

At a regular meeting of the Board of Supervisors, Alleghany County, Virginia held on Tuesday, February 2, 2016 at 7:00 p.m. in the Alleghany County Governmental Complex, Covington, Virginia, thereof:

PRESENT: Stephen A. Bennett, Chairman
G. Matt Garten, Vice-Chairman
Suzanne T. Adcock
Shannon P. Cox
James M. Griffith
Cletus W. Nicely
Richard Lee Shull

and Jonathan A. Lanford, Interim County Administrator
Chris Clark, Director of Public Works
Mike Lockaby, Assistant County Attorney
Melissa A. Munsey, Deputy Clerk to the Board

CALL TO ORDER:

The Chairman called the regular meeting to order. Rev. Bill Hartsfield gave the invocation and the audience remained standing for the Pledge of Allegiance.

Mr. Bennett stated that a second topic is being added to the Closed Meeting to receive an update on the County Administrator position.

MINUTES:

Hearing no corrections or deletions, the Chairman declared the following minutes approved as submitted: (1) a regular meeting held on January 5, 2016.

PUBLIC HEARING AND APPROVAL - SALE OF PROPERTY ADJACENT TO FALLING SPRING ELEMENTARY SCHOOL:

Public Hearing was held to consider the sale by Alleghany County of all or a portion of two parcels of property located adjacent to Falling Spring Elementary School. Exact acreage is undetermined at this time. The property is further identified on the Real Property Identification Maps of Alleghany County as containing all or part of 01200-00-000-0530 and 01200-00-000-0580.

The Chairman announced that this public hearing was advertised in the Virginian Review on Saturday, January 23, 2016 in accordance with the Code of Virginia. He then called the public hearing to order.

Mr. Lanford stated that the County received a letter with a formal offer from an adjacent property owner (Mr. David Oliver) that is interested in approximately 7-8 acres of property adjacent to the former Falling Spring Elementary School. He commented that the property contains the eastern entrance to the school at Falls Road and a portion of the parking area, but those sections will be retained by the County and a new boundary line will be determined. He mentioned that Mr. Oliver would be responsible for having the property surveyed which will determine the exact acreage.

There being no one else who wished to speak, the Chairman declared the public hearing closed.

On motion of Mr. Nicely, seconded by Mr. Garten, that the Board waive its policy of not acting on a public hearing on the same night.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

On motion of Mr. Griffith, seconded by Ms. Adcock, that the following resolution be adopted:

WHEREAS, the County received a request from Mr. David Oliver asking that the County consider the sale of all or a portion of two parcels of property located adjacent to Falling Spring Elementary School which is identified on the Real Property Identification Maps of Alleghany County as containing all or part of 01200-00-000-0530 and 01200-00-000-0580; and

WHEREAS, the exact acreage to be purchased is undetermined until a survey is done on the property and paid for by Mr. Oliver; and

WHEREAS, Mr. Oliver has offered \$2,475 per acre with the final price set by the amount of acreage after the property is surveyed; and

WHEREAS, the Board held a public hearing to dispose of the property on February 2, 2016 in accordance with Section 15.2-1800 of the Code of Virginia, 1950, as amended;

NOW, THEREFORE, BE IT RESOLVED that the Alleghany County Board of Supervisors agrees to sell all or a part of the abovementioned property to Mr. David Oliver at a price of \$2,475.00 per acre once a survey is completed by Mr. Oliver to determine final acreage amounts;

BE IT FURTHER RESOLVED that the Board authorizes Mr. Jonathan A. Lanford, Interim County Administrator, to sign documents in relation to the sale of property to Mr. Oliver.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

PUBLIC COMMENT (5 MINUTE TIME LIMIT):

No one spoke at this time.

MS. SUSAN HAMMOND, VDOT RESIDENT ENGINEER - VIRGINIA DEPARTMENT OF TRANSPORTATION UPDATE:

Ms. Susan Hammond, VDOT Resident Engineer, gave a report on the following VDOT activities:

Maintenance

- Continue with County-wide pothole patching.
- Performed brush-cutting on Routes 311, 220N, and 664.
- Major snow removal event - 18"-20" deep. Now cleaning and repairing equipment. She thanked VDOT staff, contractors, and the State Police for their assistance during the weather event.
- Cleaned up debris and downed trees from storm damage.
- Responded to citizen complaints.

Construction

- Revenue sharing projects are likely going to be impacted due to HB-2 funding. The Route 696 project currently will still be able to move forward under the adjusted scenario.

Mr. Shull thanked Ms. Hammond for the patch that was done at the end of the bridge in Selma.

Mr. Garten expressed concern regarding the wall near Honda Nissan of falling rocks due to the weather. Ms. Hammond commented that a meeting has been held to look at alternatives (one area is at the edge of the pavement and the slope is close to the road). She mentioned that the project is on the list to prevent rocks from getting into the road.

MR. EUGENE KOTULKA, SUPERINTENDENT OF SCHOOLS - DISCUSS PROPOSAL PRESENTED TO THE COVINGTON SCHOOL BOARD REGARDING CREATION OF A JOINT SCHOOL SYSTEM:

Mr. Eugene Kotulka, Superintendent of Schools, handed out and reviewed a PowerPoint presentation entitled "The Proposed Joint School System - Covington City and Alleghany County School Divisions - A Proposal" which is a part of the records of this meeting. The proposal was approved by the Alleghany County School Board at its November 16, 2015 meeting

and was developed to address governance, salary structure, transportation, maintenance, staffing, school and field uses, shared programs, funding/budget, capital improvements and major repairs to buildings, etc. He commented that the proposal was developed to address these various areas and we feel that it was done in a fair and forthright manner for both school divisions and also for the children. He mentioned that this is a proposal that is open for further discussion.

There was some discussion regarding the proposal showing no immediate reduction in staffing (would be through attrition); if the proposal was presented at a joint meeting of both School Board's (the proposal was sent to the Covington School Board and an offer was made to speak to them, but was not asked to give a formal presentation); the future of joint services and whether there are current agreements; joint versus consolidated school systems (will get clarification on State funding); a barrier being the money teachers make at Covington versus Alleghany County and to equalize over 3 years with teachers frozen at their current pay could be a sticking point; if Covington mentioned why they were no longer interested in holding discussions (nothing in letter except that they are not interested in discussing a joint or consolidated school system); locations discussed for a New Tech school (four options reviewed with space available and the County School Board supporting the usage of AHS and JRTC if a joint school system is not realized); etc.

DISCUSS AND APPROVE REFUND TO BALCHEM CORPORATION FOR ENTERPRISE ZONE INCENTIVES IN RELATION TO REAL ESTATE TAXES AND MACHINERY & TOOLS TAXES PAID IN 2015:

Mr. Lanford stated that Balchem Corporation is due Enterprise Zone incentives for its third year of operation. He commented that there is an email in the agenda packet from Ms. Marla Akridge, AHEDC Executive Director, which states:

Balchem is a qualifying business which located within the Enterprise Zone in 2012 and is due a 20% refund. See attachments provided to the AHEDC from Balchem in the amounts of \$15,783.06 in real estate taxes and \$69,609.65 in machinery and tools tax in 2015. They are due a reimbursement in the amount of \$3,156.61 for real estate taxes and \$13,921.93 reimbursement for machinery and tools taxes paid. We hope you can schedule this for the February Board of Supervisors meeting.

If you have additional questions or we can assist with this process, please let us know.

Mr. Garten asked about the Performance Agreement. Mr. Lanford replied that the Performance Agreement is for Governor's Opportunity Fund money Balchem received which is tied to performance targets (jobs created and capital investment). He mentioned that the agreement was extended until later this year and is being monitored.

On motion of Ms. Adcock, seconded by Mr. Shull, that the following resolution be adopted:

BE IT RESOLVED that the Alleghany County Board of Supervisors authorize the Treasurer to refund \$17,078.54 to Balchem Corporation. The refund is for 20% return of taxes paid in year three of operation in Enterprise Zone incentives (\$3,156.61 for real estate taxes paid and a \$13,921.93 reimbursement for machinery & tools taxes paid).

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

DISCUSS AND APPROVE AFFIRMING THE DECLARATION OF A LOCAL EMERGENCY FROM WINTER STORM JONAS:

Mr. Lanford stated that early on Friday, January 22nd staff communicated with Chairman Bennett regarding declaring a local emergency in regards to Winter Storm Jonas. He commented that the hospital was concerned with transport problems and a declaration was made to utilize National Guard services if needed; however, the services were not approved. He mentioned that the declaration can be affirmed by the Board within a certain time period after the fact to make it formal. The declaration was rescinded on January 25th.

On motion of Mr. Garten, seconded by Mr. Nicely, that the following resolution be adopted:

WHEREAS, the Director of Emergency Services (Chairman of the Board of Supervisors), declared a local emergency in Alleghany County from Friday, January 22, 2016 at 10:00 a.m. until Monday, January 25, 2016 at 10:00 a.m. due to the occurrence of Winter Storm Jonas and the possibility of widespread power outages, transportation problems, and temporary road closures; and

WHEREAS, the Alleghany County Emergency Operations Plan states that consent of the entire Board of a local emergency is needed within fourteen days of the declaration; and

WHEREAS, the Board of Supervisors of the County of Alleghany, Virginia, does hereby find as follows:

1. That, due to the occurrence of Winter Storm Jonas and related conditions, the County of Alleghany was facing potential problems that could have required the request of resources from the State and/or Federal Government.
2. That, the proclamation of the existence of an emergency is necessary to permit the full powers of government to deal effectively with the situation at hand and may allow for monetary assistance for damage sustained by the event.

NOW, THEREFORE, BE IT HEREBY PROCLAIMED by the Board of Supervisors of the County of Alleghany, Virginia, that they confirm the actions taken by the Director of Emergency Services in declaring that a local emergency existed throughout the County of Alleghany; and

BE IT FINALLY PROCLAIMED AND ORDERED that during the existence of this emergency the powers, functions, and duties of the Director of Emergency Services and the Emergency Services organization and functions of the County of Alleghany shall be those prescribed by the laws of the Commonwealth of Virginia and the ordinances, resolutions, and approved plans of the County of Alleghany in order to mitigate the effects of said emergency.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

REAPPOINTMENT OF MR. RICHARD ENGLEMAN AND MR. WILLIAM RILEY TO THE PLANNING COMMISSION:

Mr. Bennett stated that the terms of Mr. Richard Engleman (Sharon District) and Mr. William Riley (Falling Spring District) on the Planning Commission expire March 1, 2016. Terms are for four years and both are eligible for reappointment.

Mr. Nicely commented that Mr. Engleman does want to be reappointed.

Mr. Garten stated that he has not spoken with Mr. Riley, but is sure that he would want to be reappointed.

On motion of Mr. Nicely, seconded by Mr. Garten, that the following resolution be adopted:

BE IT RESOLVED by the Alleghany County Board of Supervisors that Mr. Richard L. Engleman, (Sharon District), 4115 Firehouse Circle, Clifton Forge, VA 24422 be reappointed to the Planning Commission for a term of four years beginning March 2, 2016 and ending March 1, 2020.

BE IT FURTHER RESOLVED by the Board that Mr. William J. Riley (Falling Spring District), 100 Waller Avenue, Covington, VA 24426 be reappointed to the Planning Commission for a term of four years beginning March 2, 2016 and ending March 1, 2020.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

REAPPOINTMENT OF MR. JOSEPH WHALEN AND MS. JEWELL MOORE TO THE WATER AND SEWER COMMISSION:

Mr. Bennett stated that the terms of Mr. Joseph Whalen (Sharon District) and Ms. Jewell Moore (Covington District) on the Water and Sewer Commission expire March 1, 2016. Terms are for four years and both are eligible for reappointment.

Mr. Nicely commented that Mr. Whalen does want to be reappointed.

Mr. Griffith stated that Ms. Moore also wants to be reappointed.

On motion of Mr. Griffith, seconded by Mr. Nicely, that the following resolution be adopted:

BE IT RESOLVED by the Alleghany County Board of Supervisors that Mr. Joseph Whalen (Sharon District), 97 Vine Avenue, Clifton Forge, VA 24422 be reappointed to the Water and Sewer Commission for a term of four years beginning March 2, 2016 and ending March 1, 2020.

BE IT FURTHER RESOLVED by the Board that Ms. Jewell Moore (Covington District), 4258 Callaghan Circle, Covington, VA 24426 be reappointed to the Water and Sewer Commission for a term of four years beginning March 2, 2016 and ending March 1, 2020.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

RECOMMEND TO THE CIRCUIT COURT JUDGE THE APPOINTMENT OF MR. RICHARD ENGLEMAN TO THE BOARD OF ZONING APPEALS:

Mr. Bennett stated that a recommendation needs to be made to the Circuit Court Judge to replace Mr. Raymond Humphreys (Sharon District) on the Board of Zoning Appeals due to his resignation. The term would begin immediately and end October 31, 2016.

Mr. Nicely commented that Mr. Richard Engleman is interested in the appointment.

On motion of Mr. Nicely, seconded by Mr. Griffith, that the following resolution be adopted:

BE IT RESOLVED by the Alleghany County Board of Supervisors that the Board endorses the appointment of Richard L. Engleman, (Sharon District), 4115 Firehouse Circle, Clifton Forge, VA 24422 to the Alleghany County Board of Zoning Appeals to complete the term of Mr. Raymond Humphreys beginning immediately and ending October 31, 2016.

This resolution of endorsement is to be submitted to the Judge of the Circuit Court to make the appointment.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

APPOINTMENT OF MR. WILLIAM "BILL" HARTSFIELD TO THE DABNEY S. LANCASTER COMMUNITY COLLEGE BOARD:

Mr. Bennett stated that a replacement needs to be made for Mrs. Janet Nelson on the Dabney S. Lancaster Community College Board due to her resignation. The term would begin immediately and end June 30, 2018. This appointment can be from any district.

Rev. William "Bill" Hartsfield volunteered for the position.

On motion of Ms. Adcock, seconded by Mrs. Cox that the following resolution be adopted:

BE IT RESOLVED by the Alleghany County Board of Supervisors that Mr. William M. Hartsfield (Jackson River District), 451 Winding Way, Covington, VA 24426 be appointed to the Dabney S. Lancaster Community College Board to complete the term of Mrs. Janet Nelson beginning immediately and ending June 30, 2018.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

COUNTY ADMINISTRATOR'S REPORT:

Mr. Lanford gave a report on the following items:

Approve Resolution to the General Assembly to Take No Action to Close the Catawba Hospital

Mr. Lanford handed out to the Board a draft resolution requesting that the General Assembly take no action to close the Catawba Hospital. The resolution is a part of the records of this meeting. He commented that the draft resolution was received from the Roanoke Valley-Alleghany Regional Commission who also took action, as well as various other localities (Roanoke City, Botetourt County, etc.). He mentioned that there is concern regarding the economic impact of the closing, the loss of beds, and an additional burden on Community Service Boards, Social Services, and law enforcement.

On motion of Mr. Garten, seconded by Mr. Shull, that the following resolution be adopted:

RESOLUTION REQUESTING THE GENERAL ASSEMBLY TO TAKE NO ACTION TO CLOSE THE CATAWBA HOSPITAL

WHEREAS, the Catawba Hospital has served the Commonwealth and communities in much of Western Virginia for more than 100 years, and in 1972, Catawba Hospital became part of the Department of Behavioral Health and Developmental Services as a treatment and rehabilitation center for the psychiatric needs of geriatric patients, and in 1981 expanded its services to become a unit for acute, short-term psychiatric treatment of patients ages 18-64; and

WHEREAS, Governor Terry McAuliffe's fiscal year 2017 budget requests \$1,000,000 for planning for the closing of Catawba Hospital in fiscal year 2018; and

WHEREAS, Catawba Hospital currently serves the needs of the local and regional public safety agencies and jails effectively and efficiently by providing accessible emergency services for inmates and community members in crisis; and

WHEREAS, the impact of closing Catawba Hospital would create an undue burden on patients in crisis and their families from the Roanoke Valley and nearby areas who would have to travel 90 miles to Western State Hospital; and

WHEREAS, the closing would also be an additional strain on already underfunded and understaffed local law enforcement and community service agencies; and

WHEREAS, Catawba Hospital is a vital part of the region's continuum of care by providing in-patient services for adult and geriatric individuals with the most severe and persistent forms of mental illness; and

WHEREAS, the closure of the Catawba Hospital would result in the loss of over 225 jobs, resulting in serious negative economic impacts for the Roanoke Valley-Alleghany region;

NOW, THEREFORE, BE IT RESOLVED that the Alleghany County Board of Supervisors urge the General Assembly to take no action to close the Catawba Hospital; and

BE IT FURTHER RESOLVED that the Board directs Mr. Jon Lanford, Interim County Administrator, to transmit this resolution to Governor McAuliffe and members of the Virginia Senate and House of Delegates serving our region.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

Appointment of Ms. Terrie Wright to the Alleghany Highlands Community Services Board

Mr. Lanford stated that he received an email late this afternoon from Mrs. Ingrid Barber, AHCS Executive Director, regarding the resignation of Ms. Carla Dobbs from the Alleghany Highlands Community Services Board due to family conflicts. He commented that Mrs. Barber is recommending the appointment of Ms. Terrie Wright to replace Ms. Dobbs.

On motion of Mr. Nicely, seconded by Mr. Griffith, that the following resolution be adopted:

BE IT RESOLVED by the Alleghany County Board of Supervisors that Ms. Terrie Wright (Clifton Forge East District), 1039 Cliftwood Circle, Clifton Forge, VA 24422 be appointed to the Alleghany Highlands Community Services Board (AHCSB) to complete the term of Ms. Carla Dobbs beginning immediately and ending December 31, 2018.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

Jackson River Scenic Trail Update

Mr. Lanford stated that Phases 3 and 4 of the Jackson River Scenic Trail construction are out to bid with a February 11th mandatory pre-bid meeting and bids due by February 23rd. He commented that this would complete the section from Smith Bridge to Bath County and from Intervale to Covington.

Gathright Dam Hydro Project Legislation

Mr. Lanford stated that he has received a notification from Congressman Griffith regarding legislation he has introduced for the Gathright Dam Hydroelectric Project. He commented that the legislation would extend the time limit for three two-year periods so applications remain valid.

Public Works Employees

Mr. Lanford stated that he overheard a conversation in the hall where one of the guys in Public Works that has worked here for over 30 years has not missed a day of work other than vacation in over 10 years. He commented that the County has great employees and this is just one of many.

Mr. Lanford mentioned that Mr. Chris Clark, Public Works Director, is leaving the County. He commented that the County will not be able to replace him as he has done a tremendous amount of good work for the County.

BOARD MEMBER COMMENTS (INQUIRIES/REPORTS):

Miscellaneous

The Board thanked everyone for coming to the meeting.

Mr. Griffith wished Mr. Clark the best of luck.

Mr. Shull commented that Mr. Clark did an excellent job as a Boy Scout and for the County and he is sure he will do his best going forward.

Mr. Nicely stated that he appreciates Mr. Clark's service to the County and wished him all the best. He thanked Mr. Raymond Humphreys for his service on the Board of Zoning Appeals since the 1980's and thanked Rev. Hartsfield for accepting the position on the DSLCC Board.

Mrs. Cox thanked all the volunteers for Boards and Commissions and commented that those positions are hard to fill unless the individual wishes to be reappointed. She told Mr. Clark that she enjoys his enthusiasm. She commented that she is sad that he is leaving, but when she heard the reason she feels he will be awesome in that endeavor.

Ms. Adcock stated that she has known Mr. Clark for a long time and it has been great working with him in this capacity. She commented that she appreciates all he has done, as well as how he explained and relayed information. She wished him the best. She stated that she plans to attend the VACo Legislative Day and Rural Caucus Dinner in Richmond and if the Board has any bills of concern to let her know as she is meeting with Delegate Austin while there.

Mr. Garten thanked Rev. Hartsfield for volunteering for the DSLCC Board and wished Mr. Clark the best of luck.

Mr. Bennett stated that he has enjoyed working with Mr. Clark over the last 7 ½ years and he hates to see him leave.

Drone Racing Event in the Alleghany Highlands

Mr. Bennett commented that Mayor Tom Sibold is also giving an update to Covington Council tonight on a Drone Racing Event which will be held in the area. He mentioned that a few months ago he came up with an idea for a drone park for local people to use and when doing research he came across information regarding drone racing on the Internet. He stated that a Drone Coalition was put together with a goal of educating the public about drones and to support drone racing. He commented that the Coalition consists of representatives from Alleghany County, Covington, DSLCC, AHEDC, Alleghany Foundation, and the Chamber of Commerce. He stated that a drone race will be hosted in the Alleghany Highlands from May 19th - 22nd with multiple race tracks and at this time there are 70 to 80 contestants from throughout the United States committed to the event. He mentioned that the corporate sponsor of the race will be Stone Blue Productions of Lynchburg which specializes in photography, video productions, and graphic designs and the owner (Mr. Jeremiah Guelzo) is one of Virginia's leading drone-racing enthusiasts. He stated that Mr. Guelzo is already creating YouTube videos for the upcoming race event in the County. The event is to be hosted by the County's Department of Parks and Recreation. He commented that this will probably be the first drone race held in Virginia and if it is successful there may be another one held in September.

Mr. Lanford stated that the event could be a spring board for economic development in the area as drone racers tend to be entrepreneurs with a knack for setting up businesses where events are held. He commented that drone racers typically bring four to five people with them to an event which translates into business for local motels and restaurants.

CLOSED MEETING:

On motion of Mr. Nicely, seconded by Mr. Garten, that the Board go into a Closed Meeting under Code of Virginia Sections 2.2-3711(A)(1) and (7) for the purpose of: (1) an update on the County Administrator position; and (2) consultation with legal counsel relating to action on probable litigation, relating to ongoing litigation with Clifton Forge. Unanimously adopted.

On motion of Mr. Shull, seconded by Mrs. Cox, that the Board come out of the Closed Meeting with the following certification:

CERTIFICATION
SECTION 2.2-3712

To the best of our knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter, and (ii) only such public business matters as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the session.

/s/James M. Griffith	Yes
/s/Richard L. Shull	Yes
/s/Suzanne T. Adcock	Yes
/s/Cletus W. Nicely	Yes
/s/Shannon P. Cox	Yes
/s/G. Matt Garten	Yes
/s/Stephen A. Bennett	Yes

DISCUSS AND CONSIDER CLAIM OF THE TOWN OF CLIFTON FORGE SUBMITTED JANUARY 5, 2016 PURSUANT TO VA. CODE §§ 15.2-1243 ET SEQ:

Mr. Bennett stated that a draft resolution was distributed to the Board for discussion during the Closed Meeting and the resolution is a part of the records of this meeting.

Mr. Lockaby read the draft resolution.

On motion of Mr. Griffith, seconded by Mr. Garten, that the following resolution be adopted:

A RESOLUTION UPON CERTAIN CLAIMS MADE BY THE TOWN OF CLIFTON FORGE BASED UPON A WRITTEN CONTRACT PURSUANT TO VA. CODE §§ 15.2-1243 ET SEQ.

WHEREAS, on January 5, 2016, the Town of Clifton Forge, Virginia, a municipal corporation of the Commonwealth of Virginia, submitted a claim to the Board of Supervisors of Alleghany County, Virginia, relating to certain disputed monetary claims with the County; and

WHEREAS, the Claim, in substance, relates to the setting of rates for the County’s wastewater service to the Town, as well as certain other matters relating to the formation of a regional wastewater system owned and operated by the County; and

WHEREAS, it appears that both the Town and the County adopted the Agreement attached hereto as Attachment A, and on which the Town relies, which requires, in relevant part, that the Board of Supervisors set a wastewater rate based on the following process:

The Recommended Annual Wholesale Wastewater Rate will be developed by the Regional Advisory Board in terms of the specific cost distribution formulas based on a 3-year rolling average of flows through the Plant incorporated into Alleghany County’s calculation spreadsheet generally in accordance with Exhibit A attached hereto and updated from time to time. The Recommended Annual Wholesale Wastewater Rate will be established based on annual costs of treatment per 1,000 gallons of flow and will be presented by the Technical Advisory Committee for review and recommended by the Regional Advisory board to the Board of Supervisors each year to set the Annual Wholesale Wastewater Rate. ... [T]he Annual Wholesale Wastewater Rate may not be set by the Board of Supervisors at more or less than two and one half percent above or below the Recommended Annual Wholesale Wastewater Rate.

The Town has called upon the Board of Supervisors to set a wastewater rate as required by this contractual language.

WHEREAS, it further appearing, as shown in the meeting minutes attached hereto as Attachment B, that the Technical Advisory Committee, which included three representatives of the Town of Clifton Forge, including the Town Manager, recommended a series of calculations and an Annual Wholesale Wastewater Rate of \$3.89 per 1,000 gallons for fiscal year 2012; and

WHEREAS, it further appearing that on May 2, 2011, the Advisory Board recommended that the Board of Supervisors adopt an Annual Wholesale Wastewater Rate of \$3.89 per 1,000 gallons in accordance with the formulas recommended by the Technical Advisory Committee, with unanimous support, including from the Town’s representatives; and

WHEREAS, on June 7, 2011, the Board of Supervisors adopted the above language with full knowledge of the Advisory Board’s recommendation; and

WHEREAS, On June 14, 2011, the Town Council, with full knowledge of what the Advisory Board recommended and the Board of Supervisors adopted, adopted the same agreement, language, and rate calculations; and

WHEREAS, the Town has, by submitting a claim that calls for the Board of Supervisors to adopt revised rates for the Town for fiscal years 2012–16 that were not specifically recommended by the Water and Wastewater Advisory Board but may be extrapolated from the calculations it did adopt, called upon the Board to do so; and

WHEREAS, the County Attorney was requested to audit the Town’s claim in accordance with law, and give the Board of Supervisors a recommendation thereon; and

WHEREAS, the County Attorney has made his recommendation, and the Board of Supervisors given the Claim and the recommendation full consideration:

NOW THEREFORE: Be it resolved that:

The Board of Supervisors **allows Claims A, D, and E**, as follows:

1. The County Administrator is directed to advertise the following rate schedule in accordance with law for public hearing and for possible adoption of rates not higher than the following at this Board’s March meeting:

Fiscal Year	Advisory Board Recommendation	Maximum Rate*
2012	\$3.89 / 1,000 gals.	\$3.98 / 1,000 gals.
2013	\$3.99 / 1,000 gals.†	\$4.08 / 1,000 gals.
2014	\$4.76 / 1,000 gals.†	\$4.88 / 1,000 gals.
2015	\$4.75 / 1,000 gals.†	\$4.86 / 1,000 gals.
2016	\$4.91 / 1,000 gals.†	\$5.03 / 1,000 gals.

* Under an agreement between the County and the Town, the Board of Supervisors will set a rate no higher than 2.5% above the Advisory Board’s recommendation. The Board of Supervisors may adopt a rate lower than the advertised rate, but no higher.

† Using the Advisory Board’s approved formula with annually fluctuating variables, as requested by the Town.

2. The County Administrator is directed to accept a deed from the Town of Clifton Forge for certain property generally known as the “Old Clifton Forge Wastewater Treatment Plant” or the “Clifton Forge Pump Station” and improvements thereon, the exact metes and bounds of which to be determined by the County Administrator; provided, however, that he shall accept such deed only (a) upon presentation by the Town of a resolution of the Town Council unconditionally authorizing such conveyance, or, if conditional, only upon satisfaction of all such conditions; (b) the Town’s payment in full of all sums due the County for wastewater service under any applicable schedule of rates, fees, and charges; and (c) approval by the County Attorney as to form.

3. The County Administrator is directed to advertise for public hearing and possible adoption in accordance with law an ordinance assuming the debt directly attributable to the aforementioned property for the next Board of Supervisors meeting for which advertisement can practicably be accomplished, subject to and upon occurrence of the following conditions:

- a. Such ordinance shall provide for assumption of a revenue debt only, secured against revenues from the aforementioned Clifton Forge Pump Station Property and secondly from the Alleghany County Wastewater Enterprise Fund, with no pledge, binding or moral, of any revenue from the General Fund; and further, with the understanding that notwithstanding any covenant to the contrary, the Alleghany County Board of Supervisors will not set rates for any customer of its wastewater system that are not fair, reasonable, uniform, and reasonably correlate with the benefits derived therefrom; and
- b. The Town presents a resolution or ordinance of the Town Council unconditionally authorizing such transfer and assumption, or, if conditional, only upon satisfaction of all such conditions. The Town

expressly refused to pass such an ordinance in October 2011, and thus has frustrated the County's attempts to assume the debt; and

- c. The Town's payment in full of all sums due the County for wastewater service under any applicable schedule of rates, fees, and charges; and
- d. Presentation of a resolution or other legally binding approval by the Virginia Resources Authority for such assumption; and
- e. Approval by the County Attorney and bond counsel as to the form of the documents and transaction.

As to **Claims B, C, and F**, the Board of Supervisors finds and directs as follows:

- 1. Because there is no valid contract between the Town and the County that would allow for issuance of a lawful warrant in fulfillment of **Claim B**, such claim is **denied**. However, the County Administrator and County Attorney are directed, upon completion of all transactions that are allowed hereinabove, to negotiate a contract that would meet the substance of Claim B for consideration by this Board at the appropriate time.
- 2. **Claim C** is **denied**. The Town has not specified any such damages, and under the common law voluntary payment doctrine the County may not lawfully issue a warrant to refund amounts voluntarily paid.
- 3. **Claim F** is **denied**. The Town has not presented any contract which would provide for costs or attorneys' fees; and furthermore, any such contract would be void and would not form a lawful basis for issuance of a warrant.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Abstain
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

NOTE: The abovementioned attachments are a part of the records of this meeting.

ADJOURNMENT:

On motion of Mr. Nicely, seconded by Mrs. Cox, that the meeting be adjourned at 9:55 p.m. Motion carried.

Stephen A. Bennett
Chairman