any replacement power poles or new communication towers shall be made of wood;

8. Any power lines connecting the solar array to BARC lines shall run underground along property lines as feasible, unless connecting to the grid along Dominion's above ground lines.

As previously stated, the current plan does not depict the two phases in the solar plan."

Mr. Slaydon then noted that BARC CEO Mike Keyser was in attendance to give a review the details of the current plan and the proposed use of the building.

Mr. Keyser noted that BARC is owned by the Community and not-for-profit. BARC has just over 7,000 meters in Rockbridge County out of the 12,500 meters in their system. That makes Rockbridge County over 50% of their service area. Mr. Keyser indicated that because of the customer/ownership of BARC, the County would essentially be giving the school back to the community, and the community and customers would receive the benefits of BARC's use of the property. He summarized the uses as follows:

1. Broadband. BARC proposes to build a \$16 million fiber-to-the home network in the County that will pass just over 4,000 homes and businesses - all of which will be eligible for a free fiber connection during the first phase of the project. Mr. Keyser indicated that they hope to over time expand into the entire County, as well as their entire service area. In the first phase they will connect all the County and City schools to the system, including Mountain View and Effinger. As the project grows in size and scope, BARC will be adding good, high paying jobs to the community with their subsidiary fiber project company. The fiber company will be offering among the fastest speeds in the country of up to one gigabit per second.
2. Electric Operations. Mr. Keyser stated that if the plan is approved today, then BARC will have for the first time in its 76 year

existence a presence in Rockbridge County. That will allow drastically reduced response times to outages and other issues. It will improve operational efficiencies, and the cost savings will help to reduce electrical costs to the customers.

3. Solar project. Mr. Keyser stated that this is the first solar project of its kind in the Commonwealth of Virginia, and it will serve as a model project for other utilities in Virginia to follow. Mr. Keyser advised that the Governor of Virginia felt passionately about the project, visited the site and presented a check for \$500,000 to BARC to support the project. A learner's center for the community solar field will help to provide real life learning experiences for local and non-local children. There will be guided tours and in-classroom instruction. Mr. Keyser said that solar is taking off in this country , and this project would put BARC and the County on the leading edge of solar in the Commonwealth of Virginia, with BARC on the leading edge of community solar in the nation. Finally, Mr. Keyser asked the Board to approve the application on behalf of all the BARC customers who will receive personal benefits.

Supervisor Campbell asked when BARC planned to start construction.

Mr. Keyser replied that they could start sometime in the fall.

Supervisor Campbell then asked when BARC proposed to start the Broadband project in conjunction with the Rockbridge Area Network Authority [RANA].

Mr. Keyser replied that BARC has hired door-to-door interns to hasten

the broadband subscription process; he hopes to have the necessary number of subscribers by this fall.

Chairman Higgins opened the public hearing at 6:15 PM, asking those that wished to speak to please add their name to the signup sheet. He asked speakers to please limit their comments to three minutes - or five if speaking for a group. He asked Director of Community Development Sam Crickenberger to call the names from the list. Citizen comment was received from the following:

Scott Robertson, Executive Director of RANA, spoke in support and urged the Board to approve, thereby supporting extension of the RANA network and high speed fiber internet service into most of the County.

Buddy Powers, proprietor of the adjacent Big Spring Farm and wedding venue, spoke to the possible conditions to be attached to the permit. He stated that the new site plan was a step in the right direction based on discussion with BARC, himself and the owner of Big Spring Farm. In order to protect his investment in the new Fredericksburg Road entrance and driveway, he stressed the importance of placing power and data lines underground voluntarily and without the use of eminent domain. He also urged the Board to limit BARC's operations to the existing Highland Belle footprint and not allow BARC to expand by use of eminent domain. Finally, he sought clarification of relevant definitions that would be included in the conditions.

Eli Fishpaw, of Buffalo District and a self-described "energy-efficient builder", noted that some homeowners lack either the capital or a suitable location to develop solar generation on their own; the BARC

proposal would give such homeowners a productive way to save energy by offsite generation. He predicted that the project could serve as a model for more such development in the future.

Norm Brinkmann of Crozet, owner of Big Spring Farm, was supportive of solar projects but said this location was "not the right place" for it. He asked that the business investments of neighbors - and their property rights - be protected.

Janet Larrabee, owner of acreage and a home that adjoin Big Spring Farm, worried that the project would ruin the beautiful, serene setting that had attracted her to move here from San Diego. She characterized the proposed solar array as an eyesore that should best be located somewhere else on a remote hillside.

Solomon Alba, Rockbridge County resident and a coach with Rockbridge United Soccer Club, urged the Board to take the compelling interest of the community into consideration when making their decision. He indicated that most people are getting electricity and internet now. He noted that we have seen the federal grant and there are winners and losers here. The losers include the High School in that a lacrosse practice field will be lost and that young soccer players who feed into the high school system will not receive the training and background to move into the higher system. He said that if the field were to be taken away, there would be no place to practice and that students and parents are here to support keeping the field. He continued that there are over 150 families served by the soccer club in the spring and more in the fall. He stated that he travels to other areas where the teams pay to play in tournaments and that

we do not have a complex to support such an activity here. He concluded by stating that the losses are known but the benefits are not.

John Camper of South River District urged the County to take the opportunity being presented by BARC. He added that bringing BARC closer to County customers would help the elderly. He noted that alternative energy sources will be mandated in the future and BARC's project will help prepare our people for change.

Paul Gregory of Lexington is President of Rockbridge United Soccer Club. He spoke to the competition for a scarce resource - athletic fields - among the schools, RARO, and his own organization. He urged the County to develop other spaces for fields if they must allow solar here.

Al Tucker, III, of Kerrs Creek District, cited extensively from documents decrying the unprofitability of solar generation. He called the project a "pie in the sky" enterprise that could only succeed with taxpayer subsidies. Mr. Tucker asked a question of the Board: "As a taxpayer in Rockbridge County, is it reasonable for me to expect that a commercial enterprise, supported and promoted by the County and public money, should be able to stay afloat financially on its own without government financial support?"

Jim Andrews of Kerrs Creek District advocated the use of the field by the local youth, rather than them staying at home to play video games; he implored the Supervisors, "Don't ruin the site!"

Mary Ann Andrews of the same address stated that the field should be replaced by BARC if it is taken. She asked what would happen to the Highland Belle site if BARC were unable to sign up sufficient numbers of

subscribers for the solar and broadband projects. Could they then resell? How is it fair that BARC profit from a sale and the taxpayers lose out on that money, as well as the loss of the field?

Chris Green of Kerrs Creek District provided a digital presentation of his handout called "Save Highland Belle School Fact Sheet". Objections displayed in the presentation generally mirrored those listed above from the March Planning Commission meeting. He specifically highlighted the Brock property. Showing before and after pictures of their home. The presentation included a video recording of an interview with Mr. Crickenberger that is available on "The Rockbridge Report", a W&L student media site. The audio would not play, so Mr. Green asked Mr. Crickenberger to repeat what he had said. Chairman Higgins asked Mr. Green to direct his questions to the Board and not staff. Mr. Green argued that it was a video of Mr. Crickenberger and he should be able to ask him what he said. Chairman Higgins advised Mr. Green that he could not quote Mr. Crickenberger on a video that would not play. Mr. Green continued, stating that he is not against BARC Electric. He reviewed the assessed value of the building and discussed the fact that the project has seemed like a "done deal" from the beginning. Mr. Green stated that no other offers were allowed on the property and suggested that an option be given. He quoted from the email Mr. Keyser sent to Mr. Brinkman that stated eminent domain would be used. In addition, he questioned BARC's ability to manage operations outside their proven area of expertise and asked whether the proposed solar and broadband were economically feasible. He quoted figures for the project. In order to attract enough customers to pay for

broadband, he predicted, new subdivisions would have to be built - which would ultimately force the County to build another school in the area. Mr. Green spoke of a former employee of BARC and his current legal battles. He suggested that the "fairest" decision would be to send the project "back to square one", including publication of a business plan and paying an outside firm to appraise the property.

Darren Timmons of Buffalo District stated he is with Rockbridge United. Mr. Timmons spoke of the sports complexes he has visited when he travels with his children. He asked the Board, "Please don't give it away."

Harvey Hotinger, owner of the Northern side of Big Spring and other land along Fredericksburg Road, suggested that the solar array could be placed "anywhere", including on two of the Supervisors' farms. He objected "morally" to the performance agreement process and asked if the citizens will get a tax break since the County is giving away a million dollar property. He mentioned a former BARC employee who was recently convicted of white-collar crime elsewhere. He reminded those present that BARC had unsuccessfully tried to provide broadband to its customers once before and suggested that BARC would be "totally out of their field of expertise" with solar and broadband. Mr. Hotinger mentioned that he had talked to Tamara with the Virginia Department of Housing and Community Development and advised her of the "other side of the story" regarding the solar project they plan to fund. He suggested that problems that will arise with the panels due to flooding, as well as with the negative impact to the scenic beauty and the environment in the area. Mr. Hotinger asked Chairman

Higgins to poll the audience as to who wants to see this property given away. Chairman Higgins responded that such was the purpose of the public hearing and added that he was tracking "the pluses and minuses".

Kimberly Hines of Buffalo District stated that her husband works for BARC but she did not want her opinion to be based on that fact, but rather on the fact that she is a taxpayer here in the County. She indicated that it is the County's responsibility to provide, economically, for the citizens and their children. Mrs. Hines advised that her children participate in travel soccer and RARO and that a lot of progress has been made under the new leadership of RARO. She indicated that a new field has opened at Effinger, and she knows the County is working on a deal with the former Rockbridge Middle School property that could potentially open more fields. Mrs. Hines stated, "We need the economic growth, and this project will stimulate economic growth."

Tracy Gordon of Natural Bridge District stated that she handles facility use agreements for the Virginia Military Institute (VMI), and they are constantly called by the Rockbridge United Soccer Club and asked to use VMI's fields because the ones at Highland Belle are inadequate. She asked of the club members, "If they are inadequate, why are you fighting for them now?" She expressed sympathy for the space needs of the soccer club, but concluded that faster utility response time for our citizens, specifically her elderly father who lives alone, was too important to turn down.

Tom Bundy of South River District is an attorney who has served as an appointed county official in another part of the state. He stated that he

was "concerned with how the County operates". Mr. Bundy stated the following: "While it may be legal inserting a quasi-industrial zone into an A-2 agricultural zone, signing a performance agreement without any notice to the public - or allowing the public to comment on it before it is entered into - was wrong." Mr. Bundy also stated that when the County operated this way, the citizens were not given a chance to make offers on the property, thereby depriving the County of potentially thousands of dollars, and depriving the public the ability to retain the ball field and track. He suggested that the BARC solar proposal was "half-baked" in comparison to one recently permitted at Washington & Lee. He suggested that the Board should deny the application and force BARC to go back to the drawing board and formulate a well thought out proposal. He recommended that the County add three conditions to the Special Exception Permit: give BARC a limited time to get the project built; set an expiration date on the permit; and expressly posit that the property return to the County at the conclusion of the project.

Tom Davis of Kerrs Creek District and a former VMI professor, said he likes solar power a lot and he is glad that BARC is involved in it, but he had reasons why this particular proposal should be denied. His reasons were that Rockbridge County is an area of distinctive beauty, and Highland Belle is also an area of distinctive beauty, and he does not want this project to detract from that distinctive beauty.

Bill Shrack of 145 Adair Hill Drive, whose home overlooks the site, opposed the project.

Fiona Watson of Lexington begged the Board to not go through with

this and asked that the field be returned to the community.

Bruce Gardner of Buffalo District stated he was against the project and advised the Board that it needs to start from the beginning again.

Garrett Moore of Kerrs Creek District, owner of a nearby apiary business, expressed concern for the safety of his bees. He cited solar projects in Arizona where birds and bees are destroyed when they fly above highly reflective arrays. "There are better things we can do with that property than what is being decided tonight," he concluded.

Monica Bryant of Kerrs Creek District spoke in favor of the project.

Eric Leonard of Natural Bridge District suggested that, in contrast to massive pipeline and tower transmission projects in the news that move power from far away, "Here's an opportunity for local electric production."

Jen Andrews of Kerrs Creek District took exception to Planning Commissioner Robert Lucas' comments at the Planning Commission meeting that "it could be worse". She advised that she felt that statement did not show good leadership. Ms. Andrews went on to say that at the Planning Commission meeting the BARC engineer was asked if it [the solar array] had to be on this property and he responded that no, it did not have to be. She then advised the Board that Mr. Keyser replied, during that meeting, that it had to be here. Ms. Andrews concluded, "BARC says it has to be here, because it is a sweet deal for them". Then she asked the Board to mark her down as a "no".

Bruce Brock, whose home and business lie directly across Big Spring Drive, objected to placement of the collector bases in the floodplain. He

stated that his business partner, Pamela Dragon, has put about \$230,000 of her life savings into her property. He then advised the Board of all he and Ms. Dragon have done to improve their property. He stated, "No one would like this if it was happening to you." He then mentioned the disgraced former BARC employee and the time and money he had spent looking into that person's legal issues. He suggested that the solar project would not work. Mr. Brock noted that he had visited the solar array at Virginia Tech, which is on top of a parking garage, and he commended BARC's commitment to "go green". Mr. Brock reiterated the work and money that has been put into Ms. Dragon's property. He predicted that BARC would eventually erect a large microwave communications tower on the site, and he suggested that BARC as a not-for-profit is going to get into the LLC for-profit business of communications. He indicated that he has a lot of questions and red flags with this project. He asked the Supervisors to "slow it down and look at these red flags." Mr. Brock asked again for a "closer look" to be taken at this.

Josh Elrod of Lexington, and a member of the board of RARO, noted that he is not speaking for the RARO Board but asked the Board to keep the perspective that local sports teams need field space, especially with the increasing number of travel teams. He said that whatever happens with this field, the community will need more field space, and he asked that that be kept in mind.

Chairman Higgins asked if anyone else wished to speak to the issue. Hearing none, he closed the public hearing at 7:37 and invited Mr. Keyser back to the podium to answer additional Board questions.

Supervisor Ford asked who owns BARC-Connects.

Mr. Keyser answered that it is 100% owned by BARC. He indicated that due to SCC regulations, a parent company can only have so many subsidiaries; therefore BARC-Connects had to be created.

Supervisor Ford then asked Mr. Keyser what he could say about the risks solar collectors might pose to wildlife, specifically Mr. Garrett's bees.

Mr. Keyser replied that he knew of no such risks, but that he's a manager, not an engineer or a scientist.

Supervisor Campbell stated that from the first day the Board looked at the benefits. He noted that he had read all the emails and comments from citizens and staff. He cited the benefit of quicker response time and added that from his position as a member of the RANA Board, the opportunity to extend high-speed internet "really jumps out at him". Supervisor Campbell noted that when the Washington & Lee solar project came through, he was not in favor because these types of projects are taxpayer supported. He noted that the property adjoiners to this project are Dominion customers and may not ever benefit from it. He indicated that he had some changes to the conditions that he would like to bring up.

Supervisor Ford recounted his own experience with eminent domain, when a gas transmission company condemned land on his farm to place an illuminated communications tower. Citing the footprint of that tower, he stated that he did not think that there was any way that BARC could get a tower here even if they wanted it. More recently, the same company decided to put a new building and laydown yard adjacent to his farm. Thanks to the

efforts of Mr. Crickenberger and the Board of Zoning Appeals, a row of arborvitae was planted and effectively screened the yard. He then discussed steps the County is taking to provide more fields: re-sodding is nearly complete at Maury River Middle School; the County is pledging \$12,500 per year for two years for improvements at a new, full-sized field in Lexington; the ball field at Effinger has been reopened; and we are currently working out a deal that will provide improved field space at the old Rockbridge Middle School. He then noted that sooner or later we are going to have to deal with the loss of fossil fuels and that we owe it to our community to find out if this alternative method (solar) will work out.

Chairman Higgins then noted that this is a hard decision. He said that the internet/fiber program was his biggest hope from the beginning and that we owe our children the opportunity to have the world at their fingertips. He noted that he has seen a lot of change in this area, and if we do not make changes we will be left behind. He stated that he ran three and a half years ago with the promise to work for jobs, good jobs. He agreed that our children need fields. He indicated that we are working to make new fields at Rockbridge Middle School, and he noted the improvements to the field at Effinger. He reiterated: we need good jobs. Chairman Higgins concluded that the right thing for him to do is to see that this project works.

Supervisor Campbell then requested three changes to the special exception permit. With regard to the eight conditions presented by Mr. Slaydon above:

- add to end of #3, "and the property be made accessible to the County as an athletic field."
- add the requirement for underground data lines to condition #8.
- add a 9th condition: that a row of Emerald Arborvitae be planted along the Eastern side of the entrance road (9713), if Mr. Brinkman will permit planting on his property.

Supervsior Campbell stated that with those conditions he moved to approve the application.

Before seconding the motion, Supervisor Ford asked Ms. Huffman if any of the proposed changes to the conditions were not legally binding or within the Board's authority.

Ms. Huffman stated that the changes would be acceptable, but that the condition to make something accessible to the County at a later date might be difficult to manage. She indicated that uses were spelled out in the performance agreement about the County's use of the field until construction of the solar array begins, but that Supervisor Campbell's proposed condition does not do that.

Mr. Suter also noted that the condition does not address what might happen if the solar array is not built.

Chairman Higgins asked if in the performance agreement it states the County can use the field until the array is built.

Mr. Suter replied that the agreement includes such a statement.

Chairman Higgins concluded that that covers the issue: if the solar array does not get built, then we maintain use.

Ms. Huffman stated there are no terms for that proposed use once it

is conveyed.

Supervisor Ford asked what the provisions are in the performance agreement.

Supervisor Suter read from the performance agreement the specific details of the agencies that are allowed to use the field, and that they are allowed to use the field until such time as the capital improvements by BARC begin in the field area, or up to five years.

Mr. Keyser then stated that he could work with these amendments, although reversion of the athletic field would have to include an agreement on liability with whatever entity managed the field. He stated that if the solar array does not go in, then it is going to be a ball field.

Supervisor Campbell asked Mr. Crickenberger if BARC would be allowed any other uses in the field area, if they do not build the solar array.

Mr. Crickenberger stated that they would be allowed to do lots of things in that area, especially since the recent flood determination in that area had decreased the extent of the flood hazard zone. He then suggested that the following wording be added to the condition - "if the solar array is removed, the property is restored to pre-array conditions".

With a motion on the floor by Supervisor Campbell, Supervisor Ford provided the second after both had agreed to add Mr. Crickenberger's language to Condition #3, and the motion passed by vote of all three Supervisors.

AYES: Campbell, Ford, Higgins  
NAYES: None  
ABSENT: None  
RECUSED: Hinty, Lewis

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY,  
VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE  
OFFICES ON TUESDAY, MAY 26, 2015

**Ordinance Granting a Special Exception Permit to BARC Electric Cooperative to Develop an Office Complex, Equipment Yard, and Solar Field for Power Generation in the Agricultural and General Uses District (A-2) on Property Located at 1972 Big Spring Drive (Tax Map #47-A-50), Known as the Former Highland Belle School Property in the Kerrs Creek Magisterial District**

**WHEREAS**, BARC Electric Cooperative (BARC), the applicant and contract purchaser, proposes to acquire an improved parcel of land currently owned by the Board of Supervisors of Rockbridge County, Virginia, said parcel consisting of 8 acres, more or less, lying on the north side of Big Spring Drive (Route #631) and shown as Tract 1-A on a 'Plat of Hugh E. Wash Property, Kerrs Creek District', recorded in Deed Book 227, at page 450, in the Clerk's Office of the Circuit Court of Rockbridge County, said property being known as the former Highland Belle School located at 1972 Big Spring Drive and being identified on the Rockbridge County Land Records as Tax Map #47-A-50, referred to herein as the "Highland Belle School property"; and,

**WHEREAS**, BARC has applied for a special exception permit to develop an office complex, equipment yard, and solar field for power generation on the subject property in the Agricultural and General Uses District (A-2) pursuant to Section 603.03-9 of the Rockbridge County Land Development Regulations; 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 Planning Commission held a public hearing on this matter on March 11, 2015, with consideration and public comment continued to May 13, 2015, by agreement with BARC; and,

**WHEREAS**, the Planning Commission has made no recommendation to the Board for lack of majority vote, and the special exception permit is therefore deemed recommended for approval in accordance with Section 802.03-3 of the Rockbridge County Land Development Regulations; and,

**WHEREAS**, the Board of Supervisors has held a public hearing on this matter on May 26, 2015; 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 BARC Electric Cooperative to develop an office complex, equipment yard, and solar field for power generation on the Highland Belle School Property located at 1972 Big Spring Drive and identified on the Rockbridge County Land Records as Tax Map #47-A-50 in the Kerrs Creek Magisterial District of Rockbridge County, in the Agricultural and General Uses District (A-2) pursuant to Section 603.03-9 of the Rockbridge County Land Development Regulations, as shown on the concept site plan prepared by BARC Electric Cooperative, dated February 18, 2015, and as revised May 4, 2015, May 8, 2015, May 20, 2015 and May 21, 2015, 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 26<sup>th</sup> day of May, 2015.

Recorded Vote:

AYES: Campbell, Ford, Higgins

NAYES: None

ABSENT: None

ABSTAIN: Lewis, Hinty

ROCKBRIDGE COUNTY BOARD OF SUPERVISORS

By: \_\_\_\_\_

Chairman

Attest: \_\_\_\_\_

Spencer H. Suter, Clerk

**EXHIBIT A**

**BARC ELECTRIC COOPERATIVE**

**SPECIAL EXCEPTION PERMIT CONDITIONS**

**FOR OFFICE COMPLEX, EQUIPMENT YARD, AND SOLAR FIELD FOR POWER GENERATION ON THE  
HIGHLAND BELLE SCHOOL PROPERTY**

**MAY 26, 2015**

(1) Substantial compliance with concept site plan prepared by BARC Electric Cooperative, dated February 18, 2015, and as revised May 4, 2015, May 8, 2015, May 20, 2015, and May 21, 2015, with approval of Phase I of the solar array as depicted on plan dated May 8, 2015.

(2) Lower portion of any solar panel shall be installed above base flood elevation and materials used shall not be harmful to aquatic life.

(3) If the solar array is decommissioned or no longer functional, it shall be removed and the property restored to pre-array conditions.

(4) No razor or barbed wire shall be used for security fencing associated with the solar array.

(5) Any chain link fencing installed along Big Spring Road shall be green or black rubber coated.

(6) Any outdoor lighting shall meet the requirements of Section 1303, Lighting Ordinance.

(7) Any replacement power poles or new communication towers shall be made of wood.

(8) Any power lines connecting the solar array to BARC lines and any fiber lines shall be installed underground along property lines, unless connecting to the grid over Dominion's above ground lines.

(9) Emerald Green Arborvitae shall be planted along the eastern property line of the adjoining land owner, Tax Map 47-A-50A, if approved by the land owner.

## **Public Hearing- Disposition of Public Property - Highland Belle School**

Ms. Huffman reviewed the agenda item: "As part of the County's economic development efforts, the County-owned 8-acre property known as Highland Belle School was made available for evaluation by an economic development prospect. Thereafter, the Board of Supervisors, the County EDA, and BARC Electric Cooperative entered into a Performance Agreement dated July 24, 2014, in which the County agreed to convey the property to the EDA, subject to compliance with the public hearing requirements of Va. Code §15.2-1800. A copy of the Performance Agreement is attached.

The Agreement provided that BARC would have a period of time to conduct studies and assessments of the property and building to determine whether it would take the property in 'as is' condition. In December of 2014, the parties agreed to an extension of the feasibility study period, through March 31, 2015. On March 23, 2015, the Board of Supervisors authorized a further extension of the feasibility study period, through July 31, 2015, pending the Planning Commission's review process on BARC's application for a special exception permit. BARC has requested that the Board proceed with the necessary public hearing and approval process required for acquisition of the property.

BARC has applied for a special exception permit to develop an office complex, equipment yard and solar field for power generation in the Agricultural and General Uses District (A-2). The public hearing was held before the Planning Commission on March 11, 2015, and by agreement with BARC, was continued on May 13, 2015, with further comments from the public. The Planning Commission has not made a recommendation to the

Board, due to the inability to obtain a majority vote on either of two separate motions, and the permit is therefore deemed to be recommended for approval. The public hearing is scheduled before the Board of Supervisors on May 26, 2015, immediately prior hereto.

This agenda item is to hold a public hearing and consider an ordinance to authorize conveyance of the Highland Belle property to the County EDA. If approved, the EDA would then convey the property to BARC pursuant and subject to the terms of the Performance Agreement."

She then noted, "The proposed Ordinance is attached for the Board's consideration. Following the public hearing, if acceptable, the Board may adopt as is, or adopt with appropriate changes."

Chairman Higgins opened the public hearing at 7:48 PM. Speakers were as follows:

Pamela Dragon lives directly across Big Spring Drive. She stated that she has lived there 10 years and she is not a wealthy person. She stated that Mr. Keyser proposed to her in Mr. Suter's office that if he did not get anything for free then he would go back to Bath County. She indicated that only eight employees of the 45 that BARC has will be moving to the Highland Belle location. Ms. Dragon stated that BARC subs out its work just like Dominion does. She described the project as "corporate charity". She asked the Board to use its conscience here and not approve this. Ms. Dragon predicted it would become "a big junkyard."

Bruce Brock said he would be happy to buy the building and pay a "substantial" amount for it. He stated, "Give it to me and I'll beat

BARC's deal." Mr. Brock said this was a "done deal", and it has been from the beginning. He continued by asking, "Is anybody going to make me whole?" He also reiterated the same points that Ms. Dragon did. Mr. Brock then questioned if public notification was given, and proceeded to ask Chairman Higgins how much money he is paid as an employee of the County.

Chairman Higgins advised Mr. Brock that he is a County employee and his salary is publicly posted.

Mr. Brock continued to ask about Chairman Higgins' salary and Chairman Higgins told Mr. Brock that there was no need to argue about his salary, and to move on with his comments. Mr. Brock replied that he would make his comments elsewhere since this was a done deal and then accused Chairman Higgins of having lots of conflicts of interest. Chairman Higgins asked Mr. Brock to finish his comments and return to his seat. Mr. Brock thanked the Board for their time and sat down.

Tom Bundy again expressed his concerns about the procedure followed by the County in executing a performance agreement before holding public hearings. He stated that although it may have been legal in this case, he hopes that in future instances, especially with such dire changes in zoning, matters should be taken to the public prior to signing anything.

Buddy Powers expressed deep concern over the possibility that BARC could exercise eminent domain to expand operations onto land he intends to purchase and include in his growing business. He asked that a condition be set that any easement associated with the project will be a voluntary easement, not an act of eminent domain. He also asked that the entire

project be limited to the property that BARC is given and not expanded by eminent domain. He asked that Board protect his property rights and his rights as a business owner and make sure they are not infringed upon.

Chris Green stated that we are at the point where the County is going to hand over a two million dollar piece of real estate and he asked why the County could not enter into a lease agreement with BARC. Mr. Green indicated that this decision tonight is putting the property owners under duress, and that is no way to deal with the public and fellow land owners. He asked several times that the Board "please not put these property owners under duress". He suggested that BARC management could arrange for quicker response times here without taking possession of the property, and that they could lease a property anywhere else in the County. Mr. Green repeated that the Board needs to use common sense. He compared the project to a recent failed speculation undertaken by a neighboring jurisdiction and suggested BARC could take the ARC grant and achieve similar benefits by offering customers more efficient water heaters. Mr. Green concluded by stating again that the County needs to keep its flexibility - that they owe it to the citizens.

Robbie Faulkner of Buffalo District, a member of the EDA, said it was unfair to the EDA to ask them to decide on this project without holding another public hearing.

With no additional speakers appearing, Chairman Higgins closed the public hearing at 8:02 p.m. He then asked Mr. Keyser to discuss eminent domain.

Mr. Keyser noted that he had to protect his interest in gaining access to the BARC grid, and that eminent domain was available as a last resort if all negotiations with Mr. Brinkmann failed.

Chairman Higgins asked Mr. Powers whether an underground right of way as shown on the final BARC site plan could be worked out. Mr. Powers deferred to Mr. Brinkman, his landlord. Mr. Brinkman and Mr. Keyser stood together before the Chair and pronounced their willingness to work out an arrangement for underground easements.

Supervisor Ford asked the County Attorney whether a prohibition on BARC's future use of eminent domain to expand operations could be attached as a condition of the transfer of the property. She replied that it could. He entered into a brief discussion with Mr. Bundy on our County's interpretation of state code regarding time limits for special exception permits, on which Rockbridge County does not set limits. Mr. Bundy agreed that there is more than one such interpretation in current use, but asserted that most counties set limits. Supervisor Ford advised Mr. Bundy of the performance agreement process through the County EDA, which acts as the transferring party. Mr. Bundy asked if the only way is through secrecy, without public input. He then stated that was ridiculous.

Supervisor Ford then moved to adopt the resolution with the following amendment: at the end of paragraph 1 on page 3, add, "subject to the condition that BARC agrees not to expand its operations beyond the land being conveyed, but shall be entitled to use all rights and powers

available to obtain the necessary underground easements to Fredericksburg Road in accordance with the May 21 site plan.”

There was a brief discussion after the motion with Mr. Hotinger about the location of the power lines both underground and above ground and if that would affect his property. Mr. Keyser confirmed what was shown on the site plan which did not include Mr. Hotinger’s property. It was noted that there are existing easements that will be used on the Hotinger property.

Supervisor Campbell provided the second to Supervisor Ford’s motion, and the motion carried upon the following roll-call vote:

AYES: Ford, Campbell, Higgins  
NAYES: None  
ABSENT: None  
RECUSED: Hinty, Lewis

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY,  
VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES ON TUESDAY,  
MAY 26, 2015

Ordinance for Authorization and Approval to Donate and Convey to the Rockbridge County Economic Development Authority an 8-Acre Parcel of Real Estate (Tax Map #47-A-50) Located at 1972 Big Spring Drive, on the North Side of Big Spring Drive (State Route #631) in the Kerrs Creek Magisterial District, Known as the Former Highland Belle School, For Conveyance to BARC Electric Cooperative for Economic Development Purposes

WHEREAS, the Board of Supervisors of Rockbridge County, Virginia, is the owner of an improved parcel of land, consisting of 8 acres, more or less, lying on the north side of Big Spring Drive (Route #631) and shown as Tract 1-A on a ‘Plat of Hugh E. Wash Property, Kerrs Creek District’, recorded in Deed Book 227, at page 450, in the Clerk’s Office of the Circuit Court of Rockbridge County, said property being known as the former Highland Belle School located at 1972 Big Spring Drive and being identified on the

Rockbridge County Land Records as Tax Map #47-A-50, referred to herein as the “Highland Belle property”; and,

WHEREAS, said property was declared as surplus by the County School Board of Rockbridge County, Virginia, and was conveyed to the Board of Supervisors of Rockbridge County, Virginia, by deed dated June 19, 2014, and recorded in the aforesaid Clerk’s Office as Instrument #140001778; and,

WHEREAS, the County of Rockbridge, with the cooperation and assistance of the Economic Development Authority of Rockbridge County, Virginia (“the County EDA”), desires to promote and encourage the economic development and vitality of Rockbridge County and the Rockbridge region through the recruitment of new business and/or the expansion of existing business and employment opportunities for the citizens of the Rockbridge region; and,

WHEREAS, the Board of Supervisors of Rockbridge County determined to make the Highland Belle property available to the County EDA for economic development purposes, through the conveyance to the County EDA, subject to and in accordance with the terms of a Performance Agreement dated July 24, 2014, between the Rockbridge County Board of Supervisors, the Economic Development Authority of Rockbridge County, Virginia, and BARC Electric Cooperative, a Virginia public utility company; and,

WHEREAS, the Board of Supervisors approved said Performance Agreement on June 23, 2014; and,

WHEREAS, BARC’s commitment to take the property was contingent upon a feasibility study period, extended to March 31, 2015, and subsequently to July 31, 2015, by Extension Agreements between the parties, and the County’s agreement to convey the property was subject to the public hearing requirements of Virginia Code §15.2-1800; and,

WHEREAS, BARC desires to support the economic development effort of the County and the EDA, and desires to proceed with acquisition of the property; and,

WHEREAS, the conveyance of an interest in real estate requires the adoption of an Ordinance, following a public hearing, which has been held on May 26, 2015.

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

1. That conveyance to the Economic Development Authority of Rockbridge County, subject to and in accordance with the provisions of the Performance Agreement dated July 24, 2014, between the County, the Economic Development Authority of Rockbridge County, and BARC Electric Cooperative, the Extension of Agreement dated December 31, 2014, and the Extension Agreement dated February 23, 2015, of the former Highland Belle School property, located at 1972 Big Spring Drive in the Kerrs Creek Magisterial District, on a parcel of land consisting of 8 acres, more or less, shown as Tract 1-A on a 'Plat of Hugh E. Wash Property, Kerrs Creek District', recorded in the aforesaid Clerk's Office in Deed Book 227, at page 450, said parcel being identified on the Rockbridge County Land Records as Tax Map No. 47-A-50, is hereby authorized and approved, subject to the condition that BARC agrees not to expand its operations beyond the property being conveyed, but shall be entitled to use all of its rights and powers available to obtain the necessary underground easements to Fredericksburg Road (Route 60), in accordance with the May 21, 2015, site plan.

2. That the County Administrator is hereby authorized to execute the deed to the Economic Development Authority for the parcel of land described in paragraph 1 above, and to execute such other documents and take such further actions as are necessary to accomplish this transaction on behalf of the Board of Supervisors, all of which shall be upon form and subject to the conditions approved by the County Attorney.

3. That this ordinance shall be effective on and from the date of its adoption.

Adopted this 26<sup>th</sup> day of May, 2015.

Recorded Vote:

AYES: Ford, Campbell, Higgins

NAYES: None

ABSENT: None  
ABSTAIN: Lewis, Hinty

ROCKBRIDGE COUNTY BOARD OF SUPERVISORS

By: \_\_\_\_\_

Chairman

Attest: \_\_\_\_\_

Spencer H. Suter, Clerk

**Adjourn**

Supervisor Hinty and Supervisor Lewis returned to the dais.

Chairman Higgins asked for a motion to adjourn.

Supervisor Campbell moved to adjourn, with there being no further business to discuss. Supervisor Lewis provided the second, and the meeting was adjourned by unanimous roll call vote by the Board members present at the dais at 8:22 p.m.

AYES: Campbell, Lewis, Ford, Hinty, Higgins  
NAYES: None  
ABSENT: None