

February 10, 2016

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, February 10, 2016 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
- MICHAEL A. BREEDEN, Election District #5

Also present:

BRYAN F. HUTCHESON, Sheriff

- JOSEPH S. PAXTON, County Administrator
- THOMAS H. MILLER, JR., County Attorney
- STEPHEN G. KING, Deputy 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
- KATHARINE S. McQUAIN, Director of Parks and Recreation
- JENNIFER J. MONGOLD, Director of Human Resources
- TERRI M. PERRY, Director of Technology
- RHONDA H. COOPER, Director of Planning
- DIANA C. STULTZ, Zoning Administrator
- JAMES B. MAY, Senior Planner
- TAMELA S. GRAY, Deputy Clerk
- DONALD F. KOMARA, Residency Administrator  
Virginia Department of Transportation
- JOSHUA W. DUNLAP, Assistant Residency Administrator  
Virginia Department of Transportation

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

Chairman Kyger called the meeting to order at 3:04 p.m.

Supervisor Eberly gave the Invocation and County Attorney Miller led the Pledge of Allegiance.

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**APPROVAL OF MINUTES.**

On motion by Supervisor Chandler seconded by Supervisor Eberly and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CHANDLER - AYE; CUEVAS - AYE; EBERLY – AYE; KYGER - AYE; the Board approved the minutes of the regular meeting of January 27, 2016.

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**TRANSPORTATION DEPARTMENT.**

The Board heard Mr. Komara's report on the activities of the Transportation Department. He indicated work is moving along well on the South Valley Pike (Route 11) bridge project. The installation of turn lanes at the intersection of East Side Highway (Route 340) and Port Republic Road (Route 253) has been delayed due to the snow, but the contractor set up his trailer and survey work will begin soon.

Mr. Komara reported that there were so many inquiries for the Revenue Sharing Program that VDOT categorized the requests into three categories:

- Priority 1 – existing projects
- Priority 2 – new projects
- Priority 3 – maintenance projects

These categories were used to allocate funding to localities.

The County submitted two requests that fell into the Priority 2 category. VDOT agreed to fund the first one million dollars for Priority 2 projects, with the remaining requested amount prorated. In the County's case the amount will be prorated at 30.8 percent.

The County requested \$1.5 million for the Spotswood Trail (Route 33 East) project and was awarded \$1.15 million. \$100,000 was requested for the South Valley Pike (Route 11)/Cecil Wampler Road (Route 704) project and \$31,000 was received. The County will be required to match these funds in order to qualify for the state payment.

Utilities need to be moved on Cecil Wampler Road this summer or next summer. If the utilities are moved next summer, the project could be resubmitted for Revenue Sharing Funding and the project would be a Priority 1 since it will now be an existing project, and may receive the remainder of the funding. Mr. Komara recommended the County accept the proration amounts for the two projects.

On motion by Supervisor Cuevas seconded by Supervisor Chandler and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CHANDLER - AYE; CUEVAS - AYE; EBERLY – AYE; KYGER - AYE; the Board accepted the VDOT proration of \$1.15 million for the Spotswood Trail (Route 33 East) project and \$31,000 for the South Valley Pike (Route 11)/Cecil Wampler Road (Route 704) project.

Mr. Komara noted that Ms. Cooper talked about House Bill 2 (HB2) projects on January 27, 2016. The request submitted for Route 33 West to the West Virginia line scored very well as a safety project (third out of over 300 projects submitted in the state). It has been recommended that VDOT provide the full amount requested (\$9.3 or \$9.4 million) for the project. He further indicated that the Mayland Road (Route 259) and South Valley Pike (Route 11) projects fell just below the limit, so all three projects submitted by the County did very well.

Mr. Komara suggested that the Board consider submitting the bridge on Friedens Church Road (Route 682) next year, because Augusta County received funding for two secondary projects this year.

Chairman Kyger noted the Cross Keys Road (Route 276) project would provide another east to west corridor when Interstate 81 is closed due to accidents. If Friedens Church Road (Route 682) at Mt. Crawford is approved, traffic from Interstate 81 can travel east to Cross Keys Road (Route 276) to access eastern locations more rapidly than by driving through Bridgewater and Harrisonburg.

Mr. Komara said all recent maintenance items are associated with snow removal.

Supervisor Chandler reminded Mr. Komara about a curve on Port Republic Road (Route 253) and statistical records they previously discussed.

Administrator Paxton noted VDOT needs an easement from Countryside Sanitary District to perform bridgework on Ottobine Road (Route 257). Mr. Komara explained that VDOT is replacing the bridge near Mill Cabinet Shop on Dry River Road (Route 738) due to problems with the expansion concrete and an abutment. He said emergency work was performed on the bridge last year. He indicated the bridge, that is in a bundle contract with four or five other bridges, looks fine but needs to be replaced and a staging area is needed.

Administrator Paxton noted the property where the bridge is located is part of the Countryside Sanitary District so the sanitary district needs to authorize the easement.

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**RECESS.**

At 3:17 p.m., Chairman Kyger declared the regular meeting recessed for a meeting of the Countryside Sanitary District.

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**REOPEN MEETING.**

At 3:18 p.m., Chairman Kyger called the regular meeting back to order.

Supervisor Breeden noted he and Ms. Cooper have been working with a group to erect a monument, dedicated to families who were relocated from the National Park land when the park was formed. The proposed monument site is on VDOT property at the intersection of Mill Lane and Spotswood Trail (Route 33). Ms. Cooper indicated the proposed site is a small sliver of land that probably was not needed for a previous VDOT project. David Atwood at VDOT is trying to determine whether it is surplus land. Ms. Cooper asked Mr. Atwood if an entrance to the property could be granted for a small parking area at the monument.

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**COUNTY ADMINISTRATOR'S STAFF REPORT.**

The Board received and reviewed Administrator Paxton's staff report dated February 5, 2016.

Administrator Paxton reported the County incurred \$34,000 worth of cost for the January snowstorm cleanup. The biggest portion was for contractor work for snow removal and equipment repairs, some overtime for Public Works employees, and substantial overtime for Fire and Rescue since most stations normally covered by volunteers were manned by full-time employees over the weekend.

He reported that the Sheriff's Department did not incur overtime except for a cook to prepare food for the inmates. He noted that two inmate crews helped with snow removal. The County is determining if there is sufficient work for inmates to help with maintenance items on an ongoing basis, but there will be costs incurred for someone to supervise the inmates.

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At the January 27, 2016 Board meeting, Supervisor Cuevas requested that the County's members of the Middle River Regional Jail (MRRJ) Board obtain a report on the provision of medical care at MRRJ and provide an update to the Board. Administrator

Paxton, Mr. King and City Manager Hodgen met with Middle River medical staff and learned there have been a lot of changes in medical procedures in the last three years.

Administrator Paxton reported the biggest issue was the increase in population at MRRJ (from 350 to 750 inmates over a three-year period). MRRJ is looking into an electronic medication administration process, which uses wristbands to ensure the correct medication is administered to the right person and that no one misses a dose of medicine. He noted the facility currently keeps paper medication records. The medical staff was increased to have two registered nurses and five licensed practical nurses. They plan to hire a full-time pharmacy technician in the next year.

On the mental health side, MRRJ increased their staff in a similar manner to the Rockingham County Jail, and plan to have one full-time and one part-time mental health professional to conduct programs. MRRJ contracts with a physician who was visiting the facility once a week and now comes twice a week; a psychiatrist and dentist who visit the facility once a month; and a medical administrator who is on call 24/7. They have noticed an increase in the number of inmates entering the jail with substance abuse issues, so they are considering changing their medical protocols to address the needs of those inmates. Middle River is also looking into drug screening all new inmates to determine what drugs they are taking. MRRJ will provide the members with the cost for the detailed drug screenings.

At this point, 80 percent of the MRRJ jailers have attended crisis intervention training, with a goal for all jailers to attend the training. All jailers are trained in CPR, first aid and suicide prevention. The medical request form procedures are being altered so the medical officer, rather than the correctional officer, obtains the forms directly.

Administrator Paxton said Middle River has instituted changes that are normal for a facility with a substantial population increase.

In response to a question from Supervisor Cuevas, Administrator Paxton said he expects an update on the electronic medication system at the March MRRJ meeting. He explained the jail had to go through an RFP process to obtain price quotes, and he assumes the program will begin as soon as a vendor is selected because the jail is anxious to start the electronic administration program.

Supervisor Cuevas said he understands the Channel 29 report about the jail aired before the media visited the facility to talk with jail staff so the media announcement may have been inaccurate.

Supervisor Cuevas said he hopes the Sheriff's department will watch the way inmates are moved between the two jail facilities and how they are dispersed through the facilities.

Administrator Paxton noted it is difficult for jail staff to discuss medical issues due to federal HIPPA regulations. The County's responsibility is to make sure procedures are in place and followed.

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Administrator Paxton reported that he attended the Senate Local Government Committee and the House Counties, Cities and Towns Subcommittee meetings in Richmond last week to speak regarding the extension of the annexation moratorium legislation. The original legislation, patroned by Senator Hanger and Delegate Wilt, was for a ten-year extension until June 30, 2028 and requires that the Commission on Local Government examine the County and City government structure to determine if modifications can be recommended to the General Assembly and how to provide a more permanent solution.

The timeframe for the Bill was reduced to end on June 30, 2026, and the Bill will be placed on the Senate and House consent agendas. Administrator Paxton is hopeful there will be a resolution, and has offered for the County and City of Harrisonburg to serve on any commission that works on this legislation.

Administrator Paxton briefly reviewed the Proffer Bill. Although the Bill has improved substantially since it was introduced, he met with the Legislative members and Home Builders Association to explain that the Bill shifts the burden of proof from the developer to the Board as it makes the Board responsible for not accepting unreasonable proffers. If the Bill is enacted, the County Attorney and community development staff will need to determine if every proffer needs to be examined by an independent person, which will increase fees. He noted that Rockingham County prides itself on a timely development process. If a consultant reviews each proffer, the process will be extended at least 30 to 45 days.

Administrator Paxton noted the Home Builders Association is willing to pay the additional fee. He was disappointed the localities were not involved in drafting the legislation. The General Assembly is trying to pass legislation that only applies to three or four localities that are charging excessive fees, he said.

Administrator Paxton noted that several County representatives will meet with General Assembly members tomorrow to discuss a number of issues. He said this seems to be the most activist the General Assembly has been in a long time in trying to limit the responsibility and authority of local government. Some Bills have been killed and he hopes more will be.

Chairman Kyger noted it is ironic that this is the same argument the Virginia General Assembly has about federal intrusion on the state government. They are trying to erode away the control and authority of the local government that is closest to the citizens. Chairman Kyger said VACo is doing a good job of providing information to the localities quickly. He asked Board members to be aware of VACo alerts and contact delegates to remind them they are there to serve the localities and citizens.

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**DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.**

The Board received and reviewed Mr. King's staff report dated February 5, 2016.

Supervisor Cuevas asked if there are regulations to encourage people who walk or run along public roadways to wear clothing or safety apparel which permits them to be more easily seen. He indicated vehicles are often on top of people before they realize it. He thinks people should walk and run on the left side of the road, facing traffic. Mr. King indicated he was not aware of any such regulations.

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**ASSISTANT COUNTY ADMINISTRATOR'S STAFF REPORT.**

Administrator Paxton reported that Mr. Anas was in Richmond attending the Rural Caucus Reception and Dinner. He indicated there are a couple economic development items to be discussed during the closed meeting.

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**HUMAN RESOURCES DIRECTOR'S STAFF REPORT.**

The Board received and reviewed Mrs. Mongold's staff report dated February 10, 2016.

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**PUBLIC WORKS DIRECTOR'S STAFF REPORT.**

The Board received and reviewed Mr. Hertzler's staff report dated February 10, 2016.

Mr. Hertzler introduced his nephew who was in the audience, Luke Hertzler, a senior from Eastern Mennonite High School.

He indicated the landfill entrance project was advertised for bids, which are due February 16, 2016. Mr. Hertzler will have the bid results at the February 24, 2016 Board meeting.

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**COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.**

The Board received and reviewed Mr. Armstrong's staff report dated February 10, 2016.

Ms. Cooper provided an update on the proposed Voluntary Conservation Easement Ordinance, which presents an opportunity for the County to serve as the government co-holder for the Shenandoah Valley Battlefields Foundation to acquire easements on three properties. At the January 13, 2016 Board meeting, staff was asked to research alternatives to a countywide approach to the proposed ordinance.

Ms. Cooper highlighted and explained numerous data layers that staff mapped to help them evaluate three alternatives for consideration:

- 1) To include properties for consideration in and around the battlefield study areas of Cross Keys, Port Republic and New Market
- 2) To include properties in and around the battlefield core areas of Cross Keys and Port Republic, only
- 3) To include the study area of Port Republic and Cross Keys

Ms. Cooper explained the core area covers the majority of the study area but many key parcels are missing. The New Market option lacks cohesiveness with the remainder of the County properties due to its distance from the two battlefields. Land in the New Market vicinity has already been placed in a conservation easement or is comprised of very small parcels that lack conservation easement value.

In response to a question from Administrator Paxton, Ms. Cooper responded that no one has requested the area in New Market, but it has been discussed.

Another option is the core area that is probably too small to capture significant troop movement and engagement.

Ms. Cooper indicated the third option (study area) was considered because of significant troop movement, hospitals and encampments. She pointed out a Cross Keys area that is not covered by the core area but is covered by the study area.

Ms. Cooper reported that staff recommends the alternative that includes the study area. The County could establish eligibility criteria to require properties be in or partially in the study area, and use properties rather than parcels to ensure farm parcels under one ownership would remain intact. Parcels within the urban growth areas would be disallowed.

She noted there is a slight overlap in the northwest side of the Cross Keys area, which the County would recognize.

Chairman Kyger allowed citizens interested in the Voluntary Conservation Easement Ordinance to speak briefly, even though it was not a public hearing.

Lisa Hawkins was appearing as a private citizen interested in conservation of areas in the County but she also works with the Battlefields Foundation in a professional capacity. She is excited that the County is considering creating programs to help preserve land areas that cannot be regained, and doing so in a way that recognizes growth is necessary. She said growth decisions and changes in land are as permanent as conservation easements. She noted perpetuity is scary but is a “fact of life” in every land use decision. Ms. Hawkins asked the Board to support the Voluntary Conservation Easement Ordinance.

John Hutchinson from the Shenandoah Valley Battlefields Foundation indicated they have been working on a number of easements in Cross Keys and Port Republic. He would like the Board to serve as a co-holder to expand the options for landowners because many of the funds the group secures require a public body to serve as a co-holder. Sometimes state agencies that are available to serve as co-holders are not satisfactory to the landowners, he said.

In working with Ms. Cooper and Mr. May on drafting the ordinance, it was noted a Cross Keys and Port Republic preservation area were established in the most recent comprehensive plan. This corresponds with the battlefields and indicates these areas are appropriate for the application of preservation measures, including the purchase of development rights, land easements, and acceptance of donated development rights. Therefore, Mr. Hutchinson thinks including these areas in a conservation easement is in line with current County policy.

Administrator Paxton spoke to Ms. Hawkins’ mention of “perpetuity”. When the Board last discussed conservation easements, perpetuity was one of the concerns. He explained there is a difference between putting in a road and the perpetuity of a road because the road can be replaced. When property is put in a conservation easement, technically it is in perpetuity and cannot be changed. Since that is different from anything else the Board approves, Board members need to be aware of the significant step taken with voluntary conservation easements. Administrator Paxton pointed out one positive aspect of this alternative is that it applies to a small area of the County that is limited to historic significance, and it gives the Board an opportunity to see how much responsibility staff will have in monitoring the properties to ensure they remain in the manner designated. As a co-holder, the County will have a level of responsibility they would not otherwise have. Administrator Paxton said he wants to make sure the Board considers those two points when making a decision.

Chairman Kyger questioned what is involved for the County as the co-holder and what liabilities and expenses the County will have.

Mr. Miller noted that “perpetuity” is a long time. Zoning decisions are not in perpetuity as the zoning can be changed later. The Board needs to realize that a conservation easement is an act of agreeing for private citizens to declare a very restrictive land use for a piece of property. He noted in this case, there has been a great amount of discussion with the local governing body. In theory, the local government can never again have input on how that land is used.

As to liability, Mr. Miller said the County would be a co-holder so someone else would enforce the terms of the easements. The way the co-holder agreement is written, there is to be no cost to the local government. He discussed a provision in the State Code (Section 10.1-1704) where a public body that is a holder of a conservation easement can look at diverting land to another use in the future if the land use is for the essential, orderly growth of the locality and in accordance with the Comprehensive Plan. If the County is a co-holder, it could possibly exchange land in the conservation easement if a certain parcel is essential for growth. He pointed out that when acreage is removed from a conservation

easement, the same amount of acreage needs to be replaced from another parcel, which can be difficult.

Chairman Kyger asked if an underground water resource that would benefit the community is discovered within a conservation easement, whether the County could tap into it and pipe water from the easement.

Mr. Miller responded that the language of an easement could be worded to allow the County to tap into water without violating the easement, but the other holder would have to agree to breaking the easement for this purpose and replacement acreage would need to be identified. Mr. Miller indicated he is not suggesting the County not agree to be a co-holder but wanted to make the Board aware of the implications.

Ms. Hawkins explained that she was not implying a zoning decision can never be changed. She agreed with Mr. Miller that a conservation easement can be worded to allow flexibility. The ordinance indicates the County is open to citizens requesting protection for their land. The Board has an opportunity to evaluate and decide about each request on an individual basis. The conservation easement offers an opportunity for landowners that does not currently exist and gives the County a voice in the easement, which the County has not always had.

In response to a question from Supervisor Cuevas, Mr. Hutchinson noted the Battlefield has purchased easements and there is no tax benefit.

Discussion ensued following a question from Supervisor Cuevas regarding whether there is such a thing as permitted uses within an easement.

Chairman Kyger indicated that outside of the normal duties the Board has such as requiring a building permit for a building erected in those areas and charging taxes, the government has no say, but the holders do.

Administrator Paxton pointed out there are 10 parcels already in conservation easements that affect adjacent landowners who had no opportunity to discuss the easement. This process would allow the Board to have a public review and give the adjacent landowners an opportunity to participate. Even though he does not like the “in perpetuity” part, this limits the easements to an area that seems to make sense and provides a public process in front of the Board.

Chairman Kyger made sure the Board realizes when land is placed in a conservation easement, it will remain in the easement unless the state changes the law.

Supervisor Chandler said easements preserve agriculture and this particular one, will preserve historical sites.

Chairman Kyger indicated the Board should direct staff to prepare an ordinance, which will need to go before the Planning Commission and to the Board by the end of March to meet the deadline.

Mr. Hutchinson noted an extension is already needed so the March 31, 2016 deadline is no longer valid.

Ms. Cooper said Mr. Hutchinson has drafted some language that is appropriate to develop into an ordinance for Mr. Miller to review.

On motion by Supervisor Eberly, seconded by Supervisor Chandler and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; CUEVAS – AYE; EBERLY – AYE; KYGER – AYE; the Board directed staff to draft a Voluntary Conservation Easement Ordinance, to be forwarded to the Planning Commission and then to the Board of Supervisors.

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On motion by Supervisor Eberly, seconded by Supervisor Chandler and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; CUEVAS – AYE; EBERLY – AYE; KYGER – AYE; the Board removed from the table SUP15-207, Walter W. Carr, III & Cindy H. Carr, 1380 Blackberry Lane, Rockingham 22802 for a wedding venue and event center (including seminars and retreats) on property located on the north side of Blackberry Lane approximately 240' north of Mt. Clinton Pike (Route 763), Election District #2, Zoned A-2. Tax Map #93-(3)-2B.

Supervisor Eberly indicated a number of conditions have been offered on this special-use permit and the applicant has addressed questions.

Ms. Stultz noted part of the concern was whether the center would remain on the Health Department water and septic currently on the site or obtain water and sewer from the City of Harrisonburg. The applicants received approval from the City for both water and sewer, which the event center plans to connect to at some point. If, at any point, the event center no longer meets the Health Department requirements, it will need to utilize the City water and sewer. Ms. Stultz indicated the conditions state water and sewer will be served by either the City or the Health Department.

Since the facility has a commercial kitchen, the Health Department was concerned about the applicant cooking and preparing food for events. The applicant has not used the kitchen for food preparation and offered a condition that the kitchen will be used as a warming kitchen only, with no food prepared on site. The other condition they agreed to is a limit of no more than 200 people at any event, Ms. Stultz said.

On motion by Supervisor Eberly, seconded by Supervisor Chandler and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CHANDLER – AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board, with the following conditions, approved SUP15-207, Walter W. Carr, III & Cindy H. Carr, 1380 Blackberry Lane, Rockingham 22802 for a wedding venue and event center (including seminars and retreats) on property located on the north side of Blackberry Lane approximately 240' north of Mt. Clinton Pike (Route 763), Election District #2, Zoned A-2. Tax Map #93-(3)-2B.

Conditions:

1. Use shall be located in substantial accordance to plot plan submitted with the application.
2. As required by the Building Official, applicant shall obtain an evaluation of the structure from a RDP (Architect or Engineer) to determine if alterations will be required.
3. A change of use building permit shall be obtained to convert to an event center.
4. The kitchen shall be used as a warming kitchen only, and no food shall be prepared on site.
5. Should applicant provide food, a permit shall be obtained from the Health Department.
6. Applicant shall meet any VDOT requirements regarding upgrades to the existing entrance. If upgrades are required, a copy of permit shall be submitted to the Community Development Department prior to obtaining a change of use building permit.
7. This approval includes waivers to the supplemental standards requiring the owner to live on the property and a residence to be on the property.

8. This permit is contingent upon a site plan being submitted to and approved by the County. No work shall be done on the property and the business shall not begin operation until such time as the site plan is approved.
9. Any on-premise advertising sign associated with this business shall comply with the Rockingham County Code.
10. There shall be no off-premise signs permitted unless all County and State regulations are met.
11. Parking shall comply with the Rockingham County Code.
12. All regulations of Fire Prevention Code shall be met.
13. The owners shall be present on the property at any time an event is taking place.
14. This permit is contingent upon the applicant obtaining approval from either the City of Harrisonburg for utility services or from the Health Department for upgraded sewage disposal and a regulated well.
15. Whether served by the City or by the Health Department, a copy of the sewage disposal approval shall be submitted to the Community Development Department prior to obtaining a change of use permit.
16. Any required work for the utilities, whether through the City or through the Health Department, shall be completed prior to continued use of the building as an event center and prior to issuance of a certificate of occupancy.
17. The business shall not begin operation until a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.
18. This use is limited to no more than 200 people at any event.

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On motion by Supervisor Chandler, seconded by Supervisor Eberly and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; CUEVAS – AYE; EBERLY – AYE; KYGER – AYE; the Board removed from the table REZ15-127, Eddie Mazingo, 1409 Kentshire Drive., Harrisonburg, VA 22801 to rezone Tax Map #125-(A)- L236, totaling 2.707 acres, located east of Massanetta Springs Road (Route 687) and south of Taylor Springs Lane (Route 688), from General Residential District (R-3) to Planned Single Family District (PSF). The Comprehensive Plan identifies this area as Community Residential. The parcel lies in Election District 3.

Supervisor Chandler reported community meetings were held regarding the rezoning request, but it will not go forward as originally requested.

On motion by Supervisor Chandler, seconded by Supervisor Cuevas and carried by a vote of 5 to 0 , voting recorded as follows: BREEDEN - AYE; CHANDLER – AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board denied REZ15-127, Eddie Mazingo, 1409 Kentshire Drive., Harrisonburg, VA 22801 to rezone Tax Map #125-(A)-L236, totaling 2.707 acres, located east of Massanetta Springs Road (Route 687) and south of Taylor Springs Lane (Route 688), from General Residential District (R-3) to Planned Single Family District (PSF). The Comprehensive Plan identifies this area as Community Residential. The parcel lies in Election District 3.

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**TECHNOLOGY DIRECTOR’S STAFF REPORT.**

The Board received and reviewed Mrs. Perry’s staff report dated February 2016. She highlighted that Steve Moomaw was hired to fill the PC Network Technician position.

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**FIRE AND RESCUE CHIEF’S STAFF REPORT.**

The Board received and reviewed Chief Holloway’s staff report dated February 2016. He informed Mr. Breeden that Fire and Rescue held training at Coors and during a fire at Sandy Bottom, Fire and Rescue maintained 500 gallons of water a minute. No one was injured in the fire.

Chef Holloway noted that the Fire and Rescue Technical Rescue Team removed a cow from an icy pond during the snowstorm. Fire and Rescue is working with a local veterinarian to establish an on-call relationship to assist with animals in the future.

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**PARKS & RECREATION DIRECTOR’S STAFF REPORT.**

The Board received and reviewed Mrs. McQuain’s staff report dated January 2016. She noted the work at Albert Long Park stalled due to the snow but they hope to resume work in the next week or so.

Mrs. McQuain informed Supervisor Cuevas that people should run against/toward the traffic unless it is a one-way street, but it is not a law.

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**COURT SERVICES DIRECTOR’S STAFF REPORT.**

The Board received and reviewed Mrs. Freeman’s staff report dated February 10, 2016.

Supervisor Cuevas asked Mrs. Freeman to obtain a copy of the Middle River Regional Jail medical report for her files.

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**CLOSED MEETING.**

On motion by Supervisor Eberly seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board recessed the meeting from 4:37 p.m. to 5:20 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; (5), Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business’ or industry’s interest in locating or expanding its facilities in the community 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 EBERLY            RESOLUTION NO: 16-4  
SECOND: SUPERVISOR CHANDLER      MEETING DATE: FEBRUARY 10, 2016

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

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**EMPLOYMENT CONTRACT FOR STEPHEN G. KING.**

Supervisor Cuevas read the following statement:

“Mr. Chairman, as requested at the last meeting, the Finance Committee has worked with the County Administrator and County Attorney to prepare a contract for your consideration for the appointment of Mr. Stephen G. King to the position of County Administrator of Rockingham County, effective July 1, 2016. The recommended contract has a three-year initial term, and is renewable with agreement by both parties. In determining the compensation package to offer Mr. King, the Committee looked at the compensation packages for Administrator's in the region. The Committee recommends a salary and vehicle allowance of \$157,000 for Mr. King. The average compensation package in the region is \$182,100. In addition, Mr. King will receive \$15,000 in deferred compensation compared to his current deferred compensation of \$11,000 per year.

Rockingham County is the third largest county in land size and 14th in population in the state. The County Administrator administers budgets of more than \$346 million dollars with over 2,500 full and part-time employees. Rockingham County is a large, complex organization providing a wide range of government services including law enforcement, fire and rescue response, landfill operations, water & sewer treatment and delivery, recreation, education, community development, economic development and courts. The Administrator is the primary point of contact for a number of city/county and regional agencies such as the Social Services District, Community Services Board, Emergency Communications Center, Middle River Regional Jail, Shenandoah Regional Airport, and the Massanutten Regional Library and its branches. Mr. King will be the primary contact for the Board with the County's five constitutional officers, and will work closely with the members of the General Assembly and state agencies. This is a position with a great

deal of importance to the County organization, but also for our community as he is the point person for the County government. As Chairman Kyger said at our last meeting, the Board is pleased with the current state of County operations and it is the unanimous agreement of the Board to contract with Mr. Stephen G. King to serve as the fourth County Administrator.”

Supervisor Cuevas explained that the Finance Committee looked at regional salaries and financial arrangements. It is the intent of the Finance Committee to bring this to the Board as a beginning and a place to start this contract.

Supervisor Cuevas appreciates that he currently can call Administrator Paxton any time to obtain an answer to a question he feels is important. He believes it is important for the Board of Supervisors, as well as other members of staff and the community, to be able to contact the County Administrator.

Supervisor Cuevas made a motion that the Board appoint Stephen G. King to the position of County Administrator, and authorize the Chairman and Clerk of the Board to execute the employment agreement on behalf of the County, with the stated salary arrangement.

Supervisor Eberly seconded the motion.

Carried by a vote of 5 to 0 , voting recorded as follows: BREEDEN - AYE; CHANDLER – AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board approved the Employment Agreement between the Board of Supervisors of Rockingham County, Virginia and Stephen G. King.

*(A copy of the Employment Agreement is included in the “Attachments – Board of Supervisors Minutes” notebook maintained in Administration).*

Chairman Kyger expressed appreciation to the Finance Committee for their diligent work in obtaining the numbers for the contract.

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**RECESS.**

At 5:28 p.m., Chairman Kyger declared the meeting recessed for dinner.

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**OPEN MEETING.**

Chairman Kyger opened the evening portion of the Board meeting at 6:05 p.m.

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**STUDENTS.**

Four students from Turner Ashby High School introduced themselves.

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**PUBLIC HEARING - SPECIAL-USE PERMIT.**

At 6:06 p.m., Chairman Kyger opened the public hearing and Ms. Stultz reviewed the following special-use permit:

SUP15-332 Knoll Meadow 1, LLC, PO Box 7, Bridgewater 22812 requesting a waiver to supplemental standard stating the primary dwelling must be completed prior to putting an accessory dwelling on property and a waiver to the size of the accessory dwelling on property located on the south side of Airport Road (Route 727) approximately 1/10 mile east of Waystation Road (Route 888), Election District #4, zoned A-2. Tax Map #136-(A)-54. Property address: 1675 Airport Road.

No one spoke regarding the request.

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Chairman Kyger closed the public hearing at 6:10 p.m.

On behalf of Chairman Kyger, on motion by Supervisor Chandler seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board, with the following conditions, approved SUP15-332, Knoll Meadow 1, LLC, PO Box 7, Bridgewater 22812 requesting a waiver to supplemental standard stating the primary dwelling must be completed prior to putting an accessory dwelling on property and a waiver to the size of the accessory dwelling on property located on the south side of Airport Road (Route 727) approximately 1/10 mile east of Waystation Road (Route 888), Election District #4, zoned A-2. Tax Map #136-(A)-54. Property address: 1675 Airport Road.

Conditions:

1. Use shall be located in substantial accordance to plot plan submitted with the application.
2. Building shall comply with the Statewide Building Code and the proper permits shall be obtained to convert from a farm building to a residence.
3. Approval shall be obtained from the Health Department for an approved sewage disposal system and water supply. Said permits shall be submitted to the Community Development Department prior to obtaining a building permit.
4. The barn, when renovated into a residence shall become the primary residence on the property, and the existing residence shall become the accessory residence.
5. The residence that is the subject of this permit shall not be used for rental purposes.
6. The 2015 special use permit, which granted a waiver to required setbacks, shall remain in effect.
7. Residence shall not be occupied until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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**INTENT TO ADOPT A RESOLUTION TO ABANDON UNDEVELOPED RIGHT-OF-WAY.**

Administrator Paxton reported the notice of intent to adopt a resolution to abandon an undeveloped right-of-way between Steel Road and Grassy Creek Road was discussed at the January 27, 2016 Board Meeting.

Mr. Miller indicated staff visited with neighbors who indicated they did not have a problem with the abandonment of the right-of-way between Steel Road and Grassy Creek Road.

Administrator Paxton said this request cleans up a paper street that needs to be taken off the books.

On motion by Supervisor Eberly, seconded by Supervisor Breeden and carried by a roll call vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board approved the following resolution to abandon the right-of-way:

**RESOLUTION ABANDONING THAT UNIMPROVED RIGHT-OF-WAY RUNNING BETWEEN STEEL ROAD (SR 629) AND GRASSY CREEK ROAD (SR 711)**

WHEREAS, it has come to the attention of the Board of Supervisors of Rockingham County, Virginia, that there exists in Rockingham County a short section of unimproved right-of-way, that is not a part of the secondary state highway system, which unimproved right-of-way runs from Steel Road (SR 629) to Grassy Creek Road (SR 711) (the Right-of-way), and;

WHEREAS, the Board has given notice of its intention to abandon the Right-of-way by posting three signs along the Right-of-way, posting notice at the front door of the Rockingham County Circuit Court courthouse, and publishing notice in two issues of the Daily News Record, a newspaper of general circulation in Rockingham County, all such notices stating the date, time and place that the Board would consider the abandonment, and;

WHEREAS, no petition for a public hearing has been received, and;

WHEREAS, the matter having been duly considered as required by Section 33.2-914, *et seq.*, of the Code of Virginia (1950), as amended.

NOW, THEREFORE, upon motion properly seconded and unanimously approved, it is resolved that the Board of Supervisors of Rockingham County, Virginia, is satisfied that no public necessity exists for the continuance of the Right-of-way as a public road or right-of-way and that the right-of-way shall as of the date of this Resolution cease to be a public right-of-way.

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**REMOVE REZONING REQUEST FROM THE TABLE.**

On motion by Supervisor Chandler, seconded by Supervisor Eberly and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; CUEVAS – AYE; EBERLY – AYE; KYGER – AYE; the Board removed from the table REZ15-281 Lakeview Development Corporation, 4101 Shen Lake Drive, Harrisonburg VA 22801, to rezone a portion of TM# 126-(A)- L43A, totaling 10.33 acres, located north of Lakeview Drive (Route 1025) approximately 0.25 mile north of Shen Lake Drive (Route 689), from General Agricultural District (A-2) to Medium Density Residential District with Conditions (R-2C). The Comprehensive Plan identifies this area as Community Residential. The parcel is located in Election District 3.

Supervisor Chandler explained that the rezoning request came before the Board a month ago (January 13, 2016) with a lot of good discussion and suggestions. Lakeview neighbors asked the Board to table the request to provide them an opportunity to discuss the proffers further. Supervisor Chandler announced there have been discussions, calls and emails regarding the request. Mr. Taylor informed Supervisor Chandler that a meeting was also held. Additional proffers, which Supervisor Chandler was told are the same as the proffers for Crossroads Farm Subdivision, are being applied to this request. He

understands 95 percent of the issues have been resolved and there are other suggestions being considered, including establishing a Property Owner's Association. After discussion about what has transpired and since Lakeview Development Corporation is under a timetable, Supervisor Chandler said the biggest outstanding issue is the land use and rezoning. Therefore, the Board needs to go ahead and act. He understands the potential purchaser agreed to the proffers offered and will continue to talk with the neighbors regarding other outstanding items in question. He thanked the Lakeview neighbors and Mr. Taylor for their assistance over the last month on what has been accomplished to date. Supervisor Chandler said he hopes the process will continue.

Supervisor Chandler made a motion to approve REZ15-281 Lakeview Development Corporation, with the revised proffers as presented. The motion was seconded by Supervisor Eberly.

Supervisor Cuevas asked if the Board could hear the revised proffers.

When a man in the audience asked to speak, Chairman Kyger informed him this was not a public hearing; the public hearing was held on January 13, 2016.

Ms. Cooper read the proffers, which as stated, are the mirror image of those for Crossroads Farm Subdivision.

Chairman Kyger stated that he had a motion that was properly brought forward by a member of the Board of Supervisors and properly seconded. The request was tabled after an advertised public hearing took place and public comment came before the Board. Since there have been questions, he indicated the request remained open for discussion among the Board, but there were no further questions.

Carried by a vote of 5 to 0 , voting recorded as follows: BREEDEN - AYE; CHANDLER – AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; and subject to the following proffers, the Board approved REZ15-281 Lakeview Development Corporation, 4101 Shen Lake Drive, Harrisonburg VA 22801, to rezone a portion of TM# 126-(A)- L43A, totaling 10.33 acres, located north of Lakeview Drive (Route 1025) approximately 0.25 mile north of Shen Lake Drive (Route 689), from General Agricultural District (A-2) to Medium Density Residential District with Conditions (R-2C). The Comprehensive Plan identifies this area as Community Residential. The parcel is located in Election District 3.

Proffers:

1. A Property Owner Association (POA), shall be established and shall review all proposed plans for dwellings and site layout.
2. All dwellings shall have a minimum of 2100 square feet of conditioned living area (garage, basements, porches, attics, attached storage sheds or any other unfinished rooms do not count towards conditioned living space).
3. All dwellings shall have an attached or detached garage housing at least one (1) car.
4. Houses shall not be more than 35 feet in height above a crawl space or basement.
5. The minimum roof pitch is 7/12.
6. All visible portions of exterior foundations shall be constructed of brick or stone.
7. Exterior siding shall be constructed of brick, stone, natural wood, concrete fiber or synthetic stucco. Vinyl siding may be used but shall be approved on a case by case basis by the POA.
8. Roof materials shall be at least 25 year dimensional asphalt/fiberglass composition shingles, or cedar shakes, cedar shingles, standing seam metal and/or slate.
9. All lots with trees must first have house and site plans approved before any trees may be cut. In general, the POA will encourage saving most existing trees

in the rear 25' of yards as a buffer between other subdivisions. If no trees exist or significant trees cannot be saved, the POA reserves the right to require the planting of several nursery grown trees.

- 10. Screening of heat pumps, ventilators, air conditioning condensers, generators, propane tanks, and trash containers is required for units located on facades that face the street. Screening may be obtained using vertical board fence, lattice enclosures, a yard fence and using evergreen plants. Units in the rear yard shall also be screened.
- 11. Outdoor lighting is permitted but high intensity or pole mounted area or security lights are prohibited. No colored lighting is permitted except for temporary holiday lighting.
- 12. Decorative fences may be used but shall first be approved by the POA.
- 13. A landscaping plan shall be submitted to the POA for approval. Minimal landscaping shall be required as defined by the POA.

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**STUDENTS.**

Two additional students from Turner Ashby High School introduced themselves.

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**COMMITTEE REPORTS.**

The Board heard committee reports from Board members and staff.

CHAMBER OF COMMERCE

Supervisor Eberly reported the Chamber met January 28, 2016 with a full house and a lot of enthusiasm.

FINANCE

On behalf of the Finance Committee, on motion by Supervisor Cuevas seconded by Supervisor Chandler and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; CUEVAS – AYE; EBERLY – AYE; KYGER – AYE; the Board approved the following supplemental appropriations:

**FY2015-2016 Supplemental Appropriations**

**Transfer to Other Funds**

A supplemental appropriation in the amount of \$8,800 to cover the County’s portion of the insufficient Local Emergency Assistance (LEA) funds which assist local citizens who have crises related to rent or utilities and to pay for burials for indigent individuals. Funding will be provided by the General Fund Reserve.

Supplemental Appropriation: \$8,800

- \$ 8,800 GL Code: 1001-09301-00000-000-509527-000 Transfer to H/R Social Services District
- \$ 8,800 GL Code: 1001-00000-15201-000-352000-000 General Fund Reserve

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**FY2015-2016 Supplemental Appropriations**

**Harrisonburg-Rockingham Social Services District**

A supplemental appropriation in the amount of \$8,800 to cover the County’s portion of the insufficient Local Emergency Assistance (LEA) funds that assist local citizens who have crises related to rent or utilities and to pay for burials for indigent individuals. Funding will be provided by a transfer from the General Fund.

Supplemental Appropriation: \$8,800

|          |  |                            |
|----------|--|----------------------------|
| \$ 8,800 | GL Code: 1220-05302-10100-000-505724-000 | Other Local Only           |
| \$ 8,800 | GL Code: 1220-00000-15101-000-351000-000 | Transfer from General Fund |

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The Finance Committee considered an addendum to the employment agreement with the outgoing County Administrator, Joseph S. Paxton. The Finance Committee asked the Board to consider and give positive response to an amendment whereby the County agrees to pay Mr. Paxton’s health insurance for a period up to five years, until he reaches the Medicare age requirement. Mr. Paxton agrees to be available for consultation to the County at no charge for an average of three days per month, equal to approximately 36 days per year. The Finance Committee appreciates the service Mr. Paxton has given to the County and his agreement to be available ensures the County continuity as Mr. King and other County staff may need assistance.

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CHANDLER – AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board approved An Amendment to the Employment Agreement Dated July 9, 2003 between the Board of Supervisors of Rockingham County, Virginia and Joseph S. Paxton.

*(A copy of the Amendment to the Employment Agreement is included in the “Attachments – Board of Supervisors Minutes” ’notebook maintained in Administration).*

**PUBLIC WORKS**

Supervisor Cuevas reported that the County properly solicited a Request for Qualifications (RFQ) for Design-Build services through December 31, 2017 from qualified firms to provide electrical, irrigation and landscaping services. The RFQ provides for contract renewal for two (2) additional two-year periods for a total of six (6) years through December 31, 2019. Proposals were received from the following firms in these areas of service:

- Site Electrical: Mid Valley Electric and Trumbo Electric
- Field amendments/landscaping services: Premier Sports Fields, Woodward Turf Farms
- Irrigation: Weaver Irrigation
- Field Lighting Electrical: Musco Sports Lighting

In accordance with the County’s Design-Build Procedures, up to five companies may be pre-qualified in a specific area of service. Staff recommended that the Board determine all the above firms be pre-qualified for Design-Build projects initiated through December 31, 2017.

Supervisor Cuevas advised that Albert Long Park and the landfill entrance projects were identified for the initial term.

On behalf of the Public Works Committee, on motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CHANDLER – AYE; CUEVAS - AYE; EBERLY - AYE;

KYGER - AYE; the Board authorized the qualification of Mid Valley Electric, Trumbo Electric, Premier Sports Fields, Woodward Turf Farms, Weaver Irrigation and Musco Sports Lighting for Design-Build projects initiated through December 31, 2017, and authorized staff to solicit proposals from the qualified firms for Albert Long Park and the landfill entrance projects.

VIRGINIA ASSOCIATION OF COUNTIES (VACo) LIAISON

Chairman Kyger reminded the Board that the VACo Government (Legislative) Day meeting is tomorrow, February 11, 2016, in Richmond. He also reminded the Board to review the alerts from VACo.

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**UNFINISHED BUSINESS.**

After Supervisor Cuevas asked earlier about people running along roadways, Mr. Miller reviewed Section 46.2-928 of the State Code that indicates pedestrians shall not use the roadway for travel, except when there are no sidewalks. If they walk on the hard surface, or the main traveling portion of the roadway, they shall keep to the extreme left side or edge; or where the shoulders of the highway are of sufficient width to permit, they may walk on either shoulder.

Therefore, walkers and runners should use the extreme left side of the road, facing oncoming traffic.

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Mr. Miller noted that the easement approved earlier by Countryside Sanitary District should have also been approved by the Rockingham County Board of Supervisors. Mr. Miller said the County has no title interest in the property but VDOT asked that the Board of Supervisors also approve the easement to sign off for one of the utilities.

On motion by Supervisor Chandler, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CHANDLER - AYE; CUEVAS - AYE; EBERLY - AYE; KYGER - AYE; the Board authorized the County Administrator to execute, on behalf of the County, the easement between the County, Countryside Sanitary District and the Commonwealth of Virginia for VDOT to widen or improve Route 257 (Ottobine Road), Project 0257-082-717, R201, from 0.178 miles west of Route 738 (Dry River Road) to 0.101 miles east of Route 738 to establish and/or relocate utility facilities.

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**ADJOURNMENT.**

Chairman Kyger declared the meeting adjourned at 6:30 p.m.

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Chairman