

June 27, 2007

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, June 27, 2007, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

CHARLES W. AHREND, Election District #2  
DEE E. FLOYD, Election District #3  
WILLIAM B. KYGER, JR., Election District #4  
MICHAEL A. BREEDEN, Election District #5

The following member was absent:

PABLO CUEVAS, Election District #1

Also present:

JOSEPH S. PAXTON, County Administrator  
G. CHRIS BROWN, County Attorney  
STEPHEN G. KING, Deputy County Administrator  
JAMES L. ALLMENDINGER, Director of Finance  
WARREN G. HEIDT, Director of Public Works  
RHONDA G. HENDERSON, Director of Planning  
GRETCHEN M. SALLAH, Legal Assistant  
DONALD F. KOMARA, Residency Administrator  
Virginia Department of Transportation

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

Chairman Kyger called the meeting to order at 6:00 p.m.

Administrator Paxton led the Pledge of Allegiance, and Chairman Kyger gave the Invocation.

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Chairman Kyger recognized the firefighters in South Carolina who lost their lives during a warehouse fire while searching for missing employees. Chairman Kyger asked that the County staff conduct fire drills for employees to ensure safe exits.

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**APPROVAL OF MINUTES.**

On motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 4 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - ABSENT; FLOYD - AYE; KYGER - AYE; the Board approved the minutes of the Regular Meeting of June 13, 2007.

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**RESOLUTION - COUNTY ATTORNEY CHRIS BROWN.**

The Board presented County Attorney Chris Brown with a Resolution of Appreciation for his service to the County. Administrator Paxton read the following Resolution:

**WHEREAS**, G. Chris Brown has been an untiring and dedicated public servant who contributed greatly to local government in Rockingham County; and

**WHEREAS**, Mr. Brown practiced law in our community for over sixteen years, thirteen of which were with the firm of Wharton, Aldhizer & Weaver, serving as the assistant county attorney for most of his time with Wharton, Aldhizer & Weaver; and

**WHEREAS**, in 2003, Mr. Brown was appointed by the Board of Supervisors to be the first full-time County Attorney for Rockingham County; and

**WHEREAS**, Mr. Brown is a member of the Virginia State Bar, the Virginia Bar Association, and the Harrisonburg-Rockingham Bar Association; and

**WHEREAS**, Mr. Brown is held in high esteem by many segments of the community and is well known for his dedication to his profession, for his thoughtfulness, thoroughness and fairness, and for his strong work ethic; and

**WHEREAS**, Mr. Brown, a dedicated public servant, respected friend and co-worker, and a devoted husband and father, earned the admiration of his friends and associates; and

**WHEREAS**, Mr. Brown has announced his intention to leave our community on June 30, 2007, to enter private practice in the Strasburg, Virginia area,

**NOW, THEREFORE, BE IT RESOLVED** that the Rockingham County Board of Supervisors, on behalf of the citizens of Rockingham County, does hereby recognize and express sincere gratitude for his contributions to the Rockingham County community; and

**BE IT FURTHER RESOLVED** that the Board wishes G. Chris Brown the very best in his future endeavors.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 4 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - ABSENT; FLOYD - AYE; KYGER - AYE; the Board approved the Resolution for County Attorney Brown.

"Let the record show that Mr. Cuevas voted, "Aye," in absentia," Chairman Kyger said.

All present Board members, Administrator Paxton, and audience members rose from their seats and applauded County Attorney Brown.

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**SHENANDOAH VALLEY REGIONAL AIRPORT AUTHORITY.**

The Board heard a report from William O'Brien, Rockingham County representative on the Authority's Board of Directors and Greg Campbell, manager and executive director of the airport. They thanked the Board for their support, reviewed capital improvements to the facility, highlighted receipt of an award given to the top 5% of airports for service and facilities by Exxon, outlined the passenger and commercial traffic, the addition of the Aircare Medevac helicopter, and other airport programs.

Chairman Kyger and Administrator Paxton agreed it was an important facility to have in the Shenandoah Valley.

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**TRANSPORTATION DEPARTMENT.**

The Board heard Mr. Komara's report on the activities of the Transportation Department, including plant mix patching, mowing, shoulder stabilization, sign repair and bridge and box culvert repair. Mr. Komara reported the bid results for the industrial access road for the Virginia Poultry Growers Cooperative's feed mill project.

Bids results were as follows:

Clayton Plecker	\$238,322.40
Plecker Construction	\$247,570.50
C.W. Hurt	\$277,408.56
R.W. Harris	\$309,243.00
R.G. Griffith	\$314,515.00

Supervisor Breeden asked if issues involving the entrance to Kline Energy on Route 644 were resolved. Mr. Komara said they adjusted the entrance between 100-200 feet closer to the intersection in accordance with VDOT requirements.

After receiving a letter from a citizen, Supervisor Floyd asked Mr. Komara to inspect the drainage and culvert around Crossroads Farms after recent flooding across Woods Road.

Supervisor Floyd also inquired about the line painting for the golf course crossings on Shen Lake Drive and adding a solid line (no passing lane) on Cross Keys Road.

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#### **THROUGH TRUCK RECOMMENDATION.**

Administrator Paxton presented the following background and recommendations to the Board regarding restricting through truck traffic on Shen Lake Drive (Route 689), Captain Yancey Road (Route 642), Lynwood Road (Route 708) and Lawyer Road (Route 655), and Erickson Avenue (726).

#### **Restricting Through Trucks on Primary and Secondary Highways Recommendation for Action**

**Background.** Section 46.2-809 of the Code of Virginia provides that that a local governing body may, after a public hearing, request that VDOT consider prohibiting or restricting the use of trucks for through traffic on any primary or secondary highway in the Commonwealth. The County held a public hearing on May 23, 2007, at which time the Board heard comments on closing Routes 689, 642, 708, 655 and 726 to through truck traffic. At the meeting on June 13, 2007 the Board requested staff and VDOT prepare a recommendation for consideration at the June 27, 2007 meeting on the next appropriate step for this process.

**Recommendations.** Staff and VDOT officials met and recommend that the Board consider the following actions:

1. Shen Lake Drive (Route 689) and Captain Yancey Road (Route 642) - no opposition to closure and significant support for closure by public. Request that VDOT perform the required engineering studies with the full support of the Board for closure to through traffic.
2. Routes 708 (Lynwood Road) and Route 655 (Lawyer Road) - comments were primarily supportive; however, recognizing the concerns expressed during the hearing, the County requests VDOT to look at the segments along these routes that are most appropriate for restriction given the location of the elementary school, normal travel patterns of school buses, lane width of existing road, and other factors. Some segments of these roads appear to be more capable of safely accommodating the larger trucks used in the agriculture industry. We are recommending moving this request to the next study level to gather this information, and to provide for the County's consideration of endorsement

alternatives which address the safety concerns of the parents of the students at Peak View Elementary School and the residents along this route.

3. Erickson Avenue (Route 726) - comments were 50/50. The City of Harrisonburg and small businesses along Route 42 expressed concern related to the proposed alternate route in terms of safety, congestion and time loss. The Board requests further information before making a decision on the proposal to restrict this road. We are requesting to move this road segment to the next study level in order to gather this information and to provide alternatives for the County's consideration in how to address the safety concerns of the residents along this route.

**Summary.** The Board endorses the request for VDOT to prohibit through truck traffic on Routes 689 and 642, and requests VDOT assistance in more thoroughly analyzing the alternatives to restricting through truck traffic on Routes 655, 708 and 726. The Board further commits that it will use reasonable efforts in cooperation with local law enforcement officials to enforce VDOT approved restrictions to through truck traffic or other measures implemented along these routes. Staff is directed to prepare and submit a resolution executed by the Chairman and the County Administrator to VDOT conforming to the requirements of Section 46.2-809 which includes a complete description of the proposed through truck restriction and a description of the alternate, including termini.

Supervisor Breeden indicated that he witnessed several truck drivers driving above the speed limit and asked if something could be done in those areas being discussed. Administrator Paxton related past action has included requesting the Sheriff's Office give special consideration to certain roadways, to which Supervisor Breeden requested it be done in this instance.

On motion by Supervisor Floyd, seconded by Supervisor Ahrend and carried by a vote of 4 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - ABSENT; FLOYD - AYE; KYGER - AYE; the Board adopted the recommendation for action prepared by staff.

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**SHENANDOAH NATIONAL PARK.**

The Board heard a report by Karen Beck-Herzog, public affairs officer for the Shenandoah National Park. She updated the Board on recent events and issues at the Park including their Centennial Initiative, preparing the National Park Service for their centennial anniversary in 2016; the largest park increase in history, including \$1.6M increase in the operating budget; fundraising efforts that will contribute to a new year-round visitors center and refurbishing five overlooks; visitation (down about five percent (5%) for the year); and a partnership with the Shenandoah Valley Travel Association to help attract visitors.

In response to a question from Supervisor Breeden, Mrs. Beck-Herzog stated the Park was not planning any controlled burns, due to significant rains recently and updated the Board on the pair of mating falcons the Park monitors by a camera that broadcasts on their website.

Supervisor Breeden also asked why there is low local traffic to the Park. Mrs. Beck-Herzog said they have seen a trend where the Park is not as popular a destination for Americans, there is more competition between attractions and constraints on visitor's time contribute; however during times of high gasoline costs, they do see more local traffic and are looking at ways to reconnect with the national parks.

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**COUNTY ATTORNEY'S STAFF REPORT.**

The Board received and reviewed County Attorney Brown's report and planned to discuss several issues in closed session.

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**COUNTY ADMINISTRATOR'S STAFF REPORT.**

Administrator Paxton introduced Jennifer Cartis, Rockingham County Tourism Coordinator, who worked with the Harrisonburg Downtown Renaissance and Harrisonburg Visitors and Convention Bureau, to prepare a promotional film on DVD, titled, "Experience Harrisonburg and Rockingham County, Virginia." The Board, Staff and meeting attendee's viewed the 11-minute film.

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**DEPUTY COUNTY ADMINISTRATOR'S REPORT.**

Deputy County Administrator King did not have a written report.

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**FINANCE DIRECTOR'S STAFF REPORT.**

Finance Director Allmendinger did not have a written

report.

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

The Board received and reviewed Public Works Director Warren Heidt's staff report dated June 27, 2007, including information concerning the Penn Laird Drive and Water Tower Road Sewer project (approximately 2,000 linear feet of sewer line has been installed, project is on schedule); MaGaheysville WWTP (final design contract for the force main was awarded to Olver Incorporated); Phase III/IV Landfill Expansion (grading, liner work and protective soil cover is complete, rain cap installation expected to begin, DEQ has issued a draft permit for review and comment at a public hearing on July 5, 2007; Three Springs Water System (a target location for a test well has been identified and Anderson has secured two bids for drilling the well, Anderson was also awarded the contract for participation in a Regional Water Study to evaluate City-County synergies on water resources and infrastructure; Pleasant Run Sewer Interceptor and Water Supply Line (work should begin in late June); Lilly Gardens (Peed & Bortz has completed the final design and submitted same to the VDH for review and approval); Landfill Pro-Forma Study & Landfill Gas Utilization Feasibility Study (SCS Engineers has been evaluating changes that might improve waste disposal activities and options as well as the landfill gas (LFG) utilization initiative with RMH); Montevideo Water Booster Station Emergency Generator and Transfer Switch (Leon Electric has completed this project and staff will be submitting invoices to USDA for reimbursement prior to July 1, 2007); Highland Park and Belmont Sewage Lift Stations.

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PUBLIC WORKS COMMITTEE

Supervisor Breeden introduced Staff recommendations to publish a notice of public hearing for adjusted water and sewer rates.

**Public Notice  
Rockingham County  
Proposed Water & Sewer Rate Increase**

The Rockingham County Board of Supervisors, will hold a public hearing, in the Board of Supervisors meeting room during a meeting that begins at 6:00 p.m., July 25, 2007, at the Rockingham County Administration Center, 20 East Gay Street, Harrisonburg, Virginia to receive comments on proposed water and sewer rate increases to become effective for usage and connections after August 31, 2007 in accordance with the following schedules:

<u>Water</u>	<u>Current Rate</u>	<u>Proposed Rate</u>	<u>% Increase</u>
Base Rate *	\$ 9.63	\$10.00	3.8 %
3,500-5,000 gallons**	\$ 1.96	\$ 2.27	16 %
Over 5,000 gallons**	\$ 2.42	\$ 2.90	20 %
<u>Sewer</u>	<u>Current Rate</u>	<u>Proposed Rate</u>	<u>% Increase</u>
Per 1,000 gals	\$ 3.19	\$3.83	20 %

\* Based on using up to 3,500 gallons of water per month

\*\* Rates are based on 1,000 gallons of water used

The impact, in terms of cost per month for the typical residential water user, will be to increase the bill from \$ 28.52 to \$32.55 per month.

<u>Meter Size</u>	<u>Water Connection Fee</u>	<u>Hook Up Charge</u>	<u>Sewer Connection Fee</u>	<u>Hook Up Charge</u>	<u>GPM</u>	<u>Maximum Connections</u>
3/4"	\$1,500	\$500	\$2,500	\$500	20	1
1"	\$4,800	\$1,200	\$7,200	\$1,800	50	4
1 1/2"	\$9,600	\$2,400	\$14,400	\$3,600	100	10
2"	\$16,000	\$4,000	\$24,000	\$6,000	160	30
3"	\$32,000	\$8,000	\$48,000	\$12,000	300	75
4"	\$48,000	\$12,000	\$72,000	\$18,000	500	200
6"	\$96,000	\$24,000	\$144,000	\$36,000	1,000	600
8"	\$144,000	\$36,000	\$216,000	\$54,000	1,500	1,200
10"	\$240,000	\$60,000	\$360,000	\$90,000	2,500	3,000
12"	\$288,000	\$72,000	\$432,000	\$108,000	3,500	5,000

Note: Proposed rate for 3/4 inch connections with or without lateral already installed is the same. The above rate structure for combined connection and hook up charge represents no increase for 3/4 inch without lateral installed, a 22% increase for 3/4 inch with lateral installed and a 20% increase for all other connection sizes listed.

If you have questions regarding this proposal please contact the Rockingham County Department of Public Works at 540-564-3020.

On motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by a vote of 4 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - ABSENT; FLOYD - AYE; KYGER - AYE; the Board authorized advertisement of the proposed rate changes.

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

The Board received and reviewed Community Development Director Vaughn's staff report dated June 27, 2007, including information concerning development activity, priority projects underway, tabled requests, and upcoming requests. Ms. Rhonda Henderson, Planning Director, was available for questions.

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**PUBLIC HEARING - SPECIAL USE PERMITS.**

At 7:10 p.m., Chairman Kyger declared the meeting open for a public hearing on the following rezoning requests. Ms. Henderson reviewed the background on each request.

RZ07-03, request of Rockingham Neighborhoods, LLC, 102 S. First Street, Suite 302, Charlottesville, Virginia 22902, to rezone 37.316 acres from A2 (General Agriculture) to R5 (Planned Residential District) on tax parcel 95(6)11. The site is located on the west side of North Valley Pike (Route 11) and approximately 1,300 feet north of Smithland Road (Route 720) in Election District #2. The Comprehensive Plan designated this area as Industrial. R5 zoning allows eight (8) dwelling units per gross acre. The applicant is proposing 280 townhouses at a density of 7.5 units per gross acre.

Ms. Henderson stated the only significant change from Rockingham Neighborhood's original request was a change to the entrance, however, she highlighted several inconsistencies between the group's proffers and the narrative which included - the timeline for project construction, how they planned to regulate the number of unrelated people per unit, how they planned to regulate the number of units available for lease, and the pool and clubhouse construction timeline.

In addition, Ms. Henderson noted that the proposed development would create the potential for "sizable growth in student population" at Lacey Spring Elementary School, which is near capacity and to Broadway High School, which is overcrowded. If redistricting were to occur toward Peak View Elementary School, students would be forced to travel a significant distance to get to school. The impact on the school system has the potential to be substantially adverse and is contradictory to the School Board's future redistricting and construction plans.

Staff recommended denial of this request and the Planning Commission concurred, voting 4-1 to deny the request.

Rick Cason, of Management Services Corporation, the applicant for the rezoning, spoke in favor of the project, known as Walnut Creek. Mr. Cason said the development would provide affordable homes, quality amenities and help begin to redevelop this corridor. He stated the group felt they met or exceeded the zoning requirements of the County.

He indicated that since the group met with the Planning Commission, they have relocated the entrance that would be shared with Valley View Mobile Home Park and planned to upgrade the landscape features.

In addition, after meeting with the Planning Commission and staff, the group recognized that this development "may have some impacts on the community and [we] are trying to work with the County, as best we can, to reduce the impacts and have provided funding in the form of cash proffers to offset those impacts," Mr. Cason said. The Rockingham Neighborhood, LLC increased their cash proffer to \$1M.

Mr. Cason stated that in addition to the cash proffer, revenues from other fees were expected to exceed \$2M. When combined with those made for road improvements, their total contribution would exceed \$3.2M. He estimated annual real estate tax revenue to the County would be \$324,800.

Mr. Cason further stated that the location was ideal because the water and sewer infrastructure was in place, it was located near a major transportation artery, was adjacent to City limits, the new Research and Technology Park and other major employers, and was affordable.

Todd C. Rhea, a Harrisonburg attorney, representing Rockingham Neighborhoods, LLC, also spoke in favor of the project.

Mr. Rhea said the group studied the parcel extensively and felt it was compatible with the County's Comprehensive Plan. He stated that in the past, school issues alone were not sufficient to deny rezoning requests. With Walnut Creek, the County has "ample time" to plan for the future population growth that was unlikely to impact the school until 2010, he said. And the cash proffer could be used to offset the school costs.

He said the proposed project was an appropriate use of this parcel; it featured median home prices at \$200,000, and that the developer was "best suited" to ensure Walnut Creeks was a "stable community and match for its residents and neighbors."

Supervisor Breeden asked Public Works Director Heidt if there were any water and sewer capacity concerns. Mr. Heidt stated that the County would be close to 500,000 gallon capacity per day with the projects that are already approved. The solution to serving this property is to provide water from Three Springs to the City so the City could increase its allocation to the County from 500,000 to 1,000,000 gallons per day. The Three Springs upgrade is at least three years away, and is a \$10M project, Mr. Heidt said.

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At 7:53 p.m., Chairman Kyger called for a brief recess.

**RECESS.**

At 7:57 p.m., Chairman Kyger reconvened the public hearing.

RZ07-09, request of Jason E. Zirk, 1614 North Valley Pike, Harrisonburg, Virginia, to rezone to 0.640 acres from A2 (General Agriculture) to B1-C (General Business with Conditions) on tax parcel 94(A)140. The site is located on the southeast side of North Valley Pike (Route 11), approximately five feet south of Skyview Lane (private) in Election District #2. The Comprehensive Plan designates this area as mixed use. The applicant's proffers limit use of the property to mini-storage; machine welding, or blacksmith shop; repair or servicing; and a single family dwelling associated with one of these uses.

Ms. Henderson reviewed the request and informed the Board that the Planning Commission had recommended approval to bring the property into conformance as an appropriate use.

Jason Zirk, the applicant, was available for questions.

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At 8:03 p.m., Chairman Kyger closed the public hearing and called the regular meeting back to order.

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On motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by a vote of 4 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - ABSENT; FLOYD - AYE; KYGER - AYE; the Board sent RZ07-03, request of Rockingham Neighborhoods, LLC, 102 S. First Street, Suite 302, Charlottesville, Virginia 22902, to rezone 37.316 acres from A2 (General Agriculture) to R5 (Planned Residential District) on tax parcel 95(6)11 back to the Planning Commission for further study.

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On motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by a vote of 4 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - ABSENT; FLOYD - AYE; KYGER - AYE; the Board approved the rezoning request RZ07-09, Jason E. Zirk, 1614 North Valley Pike, Harrisonburg, Virginia, to rezone to 0.640 acres from A2 (General Agriculture) to B1-C (General Business with Conditions) on tax parcel 94(A)140.

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**COMMITTEE REPORTS.**

The Board heard Committee Reports from Board members and staff.

FINANCE COMMITTEE

On motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by a vote of 4 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - ABSENT; FLOYD - AYE; KYGER - AYE; the Board authorized the public notice to amend the FY2006-2007 budget for a public hearing on July 10, 2007.

**PUBLIC NOTICE**

The Board of Supervisors of the County of Rockingham, Virginia will hold a public hearing on Tuesday, July 10, 2007 at 7:00 pm in the Board of Supervisors' Meeting Room, 20 East Gay Street, Harrisonburg, to consider an amendment to the Fiscal Year 2006-2007 Rockingham County budget. The purpose of this amendment is to appropriate funds to complete services for the Comprehensive Services Act and for permanent financing for the new Montevideo area elementary school.

The Board of Supervisors will consider adoption of this amendment following the public hearing.

Proposed Amendment  
Fiscal Year 2006-2007 Adopted Budget

Revenue:

Harrisonburg-Rockingham Social Services District Fund	
Revenue from the Commonwealth	\$ 437,749
Share of Costs – City of Harrisonburg	<u>\$ 269,210</u>
	\$ 706,959
General Fund	
Proceeds from Permanent Loan	\$11,104,598
School Capital Projects Fund	
Transfer from General Fund	\$11,104,598

Expenditure:

Harrisonburg-Rockingham Social Services District Fund	
Comprehensive Services Act	\$ 706,959
General Fund	
Transfer to School Capital Projects	\$11,104,598
School Capital Projects Fund	
Building Construction	\$11,104,598

A copy of the proposed amendment is available for inspection in the County Administrator's Office at the Rockingham County Administration Center, 20 East Gay Street, Harrisonburg, Virginia.

Rockingham County Board of Supervisors

On motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by a vote of 4 to 0, voting was recorded as follows: AHREND - AYE; BREEDEN - AYE;

CUEVAS - ABSENT; FLOYD - AYE; KYGER - AYE; the Board appropriated the FY2007-2008 Budget as adopted on April 25, 2007, and authorized the Treasurer to transfer funds as shown.

**County of Rockingham, Virginia  
Annual Appropriation for FY2007-2008 Budget**

GENERAL FUND

General Government Administration	\$ 5,316,015
Judicial Administration	3,291,539
Public Safety	17,515,006
Public Works	1,815,726
Human Services	1,429,953
Parks, Recreation & Cultural	2,103,151
Community Development	2,277,034
Contributions	399,610
Contingency	500,000
Other Expenses	215,000
Transfers to Other Funds	47,189,136
Debt Service – County	570,625
Debt Service – Schools	<u>6,901,647</u>
<b>TOTAL - GENERAL FUND</b>	<b><u>\$ 89,524,442</u></b>

Capital Projects Fund	\$ 6,750,000
School Capital Projects Fund	26,000,000
School Fund	108,912,876
School Cafeteria Fund	4,646,419
School Textbook Fund	1,161,093
Massanutten Technical Center Fund	5,018,831
E911 Communications Fund	2,312,980
Asset Forfeiture Fund	55,000
Harrisonburg-Rockingham Soc Serv Dist	21,439,306
Central Stores Fund	48,000
Utilities Fund	10,821,216
Lilly Subdivision Sanitary District	589,781
Smith Creek Water & Wastewater Auth	289,533
Countryside Sanitary District	17,182
Penn Laird Sewer Authority	437,795
Solid Waste Fund	4,717,024
Human Resources Rental Fund	<u>233,672</u>
<b>TOTAL EXPENDITURES</b>	<b><u>\$ 282,975,150</u></b>

And authorize the Treasurer to transfer from the General Fund to the following funds, as may be required

School Fund	\$41,761,480
E911 Communications Fund	\$ 2,147,300
Harrisonburg-Rockingham Social Services District	\$ 3,236,630
Lilly Subdivision Sanitary District	\$ 43,726

And authorize the Treasurer to transfer \$2,774,797 from the School Fund to the Massanutten Technical Center Fund as may be required.

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The National Association of Counties (NACo) will be holding their annual conference in Richmond from July 13 to 17, 2007. Members of the Board and County staff will be working at this conference, as well as attending sessions.

**CLOSED MEETING.**

On motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - ABSENT; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 8:13 p.m. to 9:05 p.m. to enter closed session in accordance with State Code Pursuant to Section 2.2-3711(A)(1) for Personnel Matters and Section 2.2-3711(A)(7) for Discussion of Legal Matters.

At 9:05 p.m., Chairman Kyger called the meeting back to order and the following motion was adopted:

MOTION: SUPERVISOR Ahrend RESOLUTION NO: X07-12  
SECOND: SUPERVISOR Breeden MEETING DATE: JUNE 27, 2007

**CERTIFICATION OF CLOSED MEETING**

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

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

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

VOTE:  
AYES: AHREND, BREEDEN, FLOYD, KYGER  
NAYS: NONE  
ABSENT: CUEVAS

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**ELKTON WATER AND SEWER AGREEMENT.**

County Attorney Brown reported to the Board the agreement between the County and Town of Elkton for water and sewer service to the new school site.

On motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by a vote of 4 to 0, a roll call vote was recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - ABSENT; FLOYD - AYE; KYGER - AYE; the Board approved the agreement between the County and the Town of Elkton for water and sewer service to the new school site.

This Agreement is made and entered into this \_\_\_\_ day of June, 2007, by and between Rockingham County, Virginia, a political subdivision of the Commonwealth of Virginia (Rockingham County) and the Town of Elkton, Virginia, a municipal corporation of the Commonwealth of Virginia (Elkton).

#### AGREEMENT

1. There are two existing agreements between Rockingham County and Elkton regarding a water line and a sewer line extending from within the current town limits and running in a westerly direction along the north side of U.S. Route 33. The first agreement was made on September 25, 1985 and provided for the construction of a sewer line by Rockingham County and for sewage service by Elkton within Rockingham County. The first agreement was modified by an amendment dated August 31, 1987. The second agreement was made August 31, 1987 and provided for the construction of a water line by Rockingham County and for water service by Elkton within Rockingham County. The two agreements are referred to herein collectively as "the Utility Agreements". The Utility Agreements provide that Rockingham County is entitled to charge and collect any fee it wishes for any connection to the lines constructed pursuant to the Utility Agreements until all the cost of the construction of the lines paid by Rockingham County have been reimbursed in full to the County. There currently is an outstanding balance of \$211,910.80 on the construction cost paid by the County.
2. Pursuant to an Annexation Agreement between the parties dated December 8, 2003, that portion of the water and sewer lines subject to the Utility Agreements extending from the then existing Elkton Town limits and running in a westerly direction along U.S. Business Route 33 and continuing in a westerly direction along U.S. Route 33 to a certain tract known as the Food Lion Shopping Center was conveyed in its entirety to Elkton. Rockingham County relinquished and conveyed any right, title and interest in and to such portion of the water and sewer lines, including its right to collect connection fees to such portion of the lines. The provisions in the Utility Agreements permitting Rockingham County to collect all connection fees on those portions of the water and sewer lines located west of the Food Lion Shopping Center parcel remain in effect.
3. Rockingham County is in the process of negotiating a real estate purchase contract for an approximately ninety (90) acre parcel of land located just west of Elkton's current corporate limits, which parcel has been identified to the Elkton Town Council. The parcel is hereafter referred to as "the School Property." The School Property is proposed to be used for a new high school and a new elementary school within the Rockingham County school system. In order to assist Rockingham County in its efforts to secure the School Property, Elkton shall provide water and sewer services to the School Property, shall waive all connection fees for the high school and elementary school on the School Property, and shall share equally in the cost of constructing extensions of the water and sewer lines to the northern boundary of the School Property provided, however, that Elkton's share of such

cost shall not exceed \$60,000. As consideration for such assistance, Rockingham County agrees to release any and all rights it has to connection fees resulting from approval of connections to the water and sewer lines which are subject to the Utility Agreements after the date of this agreement. Elkton shall not unreasonably withhold requests from Rockingham County to make future connections to said lines.

4. Ownership of Utility Lines. Upon the completion and acceptance by Rockingham County of the construction of the extensions to the existing water and sewer line to the School Property, the extensions will be owned by Elkton and Elkton shall have the right to collect any and all future connection fees (other than connections for Rockingham County and/or Rockingham County Schools for the high school and elementary school to be constructed on the School Property) from connections to the extensions. Elkton shall be responsible for the maintenance, operation, and replacement of such lines. The water and sewer line extension shall be engineered and constructed to meet at least Elkton's standard specifications for water and sewer lines.
5. Capacity. Elkton represents to Rockingham County that its existing water and sewer system has sufficient capacity to provide water and sewer services to the new elementary school and new high school to be located on the School Property, and will take any and all required actions to ensure such capacity is available when required by Rockingham County for the new elementary school and new high school to be located on the School Property. Elkton shall provide public water that is sourced from an Elkton owned and operated water treatment facility. The subject water treatment facility shall maintain a valid Virginia Department of Health permit and compliance with all current and applicable Virginia Waterworks Regulations. Sufficient water pressure at the point of connection on the School Property shall be adequate to yield facility fire flow design compliance with all provisions of the Rockingham County Standard for Installation of Fire Hydrants. Furthermore, Elkton shall provide waste water collection and treatment from an Elkton owned and operated wastewater collection and treatment facility. The waste water treatment facility shall maintain a valid Virginia Pollution Discharge Elimination System (VPDES) Permit and compliance with the Virginia Department of Environmental Quality Wastewater Treatment Regulations. The sewage collection system and wastewater treatment facility shall also maintain compliance with the Virginia Department of Health Sewage Collection and Treatment (SCAT) regulations. Elkton shall take any action required to maintain compliance with this section in a timely fashion so that water and sewer services to the schools are not disrupted. The parties acknowledge that sewer and water service will be required for the School Property within twelve (12) months from the date of this Agreement.
6. Town Customers. The parties agree that all customers currently being served by the water and sewer lines provided for in the Utility Agreements, and any extensions thereof, together with any future

connections thereto, shall be customers of Elkton and shall be charged the same connection and user fees and provided the same services for water and sewer as those customers within the Elkton corporate limits. Approval by Elkton of any connections to such water and sewer lines (other than the high school and elementary school) shall be in accordance with Elkton's prevailing practices and standards. User fees to the new high school and elementary school to be constructed on the School Property shall be at Elkton's prevailing in-town rates and subject to change from time to time as Elkton modifies its rates for all customers.

7. Contingency. The performance of this Agreement by the parties is contingent upon Rockingham County closing on the purchase of the School Property. If Rockingham County does not close on the School Property within six months of the date of this Agreement, this Agreement shall terminate and be null and void, and the Utility Agreements shall remain in effect.
8. Invalidity of Particular Provisions. If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
9. Headnotes. The headnotes set forth in this Agreement shall have no substantive effect, but are inserted for convenience only.
10. Waivers and Binding Effect. No waiver by any of the parties hereto of any breach of this Agreement shall be considered to be a waiver of any other subsequent breach. All of the covenants, agreements, provisions and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto, and their successors and permitted assigns.
11. Assignability. This Agreement shall not be assignable by either of the parties hereto without the prior written consent of the other party.
12. Entire Agreement. This Agreement constitutes the entire understanding between the parties hereto, and no prior written or oral understandings in connection with this subject matter shall be binding upon the parties, and this Agreement may be amended only by a written agreement signed by both of the parties hereto.
13. Waiver of Rights under Development Agreement Dated January 2, 2006. As further consideration for this Agreement, Rockingham County hereby waives any and all right, title and interest in and to the twenty acre school site identified in Section 2 of the Development Agreement dated January 2, 2006 between Elkton and Rockingham

County and Elkton's obligation to convey such project to Rockingham County is hereby terminated

IN WITNESS WHEREOF, the Town has caused this Agreement to be signed in its name and on its behalf by its Mayor, attested by its Clerk, as thereunto duly authorized by the Town Council; the County has caused this Agreement to be signed in its name and on its behalf by its Chairman, attested by its County Administrator, as thereunto duly authorized by the Board of Supervisors.

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**SHORT-TERM RENTALS .**

The Board briefly discussed the recent action by the Supreme Court related to short-term rentals and were advised by the County Attorney of the impact of such on the opinion of the Zoning Administrator. Staff prepared a possible ordinance for discussion purposes that would allow future short-term rentals by special use permit. The Board referred this matter to the Planning Commission for discussion and recommendation.

On motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by a vote of 4 to 0, a roll call vote was recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - ABSENT; FLOYD - AYE; KYGER - AYE; the Board referred the possible ordinance changes to the Planning Commission for review and comment.

The following are the ordinance changes presented to the Board:

**AMENDMENT TO ROCKINGHAM COUNTY  
ZONING ORDINANCE (CHAPTER 17)**

AMEND:

**Article 3. Definition of terms  
Section 17-6. Specific definitions**

*Dwelling.* Any building or portion thereof which is designed for ~~or~~ used for residential purposes, ~~except~~ excluding those structures used for hotels, motels, boarding houses, dormitory housing for farm workers, lodging houses, tourist cabins, ~~or~~ camping trailers and those structures used for short term rental for vacationing, tourist, or other rental use by tenants for periods of thirty (30) days or less, unless such short term rental is explicitly listed in the list of permitted uses or uses permitted by special use permit for the district in question.

*Dwelling, existing.* Either of the following:

1. A structure, designed for residential use, which is occupied on the date a completed application for a poultry facility permit is received by the office of the zoning administrator; or
2. A structure, designed for residential use, which is not occupied on the date a completed application is received, but which has been issued a certificate of occupancy

or which has been occupied for any period of time within the five (5) years immediately preceding the date on which a completed application for a poultry facility permit is received by the office of the zoning administrator.

*Dwelling, multifamily.* A building designed for or occupied exclusively by three (3) or more families living independently of each other; the term includes townhouses, condominiums of similar physical appearance, character, and structure, ~~includes and~~ apartment house. Excluded is the short term rental of a dwelling or dwelling unit for vacationing, tourist, or other rental use by tenants for periods of thirty (30) days or less, unless such short term rental use is explicitly listed in the list of permitted uses or uses permitted by special use permit for the district in question.

*Dwelling, recreational or seasonal.* Temporary living quarters, not used as a principal residence, that may be occupied on weekends, vacations and for brief periods during the year. This includes, but is not limited to cabins, tents, campers, manufactured homes, or other such devices as may be developed and marketed for the camping trade. Excluded is the short term rental of a dwelling or dwelling unit for vacationing, tourist, or other rental use by tenants for periods of thirty (30) days or less, unless such short term rental use is explicitly listed in the list of permitted uses or uses permitted by special use permit for the district in question.

*Dwelling, short term rental.* The rental of a dwelling or portion of a dwelling for a period of thirty (30) days or less and meeting the requirements as set out in Section 17-120.2 of this Code.

*Dwelling, single-family.* A building designed for ~~or~~ and occupied exclusively by one (1) family, including a modular home, but not including a manufactured home. Also excluded is the short term rental of a dwelling for vacationing, tourist or other rental use by tenants for periods of thirty (30) days or less, unless such short term rental use is explicitly listed in the list of permitted uses or uses permitted by special use permit for the district in question.

*Dwelling, single-family with independent living quarters.* A separate living unit located within a single-family dwelling and having direct interior access to the primary living unit. Excluded is the short term rental of a dwelling or dwelling unit for vacationing, tourist, or other rental use by tenants for periods of thirty (30) days or less, unless such short term rental use is explicitly listed in the list of permitted uses or uses permitted by special use permit for the district in question.

*Dwelling, two-family (duplex).* A building under one ownership located on a single lot designed for or occupied exclusively by two (2) families living independently of each other. Excluded is the short term rental of a dwelling or dwelling unit for vacationing, tourist, or other rental use by tenants for periods of thirty (30) days or less, unless such short term rental use is explicitly listed in the list of permitted uses or uses permitted by special use permit for the district in question.

*Dwelling, two unit attached.* Two (2) single-family dwellings sharing a common wall area, each on its own lot. Each dwelling unit shall be occupied by one (1) family. Excluded is the short term rental of a dwelling or dwelling unit for vacationing, tourist, or other rental use by tenants for periods of thirty (30) days or less, unless such short term rental use is explicitly listed in the list of permitted uses or uses permitted by special use permit for the district in question.

*Dwelling unit.* A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Excluded is the short term rental of a dwelling or dwelling unit for vacationing, tourist, or other rental use by tenants for periods of thirty (30) days or

less, unless such short term rental use is explicitly listed in the list of permitted uses or uses permitted by special use permit for the district in question.

*Guest room.* A room which is intended, arranged, or designed to be occupied by one (1) or more guests paying direct compensation therefore, but in which no provision is made for cooking. Dormitories are excluded. Also excluded is the short term rental of a portion of a dwelling for vacationing, tourist, or other rental use by tenants for periods of thirty (30) days or less, unless such short term rental use is explicitly listed in the list of permitted uses or uses permitted by special use permit for the district in question.

*Manufactured home.* A structure subject to federal regulation, which is transportable in one (1) or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. Site preparation, utility connections, skirting installation and maintenance of the manufactured home shall meet the requirements of the Virginia Uniform Statewide Building Code. This definition shall exclude industrialized buildings, mobile units, recreational vehicles and camping trailers. Also excluded is the short term rental of a portion of a dwelling for vacationing, tourist, or other rental use by tenants for periods of thirty (30) days or less, unless such short term rental use is explicitly listed in the list of permitted uses or uses permitted by special use permit for the district in question. For the purpose of this chapter, any home constructed prior to 1976, known as a mobile home, shall meet the same requirements as a manufactured home.

Amend

## **Article VII. Use Regulations**

### **Division 2. Structures**

#### **Sec. 17-120.2 Short term rental.**

The following general regulations apply to short term rental of residential dwellings.

- (a) The use of the dwelling unit for short term rental shall be for residential purposes related to tourism, vacationing or occasional use by the owners of the property.
- (b) There shall be no change in the outside appearance of the dwelling or premises, or other visible evidence of the conduct of such short term rentals.
- (c) There shall be no more than two adults per bedroom occupying the dwelling at any one time. The number of bedrooms available for occupancy in a dwelling which uses septic tanks and drainfields for sewage disposal shall be determined by the Health Department as evidenced by the permit issued for the original dwelling specifying the number of bedrooms for which the supporting system was designed, or by the number of bedrooms approved with the original building permit for the dwelling, whichever is less. In cases of dwellings served by public utilities, the number of bedrooms shall be determined by the number of

bedrooms approved with the original building permit for the dwelling.

- (d) All vehicles of tenants of short term rentals shall be parked in the driveway of the subject premises or parking areas designed and built to be parking areas. For multi-family dwellings, all vehicles must be parked in spaces specifically reserved for the dwelling unit being rented. There shall be no parking on roads or in driveways of structures other than the unit being rented. There shall be no blocking of driveways of other residences.
- (e) Noise generated from the lot or from the premises shall be in no greater volume or pitch than normally expected in a residential neighborhood.
- (f) At a minimum there shall be one fire extinguisher and one smoke detector on each floor of the dwelling or dwelling unit, or such additional equipment as may be required by applicable codes.
- (g) All residences used for short term rentals shall meet the applicable requirements of the Statewide Building Code and Fire Prevention Code.
- (h) Any use of neighboring properties without permission shall be prohibited.
- (i) Posted within plain view in each dwelling shall be all of the requirements listed above pertaining to parking, noise, and use of adjoining property as well as any conditions placed on a special use permit for the subject property.
- (j) The owner of a dwelling or dwelling unit used for short term rental shall give the County written consent to inspect the dwelling used for short term rentals to ascertain compliance with the above performance standards. Each owner shall also provide the County with a 24-hour contact phone number and address.

AMEND:

**Article 6. Uses in districts**

**Division 3. General Agricultural District A-2.**

**Sec. 17-27. Special uses.**

- (be) dwelling, short term rental in accordance with Section 17-120.2 of this Chapter.

**Division 6. Residential or Recreational District RR-1**

**Sec. 17-40. Special Uses.**

- (n) dwelling, short term rental in accordance with Section 17-120.2 of this Chapter.

**Division 10. Residential Planned Community R-4**

**Sec. 17-64. Permitted uses**

- (t) dwelling, short term rental, by special use permit in ordinance with Section 17-120.2 of this Chapter.

**Division 11. Planned Residential District R-5.**

- (h) dwelling, short term rental, by special use permit in ordinance with Section 17-120.2 of this Chapter.

**TIMBERVILLE ANNEXATION.**

Chairman Kyger noted that the Timberville annexation matter was being deferred to the next meeting to allow Supervisor Cuevas an opportunity to provide his input and comments.

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**ADJOURNMENT.**

By unanimous consent, the meeting was adjourned at 9:10 p.m.

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Chairman