

February 8, 2017

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, February 8, 2017, at 3:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
FREDERICK E. EBERLY, Election District #2
RICKY L. CHANDLER, Election District #3
WILLIAM B. KYGER, JR., Election District #4 arrived at 3:22 p.m.

MICHAEL A. BREEDEN, Election District #5 was absent

Also present:

LOWELL R. BARB, Commissioner of the Revenue
BRYAN F. HUTCHESON, Sheriff

STEPHEN G. KING, County Administrator
THOMAS H. MILLER, JR., County Attorney
GEORGE K. ANAS, II, Assistant County Administrator
CASEY B. ARMSTRONG, Director of Community Development
PATRICIA D. DAVIDSON, Director of Finance
ANN MARIE FREEMAN, Director of Court Services
BARRY E. HERTZLER, Director of Public Works
JEREMY C. HOLLOWAY, Fire & Rescue Chief
JENNIFER J. MONGOLD, Director of Human Resources
TERRI M. PERRY, Director of Technology
BART A. BRIDGES, Athletic Program Supervisor
RHONDA H. COOPER, Director of Planning
KELLY S. GETZ, Code Compliance Officer
DIANA C. STULTZ, Zoning Administrator
TAMELA S. GRAY, Deputy Clerk
DONALD F. KOMARA, Residency Administrator
Virginia Department of Transportation
C. BURGESS LINDSEY, Assistant Residency Administrator
Virginia Department of Transportation

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**CALL TO ORDER
INVOCATION
PLEDGE OF ALLEGIANCE.**

Chairman Chandler called the meeting to order at 3:07 p.m. Supervisor Eberly gave the Invocation. During the invocation, Supervisor Eberly recognized the passing of former Board of Supervisors member O. Lynwood Byerly and the passing of long-time County Administrator William G. O'Brien. County Attorney Miller led the Pledge of Allegiance.

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APPROVAL OF MINUTES.

On motion by Supervisor Eberly, seconded by Supervisor Cuevas, and carried by a vote of 3 to 0, voting recorded as follows: BREEDEN - ABSENT; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - ABSENT; the Board approved the minutes of the regular meeting of January 25, 2017.

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TRANSPORTATION DEPARTMENT.

Mr. Komara introduced Mauricio Campos, who will work with VDOT over the next seven months as an engineer trainee. Mr. Campos is a George Mason University engineering student with bridge experience.

The Board heard Mr. Komara's report on the activities of the Transportation Department, which included the following updates:

- The Lee Highway/South Valley Pike (Route 11) bridge replacement is moving along well;
- Four bids were received for the Ottobine Road (Route 257) bridge and Fairfield-Echols LLC was the low bidder at \$4,188,263;
- A pre-construction conference regarding the Airport Road (Route 727) bridge project is scheduled with Plecker Construction Company during the week of February 13th; and
- The rural rustic meeting regarding improvements to Veters Road (Route 790) went well.

Mr. Komara noted VDOT worked on the Rawley Pike (Route 33) safety improvement project by updating signs, since some signs were in bad shape and others were missing. He said the contractor is scheduled to work from 9 a.m. until 4 p.m. VDOT is working with the contractor to tighten the work zone.

In response to a question from Supervisor Cuevas, Mr. Komara noted the Route 33 safety improvement project is separate from the \$10,000,000 Smart Scale project to improve curves, which is a couple years from now. The shoulders will be widened and slopes will be laid back. The safety project presently going on is to update the signs and add chevrons through the curves to help bridge the gap until the next phase of the project is started. He noted the roadway on the Virginia side of the mountain will not be comparable to the West Virginia side, where a third lane was added all the way to the top. Virginia's project is from the foot of the mountain to half way up and will not include additional lanes, but will provide shoulders and lessen the severity of the curves. The upgrade may make it apparent that road improvements should continue to the top of the mountain on the Virginia side, Mr. Komara said.

Rural rustic improvements include:

- Cutting trees on Koontz Corner Road (Route 807);
- Meeting with landowners on Stephen Conrad Road (Route 979) in an attempt to address road improvement requests;
- Cutting trees along Captain Shands Road (Route 690) in a couple weeks.

Mr. Komara reported truckers are following the truck routing signs erected in Timberville. Burgess Lindsey and Kenny Wakeman looked at the slope on Overly Hollow (Route 823) with the contractor to tighten the estimates and work on environmental issues. Mr. Komara met with Community Development regarding the Retreat at Harrisonburg student housing project issues.

VDOT staff attended a kick-off meeting with the City earlier in the afternoon regarding the Interstate 81 North exit 245 ramp onto Port Republic Road (Route 253). The exit ramp will be aligned with Forest Hill Drive. VDOT will design this Smart Scale project and the City will administer the construction.

Recent maintenance activity includes brush cutting and road grading.

Mr. Komara indicated there is a posted structure on Waterloo Mill Lane (Route 641) in District 5, that VDOT wants to replace in a like-kind manner. The low volume, narrow bridge will be replaced with the same width structure, which will not be posted. VDOT recommends removing the deficient structure in-house. Mr. Komara will discuss the project with Supervisor Breeden and Administrator King.

SAFE ROUTES TO SCHOOL PROGRAM UPDATE.

Kyle Lawrence, Rockingham County Public Schools Safe Routes to School (SRTS) Coordinator, provided an update on the federal grant program administered through VDOT. Rockingham County Schools is in their second grant cycle to increase the number of students walking and biking to school. Rockingham is the only rural county in Virginia currently utilizing this grant, which is used for bicycle education and equipment. SRTS has received \$180,000 for bicycles and a coordinator position. Mr. Lawrence showed a Safe Routes to School Program video that was created for the November 2016 Bike-Walk Summit.

Mr. Lawrence stated that Schools would like to apply for the SRTS grant again this year and request approximately \$100,000. The grant requires no matching funds. If the Board is in agreement with Schools applying for the grant, the application will be forwarded to Administrator King for his signature.

Supervisor Kyger noted there are other Safe Routes to School issues, specifically on John Wayland Highway (Route 42) near Turner Ashby High School and John W. Wayland Elementary School, where a walk signaling system is needed since John Wayland Highway is so busy when students are commuting to and from school. He stated the SRTS program should also focus on students safely walking or biking to and from school. He noted there are sidewalks in place in Bridgewater and suggested consideration of a crosswalk signal at Oakwood Drive (Route 704) and North Main Street (Route 42) in Bridgewater, as well as at the main traffic light at the entrance to Turner Ashby High School.

Mr. Lawrence indicated the SRTS coordinators are looking into an infrastructure grant for sidewalks near schools where students can easily walk or bike. They would like to consider such a grant for Turner Ashby and John Wayland. He noted County Schools would also like to initiate walking school buses where parents walk a group of students to school. The overall goal is to increase the number of students walking and biking to school, he said.

Supervisor Kyger stated he will continue to advocate for crosswalks because there are difficult walking patterns where sidewalks are already in place, and crosswalk signals are needed.

Administrator King noted that there can be added costs for SRTS projects due to federal funding so a project needs to be big enough to justify federal funding, but not so small that the project is burdened with added costs. Administrator King indicated the SRTS funds Mr. Lawrence is utilizing are program funds, not infrastructure funds, so they do not compete with each other. Ms. Cooper can work with VDOT to determine if funding is available for pedestrian signaling and involve Mr. Lawrence, Administrator King said.

Supervisor Kyger was not aware there was a separation of SRTS funding, but reiterated he would like to see crosswalks and sidewalks so students can travel safely to and from school. This goes along with the program Mr. Lawrence coordinates so children who learn to ride bikes have a safe route to travel.

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COUNTY ADMINISTRATOR’S STAFF REPORT.

The Board received and reviewed Administrator King’s staff report dated February 3, 2017.

Regarding a request for a project on the Court Square, Supervisor Kyger indicated he has reservations about placing anything else on the Court Square because it takes space away from public uses and gatherings. Administrator King will provide a conceptual layout for further consideration at the February 22, 2017, meeting.

Administrator King noted he sent the Board members an email about Sunnyside’s proposed project and desire to utilize Rockingham County’s Economic Development Authority (EDA) tax -exempt bonds for capital projects at Sunnyside. Administrator King asked if this was something the Board wanted to consider.

Supervisor Kyger made the following disclosure statement:

I may need to consider a residential facility placement for a family member with health concerns, which may be Sunnyside. I have no personal gain from the request. I am able to participate in the discussion and decision fairly, objectively, and in the public interest.

Chairman Chandler said he already has a loved one living at Sunnyside, but he does not consider this a conflict, and has no personal gain from the request.

Administrator King indicated Sunnyside has not prepared a formal request, but they will have an attorney prepare the appropriate documentation if the Board is open to considering the EDA issuing tax-exempt bonds for Sunnyside’s capital project.

Supervisor Kyger expressed concern that the request will utilize the County’s entire \$10 million bank-qualified limit for 2017. He asked if any County projects might need to utilize some of the bank-qualified funds during the year.

Mrs. Davidson explained that the County’s current upcoming financings are an \$11 million bond issuance through the Virginia Resources Authority (VRA) for the landfill and a possible Virginia Public School Authority (VPSA) loan for school construction projects. She has contacted Daniel Lauro to confirm these two financings will not interfere with the ability to issue bonds. Mrs. Davidson indicated the County has no plans to issue any other debt that will need bank-qualified tax-exempt status. If there is a need for additional financing, she believes it can be covered by the County’s cash flow until January 1, 2018.

Mrs. Davidson said the Board’s agreement will allow Sunnyside to move forward to have an attorney prepare the proper documentation. After the documentation is prepared, staff will ask the Board for permission to schedule a public hearing with the EDA. If the Board approves Sunnyside utilizing the EDA tax-exempt bonds, it will be 60 to 90 days before the bonds are issued.

Administrator King has requested that Sunnyside provide details regarding the use for the funds. Since the funds are to be used for taxable activities, the County will earn revenue from the Sunnyside project. Additionally, Administrator King noted Sunnyside recently purchased a portion of Lakeview Golf Course, which will reduce the likelihood for traditional single-family homes, which would impact County Schools’ population, to be constructed on that property.

Supervisor Kyger noted there is some community return for providing financing to Sunnyside and similar entities. He wants to make sure the County receives that return but does not impede other projects. Supervisor Kyger stated he is willing to entertain the request from Sunnyside.

By consensus of the Board, Administrator King will inform Sunnyside that they can move forward with the financing documents.

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COUNTY ATTORNEY’S STAFF REPORT.

Mr. Miller informed the Board that the Bridgewater Town Council notified the County that they will hold a public hearing concerning the proposed annexation of five parcels containing approximately 3.223 acres. He noted 1.138 acres are owned by Supervisor Kyger and his wife, Margaret, and 2.085 acres are owned by Frederick and Dorris Wampler. Mr. Miller indicated the parcels are included under an annexation agreement that is in place.

Mr. Miller reported that the 404-North River voting precinct currently located at Pleasant Valley Elementary School will not be available in 2017 due to construction at the school.

The Electoral Board and Voter Registrar are requesting an ordinance amendment to relocate the 404-North River polling precinct to Massanutten Technical Center (MTC) for the upcoming June 13, 2017 primary, and recommends MTC as the permanent location for the 404-North River voting precinct.

Mr. Miller noted the proposed new location meets statutory parameters for a polling place. The Registrar asked that the Board move forward as quickly as possible in order for her to provide a required mailing notice to voters.

On motion by Supervisor Kyger, seconded by Supervisor Eberly and carried by a vote of 4 to 0, voting recorded as follows: BREEDEN - ABSENT; CHANDLER – AYE; CUEVAS - AYE; EBERLY – AYE; KYGER - AYE; the Board authorized staff to advertise an intent to adopt an ordinance to change the polling place for the 404-North River voting precinct to Massanutten Technical Center located at 325 Pleasant Valley Road, Harrisonburg (East Building, Room 42, classrooms 1, 2 and 3), at the March 8, 2017 Board Meeting.

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FINANCE DIRECTOR’S STAFF REPORT.

The Board received and reviewed Mrs. Davidson’s staff report dated February 8, 2017.

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HUMAN RESOURCES DIRECTOR’S STAFF REPORT.

The Board received and reviewed Mrs. Mongold’s staff report dated February 8, 2017.

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PUBLIC WORKS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Hertzler’s staff report dated February 8, 2017.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Armstrong’s staff report dated February 8, 2017.

Mr. Armstrong reported that some people in the poultry industry requested that Community Development review the zoning ordinance to determine if the County can allow bulk fuel storage in A1 and A2 districts. He noted Southern States wants to make propane deliveries to poultry farms easier. Mr. Armstrong requested that Community Development staff be allowed to investigate fuel storage and provide a recommendation to the Board. The old zoning ordinance allowed for bulk fuel storage but the new ordinance does not.

By consensus of the Board, Community Development staff was granted permission to review the zoning ordinance to determine if bulk fuel storage in A1 and A2 districts can be permitted.

Mr. Armstrong reminded the Board that they directed staff to review the supplemental standards on April 27, 2016. Mr. Armstrong provided a rough draft to the Board members. A joint work session with the Planning Commission is scheduled on February 22, 2017 at 3:30 p.m. Community Development staff will email the Board and Planning Commission to inform them of the specific items to be reviewed that day.

Mr. Miller encouraged the Board to take time to review staff's recommended changes, which took a lot of time and thought. He wants the Board to be aware of the details in case they prefer to go in a different direction. Mr. Miller noted that in many instances the supplemental standards of the zoning ordinance are where the ordinance interacts daily with citizens so it is a very important part of the ordinance.

Mr. Miller said staff will review as much of the supplemental standards as possible with the Board and Planning Commission on February 22, 2017. There should be time available on March 22, 2017 for further review, if necessary.

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TECHNOLOGY DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mrs. Perry's staff report dated February 2017.

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FIRE AND RESCUE CHIEF'S STAFF REPORT.

The Board received and reviewed Chief Holloway's staff report dated February 2017.

Supervisor Kyger thanked staff for providing tours of the East Rockingham Emergency Response Station and Three Springs Treatment Plant, as well as the hospitality of the emergency response station staff in providing dinner.

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PARKS & RECREATION DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mrs. McQuain's staff report dated February 2017.

Administrator King noted that a work session is scheduled with Convergent on March 22, 2017, at 3:30 p.m.

In response to a question from Supervisor Eberly, Mr. Bridges indicated the New York City bus trip was full in December and the April Spring Break trip is one-third full.

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COURT SERVICES DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mrs. Freeman's staff report dated February 8, 2017.

Supervisor Kyger thanked Mrs. Freeman for assisting the Community Criminal Justice Board.

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COMMITTEE REPORTS.

Chairman Chandler opened the floor for Committee Reports.

VIRGINIA ASSOCIATION OF COUNTIES (VACo) LIAISON

Supervisor Kyger indicated the VACo Government/Legislative Day in Richmond was successful. The group met with delegation representatives. He said the Board and local government owe gratitude to Delegate Todd Gilbert for the way he handled and vetted submission of the public comment bill that came before his committee. Since the bill was sent back for study, it is dead for this session.

He said Mr. Miller had an opportunity to explain the County's concerns over state intrusion into zoning issues regarding public safety in buildings where the public attends events. He hopes deregulation in zoning matters regarding certain facilities the public gathers in will be revisited to have reasonable regulation in the future. He noted that legislation tends to over regulate or go in the opposite direction and over deregulate.

Chairman Chandler agreed that it was a good meeting and he was glad that VACo representatives spoke, because they did a very good job.

SOCIAL SERVICES

Administrator King recognized Christine Thompson, Coordinator for the Children's Services Act (CSA) that provides services to children who are in need of care or do not receive proper supervision. He complimented Mrs. Thompson on her efforts to make sure everything is being done correctly, particularly with regard to CSA funding.

PUBLIC WORKS

Administrator King reported that Public Works properly advertised bids for the landfill expansion, but identified an opportunity to use on-site materials while the contractors were preparing their bids. Since the County had not anticipated the use of the on-site material when the bid request was prepared and there is an opportunity for cost savings, staff recommends that the Board authorize staff to reject the original bids and re-advertise. The revised bid request should include the ability for the County to use on-site rock for some of the work. Administrator King said he spoke with Supervisors Breeden and Cuevas, and they agree.

On behalf of the Public Works Committee, on motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 4 to 0, voting recorded as follows: BREEDEN - ABSENT; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board authorized staff to reject the original landfill expansion bids and prepare a revised bid request that includes the ability for the County to use on-site rock for some of the work.

CHAIRMAN

Chairman Chandler acknowledged that Supervisor Kyger is doing a tremendous job as Community Criminal Justice Board Chair.

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COMMITTEE APPOINTMENTS.

On motion by Supervisor Eberly, seconded by Supervisor Kyger, and carried by a vote of 4 to 0, voting recorded as follows: BREEDEN - ABSENT; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board appointed Philip Witmer, a dairy farmer, to the Agricultural Advisory Committee.

Ms. Cooper brought to the Board's attention that there were three members eligible for reappointment to the Agricultural Advisory Committee.

Supervisor Kyger made a friendly amendment to the motion by adding David Hughes, Charles Eberly and Roscoe Wine to the motion. Supervisor Eberly seconded the amendment.

Supervisor Kyger stated this is a very important committee, and Administrator King asked Ms. Cooper to describe the function of the Agricultural Advisory Committee.

Ms. Cooper explained that, as a result of the Agricultural Pollution Abatement Plan, the County was required to establish ordinances. However, a group of farmers came forward and indicated they would prefer to address agriculture-related complaints by way of a peer process. The Agricultural Advisory Committee was formed around 1995 to provide for a group of farmers (two from each sector: beef, swine, dairy, and sheep). Ms. Cooper stated the committee has done a tremendous job. If they determine the complaint is founded, they work with the farmer to establish best management practices that solve the issue. She said farmers often continue to do things as they always have, but welcome suggestions from their peers.

Carried by a vote of 4 to 0, voting recorded as follows: BREEDEN - ABSENT; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board appointed Philip Witmer, David Hughes, Charles Eberly and Roscoe Wine to the Agricultural Advisory Committee for terms to expire January 31, 2021.

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CLOSED MEETING.

On motion by Supervisor Kyger, seconded by Supervisor Eberly, and carried by a vote of 4 to 0, voting recorded as follows: BREEDEN - ABSENT; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board recessed the meeting from 4:11 p.m. to 4:41 p.m., for a closed meeting pursuant to 2.2-3711. A (1), Discussion of the assignment, promotion, demotion, performance, salary, discipline or resignation of a specific officer, appointee or employee; and (7), Consultation with legal counsel and staff members pertaining to actual or probable litigation where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the County; and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel

MOTION: SUPERVISOR KYGER RESOLUTION NO: 17-03
SECOND: SUPERVISOR EBERLY MEETING DATE: FEBRUARY 8, 2017

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:
AYES: CHANDLER, CUEVAS, EBERLY, KYGER
NAYS: NONE
ABSENT: BREEDEN

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RECESS.

At 4:41 p.m., Chairman Chandler recessed the meeting for dinner.

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PUBLIC HEARING - ORDINANCE AMENDMENTS.

At 6:00 p.m., Chairman Chandler opened the public hearing and Mr. Miller reviewed the following ordinance amendment:

An ordinance to exempt from local taxation pursuant to Virginia Code Section 58.1-3651 the personal property of Way To Go, Inc. Typically, Way To Go possesses no taxable personal property, but may occasionally have title to a donated vehicle on January 1, while that vehicle is being processed.

Way To Go, Inc. is a Virginia non-stock corporation and the IRS recognizes it as a 501(c) 3 corporation. Way To Go qualifies under the Virginia State Code for tax exemption. It is the Board's discretion to grant them tax-exempt status.

Mr. Miller explained that Way To Go assists working families become more self-sufficient by helping them with their transportation needs. Lack of adequate, reliable transportation is a difficult obstacle for low-income families to overcome in order to travel to work and maintain a job. Last year the organization served 152 families by providing 98 vehicle repairs, 37 vehicle insurance payments, paying 35 DMV fees and 21 vehicle payments, providing 30 clients rides to work, and 77 gas vouchers. Way To Go received five vehicles through donations, which they repaired to be road worthy or sold for salvage value. All the money and assets used come from donations and grants. With the exception of one part-time coordinator, there are no paid employees. Ninety-seven percent of funds and assets received go directly to the client. They receive funds from the United Way and the Department of Social Services. All services are available for any low-income family living in the City or County who is referred by a local agency, such as Social Services.

Way To Go owns no real property so they are not requesting exemption from real estate taxes. They do not normally pay taxes for personal property, but on January 1, 2016, they had title to two vehicles according to DMV records. The amount of tax revenue is negligible. If the ordinance is adopted, Mr. Miller requested it be retroactive to January 1, 2016 to cover Way To Go's 2016 tax bill.

Betty Newell from Way to Go was available to answer questions. The criteria for assistance are to be a City or County citizen, be employed for 20 to 30 hours a week, and be referred by a local agency. They have to work at least 30 hours a week to receive a vehicle.

No opposition was expressed.

Chairman Chandler called the regular meeting back to order at 6:07 p.m.

On motion by Supervisor Eberly, seconded by Supervisor Kyger, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN - ABSENT; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board approved the following ordinance amendment:

**ORDINANCE ENACTING
SECTION 7 – 76.8
OF THE CODE OF ORDINANCES
OF
ROCKINGHAM COUNTY, VIRGINIA**

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF ROCKINGHAM COUNTY, VIRGINIA:

That Section 7 – 76.8 be enacted as follows:

Section 7-76.8. The personal property of Way To Go, Inc., shall be exempt from taxation as the property is used for benevolent purposes. This exemption shall continue contingent upon the continued use of the property as set forth in the organizational documents and IRS Form 1023, Application for Recognition of Exemption of Way To Go, Inc. Way To Go, Inc. shall notify the Board of Supervisors of any change to the use of the property, to its organizational documents, or changes that would require modification to any response in its Form 1023.

This ordinance shall be effective from the 1st day of January, 2016.

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PUBLIC HEARING - SPECIAL-USE PERMT.

At 6:08 p.m., Chairman Chandler opened the public hearing and Ms. Stultz reviewed the following request.

SUP16-362 Daniel Newberry, 4500 Newcomer Lane, Rockingham 22801 for an event center on property located at the dead-end of Newcomer Lane approximately 3800' west of Cross Keys Road, Election District #3, zoned A-2. Tax Map #139-(4)-A.

Applicant Daniel Newberry said the property is not intended to be an event center; it is his home and he plans to live there. He indicated he has great neighbors and understands it is difficult for them not to know what is planned, so he tried to meet with as many neighbors as possible to address their concerns. He has lived there 17 years and does not want to disrupt the neighborhood and its privacy. He has conducted charitable auctions at no charge and people who visit love the view. He wants to share the beauty of the County but thought it would be hard to do without disruption. After a discussion with Jeff Hill, a friend who is part owner of the Joshua Wilton House and Local Chop & Grill House, Mr. Newberry decided he could do something without disrupting the neighborhood. He said Mr. Hill will have control of who and how many people attend an event. Mr. Newberry said he is open to the Board setting the number of attendees.

Jeff Hill, Managing Partner of the Joshua Wilton House and Local Chop & Grill House said he understands the main resistance to the proposal is the potential traffic issue. If there are concerns, he asked that the request be tabled. He grew up in the Valley, traveled a lot, and went into the hospitality industry working at resorts and on cruise ships. Mr. Hill returned to the Valley in 2008 to take care of his parents and stayed at Mr. Newberry's home. Mr. Hill said he has an understanding and appreciation for the property, and he has attended several private, charitable events on the property. He stated it is a great place to have a focused audience for a quality experience.

Mr. Hill said Mr. Newberry will be able to exclusively limit and select people who want to experience what the Valley has to offer with a 350-degree view. He said they are more interested in expanding their concept in a smaller, focused environment than making money, and are excited about providing an opportunity for people to celebrate agricultural tourism in the Valley, he said. Mr. Hill indicated he and Mr. Newberry met with the Supervisors and VDOT. A capacity number that came up was 300, but they will set a self-imposed limit of 200 people.

Ms. Stultz clarified what Mr. Newberry said about not having an event center because this is his private residence. She stated supplemental standards for event centers in A-1 and A-2 districts stipulate that, "An event center shall be within a residence or in a building on the same parcel as a residence, and the owner or manager must live on the property or provide full-time management of the event center," so this is an event center according to the County Code.

Ed Comer said he did not realize the event center was going to develop into an extravaganza with 200 people. He noted seven families, in addition to Mr. Newberry, live on the private lane that is not state maintained. The residents live there because they like the privacy, and they do not want it interrupted. He said Mr. Newberry built his house and it is not an event center. The only way to get to Mr. Newberry's house is by crossing the other seven properties, which will disturb the neighbor's privacy. He noted again that 200 people is a large group. He has not heard limits on how many events will be held a year or week. He also noted there is noise at weddings, which will disturb the neighborhood.

Hilary Irons said her mother owns a five-acre tract of land on Newcomer Lane that they intend to build on in the future. She understands what Mr. Newberry and Mr. Hill want to do as she has attended one of the charitable events at Mr. Newberry's house, but she is concerned about no limitation on what they can do. Her family bought the property for a quiet place to live and a safe place for children to play. She may be open to considering this request but said there needs to be a neighborhood board to have control. Mrs. Irons said weddings will entail numerous trips to and from the venue by the caterer, florists and guests. She also has considerable concern about drinking and noise.

Elizabeth Coe, who attended to represent herself and her mother who was ill, stated they purchased a five-acre parcel on Newcomer Lane from Jack Rimer in December 2016, to build a single-family home. Mr. Rimer purchased a 16-acre parcel from Mr. Newberry and there was a deed restriction that the parcel could not be subdivided. When Mr. Rimer wanted to sell the parcel for financial reasons, he requested Mr. Newberry remove the covenant restriction. She said it is clear from the dates on the application package that this had been in the works but she and her mother were not informed of the possible event center. Their reason for choosing the property was due to the unique level of quiet and privacy afforded by a privately accessed lane, lot size and usage of the small number of adjacent properties. There is a deeded road maintenance agreement and the lane crosses the properties under a deeded right of way so each resident owns property on both sides of the lane and are equally responsible for the cost associated with upkeep and maintenance of the lane. She said Mr. Newberry's request changes his property from a single-family home use to a commercial operation. Weddings will result in high traffic flow, outdoor lighting and additional noise with bands or recorded music. She feels the proposed event center will infringe on the quiet use and enjoyment of all property owners on Newcomer Lane. Ms. Coe asked for denial of the special use request.

Barry Horner has owned property adjacent to Mr. Newberry's since 2005, and they share a 900-foot property line. He said the property owners have gone through previous special use permit discussions, with one six years ago when the Haushalters wanted to expand services at the White Oak Lavender Farm and use farm buildings for events. There was opposition to the expansion due to privacy, the lane and traffic. Mr. Horner was involved in the discussions and meetings and said there was quite a controversy.

Mr. Horner read a statement submitted to the Board at the public hearing for the White Oak Lavender Farm expansion, which described the subdivision concept established on the property by Dr. Comer and his wife in 1995, even though the parcels were zoned R-2. The Comers sub-divided the property to create eight parcels for a residential development of higher-end residences. Mr. Horner said there are currently nine properties sharing the right-of-way. Some of the properties may be eligible for re-subdividing, but most are at a minimum of five acres.

The statement further indicated that in 2005, an easement was finalized with a road maintenance agreement and the lots were to be used for residential use only as the lay of the lots, size and quality of the homes and prices paid suggested it was an upper-end residential development. The statement noted that commercial use was inconsistent with the quiet and peaceful use of adjacent properties, expectations of lot owners when they purchased their

lots, value of properties, and design and expected use of the driveway. Mr. Horner noted this statement was made by Mr. Newberry.

Mr. Horner said everyone joined in and fought for their property rights and privacy. As a result, the Lavender Farm continued its operation and expanded based on conditions placed on the permit because of the opposition. The most significant condition was that there would be no special events and no buses, and signs were posted clearly designating Newcomer Lane as a private lane. The Haushalters followed every condition and the neighbors are satisfied with the compromise, he said.

Mr. Horner said the neighbors are before the Board again regarding a recurring theme. He knows the property has an appealing setting, but neighbors like the privacy and their homes. In his opinion, Mr. Newberry's request is not compatible with the use of the surrounding properties.

Ed Comer spoke again in defense of the lavender farm, indicating the Haushalters developed their own entrance and do not use Newcomer Lane as their main driveway. He stated that the Haushalters did more than was required.

Chairman Chandler asked for a show of hands of those in opposition to the request.

Ms. Stultz asked that the record show she provided the Board with a petition of opposition and email with concerns that she received earlier in the day.

Mr. Newberry indicated he was not trying to cause problems or bring up things from the past. What would transpire on the Lavender Farm was an unknown and it was scary at the time. He agreed the Haushalters have done a great job following through and indicated he attended a meeting and spoke in favor of their farm later. Mr. Newberry said he understands most of the neighbors' concerns.

Mr. Hill noted he agreed with what Mr. Newberry said, and indicated there is a lot of speculation and interpretation versus intent. He noted there is no intention to exploit the neighborhood. He said if the Board wants to set limits, they are open to that.

At 6:43 p.m., Chairman Chandler closed the public hearing.

Supervisor Kyger said he finds it somewhat ironic that Mr. Newberry is now defending what he was so opposed to before. Supervisor Kyger remembers the pain many people went through with the lavender farm. He noted the Board is again trying to defend one person's property rights, while protecting someone else's property rights. He understands the fear of the unknown, which may not be warranted. Supervisor Kyger noted some options that made the lavender farm different from Mr. Newberry's request is that the Haushalters had an alternate route so traffic did not have to use the private drive, which protected people's property and private rights. He said the Haushalters went beyond everything the Board requested to make the property a wonderful agri-tourism destination and business. He stated the County takes great pride in what the Haushalters have done.

Supervisor Kyger told Mr. Hill that he enjoys the food at the Local Chop & Grill House as Mr. Hill does a fine job. While he believes Mr. Hill will do well with food preparation and service at the event center, he does not see how the Board can address traffic concerns on the shared right-of-way and cost of wear and tear on the road.

Chairman Chandler said typical concerns expressed regarding event center requests are noise, outside tents and music. He believes Mr. Newberry and Mr. Hill will hold quality events and do their best to control the issues, but sometimes these type issues cannot be controlled. A great concern is the dedicated right-of-way on the private lane with no public access. With these considerations, the Board cannot approve the request, Chairman Chandler said.

Mr. Newberry asked if he could withdraw his application. Mr. Miller and Ms. Stultz indicated the applicant has the right to request withdrawal until the Board takes action, but

the Board is not required to accept the withdrawal. Mr. Miller explained that the difference between a withdrawn and denied application is that the applicant must wait a year to come before the Board again if the original request is denied. If the request is withdrawn, the applicant can come before the Board at any time.

Chairman Chandler said he does not see how delaying the action can change the road issue and requested a motion on his behalf to deny the special use permit.

On behalf of Chairman Chandler, on motion by Supervisor Kyger, seconded by Supervisor Eberly, and carried by a vote of 4 to 0, voting recorded as follows: BREEDEN - ABSENT; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board denied SUP16-362, Daniel Newberry, 4500 Newcomer Lane, Rockingham 22801 for an event center on property located at the dead-end of Newcomer Lane approximately 3800' west of Cross Keys Road, Election District #3, zoned A-2. Tax Map #139-(4)-A.

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ADJOURNMENT.

Chairman Chandler declared the meeting adjourned at 6:50 p.m.

_____,
Chairman