

BOTETOURT COUNTY BOARD OF SUPERVISORS

MINUTES OF JUNE 27, 2023

The regular meeting of the Botetourt County Board of Supervisors was held on June 27, 2023, at the Botetourt County Administration Center, 57 S. Center Drive, Daleville, Virginia, beginning at 12:30 p.m.

PRESENT: Dr. Donald M. Scothorn, Chair
Mrs. Amy S. White, Vice Chair
Dr. Richard G. Bailey
Mr. Stephen P. Clinton
Mr. Billy W. Martin, Sr.

OTHERS PRESENT: Mr. Mike Lockaby, County Attorney
Mr. Gary Larrowe, County Administrator/Clerk
Mr. David Moorman, Deputy County Administrator
Mr. Jonathan Lanford, Assistant County Administrator
Mrs. Lorie Bess, Deputy Clerk

Dr. Scothorn called the meeting to order at 12:30 p.m.

Dr. Scothorn announced the following addition to the Closed Session:

- Section 2.2-3711(A)(8): Consultation with legal counsel regarding specific legal matters requiring the provision of legal advice related to the Circuit Courthouse project.

On motion by Dr. Scothorn, seconded by Mr. Martin, the Board went into Closed Session pursuant to the Code of Virginia, 1950, as amended, to discuss the following.

- Section 2.2-3711(A)(3): Discuss the acquisition and disposition of real property for purposes of economic development, in the Amsterdam (including Greenfield) and Buchanan districts where discussion in an open meeting would adversely affect the County's bargaining position or negotiating strategy.
- Section 2.2-3711(A)(5): Discuss prospective businesses or industries or the expansion of existing businesses or industries, in the Amsterdam (including Greenfield) and Buchanan districts where no previous announcement has been made of the businesses' or industries' interest in locating or expanding facilities in the community.
- Section 2.2-3711(A)(7) - Consultation with legal counsel pertaining to actual or probable litigation, where such consultation or briefing in an open meeting would adversely affect the negotiating/litigating posture of the County regarding the Rocky Forge project.

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White
RESOLUTION #23-06-01

Dr. Scothorn called the meeting back to order at 2:00 p.m.

On motion by Dr. Scothorn, seconded by Mr. Martin, that the Board return to regular session from Closed Session and adopted the following resolution by roll-call vote.

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

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White
RESOLUTION #23-06-02

Attendees participated in the recitation of the Pledge of Allegiance and a moment of silence.

CITIZEN COMMENT PERIOD

Woody Lipps, 530 Broad Run Road, New Castle, Virginia (received via Citizens Comment form)

"Dear Board, as the rail bed citizens committee chair in Craig County I want to share some thoughts, and facts about the rails to trails planning process for your consideration. At this point I am not for, or against, this project. I do believe that it presents an opportunity for both Craig and Botetourt, and we need to explore this opportunity using the current planning process. To that end I will say that frenzied opposition to a planning process serves no useful purpose. Such opposition to planning and study limits honest discussion and clouds our view of valid concerns. It detracts from the development of reasonable alternatives and stokes irrational fear. As an example, the idea that this proposal will eliminate emergency access to the community of Oriskany in Botetourt County. Emergency access to Oriskany will be preserved in any plan developed. How exactly that may look has yet to be decided, but that access in emergency situations will be preserved. By continuing to bring forth this issue, folks just stoke fear and detract from other important concerns. There are many other examples that I won't take time to list. Our best way forward to a positive outcome here is for all to work together in a calm, and deliberate, evaluation of reasonable input. The plan is already bought and paid for with state funding and we should use this opportunity to develop a reasonable plan that will benefit both Craig and Botetourt. I only ask that you keep an open mind and look for the facts that may be hidden from view by a lot of smoke and mirrors. Best wishes."

Renee Godard, 2237 Draft Road (received via Citizens Comment form)

"I stand in strong support of the proposed Craig to Botetourt Scenic Trail which follows the state-owned rail bed along Craig Creek. This 26-mile-long trail will be a great benefit to the county. There is increasing interest in rails to trails by the public, both locally and nationally. Trail activities (Running, Hiking, Biking) are three of the five most participated in outdoor activities (Fishing and camping being the other two). The trail will bring people to Botetourt County and the types of businesses that are supported by a rail-trail are more likely to be locally owned (outfitters, restaurants, campgrounds, bed & breakfasts, etc.) rather than outside corporations. This will be money into the pockets of Botetourt - and may help boost Eagle Rock which has become a ghost town since the floods in 1980s. There are also local health benefits for the citizens of Botetourt County, as this bike path provides cycling opportunities that are distant (e.g. Alleghany - Jackson River Scenic Trail or Damascus - Virginia Creeper Trail). We need positive development that will attract young families to the northern part of the county - without it our population will continue to gray and decline which harms our local elementary schools and the potential for a sense of community."

Richard Amstutz, 2237 Draft Road (received via Citizens Comment form)

"This trail system is long overdue! As a lifelong resident of Botetourt County, I cherish the natural beauty of this area. I hike its trails, I paddle its rivers and streams, and cycle it's many roads and trails! Our natural surroundings are our greatest asset and helping others enjoy its beauty will help this region prosper in only the very positive of ways! There will always be those afraid of change and many who are unwilling to part with things that have become nearly and comfortably their own private playgrounds even though they are publicly owned! I get that! But from the Greenbrier River Trail to the Huckleberry Trail systems only good things have evolved and every community has benefited both economically and socially! This is a win-win situation for everyone! You must ensure that this happens!"

Kathryn Kerkering, 1914 Grove Hill Road (received via Citizens Comment form)

"Censorship should not be condoned. There is a local group which is likely part of a national movement to ban books that teach young people about their bodies; LGBTQ+ information and education; race, other than white. This push to conform to the world views of one group of Botetourt citizens cannot be allowed without striping other Botetourt Citizens of their rights. Hold your ground. Support the library."

Ann Davis, 342 McIntosh Road (received via Citizens Comment form)

"I oppose censorship of library materials. Children and teens have a right to access library materials that some residents may consider inappropriate."

Rebecca Clark, 165 Post Oak Drive (received via Citizens Comment form)

"Thank you for your work with the Board of Supervisors. I am sure it is time consuming and challenging! I would like to express my support for the library personnel--especially Julie Philips, and for the ability of the library staff to select and review a broad selection of literature for the community. The position of some members of the community that their view should dominate the selection and maintenance of literature and resources in our libraries limits the choices of the majority. The library is a public resource and should serve the viewpoints of all, not just those who want to promote a conservative agenda. In response to those who use the Bible and a Christian perspective to support their arguments, it is important to remember that while they might consider this to be the only interpretation, not all members of the community believe theirs to be the only interpretation. Also, many of our community are not of a Christian persuasion--a right supported by the First Amendment. Please support the library staff as they work to follow the rules of the library that have been approved by the Boards for the library and the Supervisors. Thank you for letting me express my views."

Craig Coker, 2186 Mountain Pass Road (received via Citizens Comment form)

"Please do not give in to the right-wing extremists in our County who are convinced they should be able to dictate public policy over what makes sense and over what the majority of the public supports. Little children are not allowed in our libraries without their parents and so those parents who have concerns about what their child reads have every opportunity to steer that child towards what they want them to read."

Karen Neal, 295 Village Lane (received via Citizens Comment form)

"I am very concerned about the attack on our Libraries and staff. It is not the place of a few to restrict what we have access to. It is the right of all parents to decide for their own children. Thank you."

Lisa Pielocik, 165 Antietam Hill Road (received via Citizens Comment form)

"I'm concerned about a very vocal few who seem to think our libraries carry pornographic material for children. I know that our librarians have strict guidelines to follow and they follow these guidelines to the letter. It is each parent's right to determine what is best for their child, but it is not their right to determine what is best for someone else's child by having books removed from shelves."

Garland and Jane Jones, 4641 Roanoke Road (received via Citizens Comment form)

"We would like to express our sincere opposition to banning books in libraries as the library is for everyone of all ages, sex color, creed, or religion. Libraries are designed to have all forms of informational, educational, and recreational materials for the citizens. No one is required to read anything they find objectionable. Librarians are educated and quite capable of deciding what should be on the shelves and where. The system has been working for generations and does not need to be changed. Book banning has never worked and is a threat to our freedom of choice and undermines democracy. Those who are not happy with the libraries don't have to use them and if this group wants restrict others, try living in a country under a dictator where there is no choice of anything! Remember Hitler started with burning books. Please do not give into those who wish to destroy our freedom of reading. They do not speak for the majority, especially those who don't reside in Botetourt. If you are considering raising the age of parental guidance in the libraries, please give this some thought first. A high school student who needs after school library research or books to complete a project should not have to have a parent with them in order to check out books. After all most parents are at work and do not have the time to be with student during library hours. By the time of teenage years, they should have the freedom to read and learn anything they choose. The parent can always return the book in the outside deposit if deemed inappropriate. It's hard enough to get kids into the libraries to read anything as they have many afterhours activities. Please don't put a fault block in their path. Thank you for reading."

Terri Frantz

"Dear Board of Supervisors, instead of opting to speak at the meeting where I'm sure chaos will ensue, I want to make sure you hear what I have to say. So, thank you in advance. As a taxpayer, the list of books that have been deemed appropriate for young children amazes me that they are even on the table for discussion. I have seen the books. And in case you have not physically looked at them, I'll describe a couple of scenarios. Completely naked men and women. Children wrapped in towels looking at the nudity. I guess covering the children in these books keeps it clean so its not considered child pornography. Birth control. Showing kids how to have oral sex. I hate even stating this but aren't you appalled? Another situation you can decide what gender you want to be other than what mommy and daddy call you. These are discussions you have with your children in the privacy of your home not a public scenario. This is a cancer that needs to be stopped. Cut it out before it metastasizes or there will not be a remedy to stop it. I talked to Barnes and Noble at Valley View Mall asking about a few of the books. Even liberal B&N doesn't have some of these titles online. Two Boys Kissing was but only online. They stated that their adult material is sealed so children can't just browse their selection. Whoever sells Playboy etc., you don't see it displayed in a store like you would your local newspaper, you have to ask for it. Children should have free rein in the library. That's how children learn to explore and become great readers and students. Ask teacher. I cannot imagine my 4-year-old grandson capturing one of these books and asking what this is about. These books are designed to capture your attention. All colorful and designed just for children. How sick is this? This is a moral dilemma. This is not book banning, this is keeping pornography out of our libraries. Children have enough emotional issues without heaping this

on their plate. Suicide rates, drug use, unwanted pregnancies, abortions, etc. will add to the numbers already there. Kids are not ready for the emotional issues that come with sex. And giving them this information sooner will add to their curiosity and experiment. Picture teachers not being able to send students to the restroom without having to supervise behavior. Teachers have enough on their plate. And if its ok in these books, what repercussions will teachers have to discipline? This is a can of worms, disaster and moral decline we do not need. Lastly, I would assume that most of you are Christians. As a Christian how can you justify that these books should be in a public setting? If I were you, whether a Christian or not, I would rather risk losing my position, if you have any way of stopping this absurdity. Children need to be protected. Children need to be kids. If removing the librarian who is purchasing these books is the answer, so be it. We need you to stand up for us. You are our voice. I'm sure that there are hoops to jump through to accomplish this. I say get moving please. I understand that some of these books have been removed in Virginia. Let us do likewise. Thank you."

Mark Hanson, 184 Vista Lane (received via Citizens Comment form)

"Please save the books and don't let nut jobs ban them."

Louise Chagnon, 1248 Lakeridge Circle (received via Citizens Comment form)

"I'm strongly opposed to banning books. Please do not undermine the librarians or think our county's citizens need you to decide what can or cannot be read."

Lynn Bolton, 734 Blacksburg Road (received via Citizens Comment form)

"Unlike claims for "freedom" in areas which actually seriously restrict the rights of others, the right and freedom to access books in schools and public libraries is truly a right supported for centuries. Parents concerned about their child reading an "unacceptable" book should simply exercise parental supervision and discretion and not allow said child to access or check-out that book. Allowing a few to control what the majority can or cannot read is, I submit, un-American and should never be allowed."

Andrea Smith, 301 Grandview Drive

Ms. Smith offered a prayer of protection over all children and for those in leadership roles making decisions affecting the children.

Kim Smith, 236 Jay Ridge Road

Ms. Smith provided copies of recent emails sent to the Board and school division. She stated school administration had assured her that they are aware of the traffic concerns but there is nothing being done to resolve the situation. She stated she cannot make it into her own driveway because it is blocked by school traffic. She expressed concern over emergency personnel not being able to get to her home if needed and that a second exit should have been built. She suggested a short-term solution of staging cars at the ball field parking lot and allowing only a certain number of cars through at a time, but acknowledged this would require the school division to have extra personnel to manage the traffic. She suggested a long-term solution of having a second exit built. She urged the Board to start working on a short-term solution before August when school starts.

Susan Davis, 599 Hardbarger Road

Ms. Davis stated she was a former employee of Botetourt County libraries and she has complete trust in the library staff, because she knows there is no pornographic material in the libraries. She stated there certainly is a broad, curated, selection for all adults and children to experience because libraries contain books for all interests. She stated there may be books

that, as a parent, some won't want their child to read, and that is the parent's choice. She noted all children under the age of 13 must be accompanied by an adult in the library and until the age of 18, a parent has total control over their child's library card. She stated a parent can choose what their child reads but that does not extend to other children. She encouraged everyone to read the library policies on the BOCO Facts 4 U page on the county website. She thanked Mr. Martin for his many years of service to Botetourt County.

Chales Ruhl, 3115 Lees Gap Road

Mr. Ruhl discussed the "Childrens Internet Protection Act", noting it violates the First Amendment. He stated it was disturbing that the Board chose Teresa Chmara to tell everyone that everything is okay. He stated there are 43 books in our public libraries that promote LGBTQ lifestyle. He stated he is Catholic, and he searched for Catholic books for children to read but none were there.

Christine Liana, 3461 Country Club Road

"Good afternoon, my name is Christine Liana of the Amsterdam District. Apparently we have a special guest here today arranged by the Board of Supervisors, a D.C. lawyer for the American Library Association. Is this supposed to impress us or intimidate us? Theresa, is it? She has no jurisdiction over any locality to determine what's right for us. We will uphold our Community Standards of Decency to protect our children from the obscenity, pornography, sexual perversion, and lies aimed at our children and teens that infiltrated our public library system with our tax dollars. The people who are speaking against this and deny this apparently have not seen these books that we have presented to you in person numerous times. Perhaps they should educate themselves on these books and look at them for themselves. Now let's talk about the infamous agenda of the American Library Association. The ALA president Emily Drabinski proudly declared she's a homosexual and Marxist Communist. Yet they accuse of book-banning and Nazis and "brown shirts." We will not tolerate this agenda being funded by our tax dollars. The ALA pushes its bizarre list of talking points for activists to pushing this on our children – such as: "There are 'communities' of children who benefit from these books." Really?! No child or teen benefits from exposure to pornography, graphic sexual imagery, discussion of perverted and medically dangerous sexual practices, or gender-bending confusion. And that's what's in these books, and you have seen it. They also say, "People are banning books and censoring." That's a lie. Anyone who wants these books is free to buy them from Amazon or any bookseller. There are hundreds of books that aren't included in our libraries also. They say, "Intellectual freedom," a "balanced collection," the First Amendment, "serving a diverse community," "right to read," and "freedom of access" These merely are fallacious excuses for library staff to promote their homosexual and transgender agendas. This month, Appomattox County Board of Supervisors voted 3-2 to disband the library board due to misconduct for allowing LGBTQ+ materials to be displayed to children. And Warren County Board of Supervisors voted to withhold 75% of the budget for the Samuels Public Library due to complaints about these sexually inappropriate books. Koo-ten-ai County, Idaho, the Community Library Network now excludes any obscene books for children and teenagers, and removes the ones currently on the shelves. The Campbell County Library Board in Gillette, Wyoming, voted on Oct. 24 to cut all ties with the American Library Association (ALA) and its Wyoming affiliate. You can no longer hide behind Virginia's obscenity code exemption for libraries buying and distributing obscene materials to minors. If it weren't for this exemption, the Library Director and everyone allowing this would be in prison on criminal charges of buying and distributing sexually explicit books to children. Obscenity is not protected under First Amendment rights to free speech, and violations of federal obscenity laws are criminal offenses.

On behalf of the nearly one thousand, three hundred Botetourt County Citizens, including youth, who signed in person the Petition to remove the obscene, pornographic, and sexually perverted books for children and teens, and appropriately revise our library purchase and removal policy and the Library Board Committee, I'm presenting these signed Petitions to the Board of Supervisors for immediate action. More signatures are coming in. We are the citizens of Botetourt County, Virginia, have had enough! (Original, hard-copy, ink-signed Petitions handed to Board Chairman Mac Scothorn.)"

Lucy Ruhl, 3115 Lees Gap Road

Ms. Ruhl discussed pictures from a library book that showed naked people and other inappropriate behaviors. She noted this particular book is labeled for 2–5-year-olds. She encouraged the Board to look at the books for themselves and form their own opinions.

Timothy Buchanan, 2487 Frontage Road

Mr. Buchanan stated no one needs to be a historian to know the U.S. has lost its way. He stated during his lifetime he has seen five wars, AIDS, ten times more killed in abortion than in U.S. wars, and suicide is now the second leading cause of death for ages 15-24. He stated we are failing our kids and they are dying because America suffers from a leadership crisis, as does Botetourt County. He stated the library's promotion of LGBTQ is reprehensible and contemptible. He stated the Board has not stopped this material from being exposed to children because they haven't seen it. He stated citizens are there to support the Board in protecting children and encouraged them to stand firmly on the decisions we can all live with.

Glenda Buchanan, 2487 Frontage Road

Ms. Buchanan discussed the book titled Being You noting the book includes a story about a birthday party for a 4-year-old, even including a number 4 made out of balloons, making it clearly designed for a 4-year-old to see. She stated when she was 4 years-old she was learning how to tie her shoes, comb her hair, and wondering if Santa really saw her sleeping. She stated there is no solid foundation or facts in this material because boys cannot grow into girls, nor girls into boys. She stated the Internet declares there are differing opinions on how many genders there are because they say gender is fluid and gender is no longer based on God, or biology, or facts.

Russ Bennett, 218 Country View Drive

Mr. Bennett stated he was there to speak about protecting children. He stated children are immature and they are developing physically, mentally, and spiritually. He reported one of the books has two naked men, one naked male child, and one naked female child in a shower together. He questioned the value in this to children and concluded there is no value, but there is great harm. He stated we must not allow our children to be groomed. He encouraged the Board to protect our children by removing these materials.

Dr. Kathryn Kerkerling, 1914 Grove Hill Road

Dr. Kerkerling stated her remarks were meant to be respectful to everyone and as a pediatrician she was often told she was a great listener. She stated her reason to be there was to listen and better understand the reasons people want to ban books in our libraries. She stated she had learned that the number of books that are of concerns are 59 books, but only 13 are in our libraries, so the list must have come from outside our County. She stated she understands people's fears and fear is the primary emotion that she has been hearing. She stated people are fearful that their children will be exposed to inappropriate material, and the fear is so great that the way to reduce their fear is to simply remove the books; however, this approach could

not be farther from the truth, and she encouraged books can offer knowledge, facts and evidence. She stated allowing children to learn about their own bodies will not alleviate your fears and that we should educate our children about their bodies.

Paige Ware, 117 N. Monroe Street

Ms. Ware stated she worked for Botetourt County Libraries for 39 years. She stated she has listened to all the comments and wonders why people are so against things that we already know, such as there are people that are different from us. She stated we are finding out more about people that want to be gay, or lesbians, and she has very good friends who are lesbians, and they are good people. She stated parents should not let their children read these books if they don't want them to, but it's not a library staff person's responsibility to say what they can and cannot read.

Sally Field, 49 Bethel Road

"The English writer and philosopher Aldous Huxley once said that "Facts do not cease to exist because they are ignored." In the spirit of that statement, I want to fact check some claims that are being made at present. First claim: the Botetourt County librarians and certain Botetourt County Supervisors are allowing porn in the library. In 1973, the Supreme Court established a specific legal definition of pornography. NO material that meets this definition is to be found in the library. Fact: There is no pornography in the Botetourt County Public Library system. Anyone who is repeating this baseless claim is subjecting the librarians and Supervisors to a vile and malicious slander. This is shameful behavior and one I certainly don't want any child of mine to emulate. Second claim: There are books in the Botetourt County Public Library system that "groom" children. In at least one of the books currently under review by the library system, there is a chapter on the issue of consent. In this chapter it explicitly and specifically states that if someone is being touched in a way that they don't like, that they are uncomfortable with, or that they feel is wrong, they should tell that person to stop. If the person does not stop, they should go and tell an adult about it. Even if the person doing the touching tries to tell them that "this is something special just between us" and not to tell anyone. That is not grooming. That is the exact opposite of grooming, it is telling a person exactly what to do if they are being abused. Fact: The books in dispute do not "groom" children for sexual abuse. In fact, they do just the opposite. Third claim: Children have access to porn in the library. I've already established that there is, in fact, no pornography in the library. It is true that, like every other person who walks through the library doors, children have access to every single book in the library. It is every parents' responsibility to police what books and other materials their children do access. It is also every parent's right to determine for themselves and their children what books they can access. Fact: There are safeguards in place, if the parents are doing their part, to enable them to determine what their children actually access. It is the parent's job, not the libraries. The library does assist in this by having rules in place requiring any child under 13 to be accompanied by a responsible adult. To sum up: Fact: There is no pornography in the Botetourt County Library system. Fact: There is no "grooming" happening. Fact: It is the duty and mission of the library to provide resources for the entire community. It is the right of every adult to determine which resources are appropriate for themselves and their minor children. It is the responsibility of every parent to guide their children's selection of reading or other materials. My daughter was recently in Hamburg, Germany. She sent me a picture of a large sign she saw there. It read: 'Hamburg liest Verbrannte Bücher' (Hamburg reads burned books). Germany learned from its mistakes. Are we really going to be so foolish as to go down that road again?"

Dr. Scothorn announced the Board would resume the regular agenda at that time and return to Citizen Comment Period later.

INTRODUCTIONS AND/OR RECOGNITIONS

- a) 9 recent graduates of the regional fire academy
- b) 5 recent paramedic graduates
- c) Award Recipients from WVEMS Regional Awards
 - Deputy Chief Powell
 - Fire & EMS and Sheriff's Office
- d) New Tanker 7 - Read Mountain (On site prior to the start of the meeting)

CONSENT AGENDA

- a) Minutes of May 8, 2023, May 15, 2023, and May 23, 2023 meetings
- b) Noise Ordinance Variance Request from Jeter Farms

MOTION: That the Board approve the consent agenda items, as presented.

MOTION: Mrs. White

SECOND: Mr. Martin

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

RESOLUTION #23-06-03

APPROVAL OF TRANSFERS AND APPROPRIATIONS

For the month of June, there were four transfer requests, with one being a recurring quarterly transfer, a transfer from the Undesignated General Fund to the Greenfield Preservation Fund for the County's match of private donations recently received into the Preservation Fund, and two transfers of budgeted funds.

With respect to appropriations, there were five pass-through items and 15 regular appropriations requested. The pass-through appropriations represented state grant funds, expenditure reimbursements, miscellaneous receipts, federal grant funds, and a School appropriation from their revenues to cover expenses for the School Nutrition Fund (self-sustaining).

1. Transfer \$567.74 to Sheriff's Department – Vehicle & Power Equipment Supplies, 100-4031200-31200-6009, from the various departments as follows for vehicle repairs at the County Garage:

\$110.82 Animal Control–Veh&Pwr Suppl., 100-4035100-35100-6009-000

\$212.77 Community Development – Rep. & Maint. Veh. 100-4081200-81200-3312-000

\$ 29.59 Purchasing – Rep. & Maint Veh., 100-4012530-12530-3312-000

\$180.64 Library – Rep. & Maint. – Veh. 100-40731000-73100-3312-000

\$ 33.92 Van Program – Rep. & Maint. Veh., 100-4071500-71500-3312-000

2. Transfer \$602.00 from General Fund – 100-Undesignated Fund Balance to Greenfield Preservation Fund – Fund 240. This provides a match of recent FY23 private donations received into the Preservation Fund.
3. Transfer budgeted funds in the amount of \$48,000.00 from Human Resources Department, 100-4012220 to County Administrator Department, 100-4012110. This transfer will cover projected FY23 year-end expenditures.

4. Transfer total budgeted funds of \$996,125.00 from General Fund -Debt Service from the following accounts: \$117,333.00 from ETC Expansion, 100-4095000-12110-9500-326 and \$878,792.00 from Circuit Courthouse Reconstruction, 100-4095000-21100-9500-325. These budgeted funds will be transferred to: Fund 315 – Capital Project Fund,315-4095000. This transfer of budgeted funds follows the actual transfer of General Fund dollars for the recent payment of debt service.

PASS-THRU APPROPRIATIONS:

1. Additional appropriation in the amount of \$473,525.83 to Transfers to EDA, 100-4091800-91800-3800. This is an appropriation of funds to be received from the State for VATI/Botco/Lumos Broadband Project #2 for estimated grant payment due for costs incurred through June 30, 2023.
2. Additional appropriation in the amount of \$2,212.95 to the following Sheriff's Dept. accounts: \$100.00 to Convention & Education, 100-4031200-31200-5540, \$990.09 to Overtime, 100-4031200-31200-1200, \$496.47 to Subsistence & Lodging,100-4031200-31200-5530, \$383.50 to Vehicle Supplies, 100-4031200-31200-6009, and \$242.89 to Office Supplies, 100-4031200-31200-6001. These are for a conference ticket reimbursement, restitution, extradition expense reimbursements, and FOIA expense reimbursements.
3. Additional appropriation in the amount of \$4,317.48 to the following Correction & Detention accounts: \$1,467.48 to Medical & Lab Supplies, 100-4033100-33100-6004, \$2,450.00 to Work Crew Payments, 100-4033100-33100-6016, and \$400.00 to Food Supplies and Service, 100-4033100-33100-6002. The first item is for medical reimbursements from medical copays and for Craig County inmates, the second items is for VDOT Work Crew payments, and the third item represents social security incentive payments.
4. Additional appropriation in the amount of \$13,119.90 to Sheriff's Department – DMV Salaries, 100-4031200-31200-1800. This is for Federal grant funds passed through to the State and received by the County for alcohol and police traffic services initiatives.
5. Additional appropriation in the amount of \$252,381.77 to School Nutrition Fund – Fund 221. This is an application of FY23 School Nutrition Fund revenues in excess of budget to cover FY23 School Nutrition Fund expenditures in excess of budget.

REGULAR APPROPRIATIONS – Primarily the result of forecasting FY22 year-end accrued expenditures on a department-by-department review. Several of these appropriations were made necessary as the result of cost overages due to inflationary pricing and unanticipated additional costs not foreseen at the time of development of the FY23 Budget approximately 15 months ago. Alternatively, items #6 and #7 relate to Broadband projects, while item #13 represents a grant funds match.

6. Additional appropriation in the amount of \$13,500.00 to Financial Services, 100-4012430. This appropriation will serve to cover potential year-end expenditures for FY23.

7. Additional appropriation in the amount of \$134,000.00 to Transfers to EDA – 100-4091800-91800-3800. This appropriation is to cover the balance of the County match for the VATI/Botco/Lumos Broadband Project # 1.
8. Additional appropriation in the amount of \$400,675.70 to Transfers to EDA, 100-4091800-91800-3800. This appropriation is to cover the County portion of grant funds for projected costs through June 30, 2023 for the VATI/Botetourt County/Lumos Broadband Project #2
9. Additional appropriation in the amount of \$35,000.00 to CIP – Capital Projects, 100-4094000. This appropriation will serve to assist in covering potential FY23 year-end expenditures.
10. Additional appropriation in the amount of \$12,000.00 to Social Services – Department 100-4053000. This appropriation will serve to cover potential FY23 year-end expenses.
11. Additional appropriation in the amount of \$500.00 to Circuit Court – Department 100-4021100. This appropriation will serve to cover potential FY23 year-end expenses.
12. Additional appropriation in the amount of \$12,500.00 to Waste Management – Department 100-4042400. This appropriation will serve to cover potential year-end FY23 expenses.
13. Additional appropriation in the amount of \$52,500.00 to Transfer to EDA – 100-4091800-3800. This appropriation covers various expenditures not anticipated in the original adopted budget.
14. Additional appropriation in the amount of \$18,333.00 to Community Development – Professional Services, 100-4081200-81200-3100. This is a 20% local match requirement for a federal grant relating to the Safe Streets 4 All program in cooperation with Roanoke County and the Town of Vinton to develop a transportation comprehensive Safety Action Plan.
15. Additional appropriation in the amount of \$3,000.00 to Clerk of Circuit Court, 100-4021600. This appropriation will serve to cover potential year-end FY23 expenses.

MOTION: That the Board approve the transfers and appropriations, as presented.

MOTION: Mr. Martin

SECOND: Dr. Bailey

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

RESOLUTION #23-06-04

APPROVAL OF ACCOUNTS PAYABLE AND RATIFICATION OF THE SHORT ACCOUNTS PAYABLE LIST

Total expenditures requested for approval for June for the General Fund including debt service and all other funds was a combined total of \$2,243,738.32. Payable disbursements of note for the month are as follows:

Sheriff's Department	A total of \$41,273 paid to East Coast Emergency for twelve 2022 Utility patrol builds, with an additional \$29,820 paid through the Traffic Safety Program.
	A total of \$629,814 paid to Sheehy Auto Stores for 15 2023 Ford Police Interceptor Vehicles and 15 push bumper installations.
Fire & EMS	\$40,500 paid to County of Roanoke for fire training (3) and Fire and EMS training (6) at their Academy.
	\$91,959 paid to Carter Machinery for a diesel generator for Fincastle Fire Department.
Technology Services	\$27,051 paid to ZOHO Corporation for Manage Engine products.
Transfer to EDA	\$669,898 paid to EDA of Botetourt County as a pass-thru to Lumos for the state's portion of Broadband grant funds to be paid to Lumos for Broadband Project #1.
CIP – Digital Case Management System	\$33,600 paid to Karpel Solutions for software licenses, project costs, and onsite training for the Commonwealth's Attorney Digital Case Management System.
CIP – Utility Vehicle Replacement Plan	\$51,000 paid to Magic City Motor Corporation for a 2022 Ford F-350 for Fire & EMS.
CIP – Greenfield Roof Replacement	\$157,527 paid to Garland/DBS, Inc. for completion of the Greenfield Welding Lab Roof Replacement.

MOTION: That the Board approve the accounts payable and short accounts payable list, as presented.

MOTION: Mr. Clinton

SECOND: Mrs. White

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

RESOLUTION #23-06-05

3:00 P.M. PUBLIC HEARING – ROANOKE VALLEY REGIONAL ANIMAL SHELTER AGREEMENT

Mr. Zerrilla stated the public hearing was advertised on June 14 and June 21, as required by the Code of Virginia. He stated the agreement that was currently in place would expire June 30, which prompted the need to review and adopt a new agreement. When compared with the current agreement, the only material change of note is the elimination of the Town of Vinton as a locality member and the transfer of their ownership percentage and the operating/capital/debt expenditure allocations to Roanoke County. The Board was provided a copy of the required ordinance and proposed agreement, which would take effect July 1, 2023 and expire on June 30, 2028, unless terminated sooner or further extended. The agreement includes Botetourt County, Roanoke County, and Roanoke City with Roanoke County acting as fiscal agent.

Dr. Scothorn declared the public hearing open. There were no citizens wishing to address the Board, therefore, Dr. Scothorn closed the public hearing.

MOTION: That the Board approve the ordinance and proposed Roanoke Valley Regional Animal Shelter Agreement as presented, by signature of the Chairman.

MOTION: Dr. Bailey

SECOND: Mr. Martin

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

RESOLUTION #23-06-06

Dr. Scothorn announced the Citizen Comment Period would again resume.

Marty Jenkins, 11454 Craig Creek Road

“Oriskany Square, Part 2. In Part 1, Wikipedia did confirm Oriskany was indeed in Botetourt County. We are the forgotten stepchild of Botetourt County. I also told you the one square block called Oriskany Square contains our only church, community pavilion, our Post Office, and several homes. In order for you to begin to understand our situation where this trail is concerned you need to see for yourself. Unfortunately, we are always told it is too far out and inconvenient for people to come out here to even do work for us. Apparently, it is also too far out and inconvenient for you to come to see what our concerns are relating to this proposed trail. So today I am going to try to give you a visual tour. Coming across your desk from my right and up the left stairs is Route 615. This is the main road from Eagle Rock to New Castle. Going up the stairs to my right is Route 774 which is beside the church and the pavilion. Going across the top landing is the proposed trail. And if you continue through the wall in the top left corner, you will be on State Route 817, the old rail bed, which is a narrow, dusty, gravel road. This is where this community lives and their only way to their properties and homes. Everything in the middle is Oriskany Square. There has been talk about putting a parking lot at the canoe launch which is in the far-right corner. Also there has been talk about a parking area on Route 817, which is the proposed trail. Now comes the complicated part of this story. How many people do they expect to use this trail? One place they are calling this a premier trail and comparing it to the Virginia Creeper Trail that sees 250,000 people per year. Then another person supposedly in the know said he didn't think there would be more than 12 or so cars parking in the parking areas in Oriskany on Sunday morning. So now I'm confused as to why we are spending millions of dollars on a trail when we don't even have a good guess as to how many people they expect to use it. In general, what days of the week do you think would have the heaviest use? My guess would be weekends. So for the sake of argument let's just say there will be approximately 300 people on horse, hiking and biking, traveling in both directions through Oriskany and on Route 817. Now for the kicker! You have just created one big traffic jam all the way around Oriskany Square. People living on 817 will have to fight their way to get out of their driveways to even attend church on Sunday morning. Our pavilion and Post Office will be nearly impossible to access for our use. And so our community dies! We have something you have destroyed in this area. Clean air, a clean stream, serenity, peace, and quiet. We don't want what you have, so why should we have to give you what we have? So now I must ask, has the common sense button been removed from our computers, calculators and our brains?!”

Michael Parrish, 2598 Trinity Road

“I am Michael Parrish of Trinity Road, Troutville, and I am here to speak on behalf of our county library staff, specifically to speak in opposition to the calls for banning and censoring books in our library's collection. As to the objections voiced about books in our library collection, thus far they largely have centered on issues related to sex and sexuality. And the objections seem to fall into three categories: Claims of obscenity and pornography, calls for needing more parental control, and claims of indoctrination. I'll address each of these. Firstly, my research indicates

that the courts in the United States have said repeatedly that determinations of obscenity and pornography in such matters call for several tests, the two main ones being that the merits of a book or item of other medium must be considered in its entirety, not just on selected pieces, and that the item not be focused on titillation or prurient interests. I refer you to Cornell Law School and other similar sources. Given that, the claim that our collection has pornography or obscenity does not stand. Regarding the second point of parent control, for those wanting to remove or otherwise control books that their children might see, adequate provisions exist already for controlling their children's access to library materials – emphasis on their children. Those have been cited in the forum and elsewhere. But their desire to control what their children see does not give them or anyone else the right to limit what I or others might want, or indeed need, to see. An analogy to allowing bans or censorship on this basis would be that of parent not wanting their children to access a car out of fear of what the children might do with a car, but they want not just to deny their children access to a car, they also want to deny my children and other children access to a car, without regard to the needs and desires of the others or their parents. This call would infringe on the rights of so many in our county and is antithetical to our Constitution and to everything this country stands for. Thirdly, there have been claims that the books, particularly those with LGBTQ+ references or themes, are indoctrinating our children into becoming gay or anything else other than heterosexual. I've read a number of books challenged on this basis, and have found them educational and informative, but not indoctrinating. This and other research have led me to one conclusion, among others. Books are about as likely to make someone gay as my reading a book by John James Audubon is likely to make me a bird. The indoctrination argument does not stand. Banning or censoring books has never been on the right side of history. So, my call to you as the Board of Supervisors for Botetourt County is this: Don't do anything. Let the status quo stand. Let our librarians continue to manage our county's library collection for the benefit of all the County's citizens, with the professionalism for which they've been trained and which they continue to display in spite of the difficulties imposed on them by those claiming a need to do otherwise."

Ruth Sellers, 3176 Old Rail Road

Ms. Sellers stated the Board had heard the tales and wishes of Oriskany. She stated they very seldom hear anything at all about what VDOT is doing but the citizens know that they do not want to give up their community. She stated some of the people that live in Oriskany have died, and some have moved away. She asked if there was anything at all that can be done from this point. She stated the Oriskany people like their lives the way they are and like their very quiet community. She stated she is concerned about safety options that they will face if this trail goes through. She stated no one from VDOT ever approached the citizens to see if they want the trail. She stated she was sorry if the citizens have imposed on the Board too much and she wasn't sure if there was anything the Board could do but if there is, she would appreciate their assistance.

Vickie Graham, 2193 Old Rail Road

"Dear Board of Supervisors, when I was 8 and 9 years old, I walked two blocks to the library, by myself, every Friday, and brought back a stack of books. I listed the titles on the back of my horse calendar. When my girls were growing up, they went to the library around the corner by themselves. They know if they misbehaved, I would hear about it. Now my 44-year-old daughter homeschools her children and is very proud of her shelves of books. One of the very first things my 42-year-old daughter does when moving to a new city (and there have been many) is to get her library card. After moving to Virginia, I volunteered at the Craig County Library for several years. Now, my husband and I always have a library book by the recliner.

He reads a chapter to me every evening and it is a special time. Am I qualified to speak in regard to the library? My parents did not worry about what books I would see at the age of 9. I didn't worry about what my kids saw. I guess if they had questions, they were uncomfortable in asking me, they could have looked at the encyclopedias. Maybe they did. But things are different now. Kids can't go the library by themselves. Kids are different now, too. And there are materials that I would not be comfortable with my elementary child seeing. I don't like the idea of helicopter parents, but I do believe in being involved parents. If I were a parent now, would I have to look over my child's shoulder the whole time we were in the library? That's ridiculous. When my girls were young, I once questioned a book in the children's section. It was moved to the teen section. I don't remember it being a big deal. Where is some common sense? Don't libraries have sections that require permission for viewing those books? Like maybe old books? Restricting access is not unheard of. What about a higher shelf? Can't questionable books be in the library catalogue to be requested by the parent? Or a parental permission form on file for enabling minors to view certain books? Computer usage of a minor requires a parental permission form. Banning books can lead down a terrible path but so can an "anything goes" attitude. Why is it that one is viewed as being against libraries if they wish for some discernment and sound judgement? It makes no sense to me. Users of the internet workstations at Botetourt County Libraries must agree to follow these guidelines:

- *Library patrons may use Library Internet workstations only after signing the "internet sign-in" document at the circulation desk.*
- *All users must sign their name and the time on the internet sign-in sheet before using the library's computers.*
- *Signing this form indicates that the user agrees to obey the Library's Internet Policy. Failure to sign in may result in denial of access to use the Internet.*
- *A parent of guardian may be asked to sign a consent form for children under the age of 18."*

Vickie Graham, 2193 Old Rail Road

"Oriskanites are an independent sort. Some of the residents come from families that have been there for decades. Others are implants from other states. All are there because they choose to be and it is where they want to lie out their days. They also chose to take what comes with living there; the beauty and the trials. When a tree falls on a road, what does an Oriskanite do? Get out of the vehicle and move it or go home and get a chain saw. Only if it is not manageable will you call VDOT. When the electricity goes out for the 9th time in five months, (not counting the off/on, off/on, just enough to mess with the Wi-Fi), what does she do? She plugs in the old landline phone, reports the outage to the electric company, gets a bucket of water from the hand pump well so she can flush the toilet and hopes the power is restored before the generator needs to be started up. As an Oriskanite, you feed the neighbor's pet when they go away, take a neighbor to the emergency room, or take a sick neighbor some chicken soup. You go to a neighbors for a little "porch time." Yet there are those that tell us we are not neighborly. We are not accepting of those that are different. Good Grief! I am a Yankee and I have been accepted! We are told that if the trail goes through and we do not smile and wave and say, "Welcome. Thank you for coming", that we are not showing love and we will be judged by God. No exaggeration. These people cannot seem to understand that by not wanting to put those that would come to a trail, and my fellow Oriskanites, in harm's way, that I am showing love. I was asked why I would care if someone wants to ride on a dusty road. "It's their business." Yes, but if I can't see what is in the cloud of dust in front of me while driving on a sweeping blind curve with drop offs on both sides....well, you tell me what could happen. I do not want anyone to get hurt and I don't want to live my life with the guilt of causing harm or death, even if it wasn't technically my fault. We have been told by politicians and others that we are over exaggerating

the issues. Do they live there? Have they even been on the Old Rail Road? Put the trail through Oriskany and I guess we will see what happens.” (Provided two pictures of the dust level on Old Rail Road).

Dr. Scothorn announced the Board would return to the regular agenda and resume Citizen Comment Period later.

3:15 P.M. PUBLIC HEARING – Valley District - The Western Virginia Water Authority requests a commission permit, in accordance with Section 15.2-2232 of the Code of Virginia and Section 25-576. – Commission Permit (“2232 Review”) of the Botetourt County Code, for a capital improvements project involving the construction of approximately 5,000 feet of waterline within the right of way of Sanderson Dr (SR 605) from Stonegate Dr (SR 1295) to Read Mountain Rd (SR 654) that will loop two existing water lines and provide more consistent water pressure/service within the existing system.

Drew Pearson presented the request. He reported the Planning Commission had questioned the length of time and impact to citizens on Sanderson Drive. Michelle Carruthers from the Western Virginia Water Authority stated that construction could take up to 12 months, but would not likely take that long and that the WVWA would coordinate traffic with VDOT, all easements had been acquired, with traffic impact the most between 9:00 a.m. - 3:00 p.m. in order to help with pressures and resiliency. During the Planning Commission meeting, one citizen questioned the financial impact and whether or not there would be a rate increase, Ms. Carruthers explained this was part of capital improvement, and there would be no increase in rates.

He then reviewed the following staff report:

The Western Virginia Water Authority is proposing improvements to their water system network that will primarily be located within the right of way of Sanderson Drive and that are designed to “loop” existing waterline infrastructure in order to provide more consistent water pressure/service within the water system. The project consists of approximately 150 LF of 8” water main, 4,675 LF of 12” water main, a pressure reducing valve, 6 fire hydrants, associated appurtenances, connections to the existing water system, and associated VDOT pavement restoration. The waterline project begins at the intersection of Sanderson Drive and Stonegate Drive and travels almost 5,000 LF towards the intersection of Sanderson Drive and Read Mountain Road. VDOT has reviewed and approved the work with the right of way. Section 15.2-2232 of the Code of Virginia states that a jurisdiction’s comprehensive plan controls the general or approximate location, character and extent of each feature shown within the plan and when proposed features are not shown, states that they shall not be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted comprehensive plan.

The 2010 Comprehensive Plan identifies existing water and sewer service areas and states that public water and wastewater services often drive growth in suburban and urban communities. The location and availability of public water and wastewater facilities are key determinants of land use patterns. Similarly, the timing and location of future extensions or new systems influences the location and rate of growth in a community. For this reason, effective community planning requires strong coordination between future utility plans and future land use decisions.

Chapter 24 – Water, Sewer and Sewage Disposal of the Botetourt County Code only provides for the extension of public or community water or sewer when the parcel(s) to be served are shown within a service area on the Water & Sewer Infrastructure Map located in the Comprehensive Plan. These provisions read as follows:

No facility of any provider of public water, including the Authority, shall be constructed, established, or authorized unless it is a feature the general or approximate location, character, and extent of which is shown in the Botetourt County Comprehensive Plan or element thereof, or is in substantial accord with such Plan. If a service area is designated on the Plan for a provider of public water, the provider may establish or expand its services and provide services to any person or persons in the service area.

The proposed waterline “loop” or distribution line is generally located within identified service areas shown on the Sewer and Water Infrastructure Map with the comprehensive plan, however the waterline feature itself is not shown, which necessitates the need for the 2232 review. Therefore, the Planning Commission was requested to conduct a 2232 review of the proposed waterline improvements and determine whether they are in substantial accord with the comprehensive plan, and after holding a public hearing, approve or deny a commission permit that would authorize the construction of the improvements for the project.

Dr. Scothorn declared the public hearing open. There were no citizens wishing to address the Board, therefore, the public hearing was closed.

MOTION: That the Board uphold the Commission Permit request by the Western Virginia Water Authority as approved by the Planning Commission.

MOTION: Dr. Bailey

SECOND: Mrs. White

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

RESOLUTION #23-06-07

Dr. Scothorn announced Citizen Comment Period would again resume.

Crystal Peplinski, 109 Grand Hill Drive, Houghton Lake, Michigan

“My name is Crystal Peplinski from Houghton Lake, Michigan. I am an “outsider” but have driven on Old Rail Road, Branch Water, and other local roads in the Oriskany area many times. Have you? Yes, it is a beautiful drive, but beautiful enough to die for? Is it a necessity to change an entire community for another “rail trail” that involves a state road? How can you approach a big project like this without a plan of action? The idea of taking on something like this without knowing what you’ll do and saying, “We’ll figure it out as we go along.” Is irresponsible and, quite frankly, selfish. The money set aside for this project could be better utilized in other ways. In my humble opinion, this is a poor project to spend money on in this way. I do not live here. I’m not politically motivated either way. I am concerned for the health and wellbeing of visitors and community members. Thank you for the opportunity to speak.”

Jackie Lynch, Daleville

“Imagine (each of you who own homes), you wake up one morning and there is no law that protects your rights to private property, there is no police force, and you are forced to pay the transportation costs of anyone wishing to come to your house and take whatever they want. With regard to the library problem, that is precisely how you are treating parents. We have zero societal support in protecting our children. You have told us that it is our sole responsibility. This is wrong, and a neglect of your duty. We pay taxes that supply the salary for a director

who has inserted predator porn into our libraries. Then, to remove any of that material we are forced into a bureaucratic rollercoaster involving three separate meetings, only to find that same director is the one who actually decides. Total dictatorship. Zero societal support. Some may argue that it's legal. But what is legal is not necessarily desirable. Especially not when lifelong damage is at stake. Some may claim they are satisfying a "constituency". Prove it. Who asked for these books? Who are the parents who just can't wait to destroy the innocence of their child? Who are the parents who want their 5-year-old to shower with 2 naked men or their 8-year-old to learn how to do oral and anal sex? Name them. Oh, you can't. Because they don't exist. We parents who do exist want all of this predator porn removed and the director who put it there fired."

LIBRARY INCENTIVE FUND REQUESTS

Julie Phillips, Library Director, reviewed the Library Incentive Fund requests and explained the funds provide opportunity for projects that benefit the general public. She noted the FY23 budget is \$15,000 and all requests are subject to Botetourt County policies and requirements. She noted the program offers matching funds for up to 50% of project costs. The requests included the following projects:

Fincastle Library - Furnishings

- Upgrade furnishings in conjunction with new paint/carpet scheduled for Winter 23/24
- Increase accessibility and respond to existing community demand and desired use of Facilities
- Computer tables and chairs; sofa; book displays; café seating; comfy chairs)

Friends of the Fincastle Library - \$7,750

Incentive Fund - \$7,750

Total Project Cost - \$15,500

Eagle Rock Library – Furnishings

- Upgrade furnishings for youth areas and facilitate resource organization for youth programming
- Align with redesigned youth areas and respond to existing community demand and desired use of facilities.
- Tables, chairs, seats, bench, sofa, trolley, book organizer

Friends of the Eagle Rock Library - \$2,500

Incentive Fund - \$2,500

Total Project Cost - \$5,000

Buchanan Library - Mural and Garden

- Add a memorial garden and mural behind the library facility
- Provide outdoor seating, library resources, library visibility, and photo op for visitors and community (Bench, garden, sign, brochures, Little Free Library In memory of Joe Ryder, founding member of FOBL)

Friends of the Buchanan Library - \$3,000

Incentive Fund - \$3,000

Total Project Cost - \$6,000

Blue Ridge Library - Murals

- Two murals in general seating areas
- Provide welcoming space for relaxation and appreciation of art and nature
- Project completed, requesting reimbursement

Friends of the Blue Ridge Library - \$1,750
 Incentive Fund - \$1,750
 Total Project Cost - \$3,500

Organization	Project	Project Cost	Funds Requested
Friends of the Fincastle Library	Furnishings	\$15,500	\$7,750
Friends of the Eagle Rock Library	Furnishings	\$5,000	\$2,500
Friends of the Buchanan Library	Mural & Garden	\$6,000	\$3,000
Friends of the Blue Ridge Library	Murals	\$3,500	\$1,750
TOTALS		\$30,000	\$15,000

Mr. Clinton noted the projects were carefully considered by the Library Board and he was very impressed by the murals.

Mrs. White applauded the process and how it involves the community and serves our citizens.

MOTION: That the Board approve the Library Incentive Fund requests, as presented.

MOTION: Mr. Clinton

SECOND: Mrs. White

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

RESOLUTION #23-06-08

3:30 P.M. PUBLIC HEARING - VDOT FY24-29 SECONDARY SYSTEM SIX YEAR PLAN AND BUDGET

Ashley Mothena, VDOT Assistant Resident Engineer, reviewed the FY24-29 Secondary System Six Year Plan and Budget. She noted the Plan’s funding is provided through TeleFees (\$91,808) and District Grant – Unpaved funds (\$425,211 in FY 24). The proposed FY24-29 Secondary System budget totals \$3,593,911 across all six years and is shown below:

Secondary System
 Botetourt County
 Construction Program
 Estimated Allocations

Fund	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	Total
TeleFee	\$91,808	\$91,808	\$91,808	\$91,808	\$91,808	\$91,808	\$550,848
District Grant - Unpaved	\$425,211	\$433,744	\$546,027	\$546,027	\$546,027	\$546,027	\$3,043,063
Total	\$517,019	\$525,552	\$637,835	\$637,835	\$637,835	\$637,835	\$3,593,911

Available Allocations

Unpaved

Previous FY	\$420,128
FY 2024	\$0
FY 2025	\$0

FY 2026	\$152,996
FY 2027	\$42,054
FY 2028	\$0
FY 2029	\$546,027
TOTAL	\$1,161,205

Telefees	
Previous FY	\$381,133
FY 2024	\$51,808
FY 2025	\$51,808
FY 2026	\$51,808
FY 2027	\$51,808
FY 2028	\$51,808
FY 2029	\$91,808
TOTAL	\$731,981

The Proposed Priority List was presented as follows:

1. Route 646, Back Creek Lane (Underway)
2. Route 645, Fringer Trail
3. Route 712, Stevens
4. Route 685, Ball Park Road
5. Route 643, Mountain Valley Road
6. Route 658, Laymantown Road
7. Route 677, Roy Road
8. Route 638, Old Hollow Road
9. Route 728, Redbud Lane
10. Route 600, Haymakertown Road
11. Route 767, Blue Ridge Drive
12. Town of Fincastle One-Way Street

Dr. Scothorn declared the public hearing open.

Edwin McCoy, 489 Back Creek Lane (received via Citizen Comment Form)

“I’m writing to support the proposed changes to the Secondary Road Six Year Improvement Plan as long as back Creek Lane (Rt. 646) remains as the top priority for the coming fiscal years. My disappointment is that the project is not completed in the current fiscal year as it appeared in the 2023FY plan approved one year ago. I ask the BOS to make it clear to VDOT that the Fall 2023 work schedule proposed in the new plan be adhered to. I also think it’s appropriate that the Fringer Trail Project be included as proposed.”

Having no other citizens wishing to address the Board, Dr. Scothorn declared the public hearing closed.

MOTION: That the Board approve the FY24-29 VDOT Secondary System Six Year Plan and Budget, as presented.

MOTION: Mrs. White

SECOND: Mr. Martin

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

RESOLUTION #23-06-09

VDOT MONTHLY UPDATE

Brian Blevins, resident engineer, reviewed the following report:

Yearly Resurfacing Contracts

- Prep Work:
 - Prep work for paving on the secondaries and primaries is underway for the 2023 paving season. Resurfacing contractors have already started in some areas of the district.

Traffic Engineering Work Orders

- A TE work order was submitted requesting evaluation of Route 220 at Daleville Town Center for a potential pedestrian signal or crosswalk.
- A TE work order was submitted requesting evaluation of the posted speed limit and potential need for advisory signs on Route 638 (Old Hollow Road) from the intersection with Route 641 (Old Ridge Road) to the intersection with Route 638 (Trevey Road).
- A TE work order was submitted for the intersection of ALT-220 and Route 11, requesting that the current "THRU-RIGHT" on southbound Route 11 be changed to a "RIGHT TURN ONLY" onto northbound ALT-220 (towards Daleville) and the on ramp for southbound Interstate 81.
- A TE work order was submitted requesting an evaluation of Rte. 681 Mary Alice Road for potentially posting speed limit signs due to traffic speeding through the road.

Land Development Projects & Land Use Permits

- Site Plan Reviews:
 - APEX Wind Farm Plans (on-site plans)
3rd comments sent to Botetourt County on April 3, 2023.
Waiting on plan resubmittal.
 - APEX Wind Farm Dagger Spring Road Plans (off-site plans)
3rd submittal comments sent to Botetourt County on April 3, 2023.
Waiting on plan resubmittal.
 - Buchanan Convenience Store
1st review comments sent to Botetourt County on April 28, 2023.
Plans currently under review.
 - Caldwell Mountain Estates
3rd submittal received on May 30, 2023.
Plans are currently under review.
 - Daleville Town Center Phase 5 Subdivision
4th review comments received on May 26, 2023.
VDOT issued plan approval on June 14, 2023.
 - Roanoke Road Apartments

- 4th submittal received on June 7, 2023.
- VDOT issued plan approval for TCE and mass grading on June 8, 2023
- WVWA Exit 150 and Route 220 Waterline Extension
 - 1st submittal comments sent to Botetourt County on April 25, 2023.
 - Plan design coordination meeting held on June 6, 2023.
 - Waiting on plan resubmittal.
- Flex, LLC
 - 1st submittal received on May 19, 2023.
 - Comments sent to Botetourt County on June 13, 2023.
- New River Electrical
 - 1st submittal received on May 25, 2023.
 - Plans are currently under review.
- Permits Issued:
 - Permits issued between 05/12/2023 –06/13/2023:
 - 8 Utility Permits
 - 1 Private Entrances
 - 1 Special Events
 - 1 Commercial Entrance

Residency Projects

-
- Pipe Replacements: Currently working on replacing pipe on Heather Lane and Prease Road using the Residency's hired equipment contractor.

Area Headquarters In-House Projects

-
- Planned Routine Maintenance Work:
 - Blue Ridge Area:
 - Grading various gravel roads, adding stone where needed and dust control where necessary.
 - Mowing/trimming on primaries and some secondary roads.
 - PMSS 2022 Routes Completed.
 - Starting on PMSS 2023 Routes.
 - Buchanan Area:
 - Grading various gravel roads, adding stone where needed and dust control where necessary.
 - Patching on Route 628, Prease Road.
 - Patching on Route 643, Mountain Valley Road.
 - Pipe Replacement on Route 635, Beaver Dam Road.
 - Mowing/trimming on secondary roads.
 - Tree trimming Lake Catherine
 - Eagle Rock Area:
 - Continue mowing secondary routes.
 - Brush and tree removal on both primary and secondary routes.
 - Grading as weather permits.
 - Fincastle Area:
 - Grading various gravel roads, adding stone where needed and dust control where necessary.
 - Mow trimming on primaries and some secondary roads.
 - Troutville Area:
 - Grading various gravel roads, adding stone where needed and dust control where necessary.

Ditching, patching various work orders throughout the Troutville area.
Mow trimming on primary routes and some secondary roads.
Machine shoulders on Route 11 (Lee Highway) and Route 220 (Roanoke Road).
Shoulder work along Route 11 (Lee Highway) and Alt-220 (Cloverdale Road).
Patching and pipe cut on Route 600, Breckinridge Mill Road.
Ditching, brushing, and cutting brush per PMSS 2023 on Route 657, Rainbow Forest Drive.
Mow trimming on Route 665, Country Club Road.
Pipe replacement on Route 1010, British Woods Drive.
Pipe replacement and patching on Route 1413, Knollwood Drive.
Patching on Route 1423, Rollingwood Court.
Pipe replacement on Route 1431, Heather Lane.
Tree trimming and patching in the Stratford Subdivision.
Patching in the Wyndemere Subdivision.

Mr. Martin mentioned the road behind Food Lion, Laymantown Road and Route 460, reporting the bridge at the end of that road needs maintenance because it is coming apart. He also reported there is a house on Mountain Pass Road, the first house on the right, where the ditch needs to be cleaned out. Mr. Blevins replied he was aware of this concern and it is on the work order list but he would try to move it up to priority level.

Mrs. White asked about Nace Road and the ditches at the intersection of Route 11. Mr. Blevins replied they would be starting work in the Buchanan area next week, trying to get pipes replaced and patches done.

Dr. Scothorn reported the Apple Tree and Read Mountain Road entrance, coming toward Route 220, is a rough area of pavement. Also, there is deterioration from Arthur Road to Summerfield Court.

Dr. Scothorn questioned the installation of a sidewalk to Daleville Town Center, southbound on Route 220, as a consideration of safety. Mr. Blevins replied there could be possibilities for Smart Scale, and HHIP does sometimes allow for pedestrian improvements; however, this is considered a "complete street", and there is a process to go through, but they would look at it. He reminded the Board it really depends on what the Board's priorities are, and they can help with it, but it would be a County submission to Smart Scale.

CONSIDER APPROVAL OF THE 2023 TAX RATE RESOLUTION AND THE FY23-24 COUNTY BUDGET APPROVAL RESOLUTION

Mr. Zerrilla stated the public hearing was held May 8 for the School Budget, with adoption on May 15. A public hearing was held June 15 for the tax rates and County budget. He noted there were no increases or decreases for any of the proposed tax rates. He explained the budget resolution reflects a \$129.9M budget which equates to a \$29.3M, or 14.8% decrease versus the FY23 Budget. This decrease is primarily related to the \$30M portion of the FY23 Budget that was for the financing proceeds and spending of those proceeds for the Virginia Western Community College expansion project at the Greenfield site and the Circuit Courthouse Renovation Project. The remaining proceeds for the Circuit Courthouse Project will be requested to be appropriated in July, he noted. He recommended the tax rates resolution and budget resolution be adopted as presented.

Dr. Scothorn declared the public hearing open. There were no citizens wishing to address the Board, therefore, the public hearing was closed.

MOTION: That the Board adopt the Tax Rate resolution, as presented.

MOTION: Dr. Bailey

SECOND: Mr. Martin

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

RESOLUTION #23-06-10

MOTION: That the Board adopt the FY23-24 County Budget, as advertised and presented.

MOTION: Dr. Bailey

SECOND: Mr. Clinton

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

RESOLUTION #23-06-11

CONSIDER APPROVAL OF FY24 BUDGET APPROPRIATION RESOLUTION AND ADOPTION OF THE CAPITAL IMPROVEMENT PLAN

Mr. Zerrilla presented the FY24 Budget Appropriation resolution noting the General Fund, School Budgets, and Tax Levies had been approved and this resolution would appropriate this budget to each respective department and categorical area. He noted this approval would include the approved budget for the Schools. Mr. Zerrilla reviewed the second request relating to the adoption of the Capital Improvement Plan for FY25-28. He reminded the Board this item is for planning purposes only.

MOTION: That the Board approve FY24 Budget Appropriation Resolution, as presented.

MOTION: Dr. Bailey

SECOND: Mrs. White

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

RESOLUTION #23-06-12

MOTION: That the Board approve the FY25-28 Capital Improvement Plan as presented, for planning purposes only.

MOTION: Dr. Bailey

SECOND: Mr. Clinton

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

RESOLUTION #23-06-13

THERESA CHMARA, COUNSEL TO AMERICAN LIBRARY ASSOCIATION

Julie Phillips introduced Theresa Chmara, who was joining the meeting via telephone. Early in her presentation, Ms. Chmara lost power due to inclement weather and became disconnected from the meeting. Ms. Chmara provided the following comments via email for the record:

Botetourt County, Virginia

Board of Trustees Meeting, 6/27/2023

Theresa Chmara

Legal Disclaimer: The following is legal information, not legal advice.

I. Viewpoint Discrimination Prohibited in Public Libraries

It is well established that the First Amendment does not permit viewpoint discrimination. The United States Supreme Court has held that “[v]iewpoint discrimination is an

egregious form of content discrimination.” *Rosenberger v. Rector and Visitors of Univ. of Virginia*, 515 U.S. 819, 829 (1995) (holding that UVA violated the First Amendment when it provided subsidies to student newspapers for printing costs but refused to provide such a subsidy for a student religious newspaper based on the viewpoint expressed in that publication).

In the context of determining whether a school library board impermissibly removed books from the collection, the United States Supreme Court has held that if the library “intended” by removing books to bar access to ideas with which they disagreed, then the removal is unconstitutional. *Board of Education v. Pico*, 457 U.S. 853 (1982).

That applies equally in the context of a public library. In *Mainstream Loudoun v. Board of Trustees of Loudoun*, 2 F. Supp. 2d 783 (E.D. Va. 1998), relying on *Pico*, the court held that “the First Amendment applies to, and limits, the discretion of a public library to place content based restrictions on access to constitutionally protected materials within its collection.” *Id.* at 794. The district court quoted Justice Blackmun’s concurrence in *Pico* to hold that “a public library, ‘like other enterprises operated by the State, may not be run in such a manner as to prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion.’” *Id.* at 795.

II. Segregation of Materials Burdens First Amendment Rights

In *Sund v. City of Wichita Falls*, 121 F. Supp. 2d 530 (N.D. Tex. 2000), the district court considered whether an ordinance that allowed for a petition from 300 library card holders to force removal of children’s books to an adult section was unconstitutional. A Petition was submitted to library to remove two picture books: *Daddy’s Roommate* and *Heather Has Two Mommies*. They were removed to the adult section of the library based on the content and viewpoint expressed in the books. The district court held that the forced removal of books from the children’s room to the adult section of the library placed a “significant burden on Library patron’s ability to gain access to those books.” *Id.* at 550. The district court held it was a burden on First Amendment rights because “children who simply wish to browse in the children’s section of the library will never find the censored books...[and] parents browsing the children’s areas in search of books for their children will be unable to find the censored books.” *Id.*

Defendants also argued that parents had a right to remove material with which they disagreed. The district court disagreed, however, holding that the ordinance did not support parents’ rights because “it permits a non-parent to dictate what someone else’s children may read and allows one parent to suppress material not only for her own children, but for all others in the community.” *Id.* at 551. The district court held, moreover, that “if a parent wishes to prevent her child from reading a particular book, that parent can and should accompany the child to the Library, and should not prevent all children in the community from gaining access to constitutionally protected materials.” *Id.* The district court emphasized that “[w]here First Amendment rights are concerned, those seeking to restrict access to information should be forced to take affirmative steps to shield themselves from unwanted materials; the onus should not be on the general public to overcome barriers to their access to fully-protected information.” *Id.*

III. Unprotected Categories of Speech

The United States Supreme Court has held that obscene material is not protected by the First Amendment. In determining whether material is obscene, a court must find that the material meets all three parts of the test:

- (1) Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law;
- (2) Whether the average person, applying contemporary community standards would find the work as a whole appeals to the prurient interest; and
- (3) Whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Miller v. California, 413 U.S. 15 (1973) (emphasis added). Importantly, the material must be examined as a whole and a final determination of obscenity can only be made by a court of law.

Last summer a petition was filed with the Circuit Court in Virginia Beach asking that court to find that two books were obscene: *In re Gender Queer* and *In a Court of Mist and Fury*. The Statute allowed for a petition to challenge books as obscene, and the authors and publishers were given notice to respond. Pursuant to the statute, the petitioner also asked the court to enter a Temporary Restraining Order to block Barnes & Noble from selling the two books while the proceeding was pending. On August 30, 2022, the court found that the statute was unconstitutional for several reasons, including that it constituted an unconstitutional prior restraint by allowing for removal of materials while a hearing was pending. Notably, the court held that the submission of just excerpts from the books did not provide sufficient evidence that the books are obscene.

IV. Current Cases

In Llano County, Texas, books were removed from the physical collection of the library, including books with LGBTQ themes and racial themes. Additionally, several picture books were removed, including *In the Night Kitchen* by Maurice Sendak. The district court entered a preliminary injunction and ordered the return of the books because evidence demonstrated that the books were removed based on viewpoint discrimination after members of the public complained and commented that they were personally offended by the books. The district court held that the books must be placed in the catalog and cannot be held in a “hidden library” with access only by request of a patron. Moreover, the district court held that there is a First Amendment violation even if the books were available through InterLibrary loan or through the digital collection of library materials. That case is on appeal to the Fifth Circuit.

There are several other cases pending alleging viewpoint discrimination in violation of the First Amendment after books were removed from the library following complaints by community members or parents: (1) Crawford County, Arkansas: all LGBTQ books were removed from the Children’s and Young Adult sections of the public library and placed on restricted shelves accessible by adults; (2) Pickens County, South Carolina: a book entitled “Stamped: Racism, Antiracism and You” was removed from a high school library after three parents filed challenges to the book; (3) Lake County, Florida- a picture book entitled “And Tango Makes Three,” which recounts the true story of two male penguins in the Central Park Zoo in New York who incubated and hatched a baby chick, was removed from the elementary school library; and (4) Escambia County, Florida—over 150 books were removed from school libraries in the district including “And Tango Makes Three,” “The Bluest Eye” by Toni Morrison, a picture book entitled “Uncle Bobby’s Wedding,” and “Kite Runner. These cases are pending.

V. Attorneys’ Fees

Litigation can be costly. News reports indicate that the library board in Llano County has paid over \$180,000 to its attorney to continue the litigation. The case involved document productions and depositions to ascertain the motive behind the removals. See <https://www.msn.com/en-us/news/us/legal-costs-in-texas-book-ban-fight-continues-to-rise/arAA1cWa2d>.

Additionally, if a library or other state entity is sued for a violation of First Amendment rights and is successful in winning the case, the state entity could be liable not only for the costs of the litigation and payment of fees for its own attorneys, but the court also can order that the state entity pay the attorneys' fees of the plaintiffs who instituted the litigation. 42 U.S.C. Section 1983.

Anne Palmer, 146 Hill Drive

Ms. Palmer stated what she had seen and heard is so disturbing and this fight is against the dark world and the forces of evil. She stated parents should talk to their children about sex, because we don't need the libraries to do it. She stated she does not want any of this in the libraries. She offered a definition of pornography as stated in the Websters dictionary and stated there is pornography in our public libraries. She asked why there is a drive to display people having sex and if someone wants that material in their home, that's fine, but she doesn't want it in the libraries for her children or grandchildren to see. She stated we will all stand before God one day and He will judge our hearts and hold us accountable for what we did.

Christian Bayer, 146 Hill Drive

Mr. Bayer stated it is as though God is saying, "listen to me". He stated there is so much division in our country today and it is hard to bear. He stated there are people who had come before the Board to support these books, even though they are pornographic, and they are pornographic in his opinion. He stated he is a concerned American, concerned that we are allowing that stuff to circulate. He stated there are 37 trillion cells in the body and they all have a nucleus, chromosomes, and one of two genders, given by God, and there is nothing in between. He encouraged the Board to please not make this the day you do not speak up and act because we don't know if we will get tomorrow.

Jim Stadtlander, 2228 Old Rail Road

"Today I'm bringing you a map. I hear that Mrs. White visited Oriskany. Thank you. I sure wish you would've let us know. It's a shame to not have talked with anyone while there. I can only imagine a map that day would have benefited you in figuring out where the trail might be. The first map shows the path of the railroad bed inside Botetourt County. The second one is the entire 26 miles to New Castle. In the portion that's in Botetourt, there is an incredible amount of land that will be adversely affected. There are 3,830 acres belonging to property owners that directly touch the trail. When visiting, did you notice the farms that will be cut in half? Places like Fridley, Hipes, Parr, Daniel, Crawford and Hannah. How long will they be able to exist after the hardships this trail will cause? Some use the railroad bed to access the other end of their farm, but if it becomes a trail, there will be limitations. In order to not tear up the trail with a tractor, can you honestly expect to only feed cattle when its sunny and dry? Pretty ridiculous. How about trail users parking vehicles that block the farm gates? What about the access this trail gives to people who get kicks out of being malicious? Farmers insurance will rise. How about diseases, like Blackleg, that many now spread more easily with people on foot and horses? Dogs running everywhere. With the narrow roads, how about getting farm equipment in and out with trail users in the way? Then there is the definite increase in property taxes. Does any of this help the farmer? In speaking with Congressman Cline's office last week, they confirmed that the Board of Supervisors do play a big role in this. All of you need to speak out

to our upper levels of government that we don't want this trail. You have access to them much more easily than we do. Your voice matters. Stand up for the landowners. Keep Botetourt filled with the farms we all enjoy."

Kenneth Rodgers, 21 Cox Road

Mr. Rodgers stated he was feeling a wide array of emotions. He stated this movement against books is based on half-truths and misinformation. He noted a former speaker talked about a book that was based off children who have been in actual sexual situations, which is a half-truth. He stated the book Gender Queer is classified as an adult graphic novel. He stated there is a lot of movement about protecting children by taking away guns, but that goes against our Second Amendment rights, the same as taking away books goes against our First Amendment rights. He stated no one has the right to "protect" his child except himself or her mother and furthermore, it is inexcusable to threaten the livelihood of people. How dare they say anyone needs to be fired from simply doing their job, he said. He stated he respects and appreciates everything the Board and Library staff does.

Debbie Turner, 1727 Lees Gap Road

Ms. Turner was not present when her name was called upon.

Todd Price, 77 Lignite Road

Mr. Price stated that people that don't hunt won't think about what he wanted to discuss. He stated his concern is the elimination of access to National Forest roads for deer hunting if the trail is put in. He estimated this trail would connect to National Forest for 16 miles. He reported he contacted the Forestry Service and asked them to either confirm or deny that approximately 16 miles for automobiles that parallel this trail will become unavailable". He stated the response was that the Forest Service is not the lead in this project. He explained deer populations, which lead to damage and vehicle collisions, continue to increase in Virginia primarily because of deer population and declining numbers of hunters. He stated he would appreciate the consideration of impacting deer hunting and the amount of revenue it brings in.

Lewis Hopkins, 80 Oriskany Square

"My name is Lewis Hopkins and I live at 80 Oriskany Square, Oriskany, Virginia. Thank you for the opportunity to address you with concerns regarding the development of the proposed Botetourt County Rails to Trails Project, known as the Craig Botetourt Scenic Trail. I have many years of experience as a licensed Business and Real Estate broker, and I am aware of the increasing tax burdens being continually placed upon local businesses and individuals. The Commonwealth Transportation Board and the Virginia Department of Transportation (VDOT) has estimated the cost to taxpayers to build the Craig Botetourt Scenic Trail Recreation Facility to be in the range of 430 to \$35 million dollars. This project development cost estimate does not include the tens of thousands of dollars that will be needed in ongoing annual maintenance costs, and the costs of additional EMS, and Police services that will be required. The cover these large additional annual costs, all Botetourt County residents can expect their property and other taxes to be increased. In what little information that VDOT is releasing at this point, we are being told that this project will be built without a taxpayer vote and is being built in the name of 'Economic Development'. Does the definition of "Economic Development" mean that this trail will need to attract thousands of bikers, hikers, and horseback riders annually to promote new commercial businesses and generate enough tax revenue to make this project economically feasible? How will the increased traffic flow be handled on already dangerous and narrow two-lane mountain roads? Most of the residents that live in this area moved here for the natural beauty, peace and quiet, and to avoid commercial activity and the associated congestion.

Today, we hear Politicians talk about how important our Democratic form of government is to maintain our freedom and economic prosperity. "We the People" of Botetourt County voted each Supervisor into office who are paid salaries by local taxpayers to represent their best interests, not the best interests of government officials. It appears that the taxpayers of Botetourt County will not be given the right to vote on how millions of their tax dollars could be spent on an ill-conceived, unneeded, unrealistic, and wasteful Rails to Trails project. The large and exorbitant amount of taxpayer money required to fund this Trail project should be determined by a majority vote of Botetourt County taxpayers. "We the People" of Botetourt County have a democratic right to decide how our tax money is spent! I would like to make a motion that a referendum be held so that Botetourt County residents can be educated on the costs, benefits, including the ramifications to property owners living near the proposed trail. A majority of registered Botetourt County voters should have a right to decide whether or not their tax money should be used to fund this project. At this time, I would like to ask all Botetourt County taxpayers who are here today to raise your hand if you would like to see your hard-earned tax dollars spent to fund this proposed Scenic Trail. Thank you for your attention."

Danny Goad, 4766 Read Mountain Road

Mr. Goad stated the Board of Supervisors allows pornography for children in the public libraries. He reminded the Board they swore to uphold the Constitution, but our local government is downright hateful to those it pretends to represent. He stated no price can be put on the head of child. He stated Board members go after citizens and cause them to lose their employment. He stated the Board needs to get rid of these books and fire all those who are responsible for bringing them in.

Garrett Clowes, 188 Mount Moriah Road

Mr. Clowes spoke in opposition to some of the books in the Botetourt County libraries.

Ann Davis, 342 McIntosh Road

Ms. Davis stated censorship is wrong and every person, including those aged 13-17, have the freedom to read what they want. She asked how anyone would feel if someone wanted all the religious books, such as the Holy Bible, removed from the libraries. She stated the freedom to read is essential to our democracy and anyone who wants to censor materials in our libraries is saying that our national freedom of expression is no longer valid. She noted the books being challenged have both received high marks and high reviews and it is important for children to have the opportunity to learn about gender and sex. She stated she is a retired librarian and she had purchased and read both books and found them to be excellent and they should be in any library for children. She stated people who refuse to teach their child about their body is making a pedophiles job easier. She reported every 68 seconds another American is sexually assaulted and 1 out of 6 women have been victims of attempted or completed rape, but if you allow an 8-year-old to read this book, she learns how to protect herself and say "no" because it teaches her what is inappropriate touching. She encouraged the Board to not just listen to what people say about the books, but to read them. She thanked the Board for their time.

Sabra Breslin, 139 High Ridge Circle

Ms. Breslin stated she is a lifelong Virginia resident and she had read Gender Queer. She questioned what all the fuss is about the book. She stated although she generally does not like graphic novels, and she prefers to read books with words, not pictures, it did help her understand the problems and confusion that young people may have on their sexuality. She stated she knows nothing about transgender other than there have been transgender and gay people throughout history. She stated she believes people are not groomed into being gay, but

it's their genetics. She stated this book is not pornographic. She stated as a retired librarian she believes libraries are safe places for people to be educated. She stated it upset her that someone was at the Blue Ridge Library passing out flyers to ban books, although that was his First Amendment right. She stated ideas and information in any library may offend someone but that doesn't give anyone the right to ban it from me. She stated as she looked over the list of books, she discovered most, if not all, are about LGBTQ and geared for ages 14 and older. She stated she understands these can be controversial issues, but the LGBTQ community has every right to have books that appeal to them. She noted the libraries have guardrails in place to protect children.

Robert Poyner, 66 Timber Creek Lane

Mr. Poyner stated he is a lifelong reader since he was 5 years old, and he wanted to say that he was bothered by some of the discussions and comments during the meeting, specifically that some people sounded very angry. He reminded everyone that the public forum is a place to come and talk about our differences and discuss solutions for everybody. He stated listening is good, but you can't always satisfy what people want. He encouraged the Board to not sacrifice their integrity to satisfy someone and to do the right thing.

Rick Painter, 173 Murray Drive

Mr. Painter discussed the books in the library and stated there needs to be some type of resolution to fix the issue.

Dr. Scothorn announced the Board would resume with the regular agenda at that time.

CONSIDER RESOLUTION ADOPTING THE VIRGINIA OPIOID ABATEMENT AUTHORITY'S "GOLD STANDARD INCENTIVES", AS REQUIRED BY THE CODE OF VIRGINIA SECTION 2.2-2368(4)

Mr. Larrowe stated the resolution confirms the County is spending the funds in accordance with the procedures that are set in place and that the County would use the funds only for those purposes. He stated if the "Gold Standards" are adopted, the County would receive an additional 25%, which is \$39,107. The resolution is as follows:

RESOLUTION

ACCEPTANCE OF VIRGINIA OPIOID ABATEMENT AUTHORITY'S "GOLD STANDARDS"

WHEREAS, the Botetourt County Board of Supervisors seeks to mitigate and abate the impacts of the opioid epidemic in Botetourt County; and

WHEREAS, the mission of the Virginia Opioid Abatement Authority (OAA) is to abate and remediate the opioid epidemic in the Commonwealth through financial support in the form of grants, donations, or other assistance.

NOW, THEREFORE, BE IT RESOLVED, that the Botetourt County Board of Supervisors hereby accepts the Virginia Opioid Abatement Authority's "Gold Standards", as outlined in the *Code of Virginia* Section 2.2-2370 and shown below:

§ 2.2-2370. Conditions and restrictions on financial assistance

A. The Authority shall provide financial support only for efforts that satisfy the following conditions:

1. The efforts shall be designed to treat, prevent, or reduce opioid use disorder or the misuse of opioids or otherwise abate or remediate the opioid epidemic, which may include efforts to:

a. Support treatment of opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

b. Support people in recovery from opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

c. Provide connections to care for people who have, or are at risk of developing, opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

d. Support efforts, including law-enforcement programs, to address the needs of persons with opioid use disorder and any co-occurring substance use disorder or mental health conditions who are involved in, or are at risk of becoming involved in, the criminal justice system through evidence-based or evidence-informed methods, programs, or strategies;

e. Support drug treatment and recovery courts that provide evidence-based or evidence-informed options for people with opioid use disorder and any co-occurring substance use disorder or mental health conditions;

f. Support efforts to address the needs of pregnant or parenting women with opioid use disorder and any co-occurring substance use disorder or mental health conditions and the needs of their families, including infants with neonatal abstinence syndrome, through evidence-based or evidence-informed methods, programs, or strategies;

g. Support efforts to prevent overprescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed methods, programs, or strategies;

h. Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed methods, programs, or strategies;

i. Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed methods, programs, or strategies; and

j. Support efforts to provide comprehensive resources for patients seeking opioid detoxification, including detoxification services;

2. The efforts shall be conducted or managed by any agency of the Commonwealth or participating locality;

3. No support provided by the Authority shall be used by the recipient to supplant funding for an existing program or continue funding an existing program at its current amount of funding;

4. No support provided by the Authority shall be used by the recipient for indirect costs incurred in the administration of the financial support or for any other purpose proscribed by the Authority; and

5. Recipients of support provided by the Authority shall agree to provide the Authority with such information regarding the implementation of the effort and allow such monitoring and review of the effort as may be required by the Authority to ensure compliance with the terms under which the support is provided.

B. The Authority shall give priority to applications for financial support for efforts that:

1. Collaborate with an existing program or organization that has an established record of success treating, preventing, or reducing opioid use disorder or the misuse of opioids;

2. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a community with a high incidence of opioid use disorder or opioid death rate, relative to population;

3. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a historically economically disadvantaged community; or

4. Include a monetary match from or on behalf of the applicant, with higher priority given to an effort with a larger matching amount.

2021, Sp. Sess. I, cc. 306, 307.

ADOPTED this 27th day of June 2023.

MOTION: That the Board approve a resolution adopting the Virginia Opioid Abatement Authority's "Gold Standard Incentives", as required by the Code of Virginia Section 2.2-2368(4)

MOTION: Mr. Martin

SECOND: Mrs. White

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

RESOLUTION #23-06-14

CONSIDER RESOLUTION DESIGNATING SIGNATORY AUTHORITY FOR GRANT FUNDING FROM THE VIRGINIA OPIOID ABATEMENT AUTHORITY

**RESOLUTION
SIGNATORY AUTHORITY – PROPOSAL FOR GRANT FUNDING FROM THE VIRGINIA
OPIOID ABATEMENT AUTHORITY**

WHEREAS, the Botetourt County Board of Supervisors seeks to mitigate and abate the impacts of the opioid epidemic in Botetourt County; and

WHEREAS, the mission of the Virginia Opioid Abatement Authority (OAA) is to abate and remediate the opioid epidemic in the Commonwealth through financial support in the form of grants, donations, or other assistance; and

WHEREAS, the OAA has invited each city and county in Virginia to submit proposals for grants to support efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids in the Commonwealth; and

WHEREAS, the financial assistance offered by the OAA is needed to provide opioid mitigation and abatement efforts in insert city or county name; and

WHEREAS, Botetourt County has prepared a grant proposal for Fiscal Years 2023 and 2024 that accepts the terms and conditions required by the OAA; and

WHEREAS, Botetourt County voluntarily agrees to meet the OAA's "Gold Standard" requirements in return for a 25% increase in OAA funding eligibility during these two Fiscal Years; and

WHEREAS, Botetourt County's grant request for fiscal years 2023 and 2024 seeks a total of \$195,535 in grant funding from the OAA, including the incentive amount of \$39,107.

NOW, THEREFORE, BE IT RESOLVED, that the Botetourt County Board of Supervisors hereby authorizes the County Administrator, or his/her designee, to execute the grant application to the Virginia Opioid Abatement Authority, to accept the grant award, and to execute all documents in connection therewith.

Adopted this 27th day of June 2023.

MOTION: That the Board approve a resolution designating Signatory Authority to the County Administrator for grant funding from the Virginia Opioid Abatement Authority.

MOTION: Dr. Bailey

SECOND: Dr. Scothorn

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

RESOLUTION #23-06-15

UPDATE ON APEX ROCKY FORGE PROJECT

Nicole Pendleton reported no formal applications have occurred since last month and they have received comments from her office and they are now awaiting their responses.

APPOINTMENTS

- a) Consider appointment of Steven Anderson (ex-officio member) to the Parks and Recreation Committee to complete the term of Rob Campbell as the Botetourt County Public Schools' representative. Mr. Anderson has been contacted and is willing to serve.

MOTION: That the Board appoint Steven Anderson as an ex-officio member to the Parks and Recreation Committee to fulfill the term of Rob Campbell as the Botetourt County Public Schools' representative.

MOTION: Dr. Bailey

SECOND: Mr. Martin

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

RESOLUTION #23-06-16

- b) Consider appointment of Brittany Crigler (Amsterdam District), to the Parks and Recreation Committee to complete term of Tim Snyder, with a term expiring September 1, 2025. Ms. Crigler has been contacted and is willing to serve.

Mr. Clinton stated Ms. Crigler is very well qualified to serve on the committee because she has children in recreation sports and she has supported County programs for many years. He stated he was happy to nominate her for the seat.

MOTION: That the Board appoint Brittany Crigler, Amsterdam District, to the Parks and Recreation Committee to complete the term of Tim Snyder, term expiring September 1, 2025.

MOTION: Mr. Clinton

SECOND: Mrs. White

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

RESOLUTION #23-06-17

CONSIDER A CONTINUED MEETING IN JULY

The Board discussed continuing the meeting to July 17 at 6:00 p.m. to hold several public hearings.

MOTION: That the Board continue the June 27 meeting to July 17 at 6:00 p.m.

MOTION: Dr. Scothorn

SECOND: Dr. Bailey

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

RESOLUTION #23-06-18

BOARD MEMBER COMMENTS

Dr. Scothorn stated Board members were presented a proposed resolution to address some library concerns. He noted the Board members have seen it and reviewed it. He asked the County Attorney, Mike Lockaby, if he had seen the draft resolution. Mr. Lockaby replied he had seen a petition and a proposed resolution. Dr. Scothorn asked for his thoughts, from a legal standpoint, specifically what authority does the Board have. Mr. Lockaby replied it is a very complicated topic; however, he had given it some research and offered the following statement, which was read aloud in its entirety.

"I would like to address the concern that has been brought to the attention of the BOS regarding the power of the Board of Supervisors to remove books from the Public Library in our county. It is important to clarify that the Board of Supervisors has little to no authority in this matter. The autonomy of the Library Board and the requirements of the First Amendment to the United States Constitution are not new and are well-charted.

The Commonwealth of Virginia first established its library system two centuries ago, by an 1823 Act of the General Assembly creating the Library of Virginia to supervise a statewide public library system. Local public libraries supervised by municipal authorities and the Library of Virginia have existed in Virginia since the mid-19th century. In 1970, the General Assembly created the modern system of public libraries and library boards.

Virginia is a Commonwealth, which means that all power to enact laws comes from the General Assembly. Harrison v. Day, 201 Va. 386 (1959). It has all legislative power; under what is known as the Dillon Rule, the Board of Supervisors has only such powers as are expressly

granted to it, those necessarily implied, and those essential to carrying into effect the powers granted or necessarily implied. Commonwealth v. County Board of Arlington County, 217 Va. 558 (1977). As stated in this same case, when the General Assembly has set forth a means of carrying these powers into effect, that method must be followed.

Under the modern Local and Regional Libraries Act, local governments are authorized to establish free public libraries. Va. Code § 42.1-33. Library Boards are independent political subdivisions of the Commonwealth. Op. of Stephen Rosenthal, Att'y Gen., to Hon. Robert E. Harris, Member, House of Delegates, 1993 Va. Op. Att'y Gen. 28 (Nov. 29, 1993). Their members serve four-year terms, during which the members may not be removed except for misconduct or neglect of duty. Va. Code § 42.1-35(A). Misconduct of a public officer means corrupt violation of assigned duties by malfeasance, misfeasance, or nonfeasance. Neglect of duty, in effect, means failing to show up and carry out one's duties. Now, it is worth noting that the Library Board could, and has, developed a system for an advisory committee to review books, and has given the Library Director final discretion to remove books that do not meet the collection development policies adopted by the Library Board, and that process could be changed. But there are important bumpers on any such discretion.

The Library Board has the power to make rules and policies for the exercise of its authority. Va. Code § 42.1-35(A). This includes developing and implementing policies for the development and retention of books in the library. Botetourt County Public Libraries operate under established guidelines and policies that ensure that it retains and exercises these powers responsibly and in accordance with the Free Speech Clause of the First Amendment to the U.S. Constitution and the parallel language in the Bill of Rights in the Virginia Constitution. In the case United States v. American Library Association, 539 U.S. 194 (2003), Chief Justice Rehnquist, in an opinion joined by Justices O'Connor, Scalia, and Thomas, explained that the purpose of public libraries is "the worthy missions of facilitating learning and cultural enrichment." The Library Board's collection development guidelines were developed based on the principles of intellectual freedom and access to information, providing a broad range of materials that reflect the diverse interests and perspectives of our community in accordance with professional standards and neutral criteria not designed to censor certain viewpoints. As the U.S. Supreme Court said in another case, the discretion to collect or not collect a book "may not be exercised in a narrowly partisan and political manner." Part of the wisdom of the degree of independence of the Library Board and the Libraries' staff is to provide insulation from political processes that would artificially and possibly unconstitutionally limit their discretion in developing a collection that addresses topics of broad interest to the community.

Now I wish to turn to the question of under what circumstances books may be removed that are already part of the library collection. Under the First Amendment, books that are already in the library may be removed due to considerations of the quality, size, and continuing public interest in the books in the collection. Books that are outdated or factually inaccurate may also be removed. However, books may not be removed in an effort to prevent access to ideas or viewpoints with which the Library Board or others disagree. This is prohibited even in the context of public school libraries, but the concern is particularly heightened in the context of free, open public libraries. The language of Board of Education v. Pico, a 1982 U.S. Supreme Court case, is worth quoting here, slightly paraphrased for length and clarity:

Libraries rightly possess significant discretion to determine the content of their libraries. But that discretion may not be exercised in a narrowly partisan or political manner. If a Democratic library board, motivated by party affiliation,

ordered the removal of all books written by or in favor of Republicans, few would doubt that the order violated the constitutional rights of citizens who were denied access to the books. The same conclusion would surely apply if an all-white library board, motivated by racial animus, decided to remove all books authored by blacks or advocating racial equality and integration. Our Constitution does not permit the official suppression of ideas. Thus, whether removal of books from libraries denied the citizens their First Amendment rights depends upon the motivation behind petitioners' actions. If the library board intended by their removal decision to deny respondents access to ideas with which they disagreed, and if this intent was the decisive factor in their decision, then the library board would have exercised its discretion in violation of the Constitution. To permit such intentions to control official actions would be to encourage the precise sort of officially prescribed orthodoxy unequivocally condemned by this Court.

The Court continues:

In brief, we hold that local library boards may not remove books from library shelves simply because they dislike the ideas contained in those books and seek by their removal to prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.

*There is also some claim that these general principles do not apply to materials that are obscene, and this is true. But obscenity is also a fairly well-known quantity. In the case *Miller v. California*, 413 U.S. 15 (1973), the basic test is (a) whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest, (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. As examples of patently offensive material, the court cited offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, and offensive representation or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals. While I do not wear a black robe, the Botetourt County Libraries do not seem to have any books that would fail the Miller test.*

Our Libraries have ordering criteria that they submit to publishers that prohibit the publishers from sending them obscene material. Most states have statutes allowing citizens to challenge the sale of obscene books, including Virginia. I have been unable to find a reported case in which any the 15 books in the Botetourt County Libraries that have been recently challenged have ever been found by a court of law to be obscene under this test, nor have the others I have heard mentioned in public comments. If the Libraries ultimately removed any of these books, I would have very strong concerns that it would be a total failure. There is no getting around the fact that much of the public hue and cry about these books is motivated by disagreement with the content of these books. That is on the public record. Books that are similar—some have been mentioned in public comment—were recently removed from libraries in Llano County, Texas, by order of their county commissioners following similar outcry. Citizens who wanted the books returned to the shelves sued. The Court ruled that the challengers had a substantial likelihood of success, that the County did not, and that the books must go back on the shelves. While that case is on appeal and therefore is subject to change, I would not expect our federal courts in Virginia to act differently. And note that, if the challengers to the removal

ultimately win, the County will owe their attorneys' fees, which will be well into the hundreds of thousands of dollars. Books that do not speak to interests of some segment of the community such that they get taken out regularly simply do not stay on the Libraries' limited shelf-space. Books that are of general interest to the community, in other words, are to a large degree self-selecting.

Therefore, I must advise you, as the Board of Supervisors, that as long as we have a Library Board and professional Librarians operating a free public library for the general interest of the public, it is wise to let them follow and implement the neutral policies they have adopted. They have adopted what appear to me to be reasonable criteria for selection and culling of books. They have also adopted policies that give parents total control of their children's library use until age 13, and substantial control until age 18. The parental control restrictions in place are stronger than those in most similar localities.

I hope that this information is helpful to you in making decisions about what your policies should be on this important matter. Please let me know how I can be of further service to you."

Dr. Scothorn thanked Mr. Lockaby for his statement and asked if VACORP would defend us in this situation. Mr. Lockaby replied VACORP's perspective is they are a consortium of local governments and if we were sued under this because we had expressly done something that everyone knew would likely start controversy, VACORP would likely say that it is not insuring us because we are making a political point.

Mrs. White stated it had been a very long day and clearly there is passion on both sides of both issues. She stated she appreciated everyone's comments and that we are blessed and need to stop and think about this. She stated it is a blessing that we can openly express our religious beliefs and we can hear comments and speak. She noted as I read some of the public comments that came in via the website, she saw that a citizen did not want to attend in person for fear of chaos. She stated there have been strong opinions but there has not been chaos and she appreciated that. She stated we all have the best interest of our children at heart and there is not an evil person on this Board and the last thing any of them would do is harm a child, or anyone else. She stated she believed everyone could come together and rally around our youth. She commended the recent and upcoming events going on with local youth, including the Girls' Fire Camp coming up that weekend, the James River High School softball team going to the state championship, the FFA members finishing the state convention and the Livestock Judging Team finishing in the top 10 in the state, 4-H camp last week, the libraries had so much positive programming this summer, and BOCO Wild had a record high attendance. She encouraged everyone to rally around the positive. She stated she wants to continue the dialogue with citizens because we are all here to support our youth and there is not one person intending to harm children.

Dr. Bailey stated Mrs. White's comments were well stated and he agreed there is a lot of good stuff going on in the County.

Mr. Martin agreed with Mrs. White's comments also.

Dr. Scothorn recessed the meeting at 5:20 p.m. The meeting reconvened at 6:00 p.m.

6:00 P.M. PUBLIC HEARINGS

(Advertised in the *Fincastle Herald* on June 14, 2023 and June 21, 2023, in accordance with the *Code of Virginia*.)

Valley District: Shamus Equity Corporation LLC requests a change of proffered Conditions associated with an Industrial (M-2) rezoning approved on July 28, 2015 in Accordance with Section 25-47. – Conditional Zoning of the Botetourt County Code, located on Lee Hwy (US Route 11), approximately 0.10-mile northeast of its intersection with 2nd Ave (SR 1003), identified on the Real Property Identification Maps of Botetourt County as Section 107, Parcels 126, 128, 129 & 130.

Nick Baker presented the request, noting the property did receive a letter from FEMA stating the property had been lifted out of the flood plain as of 2017.

Mr. Baker reported the Planning Commission recommended approval on the Change of Proffered Conditions by revising the proffers as follows:

1. The parcels which create this area for the project shall be combined into one parcel, vacating the interior lot lines.
2. The project shall be constructed in substantial conformance with the concept plan, titled “Helms Storage Facility Concept Plan”, prepared by Engineering Concepts, Inc. and dated 6/6/2023.
3. Any freestanding sign shall be a monument type sign of brick construction.
4. The building shall be constructed in substantial conformance with the representative building elevations, prepared by PBI, and dated 4/20/2023.
5. The property will be used for the use of “mini-warehouse” to the exclusion of all other uses.

One person spoke during the Planning Commission’s public hearing in opposition to the request. The speaker questioned the need for another mini-warehouse facility in the area. To date, staff has not received any public comments through the Planning Office, Mr. Baker noted.

Mr. Baker stated the Applicant plans to do a 6x10 sign and use decorative landscaping around the sign including decorative rock, daylilies, and crepe myrtle bushes.

Dr. Bailey questioned where the RV parking would be. The Applicant replied there would be 10 RV spots behind the building, where they won’t be seen.

Dr. Bailey asked if there would be a gate system. The Applicant replied the gate would be code oriented. He also added the gutters would be country green.

Dr. Scothorn opened the public hearing. There were no citizens wishing to address the Board; therefore, the public hearing was closed.

MOTION: That the Board approve the Change of Proffered Conditions request on the property of Shamus Equity Corporation LLC as recommended by the Planning Commission and included in the staff report as follows:

- 1. The parcels which create this area for the project shall be combined into one parcel, vacating the interior lot lines.**
- 2. The project shall be constructed in substantial conformance with the concept plan, titled “Helms Storage Facility Concept Plan”, prepared by Engineering Concepts, Inc. and dated 6/6/2023.**
- 3. Any freestanding sign shall be a monument type sign of brick construction.**
- 4. The building shall be constructed in substantial conformance with the representative building elevations, prepared by PBI, and dated 4/20/2023.**

5. The property will be used for the use of “mini-warehouse” to the exclusion of all other uses.

MOTION: Dr. Scothorn

SECOND: Mr. Martin

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

RESOLUTION #23-06-19

Valley District: Robert W. Jr. & Diane G. Poehner request a change of proffered Conditions associated with a Business (B-1) and Industrial (M-2) rezoning approved on March 17, 1998, in accordance with Section 25-47. – Conditional Zoning of the Botetourt County Code, located at 4510 Read Mountain Rd, identified on the Real Property Identification Maps of Botetourt County as Section 107(4), Parcel 22.

Nick Baker presented the request noting to date, staff had not received public comments through the Planning Office or during the public hearing. He reviewed the following staff report:

Planning Commission Recommendation:

The Planning Commission recommended unanimous approval of the request for change of proffers with the following proffered conditions:

1. The existing evergreen buffer located adjacent to tax parcel #107(4)24&23 shall remain undisturbed.
2. Any building constructed in the B-1 portion of the property shall be constructed with a minimum of a 50% brick face.
3. All exterior storage in the M-2 district shall be to the rear of the building and fully screened so not to be visible from State Route 654 or adjoining properties.
4. No structure shall exceed 35 feet in height.
5. All signage will be of a monument type design.
6. The following M-2 uses shall be permitted:
 - a. All uses included in the Industrial District M-1, as set out in Section 25-322 of the Botetourt County Zoning Ordinance.
 - b. Planning mills.
 - c. Contractor's equipment storage or yard, or rental of equipment used by contractors, including well drilling operation.

Approval would be on the basis that the requirements of Article V, Division 6 of the Zoning Ordinance have been satisfied, and that the proposal would serve the public necessity, convenience, general welfare and is good zoning practice.

Dr. Scothorn declared the public hearing open. There were no citizens wishing to address the Board; therefore, the public hearing was closed.

MOTION: That the Board approve the Change of Proffered Conditions request on the property of Robert W. Jr. and Diane G. Poehner as recommended by the Planning Commission and including the following proffered conditions:

1. The existing evergreen buffer located adjacent to tax parcel #107(4)24&23 shall remain undisturbed.
2. Any building constructed in the B-1 portion of the property shall be constructed with a minimum of a 50% brick face.

3. 3.All exterior storage in the M-2 district shall be to the rear of the building and fully screened so not to be visible from State Route 654 or adjoining properties.
4. No structure shall exceed 35 feet in height.
5. All signage will be of a monument type design.
6. The following M-2 uses shall be permitted:
 - a. All uses included in the Industrial District M-1, as set out in Section 25-322 of the Botetourt County Zoning Ordinance.
 - b. Planning mills.
 - c. Contractor's equipment storage or yard, or rental of equipment used by contractors, including well drilling operation.

MOTION: Dr. Scothorn

SECOND: Mr. Clinton

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

RESOLUTION #23-06-20

Blue Ridge District: JM Industrial Properties, LLC requests a Special Exception Permit, With possible conditions, for a hospital in the Industrial (M-1) Use District in accordance with Section 25-323(9).- Uses by special exception and Section 25-583. – Special exceptions of the Botetourt County Code, located at the end of Avery Row (SR 1400), identified on the Real Property Identification Maps of Botetourt County as Section 112(3), Parcel C.

Jonathan McCoy presented the request. He reviewed the following staff report:

Planning Commission Recommendation:

The Planning Commission recommended unanimous approval of the request for a hospital in the Industrial (M-1) Use District with the following conditions:

1. The development of the property shall be constructed in substantial conformance with the concept site plan and building elevations included with the application, dated April 4, 2023.
2. The maximum number of beds provided at the facility shall not exceed 130.
3. The SEP approval shall not exempt the use from meeting the requirements of the Botetourt County Noise Ordinance.
4. All other specifications and general provisions shall be met as required by the Botetourt County Zoning Ordinance and in no instance shall the zoning conditions exempt a project from any local, state, or federal development requirements, except where allowed by the Zoning Ordinance.

To date, staff received one public comment with questions via the public comment submission form. No contact information was left with this comment and staff was unable to follow up with this request for information. The Planning Commission received six public comments. Those against this request cited concerns of location, illegal drugs brought to patients, child abuse by staff, lack of staff to transport patients, and the Avery Row/Blue Ridge Blvd. intersection. People in favor spoke of the general need for mental health facilities. Additional comments suggested the possibility of a joint locality facility at Catawba and others questioned why the proposed hospital was a replacement for the existing Salem facility, and not in addition to that facility.

Following the Planning Commission meeting, Botetourt County Department of Community Development staff and Department of Fire and EMS staff met with the applicant to discuss provisions to address best practices for emergency response services. County staff discussed including these provisions as additional conditions, which were agreed to by the applicant.

The additional suggested conditions are as follows:

5. Working fire hydrants shall be installed on the premises prior to the substantial construction of the facility. The amount of and location of hydrants functioning should be coordinated and agreed to between Fire & EMS, the Building Official, and the Developer.
6. A fire hydrant shall be placed within 50 feet of the Fire Department Connection (FDC).
7. The Fire Department Connection (FDC) should be in a location agreed upon in conjunction with Fire & EMS and the Building Official, labeled with a minimum of 6" reflective letters.
8. Painting of all areas designated be "Fire Lane" in red paint.
9. The facility shall participate in the County's Knox Box program for emergency access to the entire facility during the event of an emergency.
10. The Knox Box shall be installed in an agreed upon location in coordination with Fire & EMS.
11. The facility shall have an alternative source of power, e.g., a backup generator and emergency generator quick-connect to ensure for backup power in the event of a power outage due to the vulnerability of the patient population.
12. The developer shall supply and install in-building emergency communications equipment for use with Botetourt County's Emergency Communications Radio System. This in-building equipment, also known as a Bi-Directional Antenna (BDA) or Distributed Antenna System (DAS) shall allow for signal boosting of emergency services personnel portable radio equipment.

Mr. McCoy noted Sheriff Ward nor Chief Ferguson expressed any concerns with the facility.

Leigh Gathings, Vice President of Behavioral Health, LewisGale Medical Center, and Sean Pressman, CEO of LewisGale Hospital Pulaski, reviewed a presentation and stated they were very excited about this facility and what it will mean to the community.

Mr. Pressman stated he has been asked why this facility is so important to the community. He stated he believes this project is going to positively and dramatically impact mental health services in the area because this will be a state-of-the-art facility, with new technology, and a great impact on the quality of care for patients. He noted there will be training opportunities for clinical staff and physicians, new jobs for nurses, physicians, and social workers. He reported our region lags behind in terms of access to care so it is very clear that resources are needed.

Ms. Gathings added a project of this size is not done in a bubble and they have started relationships with the Sheriff's office, Fire/EMS, Community Services Board, and others, to make sure they have the resources in place to meet their needs. She stated they have over

30 letters of support. She explained the facilities are locked with badge access only, and they plan to increase by two security guards at all times. She also noted they will have a comprehensive camera system in place with current trained staff being moved to the new facility. She explained all patients are on 15-minute checks. She stated this is a short-term facility, with the goal that people can get the help they need and then go back to their jobs, families, and community.

Mr. Pressman stated LewisGale is constantly looking for ways to offer services to our communities and the demand for mental health services is expected to increase.

Mr. Clinton asked what connection they would have with Catawba Hospital. Mr. Pressman replied they are more of a long-term facility although they do interact with them for short-term services.

Mrs. White asked how many beds would be available. Mr. Pressman replied from a licensure standpoint it will be the same, 130 beds.

Mrs. White asked if the 20 hours of outpatient services is the only thing offered. Ms. Gathings replied they are offered an additional 9 hours per week through another program.

Mr. Martin asked if substance abuse patients are free to walk out and go wherever they want to go? Mr. Pressman replied it is a secure unit and when they are discharged they are transported directly to their home.

Dr. Scothorn declared the public hearing open.

Margaret Bailey, 437 Zimmerman Road

Walter Michael read the following statement on behalf of Ms. Bailey: *"Dr. Scothorn, thank you for returning my call this morning so promptly with the information I sought, i.e., your email address. I am writing you, in your capacity as Chairman of the Board of Supervisors, to request that you table the following two issues:*

- 1. The new "hospital" to be constructed in Botetourt near the Blue Ridge Library; and*
- 2. The application to construct another Sheetz facility at the intersection of Laymantown Road and Rt. 460.*

Citizens in the area have not been apprised of the kind of "hospital" it is proposed to construct –for alcoholics and drug addicts. In the notices in the Fincastle Herald, they have seen only that a hospital is proposed and their natural assumption is the happy idea that this would be an asset and would benefit them as another medical facility in the area. A facility for alcoholics and drug addicts in this area would create a magnet for unsavory elements of society which could lead to a decrease in citizen safety, an increase in crime, and potentially a decrease in property values in the area. I understand the initial request is for a facility with 80 beds and 893 vehicles per day to be expanded on this 15.197 property to 130 beds and 1,451 vehicles per day. While it is claimed this would be a "lock down" facility, I understand some clients would be able to sign themselves out. Any clients loose in the area could create a problem of panhandlers annoying or threatening citizens for money for their habits. It could potentially also result in an increase of cars being broken into in their search for items to sell to support their habits. Bonsack Baptist Church has a daycare nearby so such a facility could post a threat to children, and these clients could be loitering around in the shopping center, perhaps resulting in an increase in shoplifting and in the library creating problems there. It was deceitful to label this enterprise simply as a hospital. If citizens had been made aware of the type of facility proposed, I guarantee you that there would have been fierce opposition to it. By tabling this issue, it will allow time for citizens to be made fully aware of what's proposed that has the strong possibility of being a big negative in this area as well as potentially costing a lot of taxpayers' money to deal with the problems it will create and will give them their deserved

opportunity to voice their opinions to the Board representatives. In view of the fact that citizens have been blindsided on the real purpose of this so-called "hospital", I ask that the County officials step back and publish exactly in detail what is proposed in the Fincastle Herald and, further, that a public information venue be provided to allow citizens to have complete information, ask questions beyond the pitiful 3 minutes allowed in the Board of Supervisors meetings, and that those who live in the immediate vicinity of this proposed facility be separately informed so they can assess its potential impact on them and have an opportunity to let their Board of Supervisors representative know what they want. I think this is a law or rule for example when a neighbor wants to establish a dog kennel. The same applies to the Sheetz facility. Everyone I have spoken with either was unaware of the project or, if they were aware, are opposed and would much rather that the property be used to construct a nice family restaurant instead. There already exists a large Sheetz station a few miles down Rt. 460 and another big station that will cause congestion at that intersection is not needed or wanted by the citizens. This part of the County is a desert of nice restaurants. The traffic congestion that would result with a big Sheetz station there would be unwanted by the citizens who have to travel up Laymantown to get to their homes and to the congregants of Rainbow Forest Baptist church who go up Laymantown road to get there. It would also make shopping at the food Lion and other shops less convenient as the other entrance is not a crossover. Access to the doctors' office located there would also be negatively impacted. If the Board decides to push through and vote on these two issues without full disclosure and citizen support, it will be a glaring example that their Board has its own agenda and could care less about its constituents' safety, and desires. Please table these two issues pending full disclosure to citizens. I would appreciate your acknowledgment of this email and your written response re my request as stated above. Thank you."

Dr. Scothorn then asked for confirmation from the attorney on required public notices for public hearings. Mr. Lockaby replied the [Code of Virginia](#) establishes guidelines for public notices and the County adheres to those guidelines. He explained the guidelines require public notices to include a general description of the item to be considered and when, where, and how citizens can comment.

Nicole Pendleton, Director of Community Development, added that her office did advertise according to the [Code of Virginia](#) and, in fact, went above and beyond what was required with having the application packets posted online. She stated her office also posted signs that notified citizens of the dates and times of public hearings, and the ads directed citizens how to contact her office to review the packets.

Rick Painter, 173 Murray Drive

Mr. Painter stated he is a licensed mental health worker and he helps people get in and out of the mental facilities. He commended LewisGale and stated he refers clients to them; however, he has had two clients that were discharged from there and were homeless. Clients have been allowed to leave on their own, he said. He noted Staunton Hospital has three units shut down because of lack of staffing and Catawba Hospital has units shut down because of shortage of staff also. He stated when there are staff shortages, things get overlooked. He also wondered what options there are for low-income families to visit their loved ones. He stated this was originally purchased to build a school for \$773,000 and asked where that money went.

Shannon Turner, 103 Eagle Ridge

Mr. Turner asked how many Botetourt County citizens would get served at this facility and will they receive first option. He asked if a person can check themselves in, can't they check themselves out also. They can't legally be held there if they want to leave.

Dr. Scothorn offered the Applicant an opportunity to respond to the comments and questions.

Ms. Gathings explained that patients do come in voluntarily and they do ask to leave early sometimes. She explained they would be allowed to leave because anyone has the right to refuse treatment. She noted any patient in the local emergency room would have priority to that facility and it is their goal to get them out of the emergency room setting. She stated homeless people are set up with Rescue Mission, but they do have the right to refuse to go there.

Mr. Clinton asked if they have any experiences with people wandering off. Mr. Pressman replied it is not much different than any other setting and we all encounter mental health crisis folks anywhere we go, even in shopping malls.

Carol Witt Pugh, 424 West Road

Ms. Pugh asked if they do forensics tests. (Ms. Gathings replied they do not.)

Dr. Scothorn declared the public hearing closed.

MOTION: That the Board approve the special exception permit for a hospital in the Industrial (M-1) Use District on the property of JM Industrial Properties, LLC as recommended by the Planning Commission, along with the additional conditions noted in staff's comments and included in the extract prepared by staff.

MOTION: Mr. Martin

SECOND: Dr. Bailey

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

RESOLUTION #23-06-21

Blue Ridge District: The Botetourt County Board of Supervisors have authorized Consideration of a property owner-initiated petition for amendments to the 2010 Comprehensive Plan's Sewer & Water Infrastructure Map #37 and the Future Land Use Map #9 in accordance with Chapter 25, Zoning, Division 6. Special Development Approvals, Section 25-581.3 Comprehensive Plan amendment-Owner initiated and Section 25-581.4 Comprehensive plan amendment and review, to create a sewer and water service area within the right of way of Blue Ridge Blvd between Coyner Springs Road and the Blue Ridge Pkwy which would connect three existing service areas together and to amend the future land use designation of several properties in the vicinity of the intersection of Blue Ridge Blvd (US Route 460 & 221) and Laymantown Rd (SR659) from medium density residential to commercial.

Blue Ridge District: Higginbotham Farms LLC, and Four H Investment LLC (Sheetz, Inc., contractual purchaser) request rezoning of two contiguous parcels totaling 3.434 acres from the Agricultural (A-1) and Industrial (M-1) Use Districts to the Business (B-2) Use District with possible proffered conditions in accordance with Section 25-242.- Permitted uses, with a Special Exception Permit for a convenience store, with possible conditions in accordance with Section. 25-243(10). – Convenience store and Section 25-583. – Special exceptions of the Botetourt County Code, located at the corner of Laymantown Rd (SR 659) and Blue Ridge Blvd (US Route 460 & 221), identified on the

Real Property Identification Maps of Botetourt County as Section 108C(1), Parcels 1&2 and 3.

Drew Pearson presented the requests. Agenda items #24 and #25 were joint requests so he read both legal descriptions and reviewed the following staff report:

Planning Commission Recommendations:

The Planning Commission recommended approval of the water and sewer Comprehensive Plan Amendment, the future land use map Comprehensive Plan Amendment, the Business (B-2) rezoning request, and the convenience store SEP with the following conditions.

1. The development shall be constructed in substantial conformance with the Preliminary Building Elevations, dated 02/21/23 and Gas Awning Elevations, dated 03/17/23, prepared by Convenience Architecture and Designs P.C. and included with the background report prepared by staff.
2. The signage shall meet the requirements of Article IV – Supplemental Regulations, Division 2 –Signs of the Botetourt County Zoning Ordinance, except any freestanding sign shall be in substantial conformity with the Monument Sign Details, dated 03/17/23, prepared by Convenience Architecture and Designs P.C. and included with the background report prepared by staff.
3. The development shall be constructed in substantial conformance with the Concept Plan, dated 3/15/23; Preliminary Landscaping Plan, dated 03/15/23; Trash Enclosure Details & Elevations, dated 03/15/23; and Light Pole Elevation, dated 03/15/23, prepared by LE&D Professionals, P.C., and included with the background report prepared by staff.
4. The development shall be constructed in substantial conformance with the five (5) Exterior Lighting Plan Sheets, drawing number RL-8661-S1, dated 02/27/23, prepared by Red Leonard Associates, and included with the background report prepared by staff.
5. Noise generated by the development shall not violate provisions of the Botetourt County Noise Ordinance.
6. No temporary window signs are permitted.
7. No outdoor vending machines or display of merchandise shall be permitted, except for that included in the application.
8. All other specifications and general provisions shall be met as required by the Botetourt County Zoning Ordinance and in no instance shall the zoning conditions exempt a project from any local, state, or federal development requirements, except where allowed by the Zoning Ordinance.

The Planning Commission approved the Commission Permit.

Staff Comments:

Eleven citizens spoke, with ten in opposition, and one endorsed this project. Reasons against the proposed Sheetz ranged from traffic and safety at the intersection of Laymantown Road and Route 460, the presence of a creek on the property, fear of criminal activity, homeless popups on nearby adjacent land, petroleum and light pollution, the eyesore of the former Roanoke

location, and consideration for three nearby family-owned convenience stores. One citizen, a Sheetz employee, spoke of the economic benefit, and their safety procedures.

Mr. Pearson acknowledged there was a lot of information provided. He noted staff wanted to suggest conditions for the convenience store and the Planning Commission made five recommendations for the Board to consider.

Mr. Clinton asked about there being no temporary window signs and would that be an issue. Mr. Pearson explained it is very similar to the conditions for the Sheetz and is for the Boards consideration.

Dr. Bailey stated the store has a little bit of a new design compared to the Sheetz in Daleville. Mr. Pearson replied it will look very similar, but there are changes to the design of the gasoline canopy, with it being a little more streamlined, more rigid, and smaller in scale. Some of the support beams are a little more visible underneath, he noted.

Dr. Bailey asked if there would be any designated truck parking. Mr. Pearson replied there would not be.

Mary Ellen Goodlatte, Attorney with Glenn Feldman Darby & Goodlatte, offered a presentation and noted that Sheetz is named after the family, and they have supported nonprofit organizations and local events for many years. She also reported Sheetz is listed as one of the top companies to work for. This site will employ between 25-30 people, both part-time and full-time.

Mrs. White questioned the traffic flow noting when traveling east bound on Route 460, people would have to enter via Laymantown. Maryellen replied that was correct.

Dr. Scothorn declared the public hearing open.

April Brown, 22 Murray Drive

Ms. Brown stated she appreciates them being a family-owned business, but she is concerned about traffic with school buses, and the Honey Tree Daycare. She stated there are three small family-owned convenience stores near this site and she fears for how this would affect them. She noted between this proposed site and Kings Street, there are already five gas stations in a 4-mile radius.

Shannon Turner, 103 Eagle Ridge

Mr. Turner stated he would like to know if the Board members had read the minutes and concerns from the Planning meeting and if not, he urged them to do so. He stated Mr. Pearson had done a great job but he felt the concerns have been minimalized because several questions asked during that meeting were not answered. He stated Sheetz is not providing anything that we can't already get, and it will provide detriment to the 604 Market, a small family-owned business. He reported he had gone door to door and obtained 175 signatures from citizens that do not want the Sheetz and no one that he spoke to in Brookfield wants this. He expressed concern about adding 550 cars to this intersection where kids are. He reminded the Board a school was not built on Avery Row because "it was too dangerous for kids". He asked the Board to please read the minutes from the Planning meeting and to please protect the citizens in Blue Ridge because they don't want this project.

Walter Michael, 1215 Archway Road

Mr. Michael reported there had been two surveys conducted on the new Sheetz with the first survey reaching 1,700 readers. Out of the 1,700, 532 actually took the survey, with 42 in favor (8%), and 490 (92%) opposed, he noted. He stated there were surveys at recent rallies and 100% were against the new sewer service and 100% were against the Sheetz. He stated there was one person in favor of the new Sheetz at the Planning Commission meeting, but that person was a Sheetz employee. He stated instead of another gas station, folks would like to have a nice family restaurant. He stated this will also cause traffic congestion and make shopping at the Food Lion store less convenient because there is no crossover.

Rick Painter, 173 Murray Drive

Mr. Painter stated he felt there were many manipulations in the presentation from Sheetz and offered the following explanation:

- *Sales pitches. False dichotomy. You have to choose between this or that.*
- *Emotional approach. "We're a family business." Do you think any family members from Sheetz even knows how to pronounce Botetourt?*
- *Giving back to community? Tell that to a group of Harley riders. You can't control that noise ordinance.*
- *During the Planning Commission meeting it was asked why this site, instead of two miles up the road to a location that was a gas station for 70 years? The reply was, "We've been wanting this site for 20 years".*
- *"Lose them in the weeds". Gave so many details, except the negative ones. They left out the bridge that VDOT isn't going to fix for another four years.*
- *The blind spot at the Food Lion. Tractor trailers slide into the intersection. I've seen it happen.*
- *Appeal to authority. All the people that presented were Sheetz employees, they were paid to convince you. The study is questionable. Everybody that spoke in favor, was a Sheetz employee, even a teenager, in fact.*
- *"Spit in the glass". You take something that is 90% good, find someone who is thirsty, give them a glass. Most of the spit is true, but would you drink out of a glass that someone spit in? I have pictures of panhandlers that are there every day. I've seen them fighting in the median strip. I've interrupted drug deals in the 460/Kings Street area. I've seen homeless folks there.*

Mr. Painter concluded by stating he hoped the Board would take time to read the Planning Commission minutes before they vote.

Having no other citizens wishing to address the Board, the public hearing was closed.

Dr. Scothorn asked the applicants wished to address some of the comments from citizens.

Mary Ellen Goodlatte, Attorney with Glenn Feldman Darby & Goodlatte, stated Sheetz agreed to the conditions from the Planning Commission and have complied. She reminded the Board that VDOT stays involved through the entire process and confirms all information. She stated if the project is approved, the conditions will be part of the SEP, including:

1. Lighting - Mr. Pearson determined this exceeded Botetourt County requirements.
2. Fuel oil and safety – plans have met Botetourt County and VDOT regulations. The underground fuel tanks are double walled. Spill prevention controls are in place. Emergency cut off valves are in place. There will be continuous live monitoring.

Mrs. White commented the engineer put his seal of approval on this, however, how would he respond to the statement that he was hired by Sheetz and may not be objective.

Carl Hultgreen, principal engineer with Gorove Slade Transportation Planners and Engineers, stated VDOT has very strict guidelines and procedures on traffic analysis and gives very specific requirements. He stated they agreed to all the assumptions upfront before they did the analysis, which assures objectivity. He noted VDOT had reviewed the study thoroughly and agreed with it.

Mrs. White asked about increased traffic counts. Mr. Hultgreen replied most of the trips are "passer by" trips, with people already on Route 460 and pulling in for gas, and then continuing on their way. He estimated 550 new cars to the site per 24-hour period. He explained most of the customers on West 460 will make a right turn into Sheetz and will only go through the intersection once, not twice. He noted they received two letter grades better than the VDOT standards.

Mr. Clinton noted there are a lot of tractor trailers on Route 460 and even though the facility would not accommodate them, they are going to come anyway and are there any efforts to discourage them from coming in. Mr. Hultgreen replied there will be fuel tankers coming to the site, probably daily, but if a random tractor trailer pulls in thinking he could get gas, he can easily maneuver his way out. He clarified this location is only designed for passenger cars, not tractor trailers, and by not providing parking for them, it really discourages them from stopping. Ryan Gatewood, president with L E & D Professionals, P.C, added they use a program called "auto turn" with their CAD program, which confirms they can maneuver through the lot, should they pull in for gas. Also, diesel fuel will not be available for tractor trailers, which would also deter them.

Mr. Martin asked if there would be a deceleration lane. Mr. Hultgreen replied there would be a right turn lane at Laymantown Road. He further explained a deceleration lane would be a VDOT Smart Scale project and they are going to take a section of the creek and move it further away from Route 460 and replace the bridge on Laymantown Road.

Mrs. White asked if there were measures in place to protect the streambed. Ms. Goodlatte replied they would take a look at the characteristics of the site and the creek, and every effort would be made to minimize any disturbance. She noted the stormwater will discharge to the creek and there would be an underground storage system, with a filter, and this underground storage system is reviewed by Botetourt County.

Mr. Clinton questioned the measurements of the lines. Mr. Pearson replied they haven't gone to design phase yet, but the initial look at it is a leg of sewer gravity, changing to forced main 2 inch, with the water authority standard being 4 inch forced main. Mr. Pearson stated the Developer would probably lay a 2 inch and 4 inch line in the same trench the 4 inch would get capped, and the 2 inch would be active. He reminded the Board that all those costs are borne by the Developer. He noted the service area would go to Blue Ridge Blvd.

MOTION: That the Board approve the Comprehensive Plan Amendment to the Sewer and Water Infrastructure Map as shown on the exhibit map prepared by the Community Development Department.

MOTION: Dr. Bailey

SECOND: Mrs. White

AYES: Dr. Bailey, Mr. Clinton, Dr. Scothorn, Mrs. White
NAYES: Mr. Martin
RESOLUTION #23-06-22

MOTION: That the Board approve the Comprehensive Plan Amendment to the Future Land Use Map as shown on the exhibit map prepared by the Community Development Department.

MOTION: Dr. Bailey
SECOND: Mr. Clinton
AYES: Dr. Bailey, Mr. Clinton, Dr. Scothorn, Mrs. White
NAYES: Mr. Martin
RESOLUTION #23-06-23

MOTION: That the Board approve the rezoning to Business (B-2) for the property of Higginbotham Farms LLC, and Four H Investment LLC (Sheetz, Inc., contractual purchaser).

MOTION: Dr. Bailey
SECOND: Mr. Clinton
AYES: Dr. Bailey, Mr. Clinton, Dr. Scothorn, Mrs. White
NAYES: Mr. Martin
RESOLUTION #23-06-24

MOTION: That the Board conditionally approve the special exception permit for a convenience store in the Business (B-2) Use District on the property of Higginbotham Farms LLC, and Four H Investment LLC (Sheetz, Inc., contractual purchaser), as recommended by the Planning Commission and included in the extract prepared by staff, including the following conditions:

1. The development shall be constructed in substantial conformance with the Preliminary Building Elevations, dated 02/21/23 and Gas Awning Elevations, dated 03/17/23, prepared by Convenience Architecture and Designs P.C. and included with the background report prepared by staff.
2. The signage shall meet the requirements of Article IV – Supplemental Regulations, Division 2 – Signs of the Botetourt County Zoning Ordinance, except any freestanding sign shall be in substantial conformity with the Monument Sign Details, dated 03/17/23, prepared by Convenience Architecture and Designs P.C. and included with the background report prepared by staff.
3. The development shall be constructed in substantial conformance with the Concept Plan, dated 03/15/23; Preliminary Landscaping Plan, dated 03/15/23; Trash Enclosure Details & Elevations, dated 03/15/23; and Light Pole Elevation, dated 03/15/23, prepared by LE&D Professionals, P.C., and included with the background report prepared by staff.
4. The development shall be constructed in substantial conformance with the five (5) Exterior Lighting Plan Sheets, drawing number RL-8661-S1, dated 02/27/23, prepared by Red Leonard Associates and included with the background report prepared by staff.
5. Noise generated by the development shall not violate provisions of the Botetourt County Noise Ordinance.
6. No temporary window signs are permitted.

7. No outdoor vending machines or display of merchandise shall be permitted, except for that included in the application.

8. All other specifications and general provisions shall be met as required by the Botetourt County Zoning Ordinance and in no instance shall the zoning conditions exempt a project from any local, state, or federal development requirements, except where allowed by the Zoning Ordinance.

MOTION: Dr. Bailey

SECOND: Mr. Clinton

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

NAYES: Mr. Martin

RESOLUTION #23-06-25

MOTION: That the Board uphold the Planning Commission's approval of the Commission Permit for the extension of a public sewer line within the Blue Ridge Boulevard right of way.

MOTION: Dr. Bailey

SECOND: Mr. Clinton

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

NAYES: Mr. Martin

RESOLUTION #23-06-26

ADJOURNMENT

MOTION: That the meeting be recessed and continued on July 17, 2023 at 6:00 p.m.

MOTION: Dr. Bailey

SECOND: Mrs. White

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

TIME: 8:30 p.m.