

September 28, 2022

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, September 28, 2022, at 6:00 p.m., at the Rockingham County Administration Center, Harrisonburg, Virginia.

The following members were present:

- DEWEY L. RITCHIE, Election District #1
- SALLIE WOLFE-GARRISON, Election District #2
- RICK L. CHANDLER, Election District #3
- WILLIAM B. KYGER, JR., Election District #4 - ABSENT
- MICHAEL A. BREEDEN, Election District #5

Also present:

- STEPHEN G. KING, County Administrator
- THOMAS H. MILLER, JR., County Attorney
- CASEY B. ARMSTRONG, Assistant County Administrator for Development
- PATRICIA D. DAVIDSON, Assistant County Administrator for Finance & Operations
- RHONDA H. COOPER, Director of Community Development
- PHILIP S. RHODES, Director of Public Works
- RACHEL A. SALATIN, Deputy Director of Community Development
- KELLY S. GETZ, Zoning Administrator
- DYLAN L. NICELY, Land-Use Planner
- KAYLA R. YANKEY, Land-Use Planner
- MOLLY S. BARNETT, 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
PLEDGE OF ALLEGIANCE
INVOCATION.**

Chair Wolfe-Garrison called the meeting to order at 6:00 p.m.

Supervisor Chandler provided the invocation, and County Administrator King led the Pledge of Allegiance.

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APPROVAL OF MINUTES.

On motion by Supervisor Ritchie, seconded by Supervisor Chandler, and carried by a vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board approved the minutes of the regular meeting of September 14, 2022.

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PRESENTATION – ALL POINTS BROADBAND.

Kyle Rosner, Director of Government Affairs for All Points Broadband (APB), provided an update on the Countywide Broadband Project. Mr. Rosner introduced Brandon Davis, Executive Director of Northern Shenandoah Valley Regional Commission (NSVRC), the fiscal agent for the grant.

Mr. Rosner stated APB is the largest recipient of the Virginia Telecommunication Initiative (VATI) grant for this project. The initiative came together with NSVRC, APB, and eight counties including Rockingham. In September 2021, APB and NSVRC submitted a VATI grant for the project, and in December 2021 it was provisionally awarded.

Mr. Rosner reported the 36-month clock on the project began at the end of July when the state agency that oversees the VATI program issued the final grant award.

Mr. Rosner stated approximately 300,000 miles of fiber infrastructure will be built over the next three years. He presented a map showing 41,000 unserved locations across the eight counties. In Rockingham County, the partners are APB, NSVRC, Shenandoah Valley Electric Cooperation (SVEC), and Dominion Energy. Approximately 508 miles of fiber are to be built in Rockingham County, not including Dominion Energy's miles. Mr. Rosner said 7,580 unserved locations in the County will be connected.

Administrator King inquired if SVEC or Dominion customers who currently do not have broadband will have service available when this project is complete. Mr. Rosner confirmed this is accurate and stated APB is confident this project will provide universal service to the County.

In response to a question from Supervisor Ritchie, Mr. Rosner reiterated confirmation that APB will have broadband service everywhere in the County within 36 months.

Mr. Rosner reviewed the project timeline, stating that fiber construction will begin in the second quarter of 2023. Although it is unknown when construction in the County will begin, he said early next year there will be more information. The fourth quarter will be the commencement of installations, and quarter three of 2025 is slated for completion of the network.

In response to a question from Administrator King, Jason Carter from SVEC said while there is already fiber in certain areas, most poles are not connected. He stated when the project is complete most poles will have fiber.

Mr. Rosner detailed the project sequence. The project is divided into fiber distribution areas. The current stage is low level design, followed by network construction, then installation. All three of these stages will occur simultaneously next year, he said. Mr. Rosner pointed out customers will be notified approximately 90 days before a fiber distribution area has availability.

Regarding project communication, APB provides monthly reports to NSVRC and the localities that are based on three milestones: miles released from low level design, miles constructed, and serviceable units passed. Mr. Rosner pointed out VATI is set up on reimbursement basis, therefore counties' local match or state funds are not released to APB until milestones are met and work is complete. He stated quarterly project coordination meetings serve as a chance for involved parties to gather and review project status. When the project has progressed further, public events will be held to give residents information on available services.

Mr. Rosner explained that APB participates in the Affordable Connectivity Program, a federal subsidy for broadband service for qualifying low-income households. Residents can check eligibility and sign up for the program on the APB website.

Mr. Rosner indicated the standard installation fee is \$199 within the first twelve months, regardless of length, offering an advantage for residents with long driveways. After the first twelve months, standard installation is to include locations within 500 feet of the nearest terminal. He explained for installations beyond 500 feet, locations will have a transparent per-foot charge. The current approximate per-foot charge is \$1.35.

Brandon Davis pointed out the twelve-month period begins when service becomes eligible for a location.

Administrator King requested clarification on the website sign-up. Mr. Rosner responded the website is aimed at unserved residents, but any resident who is interested in service may utilize it.

Administrator King remarked that although the project is complex, the County can help manage community expectations, provided that project timelines are communicated to staff.

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TRANSPORTATION DEPARTMENT.

The Board heard Mr. Komara’s report on the activities of the Transportation Department, including updates to recent bridge, road, and rural rustic projects. Board members shared concerns related to County roads and provided maintenance requests.

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ORDINANCE ENACTING CERTAIN PERSONAL PROPERTY TAX RATES.

County Attorney Miller reviewed a proposed ordinance to reduce the personal property tax rate for certain personal property.

Intent to adopt a proposed ordinance to reduce the personal property tax rate for certain personal property, including personal and business vehicles, and other vehicles, from \$3.00 to \$2.65 per \$100.00 of assessed value. If adopted, the proposed ordinance will be effective for tax years 2022, 2023, and 2024.

Mr. Miller indicated the Board voted prematurely to approve the ordinance at the meeting of September 14, 2022.

On motion by Supervisor Ritchie, seconded by Supervisor Chandler, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board adopted the following ordinance:

**ORDINANCE ENACTING
CERTAIN PERSONAL PROPERTY
TAX RATES
FOR
ROCKINGHAM COUNTY, VIRGINIA**

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

That, pursuant to authority granted by the General Assembly in Section 58.1-3506 of the Code of Virginia, 1950, (the Code), and specifically subsections 58.1-3506.A.48 and 58.1-3506.C.3, for the tax years 2022, 2023 and 2024, a tax year beginning on January 1 and ending on December 31, the personal property tax rate shall be Two and 65/100 Dollars (\$2.65) per One Hundred and no/100 Dollars (\$100.00) of assessed value for automobiles as described in Subsection 58.1-3503.A.3 of the Code; trucks of less than two tons as described in Subsection 58.1-3503.A.4 of the Code; trucks and other vehicles as described in Subsection 58.1-3503.A.5 of the Code; motor vehicles with specially designed equipment for use by the handicapped as described in Subsection 58.1-3503.A.9; and motorcycles, mopeds, all-terrain vehicles, off-road motorcycles, campers and other recreational vehicles as described in Subsection 58.1-3503.A.10 of the Code. Those classifications listed in the preceding sentence are to be understood to include “business vehicles”, “personal vehicles”, “campers”, “trailers”, and “RVs”, as these terms have been used by Rockingham County.

This ordinance shall be effective from the 1st day of January, 2022.

Adopted the 28th day of September, 2022.

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ASSISTANT COUNTY ADMINISTRATOR FOR DEVELOPMENT.

Assistant County Administrator Armstrong reported that Gary Sandridge agreed to serve on the Economic Development Authority.

On motion by Supervisor Breeden, seconded by Supervisor Ritchie, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board appointed Gary Sandridge to represent District 5 on the Economic Development Authority for a term to expire December 31, 2026.

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ASSISTANT COUNTY ADMINISTRATOR FOR FINANCE AND OPERATIONS.

Assistant County Administrator Davidson presented a proposed Constitutional Officer Agreement for the Clerk of Court. She explained this mirrors the agreements with Treasurer and Commissioner of Revenue, with a slight difference on days of operation set by state code.

On motion by Supervisor Chandler, seconded by Supervisor Breeden, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board adopted the following agreement:

**AGREEMENT BETWEEN THE
BOARD OF SUPERVISORS
AND THE
CLERK OF THE COURT
OF ROCKINGHAM COUNTY, VIRGINIA**

THIS AGREEMENT, effective September 29, 2022, and established pursuant to Virginia law and governed thereby, is between the *Clerk of the Court* and the *Board of Supervisors* of Rockingham County, Virginia.

The Clerk of the Court and the Board of Supervisors hereby agree that the County Personnel Policies and Procedures Manual (the Personnel Manual) is extended to cover all employees and deputies of the Clerk of the Court, except for the Clerk of the Court themselves, thereby establishing a uniform personnel system to the end that the Clerk of the Court’s employees and deputies will have the same rights and benefits and will be subject to the same procedures and regulations as other County employees, except as provided herein. The Clerk of the Court shall have all authority as designated in the Personnel Manual for a Department Head. Employees and deputies of the Clerk of the Court will be subject to the County’s personnel policies and regulations, excepting the County’s grievance procedure. Fringe benefits and future pay increases shall be set by the Board of Supervisors, notwithstanding salary levels set by the State Compensation Board, but in no event shall the salary be less than that established by the State Compensation Board. The staff and Clerk of the Court will also receive any funded salary supplements pursuant to a professional development program, or any similar program, approved by the State Compensation Board.

Nothing in this Agreement shall be interpreted to infringe upon the authority of the Clerk of the Court to control the operations of their office, including, without limitation, the authority:

- (1) to direct the work of the employees and deputies;
- (2) to hire, promote, transfer, or appoint employees and deputies; or
- (3) to discipline, suspend, demote, dismiss, or terminate the appointment of any employee or deputy. Such authority, however, shall be exercised by the Clerk of the Court in accordance with the Personnel Manual, provided however, that the Clerk of the Court’s authority to terminate the appointment of any employee or deputy pursuant to Virginia Code Section 15.2-1603, shall not be infringed by this Agreement.

Per State Code 17.1-207 Days of operation of clerks' offices – requires the Clerk's office to follow the chief judge's determination of operating hours. In any case the Clerk's office will not follow published county operating hours, the Clerk of the Court will email the Finance Director in order to process payroll accordingly.

The Clerk of the Court agrees to abide by all applicable State and Federal laws regarding FLSA, FMLA, EEO/AA and other such applicable statutes as applied to appointees of elected officials. This Agreement shall remain in effect until amended or discontinued by either party by the giving of sixty (60) days written notice to the other party. In the event this Agreement is cancelled, no salary of any employee or deputy shall be diminished should the salary set by the State Compensation Board be less than that established by the Board of Supervisors. The Board of Supervisors, however, shall not be obligated to increase the salary of any employee or deputy so affected above the level set by the State Compensation Board, regardless of increases provided by the Virginia General Assembly.

The County's Human Resources Office shall maintain the official records of all employment actions for employees and deputies of the Clerk of the Court. Records and forms will be submitted in accordance with procedures outlined by the County Administrator and/or stated in the Personnel Manual.

Mrs. Davidson reported the County sought proposals for Administration Center and Jail parking lot sealing and painting. The bid closed on September 22 with one response from Partners Excavating in the amount of \$50,466. Staff recommended the Board award the contract to Partners Excavating.

In response to a question from Supervisor Breeden, Public Works Director Rhodes confirmed cracks will be sealed first, then the entire lot will be sealed.

Supervisor Ritchie inquired how long the sealing work would last. Mr. Rhodes said this work provides approximately 10 years of coverage.

On motion by Supervisor Chandler, seconded by Supervisor Breeden, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board awarded the parking lot sealing and painting work to Partners Excavating at a cost of \$50,466.

COMMITTEE REPORTS.

FINANCE COMMITTEE

Mrs. Davidson reported Rockingham County Public Schools has requested approval of a budget amendment for Fiscal Year 2022. The amendment would appropriate additional Federal Meal Reimbursement funds received by Food Services in the amount of \$260,000.

On motion by Supervisor Chandler, seconded by Supervisor Ritchie, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board approved the following FY2022 appropriation:

<u>Revenue</u>		<u>Expenditures</u>
Federal Meal Reimbursement	\$260,000	Food Purchases
2202-00000-23301-000-459130-000		2202-65100-00000-926-606002-000

Mrs. Davidson stated the County received \$26,239.51 from the second round of an Opioid Settlement that the County joined as a class action lawsuit against Opioid Distributors. She indicated if approved, the funding would be provided to the Harrisonburg-Rockingham

Community Services Board for those in the community receiving treatment related to opioid abuse and addiction.

On motion by Supervisor Chandler, seconded by Supervisor Ritchie, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board approved the following FY2023 Supplemental Appropriation:

Supplemental Appropriation: \$26,239.51

\$26,239.51	1001-00000-11899-000-318990-000	Miscellaneous Revenue
\$26,239.51	1001-05205-00000-000-505699-000	Other Contributions

PUBLIC WORKS COMMITTEE.

Public Works Director Rhodes reviewed a request from the Town of Mt. Crawford seeking an increase in water allocation provided by the County. The current agreement between the Town and County provides the Town with an allocation of 30,000 gallons per day, which is also the Town’s permit limit from the Virginia Department of Health (VDH). Due to several proposed developments, the Town is unable to provide water service without exceeding its permit. The Town is requesting increasing its allocation by an additional 50,000 gallons per day. The Town will then request a permit increase from VDH.

Mr. Rhodes indicated there are no concerns with this request. Capacity is available and capital projects are planned in the future for increased water production. The Town will continue to pay for any water used as part of their monthly service charges. However, the Town will need to pay for the increased allocation as part of an availability charge. Staff recommended the Town pay for the increased allocation by transferring the water connection fees collected from any future connections to the Town’s water system to Rockingham County.

In response to a question from Administrator King, Mr. Rhodes confirmed the connection fee will be what the County’s fee is at the time of connection. This would not prevent the Town from having an additional fee.

On motion by Supervisor Ritchie, seconded by Supervisor Chandler, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board approved the Town of Mt. Crawford’s request to increase its water allocation to 80,000 gallons per day and authorized the County Administrator to execute a revised agreement.

VACO LIAISON COMMITTEE

The 2022 Annual Business Meeting of the Virginia Association of Counties (VACo) will be held on November 15 in Richmond, Virginia. Supervisor Kyger previously indicated he is willing to serve as the County’s voting representative and had requested an alternate Board member be appointed.

On motion by Supervisor Chandler, seconded by Supervisor Ritchie, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board appointed Supervisor Kyger as the Rockingham County voting representative for the 2022 VACo Annual Business Meeting.

On motion by Supervisor Chandler, seconded by Supervisor Ritchie, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board appointed Chair Wolfe-Garrison as the alternate Rockingham County voting representative for the 2022 VACo Annual Business Meeting.

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At 7:10 p.m., Chair Wolfe-Garrison recessed the meeting for a short break.

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PUBLIC HEARINGS – REZONING REQUESTS.

At 7:15 p.m. Chair Wolfe-Garrison reconvened the regular meeting and reviewed the public hearing procedures. At 7:20 p.m., Chair Wolfe-Garrison opened the public hearing and Land-Use Planner Nicely presented the following rezoning request:

REZ22-1798 S&B Ventures LLC (Boyers Crossing), 6011 East Timber Ridge, Mount Crawford, VA request to rezone 5.69 acres from A-2 (General Agricultural) to R-5 (Planned Neighborhood). The property is located on the northeast corner of the Boyers Road (Route 704) and Port Republic Road (Route 253) intersection. Tax Map #125-(A)- L20D1. Election District 3.

Mr. Nicely reported development on the site is limited to 85 residential units consisting solely of townhomes and apartments. The project would be served by County water and sewer. He said the rezoning request did not warrant a traffic impact analysis, and VDOT estimated the vehicle trips per day generated from the development would not have substantial impact on adjacent roadways.

Attorney Todd Rhea from Clark & Bradshaw P.C. represented the applicant. He introduced Bob and Nikoo Bakhtiar, principals in S&B Ventures. Mr. Rhea explained the Bakhtiar's are County residents and owners of Cross Keys Vineyard. S&B Ventures acquired the subject parcel in January of 2022 after the previously withdrawn rezoning request in 2021. Mr. Rhea said their team attended public hearings for this site which allowed them to address community concerns from the prior application.

Mr. Rhea stated the new design removed the proposed tall apartment building and self-storage facility. It kept the corner mixed-use building and utilized the sloping topography of the site to model a mixture of townhomes and apartments that maintain a uniform two-story structure height when viewed from Boyers Road. Further design improvements include a multi-use path along Boyers Road, a corner gateway pedestrian plaza, and rear parking for the mixed-use. The townhomes are oriented so rear patios are not facing residents of Boyers Road. Enhanced landscape screening was added in areas where parking may be visible to public roads. Roadways are designed for growth considerations of the future Port Republic Road corridor and Sentara RMH.

Keith Spitzer shared concerns about an additional entrance on Boyers Road. He stated the proposed development would add considerable traffic. Mr. Spitzer felt that the entrance should only be on Port Republic Road and eliminated from Boyers Road.

Kim Sandum inquired about what the commercial use would be and if it would have its own entrance. She expressed concern that motorists may use this property as a cut-through to avoid the intersection of Port Republic Road and Boyers Road. Ms. Sandum also questioned the number of parking spaces planned.

At 7:35 p.m., Chair Wolfe-Garrison closed the public hearing.

In response to the concerns and questions raised, Mr. Rhea commented the design is driven by ordinance requirements. He clarified that entrances are determined by VDOT. VDOT standards direct that the safest Boyers Road entrance to the site is across from the Barrington subdivision entrance. Ingress and egress only on Port Republic Road is not possible as there is no safe option for turning left. Regarding drivers using the site as a cut-through to Port Republic Road, Mr. Rhea pointed out there is not a convenient direct path.

Chair Wolfe-Garrison asked for additional information on the multi-use building. Mr. Rhea stated the second floor is planned for apartments or coworking space. Although commercial users have not yet been determined, the goal is to attract businesses that are convenient to the

community. In response to further questioning, Mr. Rhea elaborated that townhouses will be on individual lots for resale and apartments will be on separate lots.

Supervisor Ritchie questioned the additional quantity of students, a number provided by the school board. He stated developments will have a future impact on schools.

On motion by Supervisor Chandler, seconded by Supervisor Ritchie, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board approved REZ22-1798 S&B Ventures LLC (Boyers Crossing), 6011 East Timber Ridge, Mount Crawford, VA to rezone 5.69 acres from A-2 (General Agricultural) to R-5 (Planned Neighborhood). The property is located on the northeast corner of the Boyers Road (Route 704) and Port Republic Road (Route 253) intersection. Tax Map #125-(A)- L20D1. Election District 3.

At 7:45 p.m. Chair Wolfe-Garrison opened the public hearing and Land-Use Planner Yankey reviewed the following request:

REZ22-1799 Joshua Helmuth, 3093 Hill Gap Road, Bridgewater, VA. This request is to rezone 8.239 acres from A-2 (General Agricultural) to I-1 C (Industrial with Conditions). The property is located on the northeast corner of the intersection of Cecil Wampler Road (Route 704) and South Valley Pike (Route 11). Portion of Tax Map #123-(A)- L83. Election District 2.

Ms. Yankey stated updated proffers from the applicant were provided which eliminated greenhouse, indoor shooting range, and cold storage of liquid petroleum gas as uses. Access to the parcel is limited to a right-in, right-out on Route 11. Ms. Yankey stated some permitted uses could generate high traffic. On September 6, the Planning Commission recommended approval contingent on the applicant separating the proffers into permitted, special use, and accessory use.

Josh Helmuth was present. He clarified that he does not intend to start any of the permitted uses, but desires open opportunities for future use or sale.

No members of the public spoke concerning the request.

At 7:52 p.m. Chair Wolfe-Garrison closed the public hearing. She remarked this parcel is in a highly visible area that will continue to experience growth in coming years. Although permitted uses have been reduced, Chair Wolfe-Garrison expressed concern around what is appropriate at this site.

On motion by Supervisor Breeden, seconded by Supervisor Chandler, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board denied REZ22-1799 Joshua Helmuth, 3093 Hill Gap Road, Bridgewater, VA request to rezone 8.239 acres from A-2 (General Agricultural) to I-1 C (Industrial with Conditions). The property is located on the northeast corner of the intersection of Cecil Wampler Road (Route 704) and South Valley Pike (Route 11). Portion of Tax Map #123-(A)- L83. Election District 2.

At 7:53 p.m. Chair Wolfe-Garrison opened the public hearing and Ms. Yankey presented the following request:

REZ22-1800 J&D Group LLC, P.O. Box 717 Dayton, VA request to rezone 6.77 acres from A-2 (General Agricultural) to R-5 (Planned Neighborhood). The property adjoins the City of Harrisonburg and is located between Pear Street and the existing Cobbler's Valley subdivision. Tax Map #108-(A)- L164 & #108-(A)- L164B. Election District 2.

Todd Rhea spoke on behalf of the applicant. Mr. Rhea explained the parcel is split by the City/County line. He noted that streets, water and sewer are underway in the Cobbler's Valley subdivision, making County connections to the subject parcel available and accessible. Mr. Rhea

detailed how streets will interconnect with Cobbler’s Valley and pointed out the entrance to Pear Street will connect to Saddler Street.

No members of the public spoke regarding the request.

At 8:03 p.m. Chair Wolfe-Garrison closed the public hearing.

In response to a question from Chair Wolfe-Garrison, Mr. Rhea confirmed that future connections to the city parcel are for internal roads only and do not connect to Pear Street. He stated the only entrances to Pear Street are the future connection to Saddler Street, and the existing one.

On motion by Supervisor Chandler, seconded by Supervisor Ritchie, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board approved REZ22-1800 J&D Group LLC, P.O. Box 717 Dayton, VA to rezone 6.77 acres from A-2 (General Agricultural) to R-5 (Planned Neighborhood). The property adjoins the City of Harrisonburg and is located between Pear Street and the existing Cobbler’s Valley subdivision. Tax Map #108-(A)- L164 & #108-(A)- L164B. Election District 2.

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PUBLIC HEARING – ORDINANCE AMENDMENTS.

At 8:07 p.m. Chair Wolfe-Garrison opened the public hearing and Zoning Administrator Getz reviewed the following staff-generated ordinance amendment:

OA22-1307 To amend Section 17-1004.01 (b) so that any demonstrative materials submitted with a rezoning application shall become legally binding elements of the rezoning.

Mr. Getz explained the proposed amendment removed the requirement that all rezoning applications include a metes and bounds description. Under this amendment, a metes and bounds description would only be required if the proposed rezoning is for a portion of the property. Applications for rezoning entire parcels would not require a metes and bounds description.

No members of the public spoke regarding the amendment.

At 8:11 p.m. Chair Wolfe-Garrison closed the public hearing.

On motion by Supervisor Ritchie, seconded by Supervisor Chandler, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board adopted the following Ordinance Amendment:

**ORDINANCE REPEALING
AND RE-ENACTING SECTION 17-1004.01(b)
OF THE CODE OF ORDINANCES
OF
ROCKINGHAM COUNTY, VIRGINIA**

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

That Sec. 17-1004.01. – Application hereby is repealed and re-enacted as follows:
(b) A complete application shall be made to the zoning administrator including a boundary map of the property to be rezoned. Applications to rezone portions of a parcel shall include a metes and bounds description of the area to be rezoned. Any demonstrative materials submitted with the application shall become part of the record of the hearing on the application and become legally binding elements.

This ordinance shall be effective from the 28th day of September, 2022.

Adopted the 28th day of September, 2022.

At 8:12 p.m. Chair Wolfe-Garrison opened the public hearing and Mr. Getz presented the following ordinance amendment:

OA22-1958 Amendment to the Rockingham County Code, Chapter 17 (Zoning Ordinance), Table 17-806.01 Area, Setback, and Height - Conventional to update front setbacks in the B-1, B-2, and I-1 zoning districts.

Mr. Getz explained this amendment requires accessory structures meet the same setbacks as primary structures in stated zoning districts. It reduces front setbacks in business districts, which helps meet goals of the Comprehensive Plan by having buildings closer to the street with parking in the rear. Mr. Getz said this results in a more compact urban design.

No members of the public spoke regarding the amendment.

At 8:14 p.m. Chair Wolfe-Garrison closed the public hearing.

On motion by Supervisor Ritchie, seconded by Supervisor Breedon, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDON – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board adopted OA22-1958 to amend to the Rockingham County Code, Chapter 17 (Zoning Ordinance), Table 17-806.01 Area, Setback, and Height - Conventional to update front setbacks in the B-1, B-2, and I-1 zoning districts.

(OA22-1958 is attached to and made a part of these minutes).

Mr. Getz reviewed the following ordinance amendment:

OA22-1581 Amendment to the Rockingham County Code, Chapter 17 (Zoning Ordinance), Section 17-607, Supplemental Standards for Certain Land Uses, to add supplemental standards for “Kennel Operation, Commercial”.

Mr. Getz stated the proposed ordinance specifically addresses commercial breeding operations. He explained County Attorney Miller adjusted the proposed ordinance amendment based on discussions at the recent work session.

At 8:26 p.m., Chair Wolfe-Garrison opened the public hearing.

Carolyn Peake spoke in favor. She believed the ordinance was thoughtful, comprehensive, and lead toward humane treatment of animals.

Pam Miller spoke in favor, stating she adopted a dog rescued from a puppy mill in West Virginia. She explained how her dog suffers numerous issues stemming from the puppy mill, demonstrating to the Board how inhumane breeding conditions have life-long negative effects on dogs.

Melinda See spoke in favor and stated companion animal protection laws are good policy and supported by many. She presented the Board with pictures of shelter dogs, suggesting proposed maximum kennel sizes be reevaluated.

Huck Nawaz appeared on behalf of the Rockingham Harrisonburg SPCA, speaking in favor. He commented the SPCA is not in competition with breeders. Mr. Nawaz felt the ordinance secured animal welfare.

Evelyn Shank stated lowering the maximum number of dogs or litters permitted does not equate to quality care. Ms. Shank explained her goal was to start a kennel as a primary source of income. She believes the ordinance prevents this possibility, stating that the proposed 4-8 litters allowed in a calendar year would not provide substantial income. Ms. Shank questioned if the proposed number of litters per calendar year could be increased.

David Liskey, owner of Gap View Ranch and Kennel, stated while in agreement with parts of the ordinance, he shared concerns that the ordinance inadvertently restricts responsible breeders.

Myron Rhodes echoed previous concerns that the ordinance language is too strict.

Denise Janocka, Joe Janocka, and Corrie Janocka attended as a group with concern. Mr. Janocka explained that his family breeds golden retrievers and shared concern that even though he runs a responsible operation, he would be unable to meet guidelines set forth in the proposed ordinance. He suggested a grandfather clause be added to accommodate people in his position.

Shannon Swortzel and Marlin Carr expressed agreement with previously stated concerns and requested the Board table the ordinance to allow for more discussion.

Sandra Rose stated the ordinance needed to be studied extensively so that animal welfare remains the focus.

Charley Hall appeared on behalf of the American Kennel Club (AKC). He explained the AKC is not against the ordinance, but believes further consideration is necessary. Mr. Hall offered the continued assistance of the AKC in finalizing the ordinance.

Sharyn Hutchens appeared on behalf of the Shenandoah Valley Kennel Club and the Virginia Federation of Dog Clubs and Breeders. She expressed agreement with Mr. Hall and questioned the exercise requirements in the ordinance.

At 9:15 p.m., Chair Wolfe-Garrison closed the public hearing.

On motion by Supervisor Chandler, seconded by Supervisor Breeden, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board tabled OA22-1581 Amendment to the Rockingham County Code, Chapter 17 (Zoning Ordinance), Section 17-607, Supplemental Standards for Certain Land Uses, to add supplemental standards for “Kennel Operation, Commercial”.

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CLOSED MEETING.

On motion by Supervisor Chandler, seconded by Supervisor Breeden, and carried by a roll call vote of 4 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – ABSENT; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board recessed the meeting from 9:25 p.m. to 9:47 p.m., for a closed meeting pursuant to Section 2.2-3711.A(7), Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body.

MOTION: SUPERVISOR CHANDLER
SECOND: SUPERVISOR RITCHIE

RESOLUTION NO: 22-14
MEETING DATE: September 28, 2022

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, RITCHIE, WOLFE-GARRISON

NAYS: NONE

ABSENT: KYGER

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ADJOURN.

Chair Wolfe-Garrison declared the meeting adjourned at 9:49 p.m.

_____,
Chairman

**ORDINANCE AMENDING
PORTIONS OF TABLE 17-806.01
OF THE CODE OF ORDINANCES
OF
ROCKINGHAM COUNTY, VIRGINIA**

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

That Table 17-806.01 Area, Setback, and Height - Conventional be and hereby is amended by updating the following front setbacks in the B-1, B-2, and I-1 zoning districts.

Table 17-806.01. Area, Setback, and Height—Conventional						
Structures or Uses by Zoning Districts	Minimum Lot Size	Minimum Lot Width	Minimum Front Setback	Minimum Side Setback	Minimum Rear Setback	Maximum Building Height
B-1, General Business						
Primary structures	—	—	see footnotes *** and ^o .	If abutting agricultural or residential zoning: 15 feet.	If abutting agricultural or residential zoning: 15 feet.	45 feet outside the Urban Growth Area or Urban Development Area; 60 feet within the Urban Growth Area or Urban Development Area.
Accessory structures, which are no greater square footage than primary structure	—	—	see footnotes *** and ^o .	If abutting agricultural or residential zoning: 15 feet.	If abutting agricultural or residential zoning: 15 feet.	45 feet outside the Urban Growth Area or Urban Development Area; 60 feet within the Urban Growth Area or Urban Development Area, but no higher than primary structure, whichever is less.

B-2, Neighborhood Business						
Primary structures	--	--	see footnotes *** and ^o .	If abutting agricultural or residential zoning: 15 feet.	If abutting agricultural or residential zoning: 15 feet.	45 feet outside the Urban Growth Area or Urban Development Area; 60 feet within the Urban Growth Area or Urban Development Area.
Accessory structures, which are no greater square footage than primary structure	--	--	see footnotes *** and ^o .	If abutting agricultural or residential zoning: 15 feet.	If abutting agricultural or residential zoning: 15 feet.	45 feet outside the Urban Growth Area or Urban Development Area; 60 feet within the Urban Growth Area or Urban Development Area, but no higher than primary structure, whichever is less.
I-1, Industrial						
Primary structures	--	--	See footnote*.	If abutting agricultural or residential zoning: 30 feet.	If abutting agricultural or residential zoning: 30 feet.	60 feet.
Accessory structures, which are no greater square footage than primary structure	--	--	See footnote*.	If abutting agricultural or residential zoning: 30 feet.	If abutting agricultural or residential zoning: 30 feet.	60 feet.

Notes:*** Minimum front setback requirements consist of two (2) distances:**

Thirty-five (35) feet is the required distance from the road right-of-way if the right-of-way is fifty (50) feet or greater; or Sixty (60) feet is the required distance from the centerline of the road if the right-of-way is less than fifty (50) feet.

**** In R-1, R-2 and R-3, minimum front setback requirements consist of two (2) distances:**

Twenty-five (25) feet is the required distance from the road right-of-way if the right-of-way is fifty (50) feet or greater; or Fifty (50) feet is the required distance from the centerline of the road if the right-of-way is less than fifty (50) feet.

***** In B-1 and B-2, minimum front setback requirements consist of two (2) distances:**

Ten (10) feet is the required distance from the road right-of-way if the right-of-way is fifty (50) feet or greater; or thirty-five (35) feet is the required distance from the centerline of the road if the right-of-way is less than fifty (50) feet.

◊ In B-X, B-1 and B-2, for private roads, there shall be no front setback requirements except that no structures shall be located within sidewalk easements or any other easement.

All other parts of Section 17-806.01 are re-affirmed.

This ordinance shall be effective from the 28th day of September, 2022.

Adopted the 28th day of September, 2022.