

BOARD OF SUPERVISORS MEETING

June 4, 2019

The regular meeting of the Campbell County Board of Supervisors was held on the 4th day of June 2019 in the Board of Supervisors meeting room of the Walter J. Haberer Building, Rustburg, Virginia. The members present were:

Eddie Gunter, Jr., Chairman, Presiding	Concord Election District
James A. Borland	Spring Hill Election District
Bob Good	Sunburst Election District
Jon R. Hardie	Rustburg Election District
Susan R. Hogg (electronic participation)	Timberlake Election District
A. Dale Moore	Altavista Election District
Charlie A. Watts II	Brookneal Election District

Also present were:

Frank J. Rogers, County Administrator
Clifton M. Tweedy, Deputy County Administrator
F. E. "Tripp" Isenhour, III, County Attorney
Kristin B. Wright, Staff Attorney
Catherine H. Moore, Clerk

Chairman Gunter called the meeting to order at 6:00 p.m. Following the Pledge of Allegiance, a moment of silence was observed.

Supervisor Hogg joined the meeting by telephone and was audible by the Board members. She previously contacted Chairman Gunter to request permission to participate in the meeting electronically due to being out of the State for personal reasons. At this time the Board considered her request.

On motion of Supervisor Hardie, it was resolved the Board of Supervisors approves the request by Supervisor Hogg to participate in the meeting by electronic means due to her being out of the State for personal reasons.

The vote was: Aye: Borland, Good, Gunter, Hardie, Hogg, Moore, Watts
Nay: None
Absent: None

// APPROVAL OF MINUTES

On motion of Supervisor Hardie, it was resolved the Board of Supervisors dispenses with the reading and approves the minutes of the April 24, 2019 Secondary Schools Tour, May 7, 2019 regular meeting and May 14, 2019 regular meeting.

Supervisor Borland offered amendments to the April 24, 2019 minutes to clarify the invitation to tour the secondary schools was received about two weeks prior to the date and it was not a regular scheduled meeting requiring attendance by the Board. He offered a substitute motion:

On motion of Supervisor Borland, it was resolved the Board of Supervisors dispenses with the reading and approves the minutes of the April 24, 2019 Secondary Schools Tour as amended, May 7, 2019 regular meeting as presented and May 14, 2019 regular meeting as presented.

The vote was: Aye: Borland, Good, Gunter, Hardie, Hogg, Moore, Watts
Nay: None
Absent: None

// RESOLUTION TO HONOR JUDGE J. SAMUEL JOHNSTON, JR.

Judge Johnston served for nearly 31 years, first in the Campbell County General District Court and then in the Campbell County Circuit Court from 1981 until his retirement in June of 2008. Supervisor Watts requested staff draft a resolution for the Board's consideration to recognize Judge Johnston for his service and consider dedicating a portion of Route 501 in his honor.

On motion of Supervisor Watts, it was resolved the Board of Supervisors adopts the following resolution:

**RESOLUTION IN HONOR OF
RETIRED JUDGE J. SAMUEL JOHNSTON, JR.**

WHEREAS, Retired Judge J. Samuel Johnston, Jr. served Campbell County with great distribution as a Campbell County District and Circuit Court Judge from 1977 until his retirement on June 1, 2008; and

WHEREAS, Judge Johnston received his bachelor's degree from the University of Alabama and a law degree from the University of Virginia School of Law; and

WHEREAS, after practicing law for five years was appointed a judge of the Campbell County General District Court at the age of 30, making him the youngest Judge in the State; and

WHEREAS, in 1981, Judge Johnston was named Judge of the Campbell County Circuit Court as the youngest Circuit Court Judge in Virginia, where he presided over hundreds of trials that impacted thousands of lives and was known for his thoughtfulness, fairness and commitment to justice; and

WHEREAS, during his tenure as the Circuit Court Judge advocated for a new courthouse to not only protect victims and witnesses in criminal cases, but to have the proper facilities to conduct fair and audible hearings and trials, and a new Courthouse was dedicated on June 20, 1991; and

WHEREAS, following retirement Judge Johnston remained active in the legal community as a substitute Judge for the 24th Judicial Circuit, participating in a statewide mediation group, performing numerous speaking engagements where he served as inspiration to other Judges and attorneys and authoring a book entitled "Why Judges Wear Robes," a humorous account of life in the courtroom.

NOW, THEREFORE, BE IT RESOLVED, the Campbell County Board of Supervisors hereby recognizes Judge Johnston for his many years of faithfulness and dedication to the citizens of Campbell County; and

BE IT FURTHER RESOLVED, the Campbell County Board of Supervisors authorizes staff to work with the Virginia Department of Transportation and local Virginia delegation to prepare the appropriate resolution and documentation to have a portion of Route 501 in Campbell County dedicated to Judge J. Samuel Johnston, Jr.

The vote was: Aye: Borland, Good, Gunter, Hardie, Hogg, Moore, Watts
Nay: None
Absent: None

// COUNTY EMERGENCY RADIO SYSTEM

At the April 2nd Board meeting, staff provided background information on the County's existing public safety radio system. This information included a summary of the existing technology as well as challenges being faced as the system ages and components became increasingly difficult to repair and/or replace. During the May 21st work session, staff along with technical experts from Harris presented information on the radio system. This presentation included information on the structure of the County's existing system, as well as the two available options going forward: 1) replace the existing system equipment with new P25/800 mhz capable equipment as a stand-alone, independent 911 system (as it was presently) or 2)

move to a new P25/800 mhz system that was integrated into the Region 2000 Regional Radio Board and thus becoming a part of the regional radio system.

Staff anticipated that implementation of a new radio system would take 18 to 24 months. In light of the anticipated life cycle of the County's existing technology, it would be appropriate to begin taking steps now to address this critical infrastructure need. Staff believed that joining the Regional Radio Board would enable significant improvements in terms of interoperability among localities as they respond jointly to emergencies; would provide ample redundancy in case of a catastrophic event; and would allow the County to move forward with state of the art equipment to meet the current and future public safety need.

Replacing the radio system would be a major capital investment. Based upon preliminary estimates, anticipated costs to join the regional system were:

- Approximately \$3.6 million for equipment including but not limited to items such as: dispatcher consoles, tower structural analysis and antennae installations; RF site equipment; radio equipment and services.
- Approximately \$200,000/year for up to seven years as part of the negotiated "buy-in" fee to reflect each member's share of the bonded debt incurred to establish the regional radio system; and
- Approximately \$175,000/year for the annual operations fee. This annual fee is set based upon the annual budget of the Radio Board and Campbell's percentage of radios operating on the system.

It was important to note from the onset that, if the County elected to join the Regional Radio Board, the estimated annual expenses would be approximately \$400,000/year until such time as the debt was retired (in 2027) and approximately \$200,000/year thereafter based on present estimates.

Supervisor Borland asked if it would be possible to purchase and install the radio equipment any faster. Administrator Rogers believed it would be difficult to procure, receive and install the equipment faster while working through the financial mechanism to fund the project. If authorized, staff would do everything possible to not delay the implementation of the system.

Supervisor Watts suggested moving forward with the negotiations to join the regional system and at the same time authorize a Request for Proposals (RFP) for a standalone system. Administrator Rogers believed exploring both tracks would give the Board the information necessary to consider and compare both options. Supervisor Hardie supported that option.

In answer to a question by Supervisor Hardie on the functionality of the current system, Administrator Rogers assured the Board the current system would be maintained to meet public safety needs. When the new system was in place, there would be a switchover date when one system would go dark and the other system would go live without a gap in coverage. Would there be any advantages in continuing to use the old system along with the new system? Director Fairchild indicated the paging system was still operational and would be maintained and continued to be used. This would allow for a redundancy in the paging system.

On motion of Supervisor Watts, it was resolved the Board of Supervisors authorizes staff to proceed with negotiating membership with the Regional Radio Board, authorizes a Request for Proposals (RFP) for an independent, standalone radio system, and authorizes staff to work with the County's financial advisor to develop financing options to replace the County's emergency radio system for Public Safety.

The vote was: Aye: Borland, Good, Gunter, Hardie, Hogg, Moore, Watts
Nay: None
Absent: None

// CAMPBELL COUNTY CODE – PERMISSION TO ADVERTISE

Twice a year the Board of Supervisors updates the Campbell County Code with mandated changes approved by the General Assembly and discretionary changes proposed by the Board or staff during the year.

Kristin Wright, Staff Attorney, presented a summary of changes to be advertised for public hearing at the Board's July 16, 2019 meeting. These would include General Assembly changes that increase the duties of pet owners to make sure pets were properly protected from changes in temperature and adequately tethered, and changes to the definition of permissible fireworks. There were several changes proposed in Chapter 21 (Subdivision) and Chapter 22 (Zoning) by Supervisor Watts related to the subdivision of lots into two-acre parcels instead of three-acre parcels, division of parcels of land greater than five acres, creation of parcels without road frontage, and adjusting boundaries of the Transportation Corridor Overlay District.

The Planning Commission met on May 27th and had some concerns related to the proposed amendments by Supervisor Watts. A public hearing was required by both the Planning Commission and the Board of Supervisors on any changes to Chapters 21 and 22. The public hearing on those amendments before the Planning Commission would be held on June 24th.

Supervisor Watts indicated he would like to delete one of his proposed amendments "increase the maximum lots allowed to be created on a road under this provision to increase from two to ten" found in §21-12.

Supervisor Borland commented that Supervisor Watts had been invited to attend the Planning Commission meeting on June 24th. Supervisor Watts indicated he had declined that invitation and added the Board of Supervisors asked the Planning Commission to review the proposed amendments and hold a public hearing on the same.

On motion of Supervisor Hardie, it was resolved the Board of Supervisors authorizes staff to advertise public hearings on the proposed amendments to the Campbell County Code except for the deletion of one amendment by Supervisor Watts for the June 24, 2019 Planning Commission meeting and the July 16, 2019 Board of Supervisors meeting.

The vote was: Aye: Borland, Good, Gunter, Hardie, Hogg, Moore, Watts
Nay: None
Absent: None

// HIGHWAY MATTERS

Clif Tweedy, Deputy County Administrator, updated the Board on highway matters. Robert Brown, VDOT Residency Engineer, was also present.

Mr. Tweedy reviewed highway items identified at the prior meeting and all items were completed or would be completed soon. Mr. Brown advised pooling water on a portion of the sidewalk in Rustburg was resolved and VDOT had scheduled night repairs on the Livestock Road pavement issues.

From the Board:

- Supervisor Hardie thanked VDOT for its continued efforts in cleaning litter from the roadways.
- Supervisor Good inquired about the outcome of the Timberlake Road study pertaining to the coordination of traffic lights. Mr. Brown would look into this and wondered if the improvements on Waterlick Road were impacting the delay or outcome of the study.
- Supervisor Moore was impressed with how quickly VDOT and Mr. Brown responds to the Board's concerns.
- Supervisor Borland thanked VDOT for improvements to Russell Woods Drive. He also relayed at the northeast corner of Waterlick and Leesville Roads there was a 12" to 15" trench at the road's edge that could impact vehicles.
- Chairman Gunter asked VDOT to look at a hole on Eastbrook Road where it crosses Route 501 South. He also asked VDOT to determine if the right turn at Eastbrook Road from Route 501 North could be improved. There was really no turn lane at all, and there had been some scary incidents at that location.

- Supervisor Hogg thanked VDOT for the work on Laurel Lane and seconded Supervisor Good's request to receive the Timberlake Road study.

Revenue Sharing Request

This year VDOT would be receiving revenue sharing requests in order to assist citizen groups, businesses and other organizations with constructing roads to VDOT standards. Building a road to State standards allows the road to be brought into the system for maintenance by VDOT.

The County had received requests for Revenue Sharing funds for Brian Drive, Farm Meadow Road and two road requests from the Holiday Forest Property Owners Association for Kingswood Lane and the second phase of Night Hawk Road. Pre-application requests were required to be submitted before July 1st with final applications due by October 1st. The County could expect a notice of fund availability by next spring with final approval in the summer of 2020.

Brian Drive was a short dead end road with three residences on it, located off of Royal Court (Route 1670) in the Timberlake District (estimated cost \$32,891). Farm Meadow Drive was a dead end road with eight residences located off of Village Highway (Route 24) in the Concord District (estimated cost \$58,701). The property owners for both of these projects plan to fund their 50% share.

Kingswood Lane and the second phase of Night Hawk Road were the next two projects submitted by the Holiday Forest Property Owners Association. Kingswood Lane with 17 residences was a dead end road located off of Night Hawk Road in the Concord District (estimated cost \$266,121 but may be adjusted upward). They were requesting consideration of the Board Policy concerning a special assessment to fund their 50% portion of the project. If the special assessment process was approved by the Board and 75% of the residents on Kingswood Lane, the County would front the local portion of Kingswood Lane for the property owners with a payback period of five (5) years.

The second phase of Night Hawk Road with seven (7) residences was a dead end road located off of Smokey Hollow Road in the Concord District (estimated cost \$68,178). The property owners would fund their 50% share.

Supervisor Borland recalled when the Board adopted the policy for special assessments; the Board approved a five-year payback period for Holiday Forest's project and discussed a shorter payback period for subsequent projects. This was due to the County having a limited pool of funds to fund road projects upfront. Administrator Rogers recalled the Board conceptually earmarked up to \$200,000 of the General Fund unassigned funds for special assessments. There was a discussion of the payback period from two to five years, and for this project staff would leave the payback period to the Board's discretion. He too recalled conversation that the first road would be allowed a five-year payback period and subsequent roads would require a two year payback. Staff would review the line item to determine how much has been charged and how much has been repaid.

Supervisor Borland would support the special assessment process for Kingswood Lane with a payback period of two (2) years. He offered the following motion:

On motion of Supervisor Borland, it was resolved the Board of Supervisors authorizes the submission of applications for Revenue Sharing Funds to fund up to 50% of the costs to construct Brian Drive, Farm Meadow Drive, Kingswood Lane and the second phase of Night Hawk Road, approves adding these projects to the County's Capital Improvement Plan, and approves the special assessment process to fund the local portion of Kingswood Lane for the property owners with a payback period of two (2) years.

Before the vote was taken, there was additional discussion. Supervisor Hardie clarified that Brian Goldman, spokesperson for the Holiday Forest Property Owners Association, made application for Kingswood Lane with the assumption the payback period could be five (5) years based on its prior road project. Supervisor Borland recalled the Board's concern several years ago that the County should not be put in a position to act as banker for road projects and tie up

County funds. Supervisor Good agreed that five years was a long period to tie up County funds as those funds could not be used for other projects. He believed two (2) years would be an appropriate payback period. In answer to a question by Supervisor Hardie, County Attorney Isenhour indicated there had only been a few collection problems with Holiday Forest's first project. Chairman Gunter commented the residents of Holiday Forest had waited a long time to get their roads paved, and paving the roads would add value to those properties. Supervisor Good believed there was consensus to approve the projects, but the concern was whether the Board should commit the County's funds for two or five years. Supervisor Hardie offered a substitute motion to allow a five-year payback period for Kingswood Lane because of the precedent set with the first project.

On motion of Supervisor Hardie, it was resolved the Board of Supervisors authorizes the submission of applications for Revenue Sharing Funds to fund up to 50% of the costs to construct Brian Drive, Farm Meadow Drive, Kingswood Lane and the second phase of Night Hawk Road, approves adding these projects to the County's Capital Improvement Plan, and approves the special assessment process to fund the local portion of Kingswood Lane for the property owners with a payback period of five (5) years.

The vote was: Aye: Gunter, Hardie, Hogg, Watts
Nay: Borland, Good, Moore
Absent: None

The substitute motion passed; no vote was taken on the original motion.

// CONSENT AGENDA

On motion of Supervisor Hogg, it was resolved the Board of Supervisors approves the following under the Consent Agenda:

a) Appropriations –

1. General Fund, Clerk of the Court, deleting \$1,000 from Office Supplies and appropriating the same to Furniture & Fixtures, to purchase a broken desk in the probate room;
2. Capital Improvement Fund, Public Works, deleting \$2,744 from Facility Upgrades and appropriating the same to HVAC/Window Replacement, for asbestos abatement during interior improvements in the Agriculture building;
3. General Fund, Victim Witness, deleting \$470 from Dues/Association Memberships, \$3,250 from Travel, \$1,150 from Convention/Education and \$120 from Mileage and appropriating the total amount of \$4,990 to Office Supplies, to supply Victim Witness Advocates with laptops to use in court;
4. General Fund, Social Services Administration, deleting \$11,000 from Other Professional Services, \$10,000 from Postage, \$3,500 from Employee Tuition Assistance, \$4,000 from Lease/Rent Buildings, \$4,200 from Telephone and \$2,600 from Travel – Sustenance & Lodging, and appropriating the total amount of \$35,300 to Legal Services, to pay increased legal costs;
5. General Fund, Non-Departmental, deleting \$2,000 from Postage, and appropriating the same to Advertising, to cover additional expenses for multiple newspaper advertisements related to tax rate changes and FY 20 budget;
6. General Fund, Sheriff's Office, deleting \$1,000 from Advertising, \$1,000 from M/R – Office Equipment, \$3,000 from Telephone and appropriating the total amount of \$5,000 to Uniforms, to purchase uniforms for new hires;
7. General Fund, Commonwealth's Attorney, deleting \$200 from Personal Vehicle Mileage and appropriating the same to Dues & Memberships, to pay Virginia State Bar dues for new hire, Mitchell Hanson;

8. General Fund, Sheriff's Office, appropriating \$4,869.20 to Jason Saunders Memorial; and raises estimated revenue, Gifts and Donations, by \$4,869.20, funds from 2019 Jason Saunders Memorial Car Show;

9. General Fund, Sheriff's Office, appropriating \$5,408.70 to Vehicle Equipment, and raises estimated revenue, Insurance Recovery, by \$5,408.70, to help purchase a replacement car camera;

10. General Fund, Sheriff's Office, appropriating \$2,000 to Police Supplies; and raises estimated revenue, Gifts and Donations by \$2,000, donation from Wade Keatts to purchase three gun safes for the Courthouse and evidence room;

11. General Fund, Sheriff's Office, appropriating \$1,011.65 from Special Investigation Fees; and raises estimated revenue, Special Investigation Restitution, by \$1,011.65, court-order restitution for narcotic funds used in the case;

12. General Fund, Children's Services Act, appropriating \$449,000 to CSA/CAR Pool; and raises estimated revenue, Children at Risk (CAR) Pool in the amount of \$278,380 and reduce General Fund Balance in the amount of \$170,620, to fund higher case load for FY 2019;

13. General Fund, Public Safety, appropriating \$15,930.55 to Medical Equipment; and raises estimated revenue, Rescue Squad Assistance Grant, by \$15,930.55, funds received as part of a 50% matching grant for a Zoll monitor;

14. General Fund, Public Safety, appropriating \$15,930.55 to Medical Equipment, and raises estimated revenue, Rescue Squad Assistance Grant, by \$15,930.55, grant funds to purchase medical equipment;

15. General Fund, Public Safety, appropriating \$680.96 to Convention & Education; and raises estimated revenue, CPR/EMT/Fire Training by \$680.96, scholarship funds received for EMS training for Andrew Francis;

16. General Fund, Environmental Management, appropriating \$5,600 to Stormwater Mgmt Fees – State; and raises estimated revenue, Stormwater Mgmt Fees – State by \$5,600, to pay fees collected to the Commonwealth of Virginia;

17. School Café Fund, School Food Service, appropriating \$3,325 to Purchase Service – VANCO; and raises estimated revenue, VANCO – Conv Funds by \$3,325, fees collected from VANCO for funds placed on student breakfast/lunch accounts during March 2019;

18. School Operating Fund, Adult Ed/Other, deleting \$1,917 from VOC Equipment – Other, and decreases estimated revenue, Sale of Other Equipment, by \$1,917, to match GOV Deals sales;

b) County Attorney invoice –

Approves payment to the County Attorney in the amount of \$18,874.38 for services rendered from April 16, 2019 through May 22, 2019;

c) Exceptions from the Noise Ordinance –

Approves an Exception from the Noise Ordinance for a benefit concert for Lyn-Dan Heights Volunteer Fire Department on August 10, 2019 from 5:00 p.m. to 11 p.m., and

Approves an Exception from the Noise Ordinance for the Yuille Family Reunion on July 6, 2019 from 4 p.m. to 1 a.m.;

d) Small Purchasing Policy Update –

Approves updated changes to the Small Purchase Policy effective July 1, 2019 that states:

In each threshold section the addition of “**or total term contract amount,**” has been added to help departments better calculate how they need to proceed to acquire their goods and services.

\$3001-\$20,000 threshold addition:

“Since most vendors do not offer cooperative contracts for the purchase of used vehicles & equipment, these only need to meet the standard above if the total purchase is less than \$100,000.00. VA Code § 2.2-4303G. Any purchase over \$20,000 must be approved by the Campbell County Board of Supervisors prior to execution.”

Additional information to add:

“Once any Purchase Order has been printed and signed, the Central Purchasing office will send the Purchase Order to the vendor via email. Notification to the department requestor will be included for department confirmation.”

e) School Administration Elevated Walkway Replacement –

Awards construction of the School Administration Walkway Replacement project to Windle Construction for \$21,581 for replacement of the two existing elevated walkways and the installation of two new metal and fiberglass elevated walkways.

The vote was: Aye: Borland, Good, Gunter, Hardie, Hogg, Moore, Watts
Nay: None
Absent: None

// APPOINTMENTS

Chairman Gunter indicated his representative on the Social Services Board, Carolyn Porter, was not eligible to serve another term (had completed two terms). He offered the following motion to appoint Dr. Shameka Davenport, a former County employee, currently the Director of Human Resources at the Central Virginia Training Center.

Social Services Board

On motion of Chairman Gunter, it was resolved the Board of Supervisors appoints Shameka W. Davenport, 667 Nighthawk Road, Lynchburg, Virginia 24504 to a four year term beginning July 1, 2019 until June 30, 2023 on the Social Services Board for the Concord Election District.

The vote was: Aye: Good, Gunter, Hardie, Hogg, Moore, Watts
Nay: Borland
Absent: None

// MATTERS FROM THE BOARD

- Supervisor Moore visited several people and was impressed with the job Tracy Fairchild, Director of Public Safety, was doing as well as the work by Investigator Whitt Clark.
- Supervisor Hardie congratulated all the high school graduates and their families; the County had a lot of talented students who would be leaving but he knew they would do great things at their respective colleges or work places.
- Supervisor Hardie congratulated Ryan Fore, a graduate of Rustburg High School, who won his second State championship in hurdles. Congratulations to Ryan, his family, his team and his coach.
- Chairman Gunter thanked Mike Davidson, Director of Economic Development, and his team for hosting the 16th Annual Business Appreciation Luncheon. The speaker was excellent and the event was well attended. Supervisor Watts added his appreciation to the staff on the launching of “52 in 52”, the Campbell Works Business Visitation Program with the goal of visiting 52 different businesses in 52 weeks to enhance the lines of communication among the local business community.

The meeting was recessed for a five-minute break before the public hearings.

// PUBLIC HEARING – CONCORD VOLUNTEER FIRE DEPARTMENT TAX-EXEMPT LOAN

The first public hearing was opened at 7:03 p.m. pursuant to Sections 147(f) of the Internal Revenue Code, as amended. The Board would consider adoption of a resolution to approve a proposal that the Concord Volunteer Fire Department, located at 12573 Richmond Highway, Concord, Virginia 24538, enter into a tax-exempt purchase agreement with First National Bank of Altavista to finance the cost of a new building, in the approximate principal amount of \$399,000. The Concord Volunteer Fire Department would be required to pay all payments for the property and to pay any applicable taxes on the property. Obligations under the purchase agreement would be secured by a security interest in the property. A resolution of approval would not create an obligation for payment upon the County of Campbell; the Concord Volunteer Fire Department shall hold and save harmless the County of Campbell from any claim thereof.

Claude Owen, President of the Concord Volunteer Fire Department (CVFD), spoke on behalf of the tax exempt loan for the construction of a new building on their property. CVFD plans to build a new building adjacent to their existing facility to have more space for additional apparatus including a swift water boat and its equipment to provide additional services to the citizens. The new facility would include a large kitchen and dining space for fundraisers. Mr. Owen asked the Board for approval of the resolution which would save them in interest costs.

No one spoke in favor of or in opposition to the proposed resolution. The public hearing was closed at 7:05 p.m.

Chairman Gunter indicated Concord Fire Department was in his District, and he had known the members of the department for many years. He offered the following motion:

On motion of Chairman Gunter, it was resolved the Board of Supervisors adopts the following resolution:

CERTIFICATE OF COUNTY ADMINISTRATOR RE APPROVAL OF TAX-EXEMPT LOAN TO VOLUNTEER FIRE DEPARTMENT BY CAMPBELL COUNTY BOARD OF SUPERVISORS

The undersigned, being the duly qualified County Administrator of Campbell County, Virginia, does hereby certify that the following is a true and accurate copy of a Resolution passed by the Campbell County Board of Supervisors at its regular meeting on the 4th day of June, 2019, which Resolution was duly introduced and approved, and is effective as of the meeting at which it was approved, and that said Resolution remains in full force and effect:

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Board of Supervisors of Campbell County, Virginia, does hereby approve (within the scope of the qualifying language set forth below) a tax-exempt loan to the Concord Volunteer Fire Department (the “VFD”) from First National Bank of Altavista in the approximate principal amount of \$399,000 which loan is for the construction by the VFD of a building, and which building will be owned and operated by the VFD at 12573 Richmond Highway, Concord, Virginia 24538.

RESOLVED, FURTHER, that the approval of the loan to the VFD set forth above is given solely for purposes of the public approval requirements for tax-exempt financing applicable to the VFD because of Section 147(f) of the Internal Revenue Code of 1986, as amended, and such approval does not obligate Campbell County or its Board of Supervisors in any way regarding repayment of the debt.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Campbell County Board of Supervisors hereby does approve a written agreement requiring the provision of fire fighting services to the County by the VFD in the form of the written agreement attached hereto as an exhibit and incorporated by reference herein.

RESOLVE, FURTHER, that Frank Rogers, County Administrator of the Campbell County Board of Supervisors hereby is authorized to execute on behalf of the County a written

agreement with the VFD in the form of the written agreement attached hereto as an exhibit and incorporated by reference herein.

Before the vote was taken, Supervisor Borland indicated he had attended a funeral recently at the fire department for the grandson of one of his friends. They did a great job, but the space was full and agreed they did need more space.

The vote was: Aye: Borland, Good, Gunter, Hardie, Hogg, Moore, Watts
Nay: None
Absent: None

// PUBLIC HEARING – REZONING ON ENGLISH TAVERN ROAD

The next public hearing was opened at 7:06 p.m. on:

PL-19-39 Request by Ricky W & Lisa D Moorefield to rezone property located on English Tavern Road at Tavern Grove Lane from Residential – Single Family, Conditional to Residential – Multi Family, Conditional in order to construct a townhouse development. The property is located in an area designated as medium to high density residential per the current Comprehensive Plan.

Paul Harvey, Director of Community Development, presented the Board with an updated staff memo and site plan. The applicant just that day offered voluntary proffers to designate a dog walk area and install a six-foot tall premanufactured fence to serve as a buffer between the Tavern Grove extension property town homes and the homes on Spring Oak Drive. A revised site plan was submitted that reflected the proffers. If the rezoning was approved, the proffers would become a part of the County's Zoning Ordinance and limited the use of the property.

Reviewing the staff report, Mr. Harvey indicated the request is to rezone 10.75 acres to Residential – Multi Family, Conditional, in order to construct a 92-unit townhouse development as an expansion of the existing Tavern Grove development. The development would be served by public water and public sewer provided by the Campbell County Utilities and Service Authority connecting with existing utilities in the Tavern Grove development. The Project Evaluation Committee met on April 2, 2019 to review the request.

The property would be accessed by two entrances onto Tavern Grove Lane, an existing private street serving the Tavern Grove development. A submitted traffic study showed a right-turn lane was not warranted indicating most of the traffic coming into the development would be using the existing left-hand turn lane from English Tavern Road. Mr. Harvey also noted a non-public emergency access from the subject property to English Tavern Road would be provided.

Ed Willman, of Accupoint Surveying & Design, 950 Airport Road, was representing the applicants on the rezoning of their property. When the Moorefields came to Accupoint to talk about the rezoning, the first thing they did was look at the future land use map which indicated medium to high density residential. The property borders Tavern Grove and was across from Lake Walk. The Board approved a similar type townhome development recently less than a half-mile away. As the property was currently zoned, the applicant would be limited to building one single family home because an additional VDOT entrance could not be approved at that location. As a result of the concerns expressed at the Planning Commission public hearing, the proffers were added to the site plan. In addition to those proffers, the developers were reserving a 3.5 acre green space that would be put in a conservation easement and natural walking trails at the rear of the property as an amenity for the residents of Tavern Grove and the new development. The project would have a positive economic impact on the County and surrounding areas with increased personal and real estate taxes. The short term impact would be jobs for local construction workers. This development would share the already VDOT approved Tavern Grove Lane entrance. A traffic study was performed by Ramey Kemp & Associates, and Carl Hultgren, P.E., briefed the Board on the study outcomes.

Carl Hultgren, an engineer with Ramey Kemp & Associates, a traffic engineering firm based in Raleigh, NC, was a member of their Richmond, Virginia office. His firm performed a Turn Lane Warrant Analysis for the project and determined the traffic volumes did not warrant a westbound right-turn lane or taper on English Tavern Road. The study included collecting the

existing traffic volumes during the peak AM and PM hours which were well below the threshold for needing a right-turn lane. The projected traffic from the new development was added and found the data was still below the threshold for a right turn lane or taper. VDOT reviewed and approved the report.

In closing, **Mr. Willman** indicated the proposed development would fit with the County's future land use plan and also fit with the other uses in the area. In addition, the project would have a positive economic impact on the County and a better alternative than the by-right uses.

Chairman Gunter called for comments from the Board. Supervisor Borland asked how long the Moorefields had owned the property. Mr. Willman indicated at least 12 to 15 years and directed the question to Mr. Moorefield who indicated 13 to 14 years. Supervisor Borland confirmed the proffers were offered that day and asked if the Moorefields or their representatives had met with the property owners on Spring Oaks Drive. Mr. Willman said they had not directly, but had reviewed notes taken by Amy Seipp of his firm and the developer's notes from the Planning Commission meeting. They were attempting to address the concerns regarding screenings and buffers which seemed to be a major concern. Supervisor Borland agreed it was a major concern, but he did not believe they had addressed those concerns by a six foot fence when the development would consist of two-story buildings. Each of the townhomes would have a backyard or a raised area in the back, and a six foot fence would not shield the noise from those that lived in the R-1 Residential area. Supervisor Borland was concerned they had not spoken with anyone on Spring Oaks Drive.

Ricky Moorefield, 12904 Bellvue Road, indicated he purchased the property 13 to 14 years ago, and it was zoned agricultural. The seller was intending to put in a concrete business. He wanted to put houses there and found out he could not do that because of VDOT requirements. The property owners on Spring Oaks Drive had approximately 120 feet of buffer in their own backyards with trees. He wanted to put the fence up to be a good neighbor.

Supervisor Borland recalled the Board considered a rezoning of this property several years ago for three-story buildings with a maximum of 192 units. That project was denied by the Board. The project had now been downsized. The property was zoned Residential – Single Family but only one home would be allowed due to not being able to build an access road. Previously the Board was told Tavern Grove Lane could not be used as an access for the subject property. Mr. Moorefield agreed that his previous project proposal was denied, but it was suggested to him to talk with the Tavern Grove developers regarding use of Tavern Grove Lane which was what he did. Supervisor Borland suggested that since he could now use Tavern Grove Lane, he could build single-family homes on the property. Mr. Moorefield understood that, but he also saw the need for low-income, affordable housing, and he could not understand why he could not build similar housing like the development across the street. Also, he could not build enough single-family dwellings to make a profit from his investment.

Mr. Willman agreed with Mr. Moorefield adding the setbacks and the shape of the property would lend itself well to that density of development versus residential setbacks. The cost of the infrastructure and the construction would not allow Mr. Moorefield to come out if he built single family homes.

Supervisor Good asked how much money Mr. Moorefield had made on the property in the 14 years he had owned the property. Mr. Moorefield indicated he had paid taxes on the property every year; he had not made a dime. Supervisor Good did not fault Mr. Moorefield for wanting to make a profit on his investment. Mr. Willman again pointed out the addition of the green space where they could have built 40 to 50 more units if they wanted to have a dense development.

Supervisor Borland commented the green space was not mentioned at the Planning Commission and believed the last minute offering of the green space was a desperate move to receive approval. Mr. Moorefield did not believe it was an offer out of desperation, but wanted to respond to the concerns expressed by the neighbors.

Supervisor Hardie thanked Mr. Moorefield for the invitation to the Board to meet with him and talk about the project. He believed Mr. Moorefield was trying to address those

concerns, and the availability of green space was important to him. He did not think it was a last minute decision, but showed he was listening to the neighbors and the concerns by Board members. Supervisor Watts confirmed the Board was invited to meet with Mr. Moorefield on May 21st.

Chairman Gunter had the opportunity to meet with Mr. Moorefield and after looking at the property, he did not know what else Mr. Moorefield could do with that property. Mr. Moorefield had addressed a lot of the concerns and had limited the project to 92 units. It demonstrated that Mr. Moorefield was sensitive to the concerns of the neighboring properties and to the people who buy a townhome. Chairman Gunter asked if the fence could be higher. Mr. Moorefield indicated any higher would not be strong in a high wind.

Supervisor Moore asked Mr. Moorefield if they could plant Leyland cypress trees to provide a vegetative buffer. Mr. Moorefield indicated they could, but they wanted to leave some space in the backyard for children to play. County Attorney Isenhour cautioned the Board they could only consider proffers submitted by the applicant. Additional proffers would require a separate public hearing.

Chairman Gunter called for comments in opposition to the proposed project.

Jerry Houck, 13 Crocetti Lane, in the Lake Walk Subdivision across the road from the proposed development, spoke in opposition to the request at the Planning Commission meeting. He again spoke in opposition as a homeowner and as President of the Lake Walk Villas Property Owners Association. Safety was their primary concern with the already increasing traffic on English Tavern Road. He mentioned the density of traffic at the intersection of Route 29 and English Tavern Road and the traffic difficulties with cars turning into the Davis Produce Stand. The traffic congestion continued from Route 29 along English Tavern Road to the entrances of the residential developments including Lake Walk Villas, Tavern Grove, and Spring Oaks Drive. The 98 homeowners of Lake Walk Villages request the Board to deny the rezoning.

Bryan Wilson, 99 Spring Oaks Drive, indicated he and his wife built their house in 2005 and enjoys the quietness of the family friendly neighborhood. The buffers on either side contributed to the quietness and had attracted a lot of good families. Over the years there had been near misses with kids getting on and off buses and adding another development would increase the population and increase the risk of kids getting hurt. He received a letter addressed to the Board from Allman Company Realtors, Mike McCormin, encouraging the Board not to approve the rezoning change for the construction of additional townhomes in the Tavern Grove development. Mr. McCormin had clients that lived in the area that were concerned that the new addition of townhomes would negatively affect their values. He knew the highest value was to be found in single family homes. Townhomes and condos offered less value and did not build equity in the same degree as single family homes. Construction of additional homes would negatively affect the sales ability of these homes due to increased traffic and infrastructure that must be put in place. Even if buyers liked the home, they were put off by the amount of traffic in the area not to mention what happens to the aesthetics and curb appeal. People in Central Virginia liked their space and did not like to be on top of one another when it came to their housing.

John St. Clair, 139 Spring Oaks Drive, agreed with Mr. Houck's assessment of the traffic on English Tavern Road and cited the impacts just that week when VDOT was working on English Tavern. He had to wait to get onto English Tavern Road for 3.5 minutes and during that time he counted 53 vehicles. That number should give pause to how many vehicles traveled English Tavern Road in a 24-hour period. He had lived on Spring Oaks for 14 years and moved there because it was quiet and private. He was opposed to the rezoning. As to the fence, it was a nice effort but would not do anything. He understood capitalism and asked how many single family lots could be built on that parcel.

Paul Harvey indicated due to VDOT's rules, you could only build one house for 10 acres. To build more than that would require a state maintained road, and Tavern Grove Lane was a private road. It may be difficult to upgrade Tavern Grove Lane to a state maintained road.

James Hendricks, 83 Spring Oaks Drive, had lived there for 11 years, and his family also enjoyed the quiet community oriented street. Everyone looked out for each other. They

were a community. The townhome development would impact the value of the homes on Spring Oaks Drive, and he was concerned that neighbors would be leaving to protect the value of their homes. Eventually the entire street would be devalued as the demand for the area decreased. The Spring Oaks residents had an interest in protecting what they were already paying taxes on although he understood the desire to be able to profit from your purchase. But one of the things about capitalism was risk. The property was originally zoned agricultural and had already been rezoned once to single family. Mr. Hendricks thought the property owners that were already there should be protected. There was more space in Campbell County where this could be done and seconded the concerns expressed about the traffic on English Tavern Road and Route 29.

Michael Bingham, 46 Spring Oaks Drive, also echoed the points made on the character of the neighborhood and how this development would change the character of the neighborhood. It would increase the traffic and he was concerned for the safety of children. Already the children were limited to riding a bike on their hill. Also, having a bus stop at the bottom of the hill on Spring Oaks Drive at the intersection with English Tavern Road was a safety risk. He would like to see the property developed as single family homes.

Charles Anderson, 67 Spring Oaks Drive, was present at the Planning Commission meeting and today's proffers represented a reaction to what was already said. The plan was for 92 units, and this was not a decrease in the density of the development. He commented the traffic study presented was done on a Tuesday during Liberty's spring break so all the students who lived in Tavern Grove and other neighborhoods weren't there to contribute to that traffic flow. Mr. Anderson said they had learned at this meeting that the intent of Mr. Moorefield was to provide low income housing. The plan to build 92 units would be 9 units per acre which was well into the urban development model. Lastly, he reminded the Board the land use portion of the Comprehensive Plan talks about the responsibilities to preserve areas of single family detached dwellings and to protect neighborhoods from incompatible developments. Mr. Anderson did not believe the proposed rezoning was compatible to the adjacent single family development on Spring Oaks Drive.

Wendy Giannotti, 54 Spring Oaks Drive, indicated her yard would be facing the new development. This public hearing was being held on the first week of summer break, and many of the residents were on vacation. Over two dozen of the residents were at the last meeting, and she was sorry all of them could not attend this meeting. Her family moved there in 2012 to a beautiful neighborhood of upscale homes, not low income housing. It was a very quiet, family friendly neighborhood with good people who were proud of their homes, property and the community. She was from upstate New York and did not know places like Spring Oaks could exist until she was welcomed into this community. These were not just people who wanted to prevent development. Everyone should be allowed to do what they want with their property, but this property was zoned for single residential housing. When they purchased their property, and it was not cheap, they were told the wooded land behind them would only be for single family housing, not two story monstrosities. People here enjoy their decks and yards and take pride in them. They also knew that many of the 92 units would be purchased and turned into rentals. That makes the traffic more interesting with many college-aged drivers from other states. Mrs. Giannotti asked the Board to please listen to the people; they were against this. And not once, did the owners ever talk with them about the project, and offering proffers at the last minute was desperation.

Josh Cashwell, 78 Spring Oaks Drive, lives on the side of Spring Oaks Drive facing the proposed development. He was also a previous owner of the Tavern Grove development and knew first hand it was noisy, lots of college aged people with late night activity and was predominately rentals. He left that community and bought property on Spring Oaks Drive with no idea this would happen. He purchased a house as a long-term investment and enjoyed the quietness of the neighborhood and the woods behind them. None of that would be enjoyable with two-story buildings behind them. The proposed development would change the characteristics of their neighborhood. Recently he spent \$15,000 on a backyard renovation which included removing trees, building a woodworking shop and a fire pit area to enjoy, and he would not have made the investment if he had known this development was proposed. Mr. Cashwell believed the proposed rezoning was a very inappropriate use for this land, and the land use map should be reviewed.

Stephanie Williams, 118 Spring Oaks Drive, echoed the other comments. When they bought their house 14 years ago, they were told the land behind them would remain single family. She thought it was ridiculous to squeeze 92 homes on that small parcel of land. She understood purchasing land and wanting to utilize it, but they also purchased land and wanted to enjoy their homes. There were a lot of kids in the neighborhood, and English Tavern Road was not safe. They took pride in their homes and asked the Board to deny the request so they could enjoy their homes on Spring Oaks Drive.

Supervisor Borland read into the record a letter from Ms. Bonnie Cofflin, 439 Russell Springs Drive, who could not attend the meeting:

“I have been a resident of Campbell County since 1967. When I chose to (downside) my housing 15 years ago, it never occurred to me to move from Campbell County. Therefore, I came to be a homeowner in Russell Springs. I have seen much growth in the area, not always good.

I am strongly opposed to rezoning property located on English Tavern Road at Tavern Grove Lane in order to construct a townhouse development. English Tavern Road has become a highly traveled road becoming congested at times in the Tavern Grove Lane area. It is a secondary, two lane road with no turn lanes and no shoulders. As one Tavern Grove resident stated, “You can easily end up in someone’s trunk.

I understand the need for Campbell County to grow, but I am sure that there must be more appropriate undeveloped areas available. Campbell County citizens have spoken against this development prior, but it seems to keep coming forth. I urge you to vote against this rezoning on June 4th to clarify this issue.

Thank you for your time.” Bonnie P. Cofflin

Mr. Willman clarified that when Mr. Moorefield purchased the property, it was zoned industrial, and the County later rezoned it residential, single-family. Chairman Gunter asked Mr. Moorefield if he would like to speak to any of the concerns expressed.

Mr. Moorefield apologized to the residents of Spring Oaks Drive. He was not referring to their properties as low income housing, but only to what they were doing to provide affordable housing. He felt that he was being railroaded. He bought the property and felt like he was not allowed to do anything. There were townhomes beside it and across the road. The Board recently approved another townhome development not far down the road. He was only allowed to put one house there. He would have to build a \$500,000+ home to come out. Mr. Moorefield added he had no control over what the residents of Spring Oaks Drive were told about what would happen with the property, and he had no control over it being changed from agricultural to single-family residential. He was just a business owner trying to do business. He understood the concerns, but what could he do with the land? He did not make the rules; VDOT made the rules. What was he missing? The infrastructure was there.

Supervisor Borland responded that what he was missing was the other developments did not abut single family homes. Mr. Moorefield commented he could have put a commercial business there when he first purchased it as a by-right use. He was trying to be a good neighbor and provide affordable housing for Campbell County. It was going to create tax revenue for the County, and with all the colleges around, people needed somewhere to live. He understood the traffic concerns, but why couldn’t the Board petition VDOT to lower the speed limit to make the road safer.

Hearing no further comments, the public hearing was closed at 8:05 p.m.

Supervisor Good requested clarification on the distance from the back of the homes on Spring Oaks Drive to the proposed fence. Mr. Willman estimated 100 to 130 feet with an average of 150 feet to the homes. Supervisor Good indicated this seemed to be a reasonable wooded distance behind the homes. Mr. Moorefield bought the property 13 to 14 years ago, had not realized any revenue from the property and was trying to develop it. The first plan was for 190 units, and this proposal was for half of that. He was a strong supporter of individual property rights, and the applicant had made reasonable accommodations. The proffers included

a fence and green space. There was also a demand in the community for this type of housing, and it was tough to find nice, affordable housing. He was proud that he had voted for every development that had come before the Board, and he had not heard anything to change his mind on this proposal.

Supervisor Borland indicated some of the backyards did not have any trees and some of the property lines were only 28 feet from the proposed townhomes. In order to accomplish the building of the townhomes, the basic woods there would be clear cut. If Mr. Moorefield had wanted to meet the homeowners half way, he would have talked with them. The six foot fence would not prevent the residents in the two-story townhomes from looking right into the back of the homes. Mr. Moorefield did not offer to plant any type of vegetative buffer which could eventually block some of the townhome development. He still believed the proffers offered were a desperation move to get the Board to go along with the proposal. The proffers were not offered for review by the Project Evaluation Committee or the Planning Commission. The Planning Commission voted 6-0 to deny the rezoning. Supervisor Borland added the report on the necessity of the turn-lane was of no consequence whatsoever with regard to the proposal. The townhome development was not a good thing at this particular location. No one would want to have four or five townhomes right in their backyard. The residents of Spring Oaks were trying to be diligent when they bought their property in a residential, single-family development, and it would go against all the expectations they had when they bought their property.

Chairman Gunter commented he could identify with what Supervisor Borland was talking about as where he lived, two apartment buildings were built right next to his property. Now, those residents would sometimes walk through his property.

Supervisor Borland offered the following motion to deny the rezoning request.

On motion of Supervisor Borland, it was resolved the Board of Supervisors accepts the recommendation of the Campbell County Planning Commission and citing traffic issues and compatibility with adjoining land use **DENIES** Request PL-19-39 by Ricky W. & Lisa D. Moorefield to rezone property located on English Tavern Road at Tavern Grove Lane from Residential – Single Family, Conditional to Residential – Multi Family, Conditional, in order to construct a townhouse development; and the landowners hereby offer the following proffers:

- I am proposing an extension of Tavern Grove Subdivision.
- The proposed project shall consist of 92 town homes.
- There will be a designated dog walk area.
- There will be a 6' tall premanufactured fence to serve as a buffer between the Tavern Grove Extension property town homes and the homes on Spring Oak Drive.

The vote was: Aye: Borland, Gunter, Moore
Nay: Good, Hardie, Hogg, Watts
Absent: None

The motion failed. A second motion was offered:

On motion of Supervisor Good, it was resolved the Board of Supervisors **APPROVES** Request PL-19-39 by Ricky W. & Lisa D. Moorefield to rezone property located on English Tavern Road at Tavern Grove Lane from Residential – Single Family, Conditional to Residential – Multi Family, Conditional, in order to construct a townhouse development; and the landowners hereby offer the following proffers:

- I am proposing an extension of Tavern Grove Subdivision.
- The proposed project shall consist of 92 town homes.
- There will be a designated dog walk area.
- There will be a 6' tall premanufactured fence to serve as a buffer between the Tavern Grove Extension property town homes and the homes on Spring Oak Drive.

Before the vote was taken, Supervisor Borland restated the proffers were inadequate, and if Mr. Moorefield was genuine in wanting to protect the homeowners, he would have offered a

proffer for a vegetative barrier. Supervisor Good confirmed the Board could not request additional proffers at this point during the public hearing. Supervisor Borland indicated he would oppose the motion to allow the property owners time to talk with the homeowners on Spring Oaks about the development. Supervisor Good responded he was not opposed to the applicant making changes that would lessen the resistance to the development, but he was not sure of what other options the developer might have.

The vote was: Aye: Good, Hardie, Hogg, Watts
Nay: Borland, Gunter, Moore
Absent: None

// PUBLIC HEARING – REZONING ADJACENT TO WARDS ROAD

The next public hearing was opened at 8:20 p.m. on:

PL-19-45 Request by Delphine Y Mickles to rezone property located adjacent to 7996 Wards Road from Business – General Commercial to Residential – Manufactured Housing in order to allow for the use of a manufactured or modular home. The property is located in an area designated as medium to high density commercial and medium to high density residential per the current Comprehensive Plan.

Mr. Harvey explained this request was to rezone 0.49 ± acres from Business – General Commercial to Residential – Manufactured Housing in order to allow for the use of a manufactured or modular home on property adjacent to 7996 Wards Road in the Spring Hill Election District. The owner of the property has lived on an adjoining property in a legal non-conforming manufactured home and wanted to place a manufactured or modular home on this property and remove the non-conforming manufactured home from the adjoining parcel. There were no existing public utilities directly serving the parcel, although public water was available on Wards Road. Access was provided by an existing unnamed private street off Wards Road. No proffers were submitted with the rezoning request. The Planning Commission recommended approval of the request by a vote of 6-0 citing good zoning practice.

Delphine W. Mickles, 7996 Wards Road, Rustburg, indicated she had lived at that location for over 40 years and wanted to continue to live there, but wanted a home with more space. She wanted to continue to live in the County.

No one spoke in favor of or in opposition to the rezoning request. The public hearing was closed at 8:24 p.m.

On motion of Supervisor Borland, it was resolved the Board of Supervisors accepts the recommendation of the Planning Commission and citing good zoning practice **APPROVES** Request PL-19-45 by Delphine Y Mickles to rezone property located adjacent to 7996 Wards Road from Business – General Commercial to Residential – Manufactured Housing in order to allow for the use of a manufactured or modular home.

The vote was: Aye: Borland, Good, Gunter, Hardie, Hogg, Moore, Watts
Nay: None
Absent: None

// PUBLIC HEARING – UPDATE OF CHAPTER 9 (MEALS TAX)

The next public hearing was opened at 8:25 p.m. to receive public comment on the passage of new ordinances implementing a meals tax to Chapter 9 of the Campbell County Code of 1988. Kristin Wright, Staff Attorney, indicated that on April 9, 2019 the voters of Campbell County approved a referendum that indicated their desire for a meals tax of up to four percent (4%) to be implemented in Campbell County.

Staff prepared a proposed ordinance instituting a meals tax modeled on the language used in surrounding counties, specifically Bedford and Amherst, and mirroring the authorizing state statute, Virginia Code Ann. §58.1-3833, as closely as possible. The proposed language would fit in Chapter 9 of the County Code (Finance and Taxation) near the sections related to the transient occupancy tax. A public hearing was required to approve the new ordinance. Calvin Massie, the

Commissioner of the Revenue, indicated his staff could implement the new ordinance effective September 1, 2019.

Chairman Gunter called for comments in favor of or in opposition to the proposed new ordinance.

Winfred Callahan, 193 Swan Creek Road, voted against the meals tax. The voters were told the County could not charge more than 4%. That was true right now, but Altavista started out at a 4% meals tax and what was it now? Also, he doubted the money would be used for what was stated; the money would go into the General Fund and could be used for whatever the Board wanted. He was opposed to the meals tax.

At the request of Chairman Gunter, Mr. Isenhour indicated the tax could not go beyond 4 percent at this time. A higher percentage would require approval by the General Assembly.

The public hearing was closed at 8:29 p.m. Supervisor Hardie offered a motion to approve the meals tax ordinance. Supervisor Good indicated he would not vote in favor of the motion. Supervisor Borland would like to see a motion to vote on the matter again at the November election, but he would not make that motion.

On motion of Supervisor Hardie, it was resolved the Board of Supervisors adopts the new ordinances to implement a meals tax to Chapter 9 of the Campbell County Code of 1988 effective September 1, 2019, as follows:

Article XIII. Meals Tax.

Sec. 9-53. Definitions.

The following terms, when used in this chapter, shall have the meaning ascribed to them below, unless the context requires a different meaning:

(a) **Beverage.** Alcoholic beverages as defined in VA. CODE ANN. §4.1-100 (Repl. Vol. 2012) and nonalcoholic beverages served as part of a meal.

(b) **Food.** Any and all prepared edible refreshments and nourishments intended for human consumption.

(c) **Restaurant.** Any of the following:

1. Any place where food is prepared for service to the public on or off the premises, or any place where food is served, including but not limited to lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and institutions of higher education, and kitchen areas of local correctional facilities subject to standards adopted under VA. CODE ANN. § 53.1-68.

2. Any place or operation that prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public, including operations preparing or storing food for catering services, push cart operations, hotdog stands, and other mobile points of service.

For state law authority, see VA. CODE ANN. §58.1-3833 (Cum. Supp. 2018). See also VA. CODE ANN. §35.1-1 (Cum. Supp. 2018) for definition of “restaurant.”

[THE _____, 2019 ACT adopted this section, effective _____, 2019.]

Sec. 9-54. Levy of tax.

In addition to all other applicable taxes and fees, including sales tax, a tax is hereby levied and imposed on food and beverages sold, for human consumption, by a restaurant within the County of Campbell, except within the boundaries of the Town of Altavista or the Town of Brookneal, or by grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter for that portion of the grocery store or convenience store selling such items. The rate of this tax shall be four percent (4%) of the amount charged for such food and beverages.

No tax shall be levied upon:

(a) That portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price;

(b) That portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed twenty percent (20%) of the sales price; or

(c) Alcoholic beverages sold in factory-sealed containers and purchased for off-premises consumption or food purchased for human consumption as “food” is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory-sealed beverages.

For state law authority, see VA. CODE ANN. §58.1-3833 (Cum. Supp. 2018).

[THE _____, 2019 ACT adopted this section, effective _____, 2019.]

Sec. 9-55. Exemptions from tax.

Such tax shall not be levied upon food and beverages sold by or through:

- (a) Vending machines;
- (b) Boardinghouses that do not accommodate transients;
- (c) Cafeterias operated by industrial plants for employees only;
- (d) Restaurants to their employees as part of their compensation when no charge is made to the employee;
- (e) Volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body, or organization exclusively for nonprofit educational, charitable, benevolent, or religious purpose;
- (f) Churches that serve meals for their members as a regular part of their religious observances;
- (g) Public or private elementary or secondary schools or institutions of higher education to their students or employees;
- (h) Hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof;
- (i) Day care centers;
- (j) Homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics;
- (k) Age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees;
- (l) From any source where the food or beverages are used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States;

- (m) Provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or
- (n) Provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

For state law authority, see VA. CODE ANN. §58.1-3833 (Cum. Supp. 2018).

[THE _____, 2019 ACT adopted this section, effective _____, 2019.]

Sec. 9-56. Collection of tax.

Every person receiving any payment for food and/or beverages subject to the tax levied under this Article shall collect the amount of the tax imposed from the purchaser of the food and/or beverages at such time the payment for the food or beverages is made. The taxes collected under the provisions of this Article shall be held in trust by the person who collects them until they are remitted to the County Treasurer.

For state law authority, see VA. CODE ANN. §58.1-3833 (Cum. Supp. 2018).

[THE _____, 2019 ACT adopted this section, effective _____, 2019.]

Sec. 9-57. Reports, remittance, and records.

(a) The Commissioner of Revenue shall require all sellers of food transacting business in the county to register for collection of the tax imposed by this Article. Every seller shall make a report to the County for each calendar month, showing the amount of charges collected for food and the amount of tax required to be collected. The monthly reports shall be made on forms prescribed by the Commissioner of Revenue and shall be signed by the seller. They shall be delivered to the Commissioner of Revenue on or before the twentieth day of the calendar month following the month being reported. Each report shall be accompanied by a remittance of the amount of tax due, made payable to the Treasurer of Campbell County.

(b) It shall be the duty of every person liable for the collection and remittance of the taxes imposed by this Article to preserve for a period of two (2) years records showing the amount of the tax such person may have been responsible for collecting and the amount paid to the county. The Commissioner of Revenue shall have the reasonable right to inspect such records.

For state law authority, see VA. CODE ANN. §58.1-3833 (Cum. Supp. 2018).

[THE _____, 2019 ACT adopted this section, effective _____, 2019.]

Sec. 9-58. Compensation to sellers.

For the purpose of compensating sellers for collecting and remitting the tax levied by this Article, every seller shall be allowed three percent (3%) of the amount of the tax due and accounted for in the form of a deduction on his monthly return, provided the amount due is not delinquent at the time of payment.

For state law authority, see VA. CODE ANN. §58.1-3833 (Cum. Supp. 2018).

[THE _____, 2019 ACT adopted this section, effective _____, 2019.]

Sec. 9-59. Penalties, interest, and enforcement.

(a) If any person shall fail or refuse to collect the tax imposed under this Article and to make within the time provided in this Article the reports and remittances required, there shall

be added to the tax by the Treasurer a penalty in the amount of ten percent (10%) of the tax, or ten dollars (\$10.00), whichever is greater, up to the amount of tax due, and interest on the tax at the rate of ten percent (10%) per annum, which shall be computed from the first day following the date it is due and payable.

(b) If any person shall fail or refuse to collect the tax imposed under this Article and to make within the time provided in this Article the reports and remittances required, the Commissioner of Revenue shall proceed in such manner as deemed best to obtain facts and information on which to base an estimate of the tax due. As soon as the Commissioner of the Revenue shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax, and to make such report and remittance, he shall proceed to determine and assess against such person such tax, penalty and interest as provided for in this Article, and shall notify such person by registered mail sent to his last known place of address of the amount of such tax, interest and penalty, and the total thereof shall be payable within ten (10) days from the date of the mailing of such notice.

(c) In addition to the other penalties provided herein, if any restaurant or food establishment shall fail to collect or remit the tax as required under this Article, the County shall have the right to petition the judge of the Circuit Court of Campbell County for a court order directing that the delinquent restaurant or food establishment be closed until such time as it demonstrates its willingness to comply with the provisions of this Article.

(d) The Commissioner of Revenue may issue regulations for the administration and enforcement of this Article.

For state law authority, see VA. CODE ANN. §58.1-3833 (Cum. Supp. 2018).

[THE _____, 2019 ACT adopted this section, effective _____, 2019.]

Section 9-60. Violations.

Any person violating or failing to comply with any of the provisions of this Article shall be guilty of a class 2 misdemeanor. Each violation or failure shall constitute a separate offense. Conviction shall not relieve any person from the payment, collection or remittance of the tax as provided in this Article.

For state law authority, see VA. CODE ANN. §58.1-3833 (Cum. Supp. 2018) and VA. CODE ANN. §15.2-1429 (Repl. Vol. 2018).

[THE _____, 2019 ACT adopted this section, effective _____, 2019.]

Section 9-61. Situs.

(a) The situs for taxation for any tax levied on the sale of food and beverages or meals shall be the county, city, or town in which the sales are made, namely the locality in which each place of business is located without regard to the locality of delivery or possible use by the purchaser. The term “sale” means a final sale to the ultimate consumer

(b) If any person has a definite place of business or maintains an office in more than one locality, then such other locality may impose its tax on the sale of food and beverages or meals which are made by such person, provided the locality imposes a local tax on the sale of food and beverages or meals.

For state law authority, see VA. CODE ANN. §58.1-3841 (Repl. Vol. 2017).

[THE _____, 2019 ACT adopted this section, effective _____, 2019.]

The vote was: Aye: Gunter, Hardie, Hogg, Watts
Nay: Borland, Good, Moore
Absent: None

// ADJOURNMENT

On motion of Supervisor Borland, the meeting was adjourned at 8:30 p.m.

The vote was: Aye: Borland, Good, Gunter, Hardie, Hogg, Moore, Watts
Nay: None
Absent: None

EDDIE GUNTER, CHAIRMAN

Approved: _____