

The regular meeting of the Botetourt County Board of Supervisors was held on Tuesday, May 25, 2021, at the Botetourt County Administration Center in Daleville, Virginia, beginning at 2:00 P.M.

PRESENT: Members: Dr. Donald M. Scothorn, Chairman  
Dr. Richard G. Bailey, Vice-Chairman  
Mr. Steve Clinton  
Mrs. Amy S. White  
Mr. Billy W. Martin, Sr.

ABSENT: Members: None

Others present at the meeting:  
Mr. Michael Lockaby, County Attorney  
Mr. David Moorman, Deputy County Administrator  
(left at 6:00 P. M.)  
Mr. Gary Larrowe, County Administrator

The Chairman called the meeting to order at 12:30 P.M.

On motion by Mr. Martin, seconded by Dr. Bailey, and carried by the following recorded vote, the Board went into Closed Session pursuant to the Code of Virginia, 1950, as amended, to discuss the following: Section 2.2-3711.A. 3, Acquisition or disposition of real property for economic development purposes where discussion in open session would adversely affect the County's bargaining position or negotiating strategy namely concerning the Amsterdam (Greenfield), Blue Ridge, and Buchanan districts; Section 2.2-3711.A. 5, Discussion on prospective businesses or industries or the expansion of existing businesses or industries where no previous announcement has been made of their interest in locating or expanding facilities in the community in the Amsterdam (Greenfield) and Blue Ridge (Jack Smith Park) Districts; Section 2.2-3711.A. 6, Discussion on the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the County would be adversely affected regarding the American Recovery Act; Section 2.2-3711.A. 8, Consultation with legal counsel regarding specific legal matters requiring the provision of legal advice pertaining to agenda item #10 (staff update on the Apex Rocky Forge project). (Resolution Number 21-05-01)

AYES: Mr. Martin, Dr. Scothorn, Dr. Bailey, Mrs. White, Mr. Clinton

NAYS: None

ABSENT: None ABSTAINING: None

The Chairman called the meeting back to order at 2:04 P.M.

On motion by Dr. Scothorn, seconded by Mr. Martin, and carried by the following recorded vote, the Board returned to regular session from Closed Session and adopted the following resolution by roll-call vote. (Resolution Number 21-05-02)

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None ABSTAINING: None

**BE IT RESOLVED**, that to the best of the Board members' knowledge only public business matters lawfully exempt from open meeting requirements and only such matters as were identified in the motion to go into Closed Session were heard, discussed or considered during the Closed Session.

Dr. Scothorn then welcomed those present to the meeting and then led the group in reciting the pledge of allegiance.

He then asked for a moment of silence and encouraged those present to think about the things that are occurring regarding the Covid pandemic and its impacts on children and families, and the Board members who are present today making decisions for the public and its constituents.

Mrs. Nicole Pendleton, Director of Community Development, then introduced Mr. Nick Baker to the Board as the County's Code Enforcement Officer.

She noted that Mr. Baker graduated from James Madison University and previously worked for Roanoke City. She stated that the County is happy to have him on board.

The Board members welcomed Mr. Baker to employment with Botetourt County.

Ms. Julie Phillips, Library Director then introduced Mrs. Sarah Rodgers as the new Blue Ridge Library Branch Manager. Ms. Phillips stated that Mrs. Rodgers graduated from James Madison University with a Bachelor's degree in History, from Drexel University with a Master's in Library and Information Science, and from Virginia Tech with a Graduate Certificate in Local Government Management.

She noted that Mrs. Rodgers started her career in the Roanoke County public library system and has 17 years in public library service. Ms. Phillips stated that Mrs. Rodgers is a Blue Ridge native and currently lives in the County.

The Board welcomed Ms. Rodgers to the County.

Mrs. Mandy Adkins, Parks and Recreation Director, then introduced Tara Williamson to the Board as the Department's Administrative Assistant. She noted that Ms. Williamson graduated from Virginia Tech, previously worked for Roanoke County, and currently lives in Botetourt County.

The Board welcomes Ms. Williamson to employment with Botetourt County.

Mr. Martin noted that it is good to see the County hiring some of Roanoke County/Roanoke City employees instead of vice versa.

Chief of Fire and EMS Jason Ferguson then introduced six of the County's soon-to-be-graduates from the Regional Fire Academy to the Board. He noted that these individuals will officially graduate on Thursday.

Chief Ferguson stated that Mr. Kyle Forney is from Blacksburg and previously lived in Alaska; Jacob Bonds is from the New River Valley and graduated from Ferrum College and coaches wrestling at Blacksburg High School; Jacob Gibbs lives in the Roanoke Valley, was a competitive swimmer in high school, and served in the Marine Corps; Brendan Majors is from Salem and previously volunteered at Roanoke County's Hollins Fire Station for 3 years; and Jacob Seay graduated from Roanoke College, previously worked at Lewis Gale Hospital as a scribe for the doctors, and his father worked for many years in Roanoke County as a firefighter/paramedic.

He noted that these individuals have participated in 20 weeks of classes at the Fire Academy and will help bolster the vacant positions at Read Mountain Fire and EMS Station to begin 24/7 staffing the County's only career-staffed fire engine on June 21, 2021. Chief Ferguson noted that there are still vacancies at the Blue Ridge Station which the County is working to fill in order to implement a 24/7 staffed ambulance.

Chief Ferguson also recognized Lieutenant Jonathan Rogers who was voted as the Top Instructor from Botetourt County by the membership of the Fire Academy Class 28. He noted that Lt. Rogers achieved this same distinction at Academy Class 27.

After questioning by Dr. Scothorn, Chief Ferguson apologized for overlooking one of the recent graduates in his introductions. Chief Ferguson then introduced Mr. Ross Surratt to the Board. He noted that Mr. Surratt worked for Norfolk Southern Corporation for 12 years and, due to company downsizing, he decided to become a fire fighter with the County.

The Board thanked Chief Ferguson for these introductions and welcomed all of these individuals to employment with the County. They also congratulated Lieutenant Rogers for receipt of the Top Instructor award for the second time.

Chief Ferguson then stated that he would like to present a brief video to the Board which speaks volumes to the work that the new and current Fire/EMS personnel do every day.

The video was then shown which told the story of Mrs. Twila Rankin who experienced shoulder pain on December 23, 2020, which led to cardiac arrest. Her husband, who had received CPR training, immediately started chest compressions, prior to the arrival of the paramedics, which saved her life. In the video, Deputy Chief Jeff Powell stated that bystander CPR is one of the first links of survival and it made a difference in Mrs. Rankin's case.

Mrs. Rankin, in the video, encouraged others to learn CPR to provide help prior to the arrival of first responders. She noted that every day is a day for second chances.

Chief Ferguson stated that that he is pleased and thankful to have the Rankins present at today's meeting along with the members of the crew that responded to this emergency call. He noted that today is one of the few unique opportunities to share the message that "seconds truly do count." Chief Ferguson stated that "time and distance are not our friends in Botetourt County."

He noted that the ambulance staffed at Fincastle and several members of the Fire Department responded to the Rankins' call.

Mr. Rankin expressed his and his wife's gratitude to those who responded to their emergency and thanked the Board for the foresight to have such qualified EMS personnel in the County.

Mr. Ferguson commended Mr. Rankin for his quick actions which saved his wife's life. He then presented Mr. Rankin with the County's Citizen Lifesaver Award and a Challenge Coin for Service Excellence from the Department of Fire and EMS.

Chief Ferguson then stated that Dr. Karen Perkins and Ms. Grace Carroll with the Compress and Shock Foundation were present at the meeting. Dr. Perkins stated that the Foundation was begun in 2017 to teach CPR skills to the public for free. She noted that their classes take about an hour and give their students the skills needed to save a life. Dr. Perkins stated that their goal is to establish a national day of CPE training for this purpose.

She encouraged the Board to share information on their organization with their family and friends.

After discussion, Dr. Scothorn thanked the Rankins for their presence at the meeting and asked that those present give the County's first responders a standing ovation.

Dr. Scothorn then opened the public comment session.

Mr. Jeff Scott of Lexington then stated that the County is at a crossroads. He noted that the Special Exception Permit for the Apex Rocky Forge wind farm expires tomorrow. Mr. Scott stated that, based on the information contained in the Board's meeting packet, the County has not approved the site plan.

He stated that the County cannot trust Apex to comply with the ordinance provisions on this request and neither have they obtained approvals from the Federal Aviation Administration. Mr. Scott stated that there is "bad faith" with this company.

Mr. Scott also stated that the site's roads are anticipated to have a 12% grade which will cause erosion problems and be difficult for equipment to climb to reach the site. He noted that Apex is "putting profit before people's safety," are not complying with the County's wind ordinance provisions, and questioned if this is due to incompetence.

Mr. Scott noted that at least 3 versions of the site plan have been submitted for review by County staff. He stated that the company is not taking compliance with the County's requirements seriously and not completing their plan/design work in a timely manner—"it is about Apex making money." He noted that Apex has said that they are a responsible company but it is time for the County to put an end to this ill-sighted and ill-conceived project.

Mr. Eric Claunch of Eagle Rock then informed the Board that he recently received upgraded broadband service through Craig-Botetourt Electric Cooperative's grant-funded broadband expansion project. Mr. Claunch noted that he lives behind Gala Industries between Fincastle and Eagle Rock.

Mr. Claunch noted that his home is located 2,900' from the main fiber line in this area and an Optical Network Terminal (ONT) is used to convert the optical signal from the fiber into separate signals for TV, voice, and data. Mr. Claunch noted that he is very pleased with the download/upload speeds that he receives.

Mr. Chris McCloud of Cloverdale stated that he is a member of the Sons of Confederate Veterans. He stated that at the last Board meeting the members were informed of his plan to start a public petition to request that the Board have a question put on the November ballot regarding the Confederate monument in Fincastle. He noted that they began obtaining signatures on this petition on May 1.

Mr. McCloud stated that he is requesting that the Board place the future of this memorial in the hands of the voters through a referendum to make the best decision. He noted that the petition has been signed by teachers, professionals, and the wife of a former judge, among others. He stated that "people want their voice heard" in a public referendum on this matter.

He stated that Rockbridge and Carroll counties have built new courthouses over the past few years. He noted that the historical integrity of the County's courthouse should be left alone. Mr. McCloud stated that the public has stated that they want a decision by the vote.

Mr. Walter Michael of Archway Road in Blue Ridge then stated that he is making comments on behalf of Mr. Danny Goad of Cloverdale Road. He stated that Mr. Goad is concerned with the integrity of the County's elections. Mr. Michael stated that the right of people to elect their representatives has existed for hundreds of years and this right "has been given by God, our creator." Mr. Michael stated that people should guard and preserve this right.

He stated that the November 2020 vote was corrupted and a majority of the municipalities in the country had their election results changed due to foreign interference. Mr. Michael stated, on Mr. Goad's behalf, that the Board is obligated to protect and defend the Constitution and questioned what the Board is doing to ensure that the County's elections are not corrupted.

Mr. Jim Ludington of Asbury Road in Troutville stated that he supports Mr. Goad's comments as quoted by Mr. Michael. Mr. Ludington stated that he wants the Board to be certain of the County's voting integrity and that the vote is accurately counted. Mr. Ludington stated that there was "massive corruption" in the 2020 election and every American should be doing all they can to ensure voter integrity.

Discussion was then held on consent agenda items.

On motion by Dr. Bailey, seconded by Mr. Martin, and carried by the following recorded vote, the Board approved the minutes of the regular meeting held on April 27, 2021, as submitted. (Resolution Number 21-05-03)

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

After questioning by Dr. Scothorn, Mr. Martin stated that Mr. Wayne Strickland has been Executive Director of the Roanoke Valley-Alleghany Regional Commission for 34 years and worked for the organization in other positions for an additional 8 years prior to being appointed as Executive Director. He noted that Mr. Strickland is retiring at the end of June and staff has drafted a resolution thanking him for his service.

On motion by Mr. Martin, seconded by Dr. Scothorn, and carried by the following recorded vote, the Board approved the following resolution honoring the service and career of Wayne G. Strickland on his retirement as Executive Director of the Roanoke Valley-Alleghany Regional Commission.

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Resolution Number 21-05-04

**WHEREAS**, on March 25, 2021, Wayne G. Strickland announced his retirement as Executive Director of the Roanoke Valley-Alleghany Regional Commission effective June 30, 2021, after 42 years of service to Botetourt County and the region; and

**WHEREAS**, Mr. Strickland earned a bachelor's degree and a master's degree in Political Science and Geography from Georgia State University in 1972 and 1974, respectively, and in 1979, earned a Master of City Planning degree from the Georgia Institute of Technology; and

**WHEREAS**, in 1979, Mr. Strickland joined the Regional Commission, then known as the Fifth Planning District Commission, as a Regional Planner; and

**WHEREAS**, in 1981, he was promoted to Chief of Land Use and Environmental Planning; and

**WHEREAS**, in 1987, Mr. Strickland became Executive Director of the Regional Commission and has served in that capacity for 34 years; and

**WHEREAS**, many key regional initiatives such as the Greenway Commission, Western Virginia Water Authority, the Regional Comprehensive Economic Development Strategy, the Partnership for a Livable Roanoke Valley, and the Roanoke Valley Broadband Authority benefited from Mr. Strickland's support during his tenure, and have been supported by the Regional Commission in numerous ways since their inception; and

**WHEREAS**, during his time at the Commission, Wayne has participated in numerous business and civic activities in the Roanoke Valley-Alleghany region such as serving as a Board member of the Roanoke-Blacksburg Technology Council, the Roanoke

Regional Chamber of Commerce, Freedom First Credit Union, the Roanoke Valley Chapter of Habitat for Humanity, the Cabell Brand Center, the Council of Community Services, the Roanoke Valley Convention and Visitors Bureau, and the Arts Council of the Blue Ridge; and

**WHEREAS**, Mr. Strickland also assumed leadership roles in various professional organizations during his tenure as Executive Director including serving as a member of the Board of Directors for the National Association of Development Organizations, Chairman of the Southeast Regional Directors Institute, President of the Development District Association of Appalachia, President of the Rural Planning Caucus of Virginia, President of the Southwest Virginia Chapter of the American Society for Public Administration, Vice-President of the Virginia Chapter of the American Planning Association, and Second Vice-President of the Virginia Association of Planning District Commissions.

**NOW, THEREFORE BE IT RESOLVED**, that the Botetourt County Board of Supervisors expresses its sincere appreciation to, and honors the outstanding service and career of, Wayne G. Strickland in his role as Executive Director of the Roanoke Valley-Alleghany Regional Commission; and

**BE IT FURTHER RESOLVED** that the Board extends its best wishes to Mr. Strickland for a happy retirement and in all of his future endeavors.

Consideration was then held on approval of transfers and additional appropriations. Mr. Tony Zerrilla, Director of Finance, stated that there was 1 transfer, 10 pass-through appropriations, and 7 regular appropriations for the Board's consideration.

He noted that these were for County matching funds for Greenfield preservation area expenditures, receipt of State grant funds, State Comprehensive Services Act (CSA) funds, reimbursements, insurance claims, and receipt of State and federal monies. Mr. Zerrilla stated that the \$124,950 regular appropriation is for the County's portion of the State's supplemental appropriation for CSA expenditures, the \$51,085 appropriation to the County Administrator's budget is for the purchase of two vehicles, and other appropriations are for recovered costs from the FY 21 budget.

After questioning by Mr. Clinton, Mr. Zerrilla stated that these two new vehicles will be used by County Administrator's Office personnel.

There being no further discussion, on motion by Mr. Clinton, seconded by Dr. Scothorn, and carried by the following recorded vote, the Board approved the following transfers and additional appropriations. (Resolution Number 21-05-05)

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Transfer \$9,775.00 from General Fund – Fund 100 - Undesignated Fund Balance to Greenfield Preservation Area Fund – Fund 240. This provides a match of recent private donations received into the Preservation Fund.

Additional appropriation in the amount of \$800 to Unemployment Claims, 100-4091000-91000-2600-000. This is for coverage of the cost of current and potential claims for FY21.

Additional appropriation in the amount of \$225,050 to Children's Services Act – Professional Services, 100-4053500-453500-3100. This is for supplemental funds to be received from the State for FY21 expenditures for County at-risk youths.

Additional appropriation in the amount of \$20,000 to Debt Service – Buchanan Fire Truck, 100-4095000-32200-9500-302. This is for funds received and to be received prior to year end from the Town of Buchanan to be applied toward debt service on the fire apparatus that is being paid for by the County. The payments from the Town represent an approved use of their Fire Program Funds.

Additional appropriation in the amount of \$65,000 to Department of Social Services, 100-4053000-53600-9801. This is for funding to be received from State and Federal reimbursements to cover DSS annualized spending for FY21.

Additional appropriation in the amount of \$6,269.04 to the following Correction & Detention accounts: \$1,028.33 to Uniforms, 100-4033100-33100-6011; and \$5,240.71 to Medical & Lab Supplies, 100-4033100-33100-6004.

Additional appropriation in the amount of \$2,716.00 to the following Sheriff's Department accounts: \$1,000.00 to Anti-Drug Education, 100-4031200-31200-5860; \$946.00 to Firing Range Expenses, 100-4031200-31200-6015; and \$770.00 to Other Operating Supplies, 100-4031200-31200-6014. The first is for donations, the second is for the sale of brass casings and rental of the firing range, and the latter are for contract payments.

Additional appropriation in the amount of \$1,119.44 to the following Sheriff's Department accounts: \$1,087.12 to Salaries and Wages – Overtime, 100-4031200-31200-1200; and \$32.32 to FICA, 100-4031200-31200-2100. These are reimbursed expenses relating to providing security during the recent LBHS football playoffs and a restitution payment.

Additional appropriation in the amount of \$600 to Dispatch – Uniforms, 100-4031400-31400-6011. This is for the receipt of contract payments.

Additional appropriation in the amount of \$74.99 to Animal Control – Police Supplies, 100-4035100-35100-6010. This is for funds received for replacement of equipment.

Additional appropriation in the amount of \$1,534.14 to Waste Management – Salaries and Wages, 100-4042400-42400-1100. These are funds received from County Waste as a reimbursement of landfill operational support services performed by Botetourt County personnel.

Additional appropriation in the amount of \$11,426.54 to Fire & EMS – Read Mountain Fire Department, 100-4035500-35500-5649. This appropriation covers a late submission for the sharing of Read Mountain expenses for the last quarter of FY20.

Additional appropriation in the amount of \$90,118.39 to Maintenance – Repair & Maintenance – Buildings, 100-4043000-43000-3313. This is to cover costs to date vs budget for this line item which includes cleaning services not fully provided for in the FY21 adopted budget.

Additional appropriation in the amount of \$124,950.00 to Children's Services Act – Professional Services, 100-4053500-53500-3100. This is for the County share of the State supplemental appropriation (please see the State portion in the "Pass-Thru" section).

Additional appropriation in the amount of \$51,085 to County Administrator Department – Capital Outlay – Motor Vehicles/Vehicle Equipment, 100-4012110-12110-8005. This is for the purchase of two vehicles.

Additional appropriation in the amount of \$15,813.97 to the following Correction & Detention accounts: \$11,886.03 to Food Supplies and Services, 100-4033100-33100-6002; and \$3,927.94 to Medical and Lab Supplies, 100-4033100-33100-6004. This appropriation covers excess expenditures vs. of budget through May 2021.

Additional appropriation in the amount of \$123,903.82 to the following Waste Management accounts: \$11,190.55 to Refuse Disposal, 100-4042400-42400-3191; \$98,363.23 to Recycling Processing, 100-4042400-42400-3192; and \$14,350.04 to Leachate Treatment, 100-4042400-42400-3193. This appropriation covers Waste Management expenditures to date for these three accounts.

Additional appropriation in the amount of \$26,051.40 to CIP – Greenfield ETC Utilization Study, 100-4094000-43000-8012-602. This appropriation will cover expenses exceeding budget for this project.

Consideration was then held on approval of the accounts payable and ratification of the Short Accounts Payable List. Mr. Tony Zerrilla, Director of Finance, stated that the accounts payable totaled \$1,124,280.30, including CARES Act expenditures of \$37,065.86.

He noted that this month's large expenditures included \$33,000 to Revels Turf and Tractor for the purchase of a John Deere tractor by the Parks and Recreation Department; \$28,215 to the EDA for payment to Blue Ridge Towers for internet service to the new Colonial Elementary School; and \$26,051 to Architectural Partners for the Greenfield Utilization Study.

There being no further discussion, on motion by Mr. Clinton, seconded by Mr. Martin, and carried by the following recorded vote, the Board approved the accounts payable list and ratified the Short Accounts Payable List as submitted. (Resolution Number 21-05-06)

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Mr. Ray Varney, Resident Engineer with the Virginia Department of Transportation, was then present to speak to the Board.

Mr. Varney then reviewed VDoT's monthly report. He noted that the Route 220 safety improvement project is continuing and on schedule for completion this fall. He also noted that the Traffic Impact Analysis (TIA) for the proposed Mountain View Subdivision (formerly Greenfield Meadows) has received concurrence from VDoT staff. Mr. Varney noted that the TIA indicates that Etzler Road does not meet the threshold for either a dedicated right turn or left turn into this new development.

After a request for clarification from Mr. Clinton, Mr. Varney stated that VDoT's review of the anticipated traffic flow from the new development does not meet the warrant under VDoT's guidelines for a separate turn lane(s) to be constructed at the Etzler Road intersection.

Mr. Varney stated that in March VDoT sent comments to the County on the subdivision plans for Daleville Town Center, Phase 4, and The Preserve at Ashley. Regarding bridge and road improvement plans for the Rocky Forge/Dagger Spring Road project, Mr. Varney noted that these plans are under review. He noted that they are also reviewing the site plans for the extension of Avery Row in Jack Smith Industrial Park. Mr. Varney further stated that they do not expect any problems with this review. Mr. Varney also noted that VDoT is reviewing the site plan for Advanced Racking on Catawba Road which includes new fencing around a portion of this business' site.

Regarding Residency Projects, Mr. Varney stated that the Murray Drive road improvement project is complete except for some erosion and sediment control-related stabilization work. He noted that this project cannot be "officially closed out" until the site is stabilized. He further noted that VDoT personnel are continuing to work on the Stone Coal Road project prior to construction scheduled for this summer. He noted that staff have talked to two additional property owners along the roadway who are agreeable to providing permission for VDoT to work on their properties which is outside of the prescriptive right-of-way for this project.

Regarding the Exit 150 landscaping project, Mr. Varney stated that new work has been done on the site and additional planting beds will be seeded this fall. He also stated that VDoT staff have been grading/adding stone to gravel roads, conducting pavement patching work, ditch/shoulder/brush trimming work, pipe replacements, and other work on various County roads.



After questioning, it was noted that the Board members did not have any road-related questions/requests this month.

A public hearing was then held on the proposed FY 22 – 27 Secondary System Six Year Plan and the FY 22 budget. Mr. Ray Varney, Resident Engineer with the Virginia Department of Transportation, stated that he was recently informed that there will be a few small funding changes to the draft Plan and budget. He noted that the FY 22 budget, as included in the Board's information packets, contains an estimated allotment of funds; it is not the final version of this document.

He then displayed the PowerPoint presentation from the Six Year Plan work session that was conducted at the Board's April meeting. Mr. Varney reviewed the projects proposed to be included in the plan, proposed available funding, and cost center categories for items such as speed/traffic studies, signs, surveying, drainage easements, fertilizer and seeding, etc.

He also noted that unpaved road funds cannot be used for Rural Addition projects.

Mr. Varney then stated that it is anticipated that approximately \$654,000 is anticipated to be available in the Plan at the end of FY 27 which will allow the Board to add two new road improvement projects. He noted that several routes were presented to the Board during the work session for consideration of addition to the Plan.

Mr. Varney stated that, to be considered for addition, roads must be unpaved and have a traffic count of at least 50 vehicles per day (vpd). Mr. Varney recommended that the Board add Laymantown Road (Route 658) which is 0.08 mile in length and has a traffic count of 130 vpd; and a 0.7 mile length of Fringer Trail (Route 645) which has a traffic count of 110 vpd. Mr. Varney noted that, if funding is available in the future, the Board may be able to add a third project but it depends on construction cost increases in the next six years.

After questioning by Dr. Scothorn, there were no comments or questions by the Board members.

After further questioning by Dr. Scothorn, it was noted that there was no one present at the meeting or on the telephone who wished to speak regarding this matter. The public hearing was then closed.

On motion by Mrs. White, seconded by Mr. Martin, and carried by the following recorded vote, the Board adopted the FY 22-27 Secondary System Six Year Improvement Plan with the addition of 0.08 mile section of Laymantown Road (Route 658) and a 0.7 mile section of Fringer Trail (Route 645), and approved the FY 21-22 Secondary System budget as proposed. (Resolution Number 21-05-07)

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Consideration was then held on approval of a Virginia Telecommunications Initiative (VATI) broadband grant agreement between the County and the Virginia Department of Housing and Community Development (DHCD) and a VATI broadband economic development grant agreement between the County, the Economic Development Authority, and Lumos Networks.

Mr. Ken McFadyen, Economic Development Director, stated that the DHCD has awarded the County a \$1.3 million grant for extension of broadband service to 548 addresses south of Buchanan in the Wheatland/Hardbarger/Lithia/Oak Ridge road areas. He noted that

this project has been in development for a few years and will include 61 miles of aerial and underground conduit to deliver fiber-to-the-home to improve data download/upload speeds for these residences.

Mr. McFadyen stated that this project should begin after July 1, 2021, and be completed not later than December 31, 2022.

He noted that draft copies of both grant agreements outlining this project, which have been reviewed by the County Attorney, were included in the Board's agenda packet. He noted that the State agreement between the County and DHCD is a standard document from the Attorney General's Office and the second agreement is between the County, the EDA, and Lumos networks. Mr. McFadyen noted that the EDA will be the "lead" in administering grant funds to Lumos.

Mrs. White then stated that there are a number of homes in the Diamond Crest Hills Subdivision which is located just south of this service area that do not currently have broadband service. She requested if this subdivision could be added to the project.

Mr. McFadyen stated that he does not believe that this development could be added to the designated service area for this specific project but he has been in contact with Lumos and they seem to be earnest in their desire to expand broadband service in the County.

Mrs. White stated that if anything could be done to expand service to the Diamond Crest Hills Subdivision it would be appreciated.

Mr. McFadyen stated that the County is doing all it can to work with private broadband providers to extend service to as many County residents as possible. He noted that currently approximately 3,000 Botetourt County households remain without broadband access.

There being no further discussion, on motion by Dr. Scothorn, seconded by Mrs. White, and carried by the following recorded vote, the Board approved the Virginia Telecommunications Initiative (VATI) broadband grant agreement between the County and the Virginia Department of Housing and Community Development, and the VATI broadband economic development grant agreement between the County, the EDA, and Lumos Networks, and authorized the County Administrator to sign the agreements on the County's behalf, upon review and approval by the County Attorney. (Resolution Number 21-05-08)

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

After questioning by Dr. Scothorn, Mr. Eric Claunch of Eagle Rock stated that there has been significant download/upload speed increases with his new broadband service which costs about \$8 or \$9 more per month than his current DSL service.

After further questioning by Dr. Scothorn, Mr. Claunch stated that he is quite satisfied with this new broadband service.

Dr. Scothorn stated that the County has made progress in working to have broadband internet service extended to the County's citizens but there is still work that needs to be done.

The meeting was then adjourned at 3:10 P. M. to allow the Board members and any interested citizens to visit the site of the new Munters facility in Greenfield.

The Chairman called the meeting back to order at 4:06 P. M.

Consideration was then held on a resolution authorizing the Director of Elections and General Registrar to request split precinct waivers from the State Board of Elections for the November 2021 election. Mrs. Traci Clark, Director of Elections and General Registrar, stated that Section 24.2-307 of the Code of Virginia requires the elimination by June 15, 2021, of split precincts for elections held in November 2021 and all subsequent elections.

She stated that, due to the delay in receipt of the 2020 census data, which has resulted in State and local governments not being able to begin the necessary redistricting process, the Board is being asked to request a waiver from the State Board of Elections to allow split precincts to be used in the November 2021 election. She noted that this is a technicality.

After discussion, Mrs. Clark stated that the County currently has 5 precincts that are split between election districts—the three towns, and the Troutville (501) and Cloverdale (502) precincts which are split between the 17<sup>th</sup> and 19<sup>th</sup> General Assembly districts.

After questioning by Dr. Bailey, Mrs. Clark stated that this issue will not have any impact on this fall's elections. She noted that every locality in the State is having to request these waivers due to the delay in being able to conduct redistricting after the 2020 census.

After questioning by Dr. Scothorn, Mrs. Clark stated that the Department of Elections has notified local governments and the public that the redistricting process is being "pushed back" due to the delay of receipt in census information.

There being no further discussion, on motion by Dr. Bailey, seconded by Mr. Martin, and carried by the following recorded vote, the Board approved the following resolution authorizing the Director of Elections and General Registrar to request split precinct waivers from the State Board of Elections for the November 2021 election.

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

Resolution number 21-05-09

**WHEREAS**, Section 24.2-307 of the *Code of Virginia*, 1950, as amended (the "Virginia Code"), mandates that "[e]ach precinct shall be wholly contained within a single congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city"; and

**WHEREAS**, the County of Botetourt, Virginia (the "County") has four split precincts, Buchanan Precinct (301 Non-Town/0340 Town), Fincastle Precinct (406 Non-Town/0980 Town), Troutville Precinct (501 Non-Town – 17<sup>th</sup> & 19<sup>th</sup> House of Delegates/2471 Town) and Cloverdale Precinct (502 - 17<sup>th</sup> & 19<sup>th</sup> House of Delegates) (together, the "Split Precincts"); and

**WHEREAS**, the Virginia Code requires that the Board of Supervisors (the "Board") establish precinct boundaries to be consistent with any congressional district, Senate district, House of Delegates district, and local election district by June 15, 2021; and

**WHEREAS**, due to the COVID-19 pandemic, the 2020 Census (the "Census") data has not been received by the County; and

**WHEREAS**, without updated Census data, the County is unable to establish precinct boundaries that eliminate the Split Precincts by June 15, 2021; and

**WHEREAS**, Section 24.2-307 of the Virginia Code requires the Board apply for a waiver from the State Board of Elections to continue to administer the Split Precincts for any election held in 2021.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of Botetourt County, Virginia, does hereby authorize the Botetourt County Director of Elections and

General Registrar to submit a request for a waiver from the State Board of Elections pursuant to section 24.2-307 of the *Code of Virginia* to administer as split precincts for any election held in 2021.

Mr. Martin then stated that some citizen comments were made earlier in the meeting about the integrity of the November 2020 election and asked if Mrs. Clark had any response as to the type of equipment used in the County's elections.

Mrs. Clark stated that the equipment used in the County's elections is manufactured by ES&S (Election Systems and Software). She noted that the County does not use Dominion Voting Systems' equipment which has been in the news over the past few months with allegations of election fraud/equipment tampering.

Mrs. Clark stated that the County's election equipment is certified by the State and federal elections commissions. She noted that her office conducts L & A (Logic and Accuracy) testing on every piece of equipment before each election to ensure that every ballot is properly read by the machines. Mrs. Clark stated that, in the testing conducted before the November 2020 election, 84 "ballots" with various possible voter responses were cast to determine if there were any irregularities in the machines or their ability to read the ballots.

After questioning by Mrs. White, Mrs. Clark stated that the County's election machines are not connected to the internet.

The Board thanked Mrs. Clark for this information.

Mr. Michael Lockaby, County Attorney, then updated the Board on legislation enacted by the Virginia General Assembly during their 2021 session which will have an impact on Botetourt County. He noted that these items may require the County to take action or allocate budget funding. Mr. Lockaby stated that the 2021 General Assembly session was unique in that it was a very liberal session, the number of bills submitted were considered/approved very quickly, and, due to the pandemic, legislative sessions and meetings were held virtually.

Mr. Lockaby stated that, regarding elections, and as mentioned by the County's General Registrar earlier today, the tract-level census data has not yet been issued to local governments by the Census Bureau. He noted that the Virginia Constitution requires localities to redistrict every year which ends in the number one. Mr. Lockaby stated that the federal government is required to provide census data to State and local governments by April 1st of the year that ends with a one; however, due to delays caused by the pandemic, this information still has not been received.

He stated that local governments in Virginia are prohibited from conducting redistricting activities within 60 days of an election. Mr. Lockaby stated that redistricting for the State of Virginia will be handled for the first time by an independent Redistricting Commission instead of the General Assembly and, at the local level, a pre-clearance/public hearing process has been established for the redistricting process through the Virginia Attorney General's Office. He noted that the public hearing process includes a 30 day public comment period on the redistricting maps, a 30 day waiting period before the new maps take effect, and the preclearance process would take up to 60 days.

Mr. Lockaby stated that, as long as the County moves forward with the redistricting process as soon as the census data is provided, we will be on legal ground to move forward with mapping.

He noted that, as also mentioned by Mrs. Clark today, split voting precincts are no longer allowed and there are provisions for hardship waivers; however, the County should try to have as few split precincts as possible.

Mr. Lockaby stated that many new law enforcement and criminal law-related regulations were also adopted. He noted that simple possession of marijuana will be legalized as of July 1, 2021, and a new oversight authority (similar to the Alcoholic Beverage Control Board) will be created to license retail marijuana dispensaries. He noted that the County needs to begin discussing/planning for zoning-related ordinance amendments for these types of uses. Mr. Lockaby noted that "skill games" are considered illegal gambling unless properly licensed in a gambling establishment and localities may take action to abate them. He also noted that behavioral health services and assessments of prisoners on intake are now mandated for correctional facilities.

Regarding revisions to the Freedom of Information Act, Mr. Lockaby stated that many of these legislative changes are minimal and include authorization for Board/Council members to participate in meetings electronically due to their own or a family member's medical condition and provisions related to public body meetings during disasters and emergencies that were included in the State's 2020 budget bill were expanded and have been made permanent. Mr. Lockaby further stated, however, that FOIA provisions related to Sheriff's and Commonwealth Attorney's offices regarding criminal records exemptions were changed significantly.

Mr. Lockaby stated that, regarding procurement and construction, if a locality receives two or more bids for goods that are high-efficiency on a power or water usage basis, the locality must accept one of those bids unless it demonstrates that the price was unreasonable. He noted that the County has begun design work on the renovations to the Circuit Courthouse. Mr. Lockaby noted that as of July 1, 2023, new government buildings for localities of less than 100,000 population are required to be designed for high-efficiency, distributed energy, and have electric vehicle charging stations, as well as the ability to track their emissions.

After questioning by Mr. Clinton as to whether "distributed energy" includes utility-scale wind projects, Mr. Lockaby stated that these did not seem to be part of it but, as to the County, there has been a lot of discussion about net energy metering across all of a locality's facilities. He noted that, for example, solar cells could be placed on the Courthouse's roof or on the closed-out landfill and this electricity directed to supply power to the County's buildings.

Regarding economic development-related legislation, Mr. Lockaby stated that a new Local Food and Farming Infrastructure Grant Program was adopted which provides \$25,000 grants to local governments for infrastructure development projects that support local food production and sustainable farming. He also stated that Tourism Improvement Districts were authorized and an Opioid Abatement Authority was created.

Regarding utility-related legislation, Mr. Lockaby stated that some of these new regulations deal with broadband, siting agreements and special exception provisions for solar facilities were expanded and energy storage facilities were added to the program, and tax exemption/revenue sharing provisions for solar facilities and energy storage facilities were modified.

He further stated that currently allowed tax exemptions for solar projects expire in 2030. He noted that these types of facilities are exempt from 80% of their taxes in the first 5 years, 70% for the second five years, and 60% for the rest of their operational life. Mr. Lockaby noted that localities are allowed to negotiate a siting agreement to include revenue payments and he

and the Director of Finance are working on the County's options in this matter. He stated that there are also provisions for localities to set up "green banks" to finance these facilities.

After questioning by Mr. Clinton, Mr. Lockaby stated that this "green bank" would be administered through the Economic Development Authority, which would give loans for citizens or utilities to install solar cells/solar projects on homes or on more of a utility-scale basis.

Regarding personnel/safety legislation, Mr. Lockaby stated that some of these new provisions may result in a slight increase in costs for the County. He stated that new provisions include an option for the Board to adopt a resolution extending the Line of Duty Act (LODA) presumption for heart disease/hypertension to EMS personnel and adding Covid-19 infection to the list of LODA presumptions. Mr. Lockaby further stated that the General Assembly also authorized collective bargaining for localities upon resolution by the Board; however, this decision is discretionary.

Regarding community development-related legislation, Mr. Lockaby stated that some deadlines in local land use approvals were grandfathered until July 1, 2022; "clutter" was added to the list with weeds, grass, etc., that a locality may require to be removed from a property; the list of discretionary housing practices under the Virginia Fair Housing Act was expanded to prohibit local ordinances that discriminate against race, sex, age, military status, etc., that discriminate against low-income housing, or that prohibit or condition the sale or lease of dwelling units; energy storage system less than 150 megawatts are now considered partially tax exempt pollution control facilities; and an accessory dwelling unit work group through the Joint Legislative Audit Review Commission (JLARC) was established to study provisions pertaining to duplexes and quadplexes.

Mr. Lockaby also stated that, as per Section 15.2-2209.1:1(B), deadlines for Special Exception Permits (SEPs) which require the commencement of the project or significant expenditures relating to improvements that was outstanding as of July 1, 2020, are extended until July 1, 2022. Mr. Lockaby stated that issuance of a building permit and notice to proceed are interpreted to mean the "commencement of construction." He noted that, regarding the Rocky Forge wind farm, the question is whether or not this language applies to an approved, final site plan by the May 26, 2021, date included in the project's SEP conditions.

Mr. Lockaby stated that it is very unlikely that this project's site plan/building permit will be approved by tomorrow (May 26, 2021) and there is a question as to whether this legislation applies to the Rocky Forge project. He stated that within the last 48 hours the County has received letters from Apex Clean Energy and Virginians for Responsible Energy (VRE) requesting that the County make a decision on this issue.

He further stated that the Board of Supervisors' role in this issue is that they are legislators and a representative democracy. Mr. Lockaby noted that, in the business of legislating, the Board makes broad decisions such as on this project's SEP and balances factors in the broad administration of policy. He stated that the County's Zoning Administrator is hired to administer this policy and interpret ambiguities in this situation—it is an administrative interpretative decision on their part.

Mr. Lockaby stated that the Zoning Administrator will issue an opinion letter with a reasoned explanation on the Board's action. He noted that this opinion is appealable to the Board of Zoning Appeals and potentially the Circuit Court. Mr. Lockaby stated, therefore, that in his opinion, the County's appointed Zoning Administrator is in charge of making the decision on

the wind farm project's compliance with the County's ordinances and the conditionally-approved SEP.

After questioning by Mr. Clinton regarding new legislation that gives localities the authorization to reduce speed limits in dense residential/commercial areas from 25 to 15 mph, Mr. Lockaby stated that the biggest difficulty in implementing this legislation will probably be in ensuring that VDoT installs the signs. He noted, however, that the County may have to pay for these signs.

After further questioning by Mr. Clinton as to whether these reduced speed limit signs would be installed after completion of a traffic study or through other VDoT regulations, Mr. Lockaby stated that this decision would have to be made by the Board after consultation with VDoT.

Dr. Bailey then stated that regarding legislation pertaining to deadlines for an SEP, Mr. Lockaby's interpretation is that any decision on Rocky Forge's compliance with the SEP's conditions is "out of the Board's hands at this point" and it is up to the Zoning Office to determine in their opinion whether or not this new legislation applies to the Apex project. He stated that "it is not for the Board to say that an extension is allowed" for compliance with the SEP's conditions.

Mr. Lockaby confirmed Dr. Bailey's interpretation of his comments in this matter.

There being no further discussion, the Board thanked Mr. Lockaby for his presentation.

Mrs. Nicole Pendleton, Director of Community Development, stated that Mr. Lockaby gave a practical interpretation of the new legislation regarding expirations of SEPs. She noted that the Community Development Department staff do not know where this issue stands at this time and will continue to process Apex's on- and off-site plans through their office.

Mrs. Pendleton stated that the on-site construction plans and the off-site road plans have been and are still under review by the County and VDoT. She stated that VDOT's comments have not been returned to the County but are anticipated to be received this week; Fire/EMS's comments have been returned to the Community Development Department; the first review of the erosion and sediment control/stormwater management plans has been approved; review by Antares (third-party contractor) has resulted in a draft report being submitted to the County; and the plans' review by Zoning Department staff is approximately 70% - 80% complete at this time.

Mrs. Pendleton stated that she and her staff are reviewing a "whole host of checklists" related to the SEP conditions, Zoning Ordinance provisions, Subdivision Ordinance provisions, many pieces of supplemental information, and the applicable external review comments on these plans.

After discussion, she stated that one condition imposed by the Board in their May 26, 2020, approval of the SEP was that the granting of the SEP would expire if a site plan were not approved by the Community Development office within 12 months of the SEP's approval. Mrs. Pendleton stated that she and her staff are continuing their review of the project's on-site plans in order to provide comments to the applicant including a comment related to the expiration of the SEP.

Regarding the SEP condition requiring site plan approval by May 26, 2021, Mrs. Pendleton stated that Apex would have to had filed a request to amend this condition by the Planning Commission and Supervisors by March to have allowed the appropriate public hearings to be advertised/held by today.

Mrs. Pendleton noted that she has provided monthly updates over the past several months to the Board and the public on the status of the staff's review of Apex's plans. She noted that no action has been or is being requested by the Board today; none is required since the site plan review process for this project is administrative. Mrs. Pendleton stated that staff will meet tomorrow to discuss any outstanding questions regarding the plan submittal in order to provide comments to Apex by the deadline as required by the Zoning Ordinance.

After questioning by Dr. Scothorn, Mrs. Pendleton stated that Apex submitted over 200 pages of documents for their on-site plans, and over 800 pages of documents for their off-site plans. After further questioning by Dr. Scothorn, Mrs. Pendleton stated that her office determined that the plans were complete on March 18, 2021.

Mrs. White noted that the Board has received some communications that work is currently being conducted on the Rocky Forge site.

Mrs. Pendleton stated that her staff have been working with the applicant to provide an informational map in order to investigate the site to ensure that no County-regulated work is being done prior to issuance of the permits. She noted that their last site visit resulted in a small erosion and sediment control violation which was abated by the property owner.

After questioning by Mr. Clinton, Mrs. Pendleton stated that Mr. Charles Kennedy, Apex's Senior Director of Project Management, is present at today's meeting.

After questioning by Dr. Scothorn, Mr. Kennedy stated that as a result of the Covid pandemic, there were delays in the work to complete and submit the plans to the County for review. Mr. Kennedy stated that he and his staff are ready to work through the plan review comments submitted by the Planning/Zoning Office.

Dr. Scothorn thanked Mr. Kennedy for his comments.

Dr. Scothorn then opened the public comment period for the members of the public who wished to speak regarding the Apex project.

Mr. Eric Claunch of Mount Moriah Road in Eagle Rock stated that he would summarize some of his comments based on the information provided today. He stated that the most egregious issue regarding this project is that all of the necessary additional right-of-way along Dagger Spring Road has not been obtained. Mr. Claunch stated that Mr. Charlie Johnson of Apex did not answer this question when it was brought up at the Board's March meeting. He noted that this issue cannot be overcome and the Board should allow this Special Exception Permit to expire.

Mr. Claunch stated that he did not hear Mrs. Pendleton provide any decision about what she wants to do in this situation. He noted that she will review all of the comments received on the wind farm's plan and questioned if she is planning to issue a decision after that time as to whether the application is complete or incomplete.

Mr. Claunch stated that Rocky Forge has been a never-ending burden, a curse, and an albatross for over five years. He stated that the Board should "stand with the citizens" and let the SEP expire.

Mr. Bob Hundley of Buhrman Road in Eagle Rock stated that these turbines will cause a dangerous fire hazard as they are full of grease. He noted that the project will also cause problems in the Mill Creek and Sinking Creek watersheds and the numerous dead ash trees in this area will cause spot fires.

Mr. Hundley stated that there has also been a State-designated wildlife corridor in this area since 2012 and this industrial turbine complex will be in the heart of that area. He noted



that this corridor allows animals to safely travel between the Blue Ridge Parkway and northern Botetourt County and prevent interbreeding.

He also stated that Natural Bridge State Park has been designated as an “International Dark Sky Park” and the lights from the turbines will impact this designation.

Ms. Melissa Hundley of Clifton Forge stated that her family has owned land at the bottom of North Mountain since 1953 and they had the property placed in conservation easements several years ago. Ms. Hundley stated that she has previously stood before the Board asking them to not compromise the conservation easements signed by her parents. Ms. Hundley noted that she is exhausted, sad, and heartbroken over this project.

She stated that her father could not obtain a loan to purchase this land but the bank loan officer knew her father and approved the loan. She noted that her father, who worked at Owens Illinois Company, and her brothers were Eagle Scouts. Ms. Hundley stated that they will continue to fight this project which has been heartrending for her.

Ms. Hundley stated that she is renting a cabin on the farm to allow others to appreciate the area, she is growing hemp, has beehives on the property, chestnut tree seedlings have been planted, and she is learning about the native flowers growing on this property. She stated that her family is trying to be the best possible stewards of this land. Ms. Hundley asked that the Board not open this Pandora’s box and do all they can to stop this wind farm project.

Ms. Tenny Mudge of Rockbridge County stated that the Rocky Forge project is complex, has liabilities, and it could take years to begin construction and then it will be obsolete. She noted that this month’s Wall Street Journal included an article about the national pushback on wind turbines in rural areas.

She noted that the new Munters location in Greenfield is an example of real job growth and Rocky Forge is an example of decline in the community. She noted that the project will create light pollution, water quality issues, and fire dangers, and other “layers of harm” that outweigh the benefits to the County. Ms. Mudge also stated that the turbine blades are not recyclable.

Ms. Mudge stated that this is an inept project and is not a good track record for Botetourt County and the surrounding counties. She then thanked the Board for their due diligence during this long-haul project and noted that the wind farm’s SEP expires tomorrow.

Mrs. Molly Petty of Rockbridge Baths stated that she has two questions for the Board’s and Mrs. Pendleton’s consideration—is the information on the previously-mentioned erosion and sediment control violation available to the public and does the SEP for the Rocky Forge project expire tomorrow or not.

Mr. Steve Neas of Moore’s Creek Road in Lexington then spoke via telephone. Mr. Neas stated that he has spoken to the Board five times about the Rocky Forge project. Mr. Neas stated that he knows that there are insufficient winds in this region to support this project even though Apex said that there were adequate winds.

Mr. Neas noted that the Board accepted a new plan for this site one year ago which included taller turbines. He noted that this mountain site is steep, the roadway ditches will cause erosion, and establishing adequate vegetation will be a challenge. Mr. Neas questioned who will inspect this site and report when roadway and other repairs are needed. Mr. Neas stated that the roads are steep because they are designed to go straight up the mountain with numerous switchbacks and curves.

Mr. Neas stated that the County should return the site plan to Apex to provide a design that includes adequate access for fire vehicles.

Mr. Victor (last name unintelligible) of Rockbridge County then spoke via telephone. He said that he lives three miles from the proposed turbines and has a 200 page booklet containing previous objections regarding this project and two pages of bullet points. He asked that this document be placed in the County's public record.

The gentleman stated that Apex should answer these questions and, if they do not, the Board needs to step aside from this project. He noted that it has been sloppy work. He further noted that this is the first mountaintop project in Botetourt County; however, the pictures that Apex uses when referencing this project are those of turbines on flat ground.

The gentleman noted that the project will create a fire risk, cause light pollution, wildlife corridor impacts, and is an environmentally insensitive project. He further noted that this project is not to the benefit of anyone in Botetourt County or in neighboring counties and there is a risk to both military and hospital aircraft. He stated that there are layers of complexity to this project that cannot be satisfied given all of these reasons.

There being no further comments, Dr. Scothorn thanked all of those who spoke.

Dr. Scothorn stated that Apex's deadline under their SEP's conditions is tomorrow and, if everything is submitted and reviewed by staff by that time, then the project can proceed. He noted that the Virginia General Assembly approved new legislation approving extensions of deadlines for construction on projects that received SEPs that were outstanding as of July 1, 2020, to be extended until July 1, 2022.

He stated that both Apex and VRE have requested definitions of this legislation and whether or not it applies to the Apex project. Dr. Scothorn stated that the Zoning Administrator will review this law to see if it applies in this situation. He noted that, if it does not, the Zoning Administrator's decision may be appealed to the Board of Zoning Appeals and their decision could be appealed to the Botetourt County Circuit Court or eventually the Virginia Supreme Court. Dr. Scothorn noted that this entire process could take up to 18 months.

Dr. Scothorn stated that as of this time, the Board of Supervisors "is out of this process." He further stated that the Zoning Administrator is directed to determine whether or not this project complies with the new State law. He stated that the Board's "hands are tied" and a determination on the Apex project is now moved to the administrative side for a decision on the expiration of the SEP.

After questioning by Dr. Scothorn, Mr. Michael Lockaby, County Attorney, stated that the County has received requests from both Apex and the citizens group (VRE) asking for a determination on whether the SEP can be extended under the new State law.

Dr. Scothorn then noted that another citizen had called in who wished to speak to the Board.

Mr. David Condon of McKinney Hollow Road stated that he previously submitted a Freedom of Information Act (FOIA) request to the Federal Aviation Administration (FAA) on the Apex project and received a response on April 22, 2021. He noted that two Visual Routes (96 and 56) for high-velocity airplanes are located in the area of the proposed wind farm. Mr. Condon stated that wind farms are allowed within these designated areas.

Mr. Condon stated that if an aircraft hits one of these turbines it will cause an aviation disaster and result in problems for those on the ground. He noted that this project will degrade/impair the Department of Defense's ability to maintain military readiness.

Mr. Condon stated that the FAA violated federal law in its approval of the Apex project. He noted that the FAA's public opinion submission deadline on this project ended on November 22, 2020; however, some comments were dated as late as December 9, 2020. Mr. Condon further noted that there is a question about whether the FAA will have to declare their aeronautical study on this project invalid and require a new study to be conducted.

Mr. Condon noted that he has forwarded his information to the Defense Department, NORAD, and other federal agencies.

He stated that there was an aircraft accident in 1951 in this area which resulted in a fuel spill into the James River. He also mentioned a chemical spill in the river near Hopewell, Virginia in 1985.

Dr. Scothorn thanked those citizens present and on the telephone for their comments.

Consideration was then held on various appointments.

On motion by Mr. Martin, seconded by Dr. Bailey, and carried by the following recorded vote, the Board reappointed Dr. Warren G. Clark as a County representative on the Roanoke Valley Greenway Commission for a term to expire on June 30, 2022; reappointed Mrs. Katie Conner for a term to expire on June 30, 2023; and reappointed Mr. Tim Miller for a three year term to expire on June 30, 2024. (Resolution Number 21-05-10)

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

On motion by Dr. Bailey, seconded by Mr. Clinton, and carried by the following recorded vote, the Board reappointed Mr. Steve Vaughn as the County's representative on the Dabney S. Lancaster Community College Board of Directors for a four year term to expire on June 30, 2025. (Resolution Number 21-05-11)

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None

There being no further discussion, the meeting was adjourned at 5:40 P. M. until 6:00 P. M.

Mr. Moorman left the meeting at 6:00 P. M

The Chairman called the meeting back to order at 6:12 P. M.

A public hearing was then held on a request in the Amsterdam District from Aaron Lenk Properties, LLC, for a Change of Proffers in the Shopping Center (SC) Use District to remove Proffer 2C from the Change of Proffers approved January 23, 2018, requiring auxiliary structures to be of the same material and style as the main structures, in association with the Botetourt Commons Development. The properties subject to this request are located 0.12 miles west of the Commons Parkway/Kingston Drive intersection and 0.09 miles north of the Commons Parkway/Kingston Drive intersection, and identified on the Real Property Identification Maps of Botetourt County as Section 101(13), Parcels 1, 2, 3, 4, 4A, 4B & 5; Section 101,

Parcels 44C, 44E, 44F, 44H, 44J, 44K, & 44N; Section 101 (14), Parcel 7 and 101(15) Parcel 1. These properties are also identified as 125, 133, 135, 137, 180, 186, 220, 228, 234, 245, 270 Commons Parkway (Route 1044) and 5, 6, 20, 24, 28, 32, 36, 40, 44, 48, 52, 56, 65, 72, 100, 101, 104, 108, 112, 116, 120, 124 Kingston Drive in Daleville.

It was noted that the Planning Commission had recommended approval of this request.

Mr. Drew Pearson, Zoning Administrator, stated that the applicant is not present at this time.

Mr. Pearson stated that this request is for the removal of proffered condition 2C from the change of proffers request for the Botetourt Commons property approved by the Board in January 2018. He noted that condition 2C requires auxiliary structures to be of the same material and style as the site's main structures.

Mr. Pearson stated that the Lenk Properties site currently houses Dr. Misty Lenk's dental office. He noted that Dr. Lenk is requesting permission to place a prefabricated storage building on this lot to store office decorations which were previously stored in the dental office. He noted that a new dentist is moving into the portion of this building where the decorations were previously stored. He stated that the proposed building is 12' X 20' in size.

Mr. Pearson stated that, if this change of proffers is approved by the Supervisors, it will apply to all the properties in the Botetourt Commons development except those lots along Route 220 which are owned by the Commonwealth of Virginia/VDoT. He noted that these proffers were originally put into effect in 1994 when the Botetourt Commons shopping center was developed and were last amended in 2018.

After questioning by Dr. Scothorn on the proposed accessory building's appearance, Mr. Pearson stated that, based on the information provided by the applicant, it is a prefabricated building with clay-colored siding, white trim, and a shingled roof.

After further questioning by Dr. Scothorn, Mr. Pearson stated that two comments were received from the public regarding this request. Mr. Pearson noted that he spoke to both individuals and, once he explained the proposal to them, they had no further concerns.

After questioning by Dr. Bailey as to whether this structure will be permanently placed on the site, Mr. Pearson stated that, if approved, the building will have to meet all appropriate building setbacks and Building Code requirements for anchoring, etc.

Mr. Pearson stated that the applicant was originally unaware of the proffered conditions for the Botetourt Commons development and put a down payment on a specific type of storage building. He noted that Dr. Lenk became aware of the conditions when applying for a building permit and then stated that she had upgraded the basic accessory building to a structure that has a complementary design to her office building.

After questioning by Mr. Clinton, Mr. Pearson stated that, if the Board does not approve this proffered condition amendment, any storage building placed on the site would have to be of the same materials and style as that of the brick office building.

After questioning by Dr. Scothorn, it was noted that there was no one present either in person or on the telephone to speak regarding this request. The public hearing was then closed.

Mr. Clinton stated that he is having "a hard time warming up" to this proposal.

Dr. Scothorn concurred and stated that he would like to see a brick structure comparable to the existing office building placed on this site.

Mr. Clinton stated that the easiest way to have this done is for the applicant to comply with the proffered conditions in effect for this development.

Mr. Pearson stated that the Planning Commission also had some of the same concerns about this proposal. He stated that in 2018 the standards for the principal buildings were changed and the Commission reasoned that, since those standards were no longer in place, why should there be restrictions for accessory buildings.

After questioning by Mrs. White, Mr. Pearson stated that the applicant has already put a down payment on purchase of this storage building. After further questioning by Mrs. White, Mr. Pearson stated that, if the proffered conditions are changed as per Dr. Lenk's request, then the conditions would be changed for all the parcels in the Botetourt Commons development, except those lots owned by the State.

Dr. Scothorn stated that this would mean that anyone could place a prefab building in the rear of their business.

Mr. Pearson stated that this would be correct, potentially; however, they would still have to comply with the County's zoning and building regulations.

After discussion, Mr. Pearson stated that this storage building would be somewhat visible from Commons Parkway based on the proposed location as submitted by Dr. Lenk.

After questioning by Mrs. White, Mr. Pearson stated that the Planning Commission did discuss these same concerns with this request. He further stated that the Commission members felt that since the requirement for the principal buildings was removed in 2018 why shouldn't the accessory buildings' requirements be changed as well.

After questioning by Dr. Bailey, Mr. Pearson stated that there could be other, larger storage buildings placed on the various Botetourt Commons' parcels if this change of condition is approved. After further questioning by Dr. Bailey on whether the Board could place limitations on the size of any future accessory buildings in this development, Mr. Pearson noted that the County would not be able to place conditions on a change of proffer request.

Mr. Michael Lockaby, County Attorney, suggested that the Board ask the applicant these questions.

Mr. Martin noted that Dr. Lenk wants to use this accessory building to store her office decorations.

Dr. Bailey stated that, if this request is approved, then any other business in this development could install accessory buildings with no size, design, or material requirements.

Mr. Pearson noted that these other businesses would have to go through the County's building permit application/review process before installing an accessory building.

Mr. Clinton stated that, if this request is approved, the staff would not have any basis to not approve these requests from the other businesses located in Botetourt Commons.

Dr. Bailey stated that there is some governing of these types of requests through the building permit application process.

Dr. Scothorn suggested that this request be tabled to allow the Board to discuss this request with the applicant.

Mrs. White noted that she believes that the applicant has already purchased the building.

Mr. Lockaby stated that, since the Board has concerns and questions about this proposal, they are acting properly in tabling this request to allow the applicant to be present to discuss this proposal and possibly offer some additional revisions to her request.

Dr. Scothorn then questioned if the exterior of the storage building could “look like brick” instead of being constructed of brick, would this be acceptable to the Board members as it would “give the same appearance” as the site’s main structure.

Mr. Clinton stated that what the applicant is proposing “is not an upgrade in his opinion.”

After questioning by Dr. Scothorn, Mr. Clinton stated that he would like to table this request for 30 days to allow the applicant to be present to answer questions.

Mrs. White noted that Dr. Lenk’s office always looks well kept. Mrs. White stated that her concern is what the other businesses in Botetourt Commons would do regarding accessory buildings if this request were approved. She stated that the Board’s approval of this request would be setting a precedent.

Dr. Bailey then questioned if Mr. Pearson thought that the Planning Commission was not concerned about the construction materials because the accessory building was not visible from Commons Parkway or Route 220.

Mr. Pearson stated that the proffer says, “not readily visible” but this does not mean that it is “not invisible.” He noted that the Zoning Ordinance’s commercial development provisions do not include requirements for screening between properties.

After questioning by Mrs. White, Mr. Pearson stated that the proposed placement of this accessory building would be behind Dr. Lenk’s office.

Mr. Martin noted that Dr. Lenk does want the property and the accessory building to look nice. After questioning by Mr. Martin regarding visibility of this proposed accessory building from adjacent parcels, Mr. Pearson stated that the accessory structure would be visible from Carrington Place.

Dr. Bailey questioned whether the Board is considering allowing Dr. Lenk to place a pre-fabricated accessory building on this site or will she be asked to construct a storage building, preferably of brick.

Dr. Scothorn stated that he is in favor of tabling this request to allow the applicant to be in attendance to answer the Board’s questions.

After questioning by Mr. Clinton, Mr. Pearson noted that condition #4 of the list included in this request’s information (“Leyland cypress trees will be purchased and installed 15’ on center along the southern property line of the Daleville Cemetery, Rachel Hancock, and Jerry Byer properties.”) does not impact Dr. Lenk’s property.

Mrs. White stated that she still has concerns about the possibility of the Board’s approval of this request impacting the other lots in this development.

There being no further discussion, on motion by Mr. Clinton, seconded by Dr. Scothorn, and carried by the following recorded vote, the Board tabled the request in the Amsterdam District from Aaron Lenk Properties, LLC, for a Change of Proffers in the Shopping Center (SC) Use District to remove Proffer 2C from the Change of Proffers approved January 23, 2018, requiring auxiliary structures to be of the same material and style as the main structures, in association with the Botetourt Commons Development. The properties subject to this request are located 0.12 miles west of the Commons Parkway/Kingston Drive intersection and 0.09 miles north of the Commons Parkway/Kingston Drive intersection, and identified on the Real Property Identification Maps of Botetourt County as Section 101(13), Parcels 1, 2, 3, 4, 4A, 4B & 5; Section 101, Parcels 44C, 44E, 44F, 44H, 44J, 44K, & 44N; Section 101 (14), Parcel 7 and 101(15) Parcel 1. These properties are also identified as 125, 133, 135, 137, 180, 186, 220, 228, 234, 245, 270 Commons Parkway (Route 1044) and 5, 6, 20, 24, 28, 32, 36, 40, 44, 48,

52, 56, 65, 72, 100, 101, 104, 108, 112, 116, 120, 124 Kingston Drive in Daleville, for up to 60 days to allow the applicant to be present at a Board meeting to discuss and answer questions regarding this request. (Resolution Number 21-05-12)

AYES: Mr. Clinton, Dr. Bailey, Dr. Scothorn

NAYS: Mrs. White, Mr. Martin

ABSENT: None

ABSTAINING: None

There being no further discussion, on motion by Mr. Martin, seconded by Dr. Scothorn, and carried by the following recorded vote, the meeting was adjourned at 6:39 P. M. (Resolution Number 21-05-13)

AYES: Mr. Clinton, Mrs. White, Mr. Martin, Dr. Bailey, Dr. Scothorn

NAYS: None

ABSENT: None

ABSTAINING: None